

The Law Enforcement Against The Abuse Of Dominant Position By The E-Commerce Platform Shopee

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Abstract: This study examines the enforcement of competition law against the alleged abuse of dominant position by Shopee in the delivery service sector, as reflected in Case Number 04/KPPU-I/2024. Shopee is suspected of prioritizing its affiliated service, Shopee Express, leading to discriminatory practices that disadvantage independent delivery service providers. Using a normative juridical method with a statutory and case approach, the study finds that such practices potentially violate Article 19(d) and Article 25(1) of Law Number 5 of 1999. Legal protection for independent businesses can be provided preventively through regulations prohibiting discriminatory practices and repressively through law enforcement mechanisms by KPPU or civil lawsuits. The findings highlight the importance of strengthening regulations, consistent law enforcement, and legal education to ensure fair competition and safeguard consumer interests

Keywords: Shopee, Dominant Position, Unfair Business Competition, Delivery Services, KPPU

1. Introduction

E-commerce is increasingly dominating the trade and services sectors, including delivery services. Every business actor must operate in a fair and acceptable competitive environment to stimulate the growth and orderly functioning of the market economy. This will prevent the concentration of economic power in the hands of a few. A competitive environment is crucial for developing countries like Indonesia to achieve effective economic growth, including industrialization¹. However, in practice, healthy competition is often disrupted by unfair business practices. Every business owner naturally avoids disputes, but every business sometimes cannot escape the legal risk of disputes. Through disputes, at the very least, every business owner can learn about human maturity, strengthen relationships and elevate morals, gain greater knowledge and learn to overcome problems, enhance personal development, encourage psychological development, and increase self-awareness and self-awareness.²

Shopee, as one of the largest e-commerce platforms in Indonesia and one of the most popular marketplaces among Gen Z (Blasius et al., 2025), became the Defendant in Case Number 04/KPPU-I/2024 following a Report of Alleged Violations submitted to the Business Competition Supervisory Commission (KPPU). In accordance with the provisions of Article 1 number 8 and Article 2 paragraph (1) of the Business Competition Supervisory Commission Regulation Number 1 of 2019 concerning Procedures for Handling Cases of Monopolistic Practices and Unfair Business Competition, the examination process by the KPPU is only carried out if there is a report from the public, KPPU initiative, or request

¹ Febrina, R. "Persaingan Usaha pada Era Digital Menurut Perspektif Hukum Persaingan Usaha." *Jurnal Karya Ilmiah Multidisiplin (JURKIM)* 2, no. 1 (2022): 121–127. <https://doi.org/10.31849/jurkim.v2i1.9309>

² Suyanto, H., H. Sugiyono, dan I. Oktalia. "Implementasi Eksekusi Putusan BANI dalam Penyelesaian Sengketa Perdata." *Jurnal Yuridis* 7, no. 2 (2020): 307–324. <https://doi.org/10.35586/jyur.v7i2.2101>

from a government agency. In this case, Shopee is suspected of having abused its dominant position in the delivery services sector through its affiliate, PT Nusantara Ekspres Kilat, which was then processed in the law enforcement mechanism by the KPPU.

In essence, the KPPU is not a law enforcement agency like the police, prosecutors or judges who use coercive measures to bring suspects to court (Siregar, 2023), under the law the KPPU (Commission and Commission for the Protection of Consumers) is tasked with overseeing all business activities, including those involving digital platforms. In the context of digital business, the KPPU has a Deputy for Prevention tasked with overseeing digital platform businesses by monitoring for discriminatory behavior. Abuse of this dominant position has the potential to violate the provisions of Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. In this case, Shopee is suspected of restricting competition by prioritizing delivery services affiliated with its platform, thereby causing harm to other parties in the same industry.

As one of the largest e-commerce platforms in Indonesia, the Business Competition Supervisory Commission (KPPU) has come under scrutiny in Case No. 04/KPPU-I/2024 for alleged abuse of its dominant position in the delivery services sector. This abuse of dominant position has the potential to violate the provisions of Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. Abuse of dominant position can include discriminatory pricing, limiting market access for competitors, and vertical integration that narrows competitors' room for maneuver. Referring to Article 1 number 6 of Law No. 5 of 1999 concerning the Prohibition of Monopolies and Unfair Business Competition Practices which states that "Unfair Business Competition is competition between business actors in carrying out production and/or marketing activities for goods and/or services that is carried out in a dishonest or unlawful manner or hinders business competition."³

The potential for unfair business practices in the e-commerce industry is highly significant, especially considering the market power dynamics wielded by large-scale players. In practice, e-commerce companies with extensive market reach and a large user base will wield significant influence over the market structure itself. They are not only able to determine the direction and trends of digital commerce but also have the potential to control consumer access to specific services and products available on the platform.

Market power can be defined as the ability of a firm or group of firms to influence the prices of goods and services in a market more than is permitted by a competitive market⁴. These large companies are often exploited to suppress or marginalize smaller competitors, particularly service providers seeking to enter and expand within the same market. This situation creates structural barriers that are difficult for new players to overcome, thus reinforcing dominance and implicit monopolies. This dominance also leaves consumers and small businesses with few options, ultimately subject to the terms and conditions set by large platforms. Large-scale e-commerce companies also tend to position themselves in a significantly superior bargaining position compared to platform users, both consumers and seller partners. This inequality opens up the opportunity for business practices that disadvantage the economically and legally weaker parties, for example through the

³ Effendi, Basri. "Pengawasan dan Penegakan Hukum terhadap Bisnis Digital (E-Commerce) oleh Komisi Pengawas Persaingan Usaha (KPPU) dalam Praktek Persaingan Usaha Tidak Sehat." *Syiah Kuala Law Journal* 4, no. 1 (2020): 21–32. <https://doi.org/10.24815/sklj.v4i1.16228>

⁴ Kusumastuti, S. Y., E. R. Kabul, J. Mantong, dan S. H. Hartanto. *Organisasi Industri*. Takaza Innovatix Labs, 2024.

implementation of unilateral policies, unfair profit sharing, or unequal partnership contracts⁵. This imbalance, if not properly regulated, can trigger exploitative partnership practices and conflict with the principles of healthy and fair business competition as mandated in Law Number 5 of 1999.

In case No. 04/KPPU-I/2024, Shopee is suspected of restricting competition by prioritizing delivery services affiliated with its platform, thereby causing harm to other parties in the same industry. Market domination occurs when Shopee uses its economic power to strengthen its dominant position in the delivery services sector, by preventing other competitors from entering or developing. In this context, Shopee has the potential to use its market power to create barriers to entry for other shipping companies seeking to compete fairly in the delivery services market⁶. The Business Competition Supervisory Commission (KPPU) has assessed that PT Shopee International Indonesia and its affiliate, PT Nusantara Ekspres Kilat, have abused their dominant position in a manner that has the potential to harm other delivery service business actors.

The alleged violations include discriminatory practices against certain business actors (Article 19 letter d of Law No. 5 of 1999) (UU No 5 Tahun 1999). and the determination of trade conditions that hinder competition in terms of price and quality of service (Article 25 paragraph (1) letter a Law No. 5 of 1999) (UU No 5 Tahun 1999). In the practice of enforcing competition law, the KPPU generally uses two approaches to assess a case: per se illegality and rules of reason. The per se illegality approach means that an action is immediately declared a violation of the law if it meets the prohibited elements, regardless of the consequences. Conversely, the rules of reason approach requires further analysis of the impact of an action on the market. Words such as "which may result in" or "reasonably suspected" in Law Number 5 of 1999 are indicators that the rules of reason approach is being used⁷. This means that KPPU investigators must first prove whether the action actually creates barriers to entry, hinders other business actors, or harms the economy in general. Its relevance to this research is seen in case No. 04/KPPU-I/2024, where the alleged abuse of a dominant position by Shopee through its affiliate, Shopee Express, cannot be immediately considered a violation, but must be further assessed through a rules of reason framework to determine its real impact on other delivery service providers and consumers⁸.

The reliance of sellers and buyers on Shopee's system gives the platform significant power in determining delivery schemes. In practice, Shopee is suspected of prioritizing its own delivery service, PT Nusantara Ekspres Kilat (Shopee Express), thus creating an imbalance in the courier service market. Independent courier businesses struggle to compete due to limited access to promotional programs and limited visibility on the platform, ultimately resulting in a decline in the volume and value of their shipments. This situation raises an urgent need to ensure effective legal protection for disadvantaged delivery service businesses. The goal is to create a fair, open, and competitive digital ecosystem and ensure that no business is marginalized due to abuse of market power by large platforms.

⁵ Nur Hayati, A. "Analisis Tantangan dan Penegakan Hukum Persaingan Usaha pada Sektor E-Commerce di Indonesia." *Jurnal Penelitian Hukum De Jure* 21, no. 1 (2021): 109. <https://doi.org/10.30641/dejure.2021.v21.109-122>

⁶ Kurniasari, T. W. K., dan A. Rahman. "Perlindungan Hukum Bagi Pelaku Usaha UMKM terhadap Penyalahgunaan Posisi Dominan Platform Digital Marketplace melalui Penetapan Harga dan Penguasaan Pasar." *Reusam: Jurnal Ilmu Hukum* 10, no. 2 (2023): 131–153. <https://doi.org/10.29103/reusam.v10i2.9577>

⁷ Jemarut, W. "Pendekatan Rule of Reason dan Per Se Illegal dalam Perkara Persaingan Usaha." *Widya Yuridika* 3, no. 2 (2020): 378–379. <https://doi.org/10.31328/wy.v3i2.1688>

⁸ Refadi, A. M. "Penerapan Pendekatan Rule of Reason dalam Praktik Diskriminasi pada Kasus Penguasaan Pasar." Disertasi Doktor, Universitas Islam Indonesia, 2023.

Through the KPPU's determination and monitoring of behavioral changes towards Shopee, it is hoped that improvements in business behavior and guarantees of legal protection for other delivery service providers will be created so that they can compete healthily in the ever-growing digital industry. Business competition regulations must be strengthened with stricter law enforcement mechanisms to prevent large technology companies from monopolistic practices that can harm the market at large. Based on this description, a legal issue arises regarding whether Shopee's policy of prioritizing its affiliated delivery services can be categorized as a form of abuse of dominant position as regulated in Article 19 letter d and Article 25 paragraph (1) of Law Number 5 of 1999, and what form of legal protection is available to independent delivery service providers who are harmed by these practices.

Existing studies have provided significant insights into anti-competitive behavior within Indonesia's digital economy, particularly regarding the practices of dominant e-commerce platforms. The study by Aulia Fadhillah Fawwaz (2025) examined the alleged discriminatory conduct and abuse of dominant position by Shopee in controlling courier service flows within its ecosystem, highlighting concerns over vertical integration and potential market foreclosure. Meanwhile, the research conducted by Iqta Adzkia, Elisatris Gultom, and Deviana Yuanitasari (2025) analyzed ShopeePay's exclusivity strategy, demonstrating how incentives tied to Shopee's internal payment system can limit competition and resemble tying practices recognized as anti-competitive in various jurisdictions. Their findings further emphasize regulatory gaps, noting that Indonesia's current legal framework particularly Law No. 5 of 1999 has not fully adapted to the complexities of digital market structures.⁹

In addition, the study by Kathrin Hutapea, Ningrum Natasya Sirait, and Tri Murti Lubis (2025) assessed the implementation of the Behavioral Change Integrity Pact under KPPU Regulation No. 2 of 2023. While this research showed that the mechanism effectively encouraged business compliance in the reported case, it primarily focused on procedural effectiveness rather than substantive analysis of digital market abuses or platform-based competition issues. Although these studies collectively illuminate various forms of anti-competitive conduct ranging from integration in logistics services to exclusivity in digital payments they reveal a notable gap. No existing research has specifically examined the intersection between platform dominance, internal service prioritization, and the effectiveness of KPPU's newly established behavioral change mechanism as a substantive tool to address digital competition violations. Furthermore, prior studies have not evaluated whether the current regulatory responses are sufficiently robust to address systemic risks posed by vertically integrated digital ecosystems like Shopee's.¹⁰

This paper is motivated by the rise in business practices that have the potential to harm fair competition, particularly in the case of Shopee's abuse of its dominant position in the delivery services sector. Shopee is suspected of prioritizing its affiliated delivery services, which impacts other businesses and consumers. This research aims to analyze the legal aspects of this case and examine legal protections for the injured parties.

⁹ Adzkia, Iqta, Elisatris Gultom, and Deviana Yuanitasari. "Analisis Dugaan Monopoli Sistem Pembayaran oleh Shopee di Indonesia, Mencakup Dampaknya terhadap Persaingan Usaha, Penegakkan Hukum, dan Implikasi Hukum dalam Ekosistem E-Commerce Digital." *Jurnal Ilmu Hukum, Humaniora dan Politik* 5, no. 5 (2025): 1-10

¹⁰ Aulia Fadhillah Fawwaz. "Praktik Diskriminasi dan Penyalahgunaan Posisi Dominan terhadap Layanan Jasa Kurir di Aplikasi Shopee." *Journal Justiciabellen (JJ)* 5, no. 2 (2025): 116-29. <https://jurnal.unsur.ac.id/index.php/JJP>

2. Method

This paper is motivated by the rise in business practices that have the potential to harm fair competition, particularly in the case of Shopee's abuse of its dominant position in the delivery services sector. Shopee is suspected of prioritizing its affiliated delivery services, which impacts other businesses and consumers. This research aims to analyze the legal aspects of this case and examine legal protections for the injured parties.

This research uses normative juridical approaches with a statutory and case approach. The statutory approach is carried out by examining provisions governing monopolistic practices and unfair business competition, specifically Law Number 5 of 1999 and implementing regulations and guidelines issued by the Business Competition Supervisory Commission (KPPU). This approach is important for gaining a comprehensive understanding of the concept of dominant position and the forms of its abuse under applicable law. The case approach is used by examining KPPU Decision Number 04/KPPU-I/2024 concerning the alleged abuse of dominant position by Shopee (PP No 4 Tahun 2024). Through this case approach, the research attempts to assess how legal norms are implemented in practice and how the KPPU's legal considerations are in resolving the case. The data sources in this study are entirely secondary, consisting of primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations and KPPU decisions; secondary legal materials consist of legal literature such as books, journals, and relevant scientific articles; and tertiary legal materials consist of other supporting sources

3. Results and Discussion

3.1. Law Enforcement Against Shopee's Abuse of Dominant Position in the Delivery Services Sector

Shopee, one of the largest e-commerce platforms in Indonesia, has a very broad market reach. With e-commerce, consumers no longer need to visit a store to purchase an item. Simply use a smartphone or similar electronic device and the purchased item will be delivered by the merchant to the desired destination address. Of course, in this case, the merchant requires an expedition or shipping service to deliver the ordered item to the address provided by the consumer (Paramita & Wiyanti, 2024). This dominance is evident not only in the number of active users and daily transactions, but also in the significant influence it wields over the delivery services market. Businesses with a dominant position can take action to prevent or hinder consumers from obtaining competing goods or services.¹¹

Allegations of abuse of dominant position arose when one of the marketplaces, namely Shopee, where buyers could not choose the desired courier, Shopee was the one who determined which expedition would be used¹². Shopee is considered to prioritize its affiliated delivery service, namely Shopee Express (PT Nusantara Ekspres Kilat), over independent delivery service companies. There are several types of delivery services on the e-commerce platform in Indonesia, namely: Pos Indonesia, J&T Express, JNE, SiCepat, Shopee Express, Ninja Xpress, TIKI, Anteraja, and Wahana. There are several benefits of delivery services on e-commerce platforms in Indonesia, including: easy and secure delivery processes, time efficiency, package tracking, and extensive delivery coverage.¹³

¹¹ Citrawinda, C. *Hukum Persaingan Usaha*. Jakad Media Publishing, 2021.

¹² Mege, S. R., N. I. Kurniawati, dkk. *Sistem Logistik Bisnis E-Commerce di Era New Normal*. Surabaya: CV Jakad Media Publishing, 2021.

¹³ Hutapea, K., N. N. Sirait, dan T. M. Lubis. "Efektivitas Penerapan Perubahan Perilaku oleh KPPU terhadap Penyalahgunaan Posisi Dominan dalam Penentuan Layanan Kurir di Platform Shopee." *Acta Law Journal* 3, no. 2 (2025): 63–78.

This situation gave rise to allegations of discriminatory practices, which were then processed by the Business Competition Supervisory Commission (KPPU) in Case Number 04/KPPU-I/2024. Within the framework of business competition law, a dominant position is not necessarily prohibited, but only becomes a legal problem if it is used unfairly to limit or harm other business actors. Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, expressly provides limitations in Article 19 which prohibits a number of anti-competitive actions, such as refusing or preventing other business actors from entering the market, preventing consumers from conducting transactions with competitors, limiting the circulation or sale of goods and/or services, and carrying out discriminatory practices against certain business actors.¹⁴

In the Shopee case, allegations of discriminatory practices were evident when the company was accused of favoring its affiliated delivery service, Shopee Express, while independent delivery providers experienced limited market access. Such practices align with the prohibitions stipulated in Article 19 of Law Number 5 of 1999, specifically concerning restrictions on the distribution of goods/services and discrimination against certain business actors. This means that, although the existence of a dominant position does not automatically violate the law, when this dominance is abused to create barriers to entry or reduce consumer choice, it falls into the category of unhealthy business practices.

The formulation of Article 19 of Law Number 5 of 1999 uses the rule of reason approach, which means that a violation is not immediately deemed to have occurred simply because of a dominant position, but rather its negative impact on the market must first be proven. Thus, in the Shopee case, the KPPU not only assessed the existence of the dominant position itself, but also how Shopee's internal policies such as the automatic selection of delivery services resulted in market distortion and losses for competitors, in addition to that, Article 25 states that business actors in a dominant position are prohibited from carrying out practices that can harm consumers or hinder business competition (UU No 5 Tahun 1999). Thus, legal issues arise when this dominance is abused to discriminate or close market access to other competitors.¹⁵

The KPPU based its investigation on allegations that Shopee engaged in discriminatory practices as stipulated in Article 19 letter d of Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, namely treating certain businesses differently. In this case, Shopee is suspected of using an application algorithm mechanism to display Shopee Express as the primary choice for both sellers and buyers, thereby forcing independent delivery service companies out of the market.

From a competition law perspective, competition is fundamentally natural and even necessary to drive business growth. However, competition becomes unfair when it is conducted unfairly, for example by preventing other businesses from entering the market (a barrier to entry) or even destroying competitors' businesses (Lestari & Mansur, 2022). In other words, the difference between healthy and unhealthy competition lies in whether the competition provides equal opportunities to all businesses or creates barriers that block access for others.

Therefore, the Indonesian Government has anticipated the potential for such fraudulent behavior through Law Number 5 of 1999, which expressly prohibits various forms of anti-competitive practices, including discrimination. One common form is price discrimination, which is the setting of different prices for the same goods or services, whether based on

¹⁴ Ida Nadirah, S., dan H. H. M. *Buku Ajar Hukum Anti Monopoli dan Persaingan Usaha*. UMSU Press, 2022.

¹⁵ Setyawati, R., dan R. A. Pradana. "Penyalahgunaan Posisi Dominan oleh Pelaku Usaha Dominan melalui Penggunaan Algoritma Harga." *UIR Law Review* 6, no. 2 (2022): 103–120. [https://doi.org/10.25299/uirrev.2022.vol6\(2\).11750](https://doi.org/10.25299/uirrev.2022.vol6(2).11750).

customer type, market conditions, or certain criteria that are disproportionate to marginal costs. The practice of price discrimination, or non-price discrimination, essentially aims to maximize consumer surplus for dominant businesses, while simultaneously closing opportunities for competitors to compete fairly.

To address these risks, Law No. 5/1999 prohibits a wide range of exclusionary and discriminatory practices. While discrimination is often associated with differential pricing, modern competition law recognizes that discriminatory conduct may also occur through non-price mechanisms that strategically disadvantage rival firms. Such conduct aims to reinforce the dominant actor's market power by reducing competitors' ability to compete effectively, thereby undermining market contestability.

In the digital context, discrimination doesn't always manifest itself in price alone; it can also be hidden in algorithms, user interface design, and a company's vertical integration. This is evident in the Shopee case, where prioritizing Shopee Express through its app system can be viewed as a discriminatory strategy that harms independent delivery services. Enforcing competition law in this context becomes more complex, as authorities must not only assess conventional behavior such as price fixing or exclusive dealing but also examine the technological logic used to block market access. As outlined in the literature on pricing algorithms, digital technology can become an instrument for abusing a dominant position if exploited by large businesses to reduce the space for healthy competition.

The KPPU uses two primary approaches in assessing a case: *per se* illegality and the rule of reason. In the Shopee case, the rule of reason approach is more relevant because the alleged violation must be proven by examining the actual impact on the market. In other words, the KPPU needs to demonstrate that prioritizing Shopee Express actually creates barriers to entry, reduces consumer choice, or harms independent delivery service providers. In addition to legal factors, Shopee's organizational structure is also under scrutiny. This is in line with the provisions of Article 35 letter f of Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, which authorizes the KPPU to develop guidelines and publications related to the implementation of the law.¹⁶

Based on this provision, the KPPU also has the authority to determine procedural law, including the application of the rule of reason principle in handling cases. According to competition law doctrine, there are several approaches that can be used. First, *per se* illegal, which considers a particular action to be inherently prohibited without the need for proof of its consequences in the market. Second, the rule of reason, which requires an in-depth analysis of the background and economic impact of a business actor's actions. This approach requires not only an understanding of the law but also a connection with economics to assess whether an action is truly detrimental to competition.

The dual management positions between Shopee International Indonesia and Shopee Express are seen as strengthening indications of strategic coordination to increase affiliate delivery dominance. This dual role is seen as a factor that could reinforce discriminatory practices against other delivery service providers.¹⁷ Shopee's organizational structure further complicates this analysis. The dual management positions shared between Shopee International Indonesia and Shopee Express indicate a unified economic entity capable of coordinated decision-making. Such structural integration strengthens the inference that the platform may have strategically aligned its governance and technological design to reinforce the dominance of its affiliated courier service. In competition law theory, this raises concerns related to leveraging, where a dominant firm extends power from one market (platform

¹⁶ Audina, T. *Hukum Persaingan Usaha di Indonesia*. 2025.

¹⁷ Arumdhani, A. "Analisis Fatwa DSN-MUI Terhadap Mekanisme Pembatalan Transaksi di Aplikasi Shopee." Disertasi Doktor, UIN KH Abdurahman Wahid Pekalongan, 2025.

intermediation) into another (delivery services). Importantly, this analytical approach aligns with Article 35(f) of Law No. 5/1999, which authorizes the KPPU to develop guidelines and methodologies, including the application of rule of reason analysis in assessing modern digital-market conduct. As digital markets evolve, the KPPU is increasingly required to integrate legal interpretation with economic analysis to determine whether the platform's behavior constitutes legitimate business strategy or an exclusionary practice that harms the competitive process itself.

3.2. Legal Protection for Independent Delivery Service Providers Against the Dominant Position of the Shopee E-commerce Platform

In today's entrepreneurial world, business competition involves more than just product or price superiority, but also the ability to build synergies with other parties¹⁸. Business competition in the digital era is increasingly complex, especially with the emergence of powerful e-commerce platforms like Shopee. One emerging issue is how these platforms use their market position to control transactions, including in the delivery service sector. In this context, independent delivery service providers are often in a weaker position and at risk of losses due to the dominant practices of large platforms. Shopee, as an e-commerce platform, has a very broad consumer base, making it a primary gateway for many sellers and buyers. This situation gives Shopee significantly greater bargaining power than independent delivery service providers. Consequently, if Shopee prioritizes its own logistics services or exclusive partners, independent delivery services will struggle to compete fairly.

From a competition law perspective, such conditions have the potential to lead to abuse of a dominant position. Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition expressly prohibits businesses from exploiting their dominant position in a manner that harms competitors or consumers. Therefore, independent delivery services are entitled to legal protection if they are harmed by Shopee's exclusive or discriminatory policies. The forms of legal protection that can be provided include preventive and repressive measures. Preventive protection is implemented through regulations that prevent abuse of a dominant position from occurring from the outset, for example by stipulating that e-commerce platforms may not force users to use only certain logistics services. Repressive protection, on the other hand, is implemented through law enforcement mechanisms when violations have occurred, such as through reports to the KPPU.

The KPPU has significant authority in assessing whether a platform has abused its dominant position. In the Shopee case, if discriminatory practices against independent delivery services are found, the KPPU can issue a decision or sanction. This constitutes a repressive form of legal protection aimed at restoring market balance and providing justice for affected businesses. Furthermore, legal protection for independent delivery services can also be viewed from a contractual perspective. The relationship between an e-commerce platform and its logistics partner is generally outlined in a cooperation agreement. If the agreement contains an exclusive clause that is detrimental to the independent party, the clause can be viewed as a detrimental standard clause and is potentially void by law.

In the context of legal protection, the existence of unbalanced standard clauses is a focus. The Consumer Protection Law even prohibits standard clauses that are detrimental to one party. Although this law is more inclined to protect consumers, its spirit can still be used to examine how the contractual relationship between Shopee and independent delivery services should not lead to injustice. Legal protection is also present through the principle of

¹⁸ *Ibid*

justice in business law. Every business actor should have an equal opportunity to develop, without being oppressed by more dominant market forces. Business actors are starting to struggle to run their businesses due to the era of globalization that has had a negative impact on them¹⁹. For example, Shopee's blocking market access for independent delivery services indirectly hinders the freedom of business guaranteed by law.

Independent delivery service providers also have the right to pursue legal action if they feel they have been wronged. For example, they can take the matter to civil court by suing for damages resulting from Shopee's discriminatory policies. This type of legal action demonstrates that legal protection depends not only on regulatory bodies but also on individual initiative. In reality, many independent businesses lack the resources to challenge a company as large as Shopee. Therefore, effective legal protection must not only be provided for in law but also be easily accessible to vulnerable parties. In this regard, the role of the government and the KPPU is crucial in providing a more realistic path for independent providers.

From an economic perspective, the impact of Shopee's abuse of its dominant position in the delivery service sector is felt not only by independent delivery companies but also by consumers in the long term. The loss of competition will reduce choice and increase shipping costs. Therefore, legal protection for independent business actors indirectly protects consumer interests. To strengthen legal protection, existing regulations must be consistently enforced. The provisions of Law No. 5 of 1999 should not be limited to text but should be realized through concrete action against large businesses that abuse their dominance. Without consistent enforcement, legal protection will remain merely a formality without providing any real impact.

Legal education for independent business owners is also crucial. Many of them don't understand that discriminatory practices by large platforms can be reported to the KPPU. With legal education, they will be more empowered to fight for their rights and not simply resign themselves to unequal market conditions. Effective legal protection can be the foundation for maintaining a business ecosystem that is honest, transparent, and upholds ethical and fair values²⁰. Independent delivery services must continue to have space to compete fairly, while large platforms like Shopee can continue to thrive without compromising others. This synergy is the goal of competition regulation: to create a fair, efficient market that favors the public interest.

In relation to the framework of legal protection, the situation faced by independent delivery service providers can also be analyzed through Philipus M. Hadjon's theory of preventive and repressive legal protection. Preventive protection emphasizes mechanisms that allow parties to avoid rights violations before they occur, primarily through clear regulations, transparent contractual arrangements, and accessible oversight systems. In the context of the Shopee case, preventive protection should manifest through non-discriminatory platform policies, fair contractual terms, and regulatory guidelines that restrict dominant platforms from prioritizing their affiliated services. Ideally, such preventive measures would enable independent delivery providers to foresee potential risks and negotiate more equitable arrangements, thereby preventing abuses of dominance. Meanwhile, repressive protection comes into play once a violation has occurred, providing remedies through dispute resolution mechanisms such as filing reports to the KPPU,

¹⁹ Shahrullah, R. S., dan H. H. Cokro. "Penegakan Hukum bagi Pedagang Usaha Mikro, Kecil dan Menengah terhadap Para Pelaku Usaha Monopoli." *Journal of Law and Policy Transformation* 5, no. 2 (2020): 113–127. <https://doi.org/10.37253/jlpt.v5i2.1391>

²⁰ Delfina, D. "Sosialisasi dan Pelatihan Tentang Hukum Persaingan Usaha yang Sehat." *Journal of Human and Education (JAHE)* 5, no. 2 (2025): 432–441. <https://doi.org/10.31004/jh.v5i2.2439>

pursuing civil claims for damages, or demanding corrective actions through regulatory enforcement. For independent delivery service providers, repressive protection remains a crucial safeguard particularly when preventive measures fail, ensuring that discriminatory practices can be addressed through sanctions, compensation, or behavioral remedies imposed on dominant market actors. Applying Hadjon's theory underscores that effective legal protection must operate on both fronts: preventing abuse before it occurs and providing meaningful redress afterward. Without a balanced integration of preventive and repressive measures, independent business actors will remain vulnerable to structural disadvantages inherent in platform-dominated digital markets.

Thus, legal protection for independent delivery service providers against Shopee's dominance encompasses regulatory, oversight, law enforcement, and education aspects. All of these aspects must work hand in hand to truly achieve justice. Without them, independent delivery services will simply fall victim to the dominance of large platforms, and business competition in Indonesia will lose its essence of fairness

4. Conclusion

Based on the discussion outlined, it can be concluded that Shopee's practice of prioritizing its affiliated delivery service, Shopee Express, raises indications of abuse of its dominant position as stipulated in Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. Shopee's dominant position does not automatically constitute a ban, but it becomes a legal issue when used in a discriminatory manner, limiting market access for independent delivery service providers and reducing consumer choice.

In Case Number 04/KPPU-I/2024, the KPPU assessed that Shopee's policy potentially violates Article 19 letter d and Article 25 paragraph (1) of Law Number 5 of 1999 because it treats certain business actors differently and hinders business competition. Law enforcement through a rule of reason approach is essential to demonstrate the real impact of this practice on market structure and consumer interests. Legal protection for independent delivery service providers can be provided through two mechanisms: preventive and repressive. Preventive protection is implemented through regulations prohibiting discriminatory practices by digital platforms, while repressive protection is realized through law enforcement processes by the KPPU (Commission for the Competition and Public Procurement) and civil legal remedies. However, the effectiveness of this legal protection still depends heavily on consistent enforcement of regulations and the courage of independent business actors to fight for their rights.

Therefore, strengthening regulations, increasing oversight, and providing legal education are necessary to ensure fair competition among independent delivery service providers. This step not only maintains a fair business climate but also protects consumers' interests in obtaining efficient, transparent, and high-quality services.

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