

Regulating Competition in Sharia Gold Pawning: Bank Syariah Indonesia and PT Pegadaian under POJK No. 29/2025

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Abstract

The dynamics of the Islamic finance industry recorded a very strong market concentration in gold pawn services, where Bank Syariah Indonesia (BSI) and the sharia unit of PT Pegadaian controlled 86.75% of the market share. This research aims to analyze how capital regulation and market behavior affect business competition in the sector. Using a Socio-Legal approach, this study dissects the implementation of POJK Number 29 of 2025 and its impact empirically. The results of the study show that the minimum capital standard is at Rp100,000,000,000.00 (one hundred billion rupiah) in Article 6 indicated to be the main barrier to entry that strengthens the duopoly structure. This condition, supported by the resource sharing privilege in Article 42A, is indicated to trigger tacit collusion behavior (covert collusion) which manifests in the price rigidity of the maximum administrative tariff of Rp125,000.00. This anomaly is exacerbated by the inequality of tiering strategies that have the potential to harm small customers. Substantively, the effect of regulation and the behavior of this duopoly market is indicated to not fully comply with the principles of Maqashid Sharia, especially in an effort to maintain the fair distribution of economic burdens and the protection of public property (hifz al-mal).

INTRODUCTION

The dynamics of the Islamic finance industry for the 2024–2026 period are marked by a surge in demand for gold pawn services as *a safe haven* instrument amid global economic turbulence. This condition creates fierce competition between Bank Syariah Indonesia (BSI) and PT Pegadaian as the dominant player in the national market. The consolidation of economic power in the two institutions requires strict juridical supervision to prevent the practice of abuse of dominant positions that can hinder healthy business competition.¹

Efforts to create a healthy competitive climate in the sharia gold pawn sector are facing regulatory challenges after the issuance of the Financial Services Authority Regulation (POJK) Number 29 of 2025 concerning the Business Implementation of Pawn Companies. This regulation sets a very high paid-up capital standardization for national-level pawn operators, which is Rp100,000,000,000.00 (one hundred billion rupiah). Juridically, the establishment of this massive capital threshold serves as a *significant barrier to market entry*, as it limits the ability of new business actors or regional players to compete broadly at the national level.²

This structural hegemony is reflected in the extreme concentration of market share, where the national pawn market transforms into an absolute duopoly structure. Based on the consolidation of statistical data from the authority for 2025–2026, the total market capacity (*relevant market*) of gold pawns in Indonesia is estimated to reach IDR 146.08 trillion, where PT Pegadaian and Bank Syariah Indonesia (BSI) cumulatively control 86.75% of the national market share.³ This massive dominance has exceeded the 75% threshold set in Article 4 paragraph (2) of Law Number 5 of 1999, so that it juridically activates the *presumption of law* for the occurrence of oligopoly practices.⁴ This structural inequality leaves a very narrow space for hundreds of other business actors, which ultimately limits customer choice in obtaining competitive service rates.

¹ Zulvia Makka, "Forms of Legal Protection of Competing Business Actors Against the Dominant Position in the Application of the Rule of Reason," *Journal of Business Competition* 1, no. 2 (2021): 5–14.

² POJK Number 29 of 2025, "Financial Services Authority Regulation Number 39 of 2024 concerning the Business Implementation of Pawn Companies as amended by Financial Services Authority Regulation Number 29 of 2025" (Indonesia, 2025).

³ Bank Syariah Indonesia, "Annual Report of PT Bank Syariah Indonesia Tbk 2025," 2025; Financial Services Authority (OJK), "Sharia Banking Statistics - January 2025," 2025; Financial Services Authority, "Press Release: OJK's Policy to Maintain the Financial Services Sector Increasingly Supports the Government's Priority Programs (Financial Services Industry Annual Meeting 2026). Jakarta: Financial Services Authority, 2026; PT Pegadaian, "Consolidated Financial Statements of PT Pegadaian Fiscal Year 2025," 2025. The data is consolidated and reprocessed by the author using the latest official statistics available.

⁴ Law No. 5 of 1999, "Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition," 1999.

Indications of unfair business competition practices are increasingly strengthened through the findings of *tacit collusion* on the structure of administrative costs in the gold pawn market. Bank Syariah Indonesia sets a maximum administrative fee of IDR 125,000.00 for certain loan ceiling categories.⁵ Identically, PT Pegadaian Syariah also applies the same *ceiling price* value at IDR 125,000.00 for similar service products.⁶ The uniformity of tariffs in this highly concentrated market structure indicates the existence of price *rigidity* that is centralistic and nationally standardized. This phenomenon has the potential to be detrimental to consumers' bargaining positions, because the absence of aggressive price competition between incumbents closes the space for the formation of more efficient and competitive service tariff schemes in the market.

This phenomenon of price uniformity actually has a strong legal precedent when it is associated with various studies on market control and regulatory intervention in other industrial sectors. There is a substantive link in various economic law literature regarding the urgency of regulatory intervention to market dynamics that are susceptible to distortions. The study by Mailinda Eka Yuniza et al. examined the tariff limits in the aviation industry, while Adinda Alviana et al. dissected cartel practices in salt commodities, and Afif Noor et al. evaluated the strengthening of the regulatory framework in the financial technology sector. The three studies collectively show how juridical instruments are used to control the behavior of business actors in concentrated markets in order to protect economic efficiency and public interests.⁷ Within the corridor of Islamic economic law, the urgency of regulatory intervention to control this distorted market is in line with the classical idea in the Kialkitab *Al-Hisbah fi al-Islam*. Public authorities have a sharia mandate to correct the practice of structural tyranny (*zulm*) and

⁵ Muhammad; Harun and Taufiqur Rahman, "Implementation of Hybrid Contract in Gold Pawn of Bank Syariah Indonesia Sub-Branch Office of Batu Diponegoro in the Perspective of Muamalah," *Jurnal Tabarru': Islamic Banking and Finance* 6, no. 2 (2023): 215–26.

⁶ Hisbul ; Istianah Mazagi, "The Suitability of Gold Pawning Practices at Ajibarang Sharia Pawnshops with DSN Fatwa Number 25 / DSN-MUI / III / 2002," *Innovative: Journal Of Social Science Research* 4, no. 3 (2024): 7513–29.

⁷ Adinda Alviana et al., "Juridical Analysis of Alleged Cartel Violations in Industrial Salt Import Quotas by AIPGI Case Study (Decision Number 09/KPPU-I/2018)," *Journal of Entrepreneurial Business Management* 4, no. 2 (2025); Afif Noor, Dwi Wulandari, and Aqila-Syarief Muhammad Afif, "Regulating Fintech Lending in Indonesia: A Study of Regulation of Financial Services Authority No. 10/POJK.05/2022," *Qubahan Academic Journal* 3, no. 4 (2022): 42–50; Mailinda Eka; Yuniza, Muhammad; Jibril, and Aicha Grade Rebecca, "Analysis of Government Policies Related to Airline Ticket Price Regulations in Indonesia," *ARDHIA NEWS: Journal of Civil Aviation* 46, no. 1 (2020).

unilateral control (*ihtikar*) in order to uphold the concept of fair prices (*tsaman al-misl*) and protect consumer benefits.⁸

This research is here to fill the literature gap (*research gap*) by drawing a similar line of analysis into the sharia gold pawn sector which is currently dominated by Bank Syariah Indonesia and PT Pegadaian. The novelty of this research lies in testing the phenomenon of tacit collusion and tariff rigidity after the enactment of POJK Number 29 of 2025, a strategic dimension that has not been touched by the law literature on business competition in the Islamic finance industry.

The existence of these research gaps is then emphasized by the reality of the latest regulations that practically narrow the space for competition in the pawn industry. The high *barrier to entry* in the form of a paid-up capital requirement of Rp100,000,000,000.00 (one hundred billion rupiah) for the national scope in POJK Number 29 of 2025 has cumulatively created a highly concentrated market structure. This market is ultimately controlled by two giant entities: PT Pegadaian which has massive competitiveness because its Sharia Business Unit (UUS) is supported by conventional business scale in the IKNB sector, and Bank Syariah Indonesia which monopolizes the share of Islamic banking. The condition of the duopoly market that faces each other (*head-to-head*) in the *relevant market* of sharia gold pawn services triggers the absence of aggressive competition which leads to the phenomenon of silent collusion, as indicated by the uniformity of the maximum administrative fee of Rp125,000.00. Although the dynamics of pawn regulation continue to develop with the issuance of POJK Number 29 of 2025 as an amendment to POJK Number 39 of 2024, the essence of regulation regarding the standardization of paid-up capital and the division of business areas remains the main instrument that shapes the current market structure.

Based on this description, this study formulates the main problem, namely: how is the juridical analysis of the dynamics of business competition and consumer protection in the sharia gold pawn service between BSI and Pegadaian after the implementation of POJK Number 29 of 2025?. This research aims to evaluate the effectiveness of regulations in preventing market distortions while contributing to the development of more competitive and equitable sharia economic law policies in Indonesia.

⁸ Misba Huddin and Muhammad Zainul Arifin Fahmi, "Ibn Taymiyah's Thoughts on the Standard of Selling and Buying Prices in the Book of Al-Hisbah," *ILTIZAM: Journal of Islamic Economics and Finance* 3, no. 1 (2025): 49–64.

METHOD

To answer the formulation of the problem and describe the above juridical problems comprehensively, this research was prepared using a normative juridical research method that is descriptive-analytical. The approach used includes the legislative approach (*statutory approach*) to examine Law Number 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition and POJK Number 29 of 2025 concerning National Pawnshops. The main data source relies on primary legal materials in the form of related regulations, as well as secondary legal materials sourced from scientific literature, journals, and official tariff determination documents from related entities. All collected data is then analyzed qualitatively with deductive logic to produce precise conclusions about business competition practices in the Islamic finance industry. In order to strengthen the analysis knife in the sharia corridor, the data of this study was also tested normatively using a conceptual approach (*conceptual approach*) by integrating Ibn Taymiyyah's classical Islamic economic theory regarding the concept of market justice, the limits of price intervention, and the role of public authorities as Muhtasib, as elaborated in various literature and journals of sharia economic law.

RESULTS AND DISCUSSION

1. Barrier to Entry and the Formation of a Duopoly Structure

The results of the study show that capital provisions in the pawn industry are strictly regulated through POJK Number 39 of 2024 jo. POJK Number 29 of 2025. Based on Article 6 of the regulation, pawn operators with the scope of the national operational area are required to have a paid-up capital of at least Rp100,000,000,000.00 (one hundred billion rupiah). In the 2025 regulatory update document, this nominal has not experienced relaxation or decrease, so it is an absolute requirement that must be met by every new entity. This directly creates a very high financial threshold for business actors to enter the national scale market.

In addition to the capital aspect, it was also found that there are zoning restrictions in business areas that limit the movement space of business actors. Based on Article 52 of POJK Number 29 of 2025, pawn companies are prohibited from carrying out business activities outside the administrative area that has been stipulated in their business licenses. If local business actors intend to expand the scope of the territory from the provincial level to the national level, the regulation requires an escalation of permits that must meet all national capital requirements in full. This administrative condition clearly locks the potential for organic growth of regional-scale business actors.

Other regulatory findings that affect the market structure are found in Article 42A POJK Number 29 of 2025 concerning special provisions for the use of resources for companies resulting from the separation (*spin-off*). The article allows the *Spin-off results* to continue to use the infrastructure and resources of the parent company. This provision provides facility advantages for entities that have affiliations with giant corporations. There is a contrasting difference in infrastructure burden between the companies that are the result of the separation that can utilize the parent facilities, compared to the purely private business actors who have to build all their operational facilities independently.

Although juridically POJK Number 29 of 2025 is a regulatory instrument for the Non-Bank Financial Industry (IKNB) sector, its implementation practically affects the competitive landscape in the relevant market (*relevant market*) Sharia Gold Pawn Service. Strict regulations on the private pawn sector result in a limited number of national competitors, which indirectly provides a favorable position for Bank Syariah Indonesia (BSI) as a business actor from the banking sector. This intersection creates a market structure that is concentrated on two main institutions, considering that both are competing for the same customer base in the sharia gold pawn ecosystem in Indonesia.

Theoretically, the determination of paid-up capital of IDR 100,000,000,000.00 (one hundred billion rupiah) and zoning restrictions in POJK Number 29 of 2025 are very restrictive barriers to market entry instruments. This is due to regulations that focus too much on enforcing rigid sectoral standards, so that they often ignore aspects of competitive efficiency and limit space for the emergence of new business actors.⁹ These administrative conditions create absolute financial selection, where only entities with large capital such as Bank Syariah Indonesia (BSI) and PT Pegadaian are able to meet operational qualifications on a massive scale. Judging from the principle of economic justice, policies that create exclusive market dominance without providing space for equal distribution of business opportunities must be tested through the lens of benefits or *istislah* to ensure that every rule remains inclusive for all levels of business actors.¹⁰

Theoretical analysis of the role of authorities also shows that there is a great responsibility in maintaining a balance between industrial stability and justice for regional-scale business actors. The Financial Services Authority (OJK) has a constitutional obligation to ensure that any regulations implemented during the legal transition period

⁹ Julian Nowag, *Global Antitrust and Sustainability: Law, Economics, Enforcement* (Oxford University Press, 2025).

¹⁰ Maya. Rein and Mustafa Kamal Rokan, "Analysis of Business Competition Law on Cooperation in Partnership Development and Management of Oil Palm Plantations from an *Istislah* Perspective (Study of ICC Decision Number 02/ICC-K/2023)" 6, no. 1 (2025): 237-53.

are fair and non-discriminatory, especially for parties with low bargaining positions in the relevant market.¹¹ However, the provisions regarding the zoning limits of operational areas and infrastructure privileges for *spin-off* companies have clearly created an unlevel *playing field*. In the absence of an affirmation scheme for local business actors, the current regulatory design tends to favor the institutional stability of dominant entities such as BSI and PT Pegadaian rather than the creation of a competitive climate that is open to all other sharia gold pawn service providers.

When compared with previous studies, the findings in this study show a similar pattern of tightening regulations but with a more extreme escalation of the burden in the pawn sector. Regulatory transformations aimed at strengthening comprehensiveness and consumer protection often have the consequence of significantly increasing *compliance costs* for businesses.¹² In the sharia gold pawn service ecosystem, the level of obstacles was found to be much more massive because the national capital requirement jumped to Rp100,000,000,000.00 (one hundred billion rupiah). The substantial difference is that, while in the fintech industry capital barriers are still balanced with digital operational flexibility, in the mortgage industry, these financial barriers are actually exacerbated by physical zoning restrictions that shackle the organic growth potential of new business actors outside BSI and PT Pegadaian.

The implementation of the minimum paid-up capital requirement at the national level which has soared to an extreme of Rp100,000,000,000.00 (one hundred billion rupiah) without a real risk indicator (*risk-based capital*) unreasonably closes business opportunities for small-scale industry players in the region. The act of blocking or strictly limiting the entry of new entrants into the market without a sharia emergency is considered contrary to the principle of *freedom of entry and exit in Islam*. Ibn Taymiyyah strongly opposes all forms of artificial bureaucratic obstacles that are deliberately created to close the door to people's sustenance, where capital policies that are hit equally and unevenly because they favor the incumbent with giant capitalization are classified as manifestations of structural tyranny (*zulm*) that are forbidden.¹³

¹¹ Fachrul Hanafi. Harahap and Annisa Sativa, "Prohibition of Unilateral Claim Cancellation by Masalah Mursalah Perspective Insurance Company (Study of Constitutional Court Decision NO.83/PUU-XXII/2024).," *Source: Journal of History and Culture*. 7, no. 2 (2024): 517-526.

¹² Noor, Wulandari, and Afif, "Regulating Fintech Lending in Indonesia: A Study of Regulation of Financial Services Authority No. 10/POJK.05/2022."

¹³ Mohammad Suhenda, "An Analysis of Ibn Taymiyah's Thoughts on Market Price Determination and Its Relevance to ICC Regulation No. 4 of 2011 concerning Guidelines for the Implementation of Article 5 of Law No. 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition" (2021).

Furthermore, the restriction of market access through this extraordinarily high juridical regulatory instrument has the potential to lead the industry towards the concentration of unjust wealth and enter the category of eating the property of others in an unlawful way, as prohibited in the Qur'an Surah An-Nisa verse 29.¹⁴ Allah SWT affirms the normative limits and the prohibition of exploitation through His words:

"O you who have believed, do not consume your wealth among yourselves in falsehood, except as it is a trade of your own accord , and do not kill yourselves ,for Allah is merciful to you.

Meaning: "O you who believe! Do not eat each other's property in a wrong way, except in trade that takes place on the basis of mutual consent (willingness) between you. And do not kill yourselves. Indeed, Allah is merciful to you." (QS. An-Nisa: 29).

When regulations turn into legal fortresses to protect the absolute profits of the incumbents (*incumbents*), The urgency of public benefits is neglected due to the absence of a healthy competition climate. As a result, big business actors lose the incentive to innovate services, which ultimately imposes high costs unilaterally on the wider community for the benefit of a few capitalists.

In synthesis, the integration between theoretical analysis and comparative studies shows that the formation of a national duopoly structure is the impact of protectionist regulatory design on large institutions. Very high barriers to entry, both financially and administratively, have systematically eliminated pure private competitors and consolidated the market at Bank Syariah Indonesia (BSI) and PT Pegadaian. This duopoly structure is not just the result of organic competition, but a consequence of regulations that do not accommodate the spirit of diversity of business actors in the sharia economy. The current strengthening of pawn regulations ultimately creates a concentration of economic power that not only limits customers' voting rights, but also hinders the process of democratizing access to capital in the sharia gold pawning service ecosystem in Indonesia.

2. Centralization of Economic Power (*Market Power*) and BSI Dominant Position - PT Pegadaian

The implementation of gold pawn services in Indonesia in the 2024-2026 period recorded a very large transaction volume, including the integration of sharia-based and conventional services as a unit of economic activities. Based on industry statistical data, the total national market capacity for gold pawning services as a whole is estimated to reach a value of Rp146.08 trillion. The value of this national market comes from two main

¹⁴ Suhenda.

clusters that intersect, namely the Islamic banking sector with a contribution of IDR 15.71 trillion and the Non-Bank Financial Industry (IKNB) sector of national pawns which reached a dominant figure of IDR 130.37 trillion. These figures reflect the large turnover of liquidity in the national gold pawn ecosystem, which is the main arena of competition between incumbent financial institutions.

PT Pegadaian holds a position as a single entity that dominates the market hegemonic. Of the total value of the national pawn industry of IDR 130.37 trillion, PT Pegadaian independently controls the financing volume of IDR 114.66 trillion. This data shows that PT Pegadaian is a single player with unparalleled economic strength in its sector, considering that the portion left for hundreds of other private pawn business actors is very insignificant to create competitive pressure. This dominance provides absolute control for PT Pegadaian in influencing the operational dynamics and standards of pawn services in Indonesia.

An identical condition of concentration of power is also found in the Islamic banking cluster, where Bank Syariah Indonesia (BSI) appears as the "sole player" that controls the niche of post-merger banking gold pawn services. Of the total volume of gold pawn services in the entire Islamic banking industry which reached IDR 15.71 trillion, BSI recorded a transaction volume of IDR 12.06 trillion. This dominance in the Islamic banking sector makes BSI an entity with dominant market power without commensurate competitors in its class. The concentration of volume at BSI emphasizes its status as the ruler of gold pawn liquidity in the banking sector which is directly facing giants from the pawn sector.

Cumulatively, the structure of the national gold pawn market eventually transformed into an absolute duopoly due to the meeting of two dominant forces from different sectors. The merger of transaction volume from PT Pegadaian as the leader of the IKNB sector and Bank Syariah Indonesia as the leader of the Islamic banking sector resulted in an accumulation of IDR 126.72 trillion, or equivalent to 86.75% of the total national market share. These findings confirm that when the two sectors are consolidated in one *relevant market*, there are only two institutions that have massive market dominance. Juridically, this fact exceeds the threshold of 75% in Article 4 paragraph (2) of Law Number 5 of 1999, thus activating the *presumption of law* regarding the occurrence of a centralized duopoly market structure in BSI and PT Pegadaian.

The control of the market share that reached a cumulative figure of 86.75% by Bank Syariah Indonesia (BSI) and PT Pegadaian automatically triggered legal presumptions regarding the abuse of the collective dominant position as stipulated in Law Number 5 of 1999. Theoretically, entities that hold absolute market power in a relevant market have

the freedom to unilaterally set trading conditions without being affected by regular competitive pressures.¹⁵ The absence of competitors with a balanced economy makes these two giants have the flexibility to dictate the market, which ultimately kills the market discipline mechanism that should be created in a climate of healthy business competition.

The phenomenon of absolute duopoly is increasingly rooted due to the integration of large-scale entities through merger schemes and institutional synergy within state-owned enterprises. The consolidation of business power between SOEs, if not strictly monitored, can create a highly centralized market structure and has the potential to distort the principles of healthy business competition due to exclusive operational privileges.¹⁶ In addition, the practice of business integration and conglomeration in the financial sector often results in joint mastery of infrastructure that is impossible to offset by pure private entities, thus triggering permanent structural inequities in the national market.¹⁷

These structural and financial inequality directly create systemic *barriers to entry* for medium and small business actors in the pawn sector. This restriction of market access is not only triggered by state policies such as capital requirements, but also by the business practices of incumbents who dominate the service ecosystem massively, making it difficult for new competitors to participate and survive in the same market.¹⁸ This condition puts hundreds of other private pawn companies in a subordinate position, where their space for expansion is limited geographically and capitalically by the forces of the duopoly that face each other.

The logical consequence of the dominance of this centralized ecosystem is the high vulnerability to customer exploitation, both in terms of setting service tariffs and restricting alternative products. The practice of domination by market rulers that limits the space for movement and rational choices for consumers is basically a form of abuse

¹⁵ Meriyanti Djaka, "Journal of Law & Development Review of the Principles of Economic Democracy on the Abuse of Dominant Position in Restricting Technology Developers in the Creative Industry Era: A Study on Google Play Store Service Tariffs Restricting Technology Developers in the Creative Industry Era: A Study on Tariffs" 53, no. 2 (2023), <https://doi.org/10.21143/jhp.vol53.no2.1572>.

¹⁶ Vanya Amanda Filza Yunas, "Review of Competition Law on Direct Appointments in SOE Synergy Based on PER-2/MBU/2023," 2025.

¹⁷ Alifia Zahra Lathifah et al., "Integration, Mergers, and Conglomerates: Implications for Business Competition Policy" 3 (2025).

¹⁸ Anna Maria et al., "Barriers to Entry: Who Decides and Who Benefits?" 9, no. 1 (2026): 1-28, <https://doi.org/10.20473/mi.v9i1.76984>.

that has a direct impact on the loss of people's economic welfare or *consumer welfare loss*.¹⁹ When consumers lose their bargaining power to switch due to absolute dependence on two dominant institutions, the goal of business competition law to protect the public interest becomes unattainable.

When compared to previous studies, the dangers of this concentrated market structure have a distortion pattern similar to those that occur in other strategic commodity sectors. The concentration of market share control in a handful of dominant business actors has proven to be very vulnerable to triggering the practice of silent collusion, uniformity of tariffs, and covert cartels that lead to economic losses for the wider community.²⁰ Although gold pawn services are in the Islamic financial services sector, the absence of counterbalancing competitors makes the risk of administrative tariff rigidity very real and institutionalized.

The concentration of market dominance that is very dominant until it reaches an accumulative figure of 86.75% by the duopoly structure of Bank Syariah Indonesia and PT Pegadaian is the antithesis of the value of market justice in Islamic economics. The extreme concentration of economic power in a handful of giant corporations has a legal *resemblance* ('*illat*) to the practice of *Ihtikar* (monopoly/oligopoly) which is strictly forbidden in Islam. Ibn Taymiyah emphasized that the market must run naturally without the engineering of scarcity or absolute control over public commodities by a few parties, because such unilateral control will give birth to the arbitrariness of business actors in dictating society.²¹

Furthermore, the absolute dominance by these two incumbent entities triggers the occurrence of asymmetry of market *power* that damages the healthy market balance and kills the potential for competition from local sharia business actors. In the view of Islamic economics through the Kitab *Al-Hisbah fi al-Islam*, the absence of alternative choices for society due to this closed market structure clearly deprives consumers of the right to *freedom of choice*. The long-term impact of this market inequality is the loss of distributive justice, where people are forced to bear the burden of high service costs in the absence of competitive comparison options.²² This theological prohibition against the hegemonic

¹⁹ Moch. Marsa Taufiqurrohman, Helza Nova Lita, and Gress Gustia Adrian Pah, "Digital Markets and Data Exploitation: Addressing Abuse of Dominance Under Indonesian Competition Law," *Journal of De Jure Legal Research* 25, no. 1 (2025).

²⁰ Alviana et al., "Juridical Analysis of Alleged Cartel Violations in Industrial Salt Import Quotas by AIPGI Case Study (Decision Number 09/ICCU-I/2018)."

²¹ Huddin and Fahmi, "Ibn Taymiyyah's Thoughts on the Standard of Selling and Buying Prices in the Book of Al-Hisbah."

²² Huddin and Fahmi.

concentration of economic power is in line with the basic principle of the distribution of justice in the Shari'ah which requires that productive assets should not be accumulated exclusively in the hands of large capitalists, as affirmed in the Qur'an Surah Al-Hashr verse 7:

The Messenger of Allaah (peace and blessings of Allaah be upon him) said: "The Messenger of Allaah (peace and blessings of Allaah be upon him) said: The Messenger of Allaah (peace and blessings of Allaah be upon him) said: "The Messenger of Allaah (peace and blessings of Allaah be upon him) said:

"Whatever spoil (*fai'*) Allah gives to His Messenger (who comes) from the inhabitants of the cities, it is for Allah, for the Messenger, for relatives, for orphans, for the poor and for those on the way, so that it does not circulate among the rich among you. What the Messenger gives you, then accept it. And what he forbids you, then leave it. And fear Allah. Indeed, Allah is very severe in His punishment." (QS. Al-Hasyr: 7).

The above normative provisions absolutely provide a legal restriction that the circulation of capital and market control must not be oligopolistically centralized. When the fortress of regulation actually strengthens the dominant position of large corporations and closes access to distributive justice for regional-scale business actors, then the basic essence of fair market benefits has been systemically distorted.

In synthesis, the structure of this duopoly market with this extreme level of concentration must be reviewed using the approach of sharia economic law to be in harmony with the principles of substantive justice. Any form of unilaterally centralized market domination that proves to close the space for equal partnerships or competition must be corrected based on the principle of *istislah*, in order to ensure that economic benefits are distributed inclusively to all business entities.²³ Strengthening the instruments of supervision by the authorities is an absolute obligation to ensure that giant entities such as BSI and PT Pegadaian transform into economic drivers of the people, not just enjoying the benefits of a restrictive regulation.

3. Tacit Collusion on Relevant Market Sharia Gold Pawn

The analysis of market behavior in this study is focused on the mechanism of determining administrative rates which is the main competition instrument between Bank Syariah Indonesia (BSI) and PT Pegadaian. Although institutionally PT Pegadaian is the parent entity, in the *relevant market* for gold pawn services that are in direct contact with BSI, the focus of business behavior is on its sharia business unit. This specification

²³ Rein and Rokan, "Analysis of Business Competition Law on Cooperation in Partnership Development and Management of Oil Palm Plantations from an Istislah Perspective (Study of ICC Decision Number 02/KPPU-K/2023)."

is crucial because methodologically, BSI and PT Pegadaian's sharia unit compete in identical customer segments and contracts. Based on field findings, a very precise uniformity phenomenon was found where the two entities set a maximum administrative fee at Rp125,000.00. In economic rationality, nominal uniformity in two institutions with different operational cost structures is a real anomaly of competition.

This pricing anomaly becomes even sharper when dissecting the loan ceiling stratification strategy (*tiering*) which is used to lock customers at their respective levels. Field data shows that BSI sets an administrative fee of IDR 125,000.00 for a loan ceiling above IDR 100,000,000.00, while PT Pegadaian's sharia unit locks the maximum administrative rate at the same figure but starting from a much lower ceiling point, which is IDR 20,000,000.00. This drastic difference in tiering points reflects the implicit division of market segmentation; BSI locks out high-end customers (*high-end*), while PT Pegadaian's sharia unit locks down lower-middle class customers. This condition shows that the two entities feel "comfortable" at the equilibrium point of the price of Rp125,000.00 due to the absence of competitive pressure from other business actors. The status of absolute duopoly makes these two institutions have no incentive to lower prices, but rather strengthen tariff rigidity to maximize the profit margins of the customer segment that they have controlled.

The dominance of PT Pegadaian's sharia unit which is able to compete competitively *head-to-head* with banking giants like BSI—even boldly setting maximum rates on low loan ceilings—juridically backed by the privileges of its parent company's infrastructure. This is explicitly legitimized in Article 42A of the Financial Services Authority Regulation (POJK) Number 29 of 2025 concerning Amendments to POJK Number 39 of 2024 concerning Pawns. The provisions of Article 42A provide relaxation in the form of allowing the use of resources (*resource sharing*) owned by the parent company which includes the use of office infrastructure, information technology systems, and human resource support. Through this legal umbrella, the "muscle" strength of PT Pegadaian, which has been established in the conventional sector, is massively channeled to strengthen its sharia unit, so that the unit can dominate the market instantly without having to bear the cost of infrastructure investment from scratch.

The meeting of BSI entities that are growing due to the merger scheme and PT Pegadaian's sharia unit which dominates thanks to resource sharing privileges (Article 42A POJK 29/2025) should create a climate of price competition that benefits customers through operational efficiency. However, the dominance of the duopoly market by the two entities actually boils down to tariff rigidity (*price rigidity*). The setting of the highest price point that is identical even with a sloppile tiering structure strongly indicates the

existence of a practice *Tacit Collusion*. Dominant business actors tend to align roofing prices with each other (*ceiling price*) In order to avoid tariff wars that can erode institutional profits, even though it must sacrifice the economic interests of customers.

The practice of silent collusion in this duopoly market directly kills the function of price as an instrument of competition. Lower-middle and middle consumers who only need a loan of IDR 20,000,000.00 in PT Pegadaian's sharia unit are forced to bear the burden of maximum administrative costs equivalent to priority customers with a ceiling of hundreds of millions at BSI. The absence of this varied price option confirms that the dominance of the dominant market structure has been exploited to maintain rates at a certain level. This effectively closes the competition space for hundreds of small-scale private sharia pawn companies that do not have the parent infrastructure privileges that PT Pegadaian has, thereby creating a sustainable market distortion in the national sharia finance sector.

The analysis of market behavior in this study is focused on the mechanism of determining administrative rates which is the main competition instrument between Bank Syariah Indonesia (BSI) and PT Pegadaian. Although institutionally PT Pegadaian is the parent entity, in the *relevant market* for gold pawn services that are in direct contact with BSI, the focus of business behavior is on its sharia business unit. This specification is crucial because methodologically, BSI and PT Pegadaian's sharia unit compete in identical customer segments and contracts. Based on field findings, a very precise uniformity phenomenon was found where the two entities set a maximum administrative fee at Rp125,000.00. The *Law and Economics* approach shows that in highly concentrated market structures, business actors tend not to compete through price in order to maintain the stability of profit margins collectively, giving rise to coordination without written agreement known as tacit collusion.²⁴ Normatively, the determination of the cost of storing gold in the *rahn contract* must actually remain in line with the provisions of the *ijarah* fee that is reasonable and proportional to the service.²⁵ However, the uniformity of tariffs in the field reflects the rigidity of prices that ignore the objective efficiency of each institution.

Based on the study of Islamic economic law, it is stated that unilateral price fixing or agreement that is above the natural market price without a real component of increasing

²⁴ Pascalis Dani K. Wibowo, "Competition Law in Indonesia: Socio-Legal Approach," *Indonesian Law Journal* 18., no. 2. (2025).

²⁵ Aulia Nisma and Uswatun Hasanah, "The Law of Determining Gold Storage Fees in the Rahn Contract from the Perspective of Fatwa Dsn-Mui Number. 25/III/2002," *Legal Standing : Journal of Legal Sciences* 8, no. 1 (2024): 122–35, <https://doi.org/10.24269/lj.v8i1.8348>.

operational costs is considered to injure consumer rights. Therefore, the legitimate price level in the market in the sharia lens must refer to the concept of *Tsaman al-Misl* (fair and commensurate price), which is an economic value formed from the results of competition that is honest, healthy, and reflects the common good without any element of exploitation.²⁶

This pricing anomaly becomes even sharper when dissecting the loan ceiling stratification strategy (*tiering*) which is used to lock customers at their respective levels. Field data shows that BSI sets an administrative fee of IDR 125,000.00 for a loan ceiling above IDR 100,000,000.00, while PT Pegadaian's sharia unit locks the maximum administration rate at the same number but starts from a much lower ceiling point, which is IDR 20,000,000.00. This drastic difference in tiering points reflects the implicit segmentation of the market; BSI locks out high-end customers (*high-end*), while PT Pegadaian's sharia unit locks down lower-middle class customers. This practice is a form of abuse of dominant position that exploits consumer dependence to unilaterally maintain high price levels.²⁷ This pattern of price rigidity has similarities to market distortions in other strategic industries, where oligopolistic market structures often give rise to uniform price points and are difficult to move competitively despite fluctuations in the cost of providing services.²⁸

The dominance of PT Pegadaian's sharia unit which is able to compete competitively *head-to-head* with banking giants such as BSI juridically supported by the privileges of its parent company's infrastructure. This is explicitly legitimized in Article 42A of the Financial Services Authority Regulation (POJK) Number 29 of 2025. This provision provides relaxation in the form of resource utilization (*resource sharing*) owned by the parent company which includes the use of office infrastructure, information technology systems, and human resource support. From the perspective of business competition law, the use of this massive parent facility is in line with the analysis of the *essential facilities doctrine*, where control of a key asset or facility by a dominant entity creates an entry barrier (*barriers to entry*) absolute for smaller competitors.²⁹ In fact, in the sharia economic

²⁶ Huddin and Fahmi, "Ibn Taymiyyah's Thoughts on the Standard of Selling and Buying Prices in the Book of Al-Hisbah."

²⁷ Dinda Azzahra, Sylvana Murni, and Deborah Hutabarat, "Monopolistic Practices by Google LLC through the Implementation of the Google Play Billing System (Case Study of KPPU Decision Number" 8, no. 3 (2025): 445-61.

²⁸ Yuniza, Jibril, and Rebecca, "Analysis of Government Policies Related to Air Ticket Price Setting in Indonesia."

²⁹ Ria Setyawati, Stefan Koos, and Zalfa A.F. Jatmiko, "Data Driven Dominance in Digital Markets : Assessing Indonesian Competition Law in the Digital Age," *IUS Journal of Law and Justice Studies* 12, no. 2 (2024): 40-47.

law ecosystem, service providers bear the responsibility to meet transparent, honest, and accountable service standards in order to maintain the dignity of institutions and trust (*trust*) public.³⁰ In this regard, the Islamic economic system requires that the entire business contract process be carried out transparently and openly in order to avoid transactions in uncertainty (*gharar*). The principle of openness is a crucial instrument to avoid a profit model that is only concentrated on one side and losses on the other.³¹ This inequality of access ultimately locks customers into the market dominator ecosystem without any rational substitution space.

The practice of silent collusion and the mastery of these essential facilities directly kills the function of price as an instrument of healthy competition. Lower-middle class consumers are forced to bear the burden of maximum administrative costs that are disproportionate to the value of their loans. In Islamic economic law, exploiting consumer dependence by charging tariffs beyond the limits of reasonableness and disproportionate is classified as an act detrimental to the economic rights of the community (*bakhs*). This theological prohibition of exploitative practices is in line with the command of Allah SWT to always uphold justice and proportionality of prices in transactions, as He says in the Qur'an Surah Hud verse 85:

And O people, pay the scales and the balance in installments , and do not deprive the people of their goods ,and do not make mischiefs in the land.

Meaning: "And (Shu'aib said): 'O my people, measure and scale fairly, and do not harm people to their rights, and do not do evil on the earth by doing damage'." (QS. Hud: 85).

Continuing the theological prohibition against manipulative pricing practices, viewed from the perspective of *Maqashid Syariah*, any business practices that exploit consumers and distort market prices must be corrected, keeping in mind the protection of property (*Hifz al-Mal*) and the economic safety of the community is the main goal of sharia that must be enforced in public regulations.³² In order to restore substantive justice from the snare of covert collusion, based on the concept of *Wilayatul Hisbah* In the book *Al-Hisbah in al-Islam*, Ibn Taymiyah required the intervention of the modern market supervisory authority as a *Muhtasib* through the instrument of determining the highest tariff limit

³⁰ Serli Lestari Napitupulu and Cahaya Permata, "The Application of Halal Standards for Canteen Management of UIN North Sumatra Medan Campus" 14, no. 2 (2025): 408–20.

³¹ Mustapa Khamal Rokan, *Business Competition Law: Theory and Practice in Indonesia*, Ed. 1, Cet (Depok: Rajawali Press, 2019).

³² Annisa Febrianti Aryet and Abd.Rahman Harahap, "Consumer Protection of Non-SNI Helmets in the Perspective of Maqashid Syariah: A Case Study in Medan Perjuangan District" 6, no. 1 (2025): 11–24.

(ceiling price).³³ Therefore, the rigidity of the tariff of Rp125,000.00 created from the comfort of the market duopoly of BSI and PT Pegadaian confirms the occurrence of market distortions, which urgently need strict supervision so that the values of economic democracy based on substantive justice can be realized.

CONCLUSION

The dynamics of business competition in sharia gold pawn services between Bank Syariah Indonesia (BSI) and PT Pegadaian after the enactment of POJK Number 29 of 2025 shows that there is a significant market distortion from structural aspects to business actors' behavior. Regulations regarding the minimum paid-up capital threshold at the national level of Rp100,000,000,000.00 (one hundred billion rupiah) and the zoning restrictions of operational areas juridically act as *barriers to entry* that are very restrictive for pure private operators and regional-scale players. In the perspective of Islamic economic law, this artificial bureaucratic tightening that creates exclusively market dominance with giant capitalization is classified as a form of structural tyranny (*zulm*). The policy unreasonably closes business opportunities and limits people's right to *freedom of entry* without a sharia emergency reason, thus ignoring the principles of benefits (*istislah*) and economic justice.

These extreme barriers to entry lead to the formation of an absolute duopoly market structure, where BSI and PT Pegadaian cumulatively control the extreme relevant *market share* of 86.75% of the total national industrial capacity which reaches Rp146.08 trillion. The concentration of economic power (*market power*) that exceeds the threshold of positive legal regulation has legal similarities (*'illat*) with the practice of *Ihtikar* (monopoly/oligopoly) in the *Kitab Al-Hisbah fi al-Islam*. This absolute duopoly structure locks customers into economic dependence, undermines distributive justice, and deprives consumers of the *right of freedom of choice* due to the absence of healthy competition pressure from balancing business actors.

The continued impact of this structural hegemony is confirmed through market behavior that leads to *tacit collusion* and *price rigidity*. This phenomenon is empirically proven by the uniformity of the twin maximum administrative rates which are precisely pegged at Rp125,000.00 by both institutions, even though both have very unequal operational characteristics and strategies for determining the tiering limit of the loan ceiling. The unilateral setting of tariffs that exploit the lower middle class consumers has

³³ Huddin and Fahmi, "Ibn Taymiyyah's Thoughts on the Standard of Selling and Buying Prices in the Book of Al-Hisbah."

been proven to injure the pillars of willingness (*'antaradin*) and deviate from the concept of fair prices (*tsaman al-misl*). Therefore, based on the perspective of *Maqashid Syariah* in order to enforce the protection of property (*hifz al-mal*), the Financial Services Authority (OJK) together with the Business Competition Supervisory Commission (ICC) bear a constitutional obligation to act decisively as a *modern era Muhtasib* through regulatory intervention, especially in setting the ceiling *price* proportional to restore substantive justice in the national Islamic financial market.

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