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The role of business competition law in online business: A comparative study of United Kingdom and Indonesia

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Abstract: Since the expansion of e-commerce in Indonesia and the United Kingdom is inescapable, it will be fascinating to see how competition legislation is implemented in these two countries. The measures the two countries take to prevent unfair competition in e-commerce are crucial for revising competition legislation, particularly in Indonesia. This research aimed to compare and contrast Indonesian and English commercial competition law in the digital age. A normative judicial research strategy was employed for this investigation. The data demonstrates that the United Kingdom and Indonesia impose barriers to market entry. Vertical price fixing, discriminatory pricing, and the preservation of resale prices are all illegal under England's Competition Act of 1998. In Indonesia, anti-competitive price fixing is governed by Law No. 5 of 1999. The United Kingdom has favoured internet businesses over brick-and-mortar ones since Brexit. There are no regulations on internet business rivalry in Indonesia. Online and offline businesses are increasingly focusing on expanding their online presence. Whenever there are concerns that unfair competition in the online business sector harms the U.K. market, the Business Competition Supervisory Commission in Indonesia might launch an investigation. Indonesia's anti-competition laws, particularly those about the internet, may be impacted by the Commerce Competition Supervisory Commission's limited jurisdiction (buying and selling). This article compares and contrasts competition laws in the United Kingdom and Indonesia to protect consumers and the public interest.

Subjects: English Law; European; EC; Law; Information Technology Law; International Trade & Economic Law; Comparative Law; Business & Company Law; Commercial Law



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PUBLIC INTEREST STATEMENT

In light of the explosion of online commerce over the past decade, this study is essential reading. This paper shows the various techniques implemented to foresee anti-competitive competition and legal protection in the internet business competition regime. In this situation, the United Kingdom employs a more nuanced legal strategy to strike a balance between the shifting realities of economic rivalry, mainly as it manifests online than in Indonesia, where authorities still favour a more traditional approach. The findings of this research have the potential to inform changes to national business competition law, particularly in light of the exploding growth of the digital marketplace.

| **Keywords:** business competition law; online business; e-commerce; comparison

1. Introduction

The expansion of computing power and communication networks causes general shifts in society and the economy (Farhadi et al., 2012). In the past, when technology was not as advanced as it is now, sellers and buyers were required to carry out direct buying and selling transactions at the same time and place, but now, selling transactions can be conducted remotely, eliminating the need for face-to-face interaction between the seller and the buyer (Fraccastoro et al., 2021). Thanks to the proliferation of digital marketing channels, the need for a brick-and-mortar storefront and other traditional offline advertising like brochures and billboards is eliminated for today's entrepreneurs (Steenkamp, 2020). By utilising electronic purchasing, business owners and consumers gain a degree of adaptability.

Technological developments that make life easier for business owners and consumers affect online and offline market competitive circumstances (Rangaswamy et al., 2022). Those would-be business owners who lack either technological fluency or financial backing will struggle to compete with those who do. Entrepreneurs can get started with just a computer or smartphone and access the internet. However, this does not rule out the existence of competition in the internet sector (buying and selling), particularly regarding pricing. Customers are looking for low-priced items of acceptable quality, but not all internet business owners are manufacturers. Internet business owners often function as resellers, opening the door to predatory pricing, price discrimination agreements, and agreements to maintain resale prices (Gupta, 2022).

The level of competition between businesses is one of the most critical aspects of successfully running an economy. Buying and selling goods and services online logically lowers the barriers to entry into the market, making it easier for any entrepreneur to enter the market. Alternatively, one could say that the barriers to market entry in online businesses (buying and selling) are relatively lower than in conventional businesses. Business competition legislation aims to ensure that market competition is carried out as fairly as possible, with the ultimate goal of realising a market that is entirely free from any barriers to entry (Gálvez Delgado & Gálvez Delgado, 2020). Business competition (competition) can affect policies about trade, industry, an environment favourable to business, business certainty and opportunity, efficiency, public interest, people's welfare, and other related topics. For the state to control all of its people's interests through competition law, the state must be present (Dwivedi et al., 2021).

Market participants' actions might affect the market and even cause it to become skewed due to such behaviours (Anagnostopoulos, 2018). Alfred Marshall (2009), an influential figure in the field of economics, suggested that the phrase "economic freedom" should be used instead of "competition" when characterising or advocating for the practical purposes of corporate competition. Price is an essential aspect of this endeavour because it is connected to consumers' freedom to purchase whatever they require, producers' freedom to produce, and the freedom of resource owners to use resources. Through the operation of the market mechanism, the price system will respond to the questions raised above. The term "economic efficiency" refers to either the efforts to attain maximum welfare goals or the efforts to extract the highest value out of the limited community resources (Hendren & Sprung-Keyser, 2020). Economic efficiency is the metric that is used to quantify economic welfare. The competition will affect business actors who are unsuccessful in the market, but competition is still seen as an appropriate mechanism in the economy to achieve prosperity through the allocation of maximum resources. This is even though competition will affect business actors who are unsuccessful in the market (Stucke, 2013).

This is not the situation at all. Because a significant number of events take place, each of which impacts the market mechanism and finally leads to a distinct reality about the market model. In light of this, it can be deduced that the behaviour of market players themselves affects the market, whether through a mechanism for competition, an attempt to avoid competition through collusive

tactics, or an attempt to restrict competition through the commission of fraudulent conduct. As a result, there is an immediate requirement for competition law and policy to govern the behaviour of business actors and ensure that they can compete in a healthy manner guaranteed by the law. It is crucial to make timely and accurate adjustments to competition law in connection to online commerce (buying and selling), which tends to experience rapid growth. In order to achieve this goal, risk mitigation for unfair competition must be carried out.

Both the business of providing services and purchasing and selling goods online have been affected by the growth of online businesses. These changes have occurred across several different industries. Several studies concerning the progression of businesses toward online platforms have been conducted in the past. One such study was conducted by Yim Hyung Rok (2011), which focuses on the easy assumption that startups that lack startup capital, such as labour and capital, tend to fail quickly. Therefore, this paper answers an important question: what if there are startups that are proliferating but have just been established in a competitive environment? How do they survive and achieve rapid growth? Therefore, this paper presents newly founded startups that have grown into some of the largest companies in the United States. To this end, the Fortune 500 indices for 1993 and 2003 were compared.

Amalia (2020), concentrated on the duopoly practice of online transportation businesses in Indonesia, paying particular attention to the direct effects of this business model. Through normative juridical study, it has been demonstrated that this duopoly practice is recognised as having a Bertrand duopoly model and that it has an effect in the form of predatory pricing in conjunction with a predatory promotion mode.

Febrina (2022) has completed research on business competition in the digital age from the point of view of business competition law, which is primarily concerned with aspects of mergers and acquisitions. It is of particular interest to Febrina (2022) to examine the phenomenon of business development achieved through acquisitions and mergers, as well as the implications this phenomenon has for business competition in the online buying and selling market, particularly regarding laws governing business competition. Acquisitions are a common occurrence in the business of buying and selling goods and services online. This is partly because they can be interpreted as an attempt to lessen the market's competition, particularly when they are carried out by business owners who are also engaged in the same line of work.

Since the rise of internet business (buying and selling) is also inextricably linked to the development of the economies of Indonesia and the United Kingdom, it will be fascinating to explore the role that competition legislation plays in each nation. In addition, how the two nations protect their businesses from unfair competition in online commerce (buying and selling) is an essential component that must be understood prior to modifying competition law, particularly in Indonesia.

This study analyses online businesses' presence and implications in market competition. Additionally, the study seeks to understand and analyse the comparison of the Law of Business Opportunities in the United Kingdom and Indonesia. This purpose is based on the background information presented above.

2. Literature review

Viewing the legal system as a distinct but dynamic element embedded in a changing socio-economic context and inseparable from economic and political challenges introduces a degree of contingency that highlights the importance of Business Partnership Law itself. The meaning of law and its economic effects must be fully understood in a reductionist way that limits itself to seeing law only as a law or jurisdiction, as well as when we talk about Business Competition Law. A cross-disciplinary approach between economic or business historians and law can be a promising way to gain new insights and a better understanding of Competition Law and vice versa (Pahlow & Teupe, 2019).

Business regulations ensure fair competition. Competition among businesspeople will boost company success. Common legal argument: increased competition promotes economic efficiency. Competition isn't rivalry; it boosts company efficiency. This definition influences government, law enforcement, corporate participants, and product users' views on monopoly in competition (Wignaraja, 2003).

In the economic system and laws governing corporate competition, competition is rivalry in which one participant stimulates the other to achieve economic efficiency, mainly through the products they offer. Competition law accusations need a high burden of proof. First, competition and rivalry are synonymous, according to dictionaries. No dictionary defines competition's economic efficiency. Second, "competition" means "rivalry" People often equate the two (Gerla, 1996). Judge Frank Easterbrook (1986), who defined competition as economic efficiency, could not resist equating rivalry with competition in his dissenting opinion in *Fishman versus Estate of Wirtz* (1986). Judge Frank ruled that competition is about efficiency, not good rivalry.

Third, "competition" refers to commercial rivalry in anti-monopoly and corporate competition laws. Competition in business competition law has a sense of rivalry. Thus the three reasons above support that view. Corporate competitiveness is crucial. In business competition laws, "competition" refers to fair competition. Several "regulations" have been created to remove variables that decrease competition fairness (Haroye, 2010).

Several countries, including Indonesia, use a business competition legislation approach similar to the Sherman Act (1890). This is due to the fact that the Sherman Act as well as Clayton Act and Robinson-Patman Act has become the primary standard in competition law in nearly every country, including the United Kingdom and Indonesia. Section 1 of the Sherman Act (1890) prohibits trade-restricting treaties. This section lists trade-inhibiting behaviours such as fixing pricing, rigging bids, and refusing to do business. This provision prohibits "any contract, trust, or conspiracy to impede trade or commerce among the states or with foreign powers." "Every contract, trust, or conspiracy" is banned. "Contract," "combination," and "conspiracy" unlock wrongdoing. Secret plots might be group activities or legally enforceable contracts made in front of an attorney or notary. If no two parties cooperate, the Sherman Act's legitimacy is challenged. The existence of collective acts that restrict trade is the fundamental factor that decides whether Part I of the Sherman Act (1890) applies; in other words, even if an action restricts trade, section 1 of the Sherman Act (1890) cannot be enforced against it due to this criterion (Anderson et al., 2018).

Section 2 of the Sherman Act states, "Every person who monopolises, or attempts to monopolise, or combines or conspires with any other person or persons to monopolise any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$100,000,000 if a corporation, or \$1,000,000 if any other person, or by imprisonment not exceeding ten years" (Lande & Zerbe, 2020).

The U.S. legal system adopts reason and criminality "per se." In corporate competition law, the Sherman Act violates the rule of reason. This concept determines if a business activity or agreement violates or could violate the Business Competition Law. Per se, illegal was first used in 1980's Sherman Act Antitrust Law. The 1911 Supreme Court judgment implemented the rule of reason in the case of *Standard Oil Company of New Jersey et. al. v. United States* (Bork, 1965).

Clayton Act (1914) and competition law are linked. The Clayton Act (1914), which bans behaviour not prohibited in the Sherman Act but could hinder future trade, is crucial to competition law. This law focuses on behaviours that eliminate competition or create monopolies in all business domains. The Clayton Act must show a substantial chance, not just a theoretical potential, that a given activity would lead to trade restrictions if it persists. This proves that the activity is anti-competitive (Abbott, 2005).

Section 1 of the Robinson-Patman Act (1936) amended Section 2 of the Clayton Act (1914) to make price discrimination between buyers of the same type and quality of item illegal. 1936's Clayton Act had this provision. It also regulates the consequences of such discrimination, which "may substantially lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who grants or knowingly receives such discrimination, or with customers of either of them." Section 2 of the Clayton Act outlaws extra commissions, brokerage fees, other payments, and discriminatory promotional or advertising expenses. Section 2 makes it illegal to persuade or accept discriminatory prices. Price changes are allowed due to trading's unavoidable cost volatility (Evans, 1936).

The Clayton Act (1914) prohibits monopoly-maintaining practices. Section 3 of the Clayton Act prohibits exclusive and non-compete agreements. This rule applies if the agreement reduces competition or creates monopolies. Section 7 of the Clayton Act prohibits certain stock or asset acquisitions. Section 7 prevents monopolies and reduces competition. This is about a merger that reduces competition and promotes monopoly. (Turner, 1962).

The Federal Trade Commission Act or The FTC Act (1914) grants an independent organisation (the FTC) jurisdiction to enforce the Clayton Act and Robinson Patman Act (but not the Sherman Act) and to enforce the law against unregulated competitive activities if they constitute unfair competition. The FTC Act (1914) is as broad as the Sherman Act (1886), Clayton Act (1914), and Robinson-Patman Act (1914) combined (Section 5 of the Federal Trade Commission Act). Law enforcement is still being debated (Jones & Kovacic, 2020).

Business competition law informs policymaking. This policy prohibits agreements and actions that limit abuse of dominance and anti-competitive mergers and has administrative and criminal punishments (Jung & Chang, 2006). Competition law informs policymaking. Enacting business competition regulations aims to create a competitive market. The ideal market structure is perfect competition. This is because it has a structure that supports manufacturing efficiency, encourages innovation, and emphasises product quality. Perfect competition markets are different from others. A perfect competition market has many providers and consumers, but neither can change market conditions. Even though many sellers in a competitive market, they are unimportant and cannot influence it. A competitive market has homogenous products, unfettered market entry and exit, and information transparency between sellers and buyers (Berta et al., 2012).

Agreements that create limits or monopolistic practices go against the ideal structure of a perfect market, which can harm business actors, society, customers, and the state (Akyuwen, 2017). The state offers rules or regulations on commercial competition to ensure continuous access to a fair and healthy competition environment. The authorities or government give legal protection through regulations or policies. Legal protection is using regulations to safeguard the government or other authorities. Legal protection is an intrinsic function of protecting the law (Brown, 1948).

Various authorities have different legal protection theories. Examples follow. Philipus M. Hadjon's (1987) concept comes first. Hadjon defines legal protection as defending one's dignity and worth and recognising human rights based on non-arbitrary laws. Hadjon categorises preventative and repressive legal protection for the people by their means. Preventive protection tries to avert disagreements by allowing citizens to share their opinions before the government makes a final decision. Repressive protection then settles conflicts. Legal protection is the state's guarantee that all parties can exercise their legal rights and interests. Legal protection guarantees this.

Second is Rahardjo's (2000) theory. Fitzgerald's legal objectives inspired this theory. Fitzgerald (believes the primary job of the legal system is to integrate and coordinate society's various interests by restricting how far they can be safeguarded and expanded. From this, Rahardjo defines legal protection. Rahardjo defines legal protection as an endeavour to defend one's

interests by granting them the power to authority to act within those interests. Soekanto's (1989) third theory. Soekanto says the most critical part of legal protection is legal instrument protection. Soekanto highlighted that in addition to law enforcement's purpose, five other variables affect its protection. Five factors: Law refers to written restrictions issued by lawful authorities; law enforcement refers to those, directly and indirectly, active in law enforcement; law and order refer to the state of the nation. Community aspects, including how the law is applied and enforced, factors of facilities that enable law enforcement, such as skilled human resources or suitable tools. A cultural component results from socially active persons' labour, creativity, or taste. Peace can only be achieved when society's laws are broadly accepted.

Legal protection under the business competition regime includes several prohibitions on trade and monopolistic behaviour. These restrictions hinder monopolistic trading. Prohibitions in one country can differ from those in another based on one equation: to provide the most advantage to the community, business actors, and the country's economy, which is used to achieve the people's welfare. Many countries use this equation (Djakaria et al., 2019).

Buying and selling things and services creates a mutually beneficial legal relationship between business actors and customers. After receiving customer money, business actors must deliver the goods. Customers pay a predetermined fee for product or service delivery of their rights.

Business-to-business (B2B) transactions involve two or more companies daily. Most of business-to-business (B2B) negotiations handle distribution directly between the two sides. B2B transactions have numerous characteristics, including business-to-business (B2B) transactions involving well-known, long-term trading partners. Need and trust drive information exchange. The sort of information shared and the exchange medium are agreed upon for repeated information sharing. Both sides can use this platform (Réklaitis & Pilelienė, 2019).

Business to consumers (B2C) transactions, meanwhile, are between companies and individual clients. You can purchase and sell real things and services and their electronic and digital equivalents. Business to consumers (B2C) information and services are public. Request the service. According to the client-server approach, clients use a web-based system while providers employ a server. Consumers to consumers (C2C) transactions, especially online transactions, strive to meet specific needs (Michaelidou et al., 2011).

"Company to Consumer" transactions involve the legal relationship between online sellers and buyers or classified to Business to Consumers (B2C) transactions in this regards. After consumers link to online buying and selling services and applications through the internet, the legal relationship begins when they log into or register with the system. Registration data is kept and validated. Customers can then search online shops' merchandise. Customers who choose this product will make digital payments before calling the bank. After the consumer pays, they wait for their things to be delivered. Both buyers and sellers have digital documentation to assure trust and safety (Krishnamurthy, 2001).

The Sherman Act differs from Law 5 of 1999's monopolistic regulations. Law 5 of 1999 prohibiting monopolistic practices and unfair commercial competition applies the rule of reason and per se illegality to business-to-customer (B2C) transactions (Per se Violations or Perse Rule). According to the Sherman Act, any person who monopolises, or tries to monopolise, or combines or conspires with another person or persons to monopolise a part of the trade or trade between different States or with foreign countries shall be deemed guilty of a felony crime and punished by a fine not exceeding \$100,000,000 if a company or if another person \$1,000,000 or imprisonment not exceeding ten years, or with both, in the discretion of the Court. The Court may (Syarief, 2021) .

In order to prosecute monopolistic conduct based on the per se criminal idea, the Sherman Act focuses on the desire to control the market (the effort to monopolise), which can be understood as "monopolise." Article 17 of Law No. 5 of 1999 prohibits corporate actors from controlling the

production and promotion of goods and services that could lead to monopolistic behaviour and unfair competition. The law introduced this clause to discourage corporate actors from engaging in activities that could lead to undesired outcomes; Law Number 5 of 1999 emphasises monopolistic actions. The rule of reason is explicitly used, whether corporate actors' actions lead to monopolistic behaviours or hinder unfair competition (Akyuwen, 2017).

Reason and "per se illegal" are opposites. Per se, an agreement or behaviour is illegal without further proof of its consequences. This contradicts the "rule of reason" Pricing products collusively and fixing resale prices are considered unlawful acts. In the interim, business competition authorities apply the rule of reason to assess specific agreements or corporate activity to determine if they impede or encourage competition. Absolute or competition-impacting impediments are illegal. Even though the rule of reason is an indirect component because it is used for collaboration or commerce, it must still be deemed legal despite additional hurdles (Kaplow, 2016).

Business rivalry cases are analysed using the rule of reason and per se illegal, depending on the judge's knowledge or interpretation of the matter. It is feasible to apply multiple principles to the same scenario (Hovenkamp, 2018). The Business Competition Supervisory Commission and the judge who decides business competition disputes must apply these principles. This ensures the principle's consistency. Article 35 of Law 5 of 1999 requires the Business Competition Supervisory Commission to receive the alternative application of the two principles. The Business Competition Supervisory Commission analyses any agreements or activities that could lead to monopolistic business practices or unfair competition. Law 5 of 1999 aims to increase business efficiency, safeguard business actors and the community, and improve people's welfare. Any of the two techniques attempt to ensure that corporate operations do not restrict competition, which would lower efficiency and cause financial losses for consumers (Sumadi, 2017).

3. Research methods

The normative juridical approach was utilised throughout this investigation. The method known as normative juridical is built on top of already established legal precedents. Following the treatment of these legal documents as primary data, several research on various theories, conceptions, or legal principles are carried out and related to the concerns brought up in this study, explicitly concerning online business competition rules. In particular, this research was carried out by contrasting the theories, concepts, and legal principles of business competition policy in Indonesia and the United Kingdom, as well as examining the repercussions of these differences on the present state of online business competition in each nation. The selection of relevant sources was guided by the following criteria: Provide an overview of how competition law operates in the respective nation and Provide an overview of how the law of competition should be adjusted in the context of dealing with competition, particularly online business; and Provide a strong context for anti-competitive practices in the era of online business.

4. Results

4.1. *The presence of an online business and its implications in market competition*

The advancement of technology to the point that it is now possible to buy and sell goods online is unquestionably a boon for actors in the commercial world (Castronova et al., 2009). Because of the inherent adaptability of information technology, customers tend to favour this method of conducting business. This adaptability is a direct result of the nature of information technology itself. Due to increasing flexibility, buyers and sellers no longer need to meet in person to complete transactions. Previously, this was the sole way to transact. Adaptability has other consequences for the derivative. In a typical transaction, the buyer can immediately view the product to assess if it meets his expectations. Online business vendors must provide a similar experience to traditional merchants. Detailed product portraits and descriptions help achieve this (Bucko et al., 2018).

Because the network for conducting business (buying and selling) online is practically limitless, anyone with access to the internet can engage in buying and selling activities without facing significant barriers such as geographic distance, the passage of time, or the use of a particular form of payment currency (Vasić et al., 2019). Due to the proliferation of internet-based sales and negotiation platforms, geographical distance is no longer an obstacle for parties involved in commercial transactions. When making sales, business players need technology (computers and cellphones) and the internet. This creates a convenient setting for them. All business actors need to do is submit product data and information such as photos, written descriptions, contact names and numbers, or business locations. Businesses no longer need to distribute pamphlets or booklets for promotion. Online businesses (buying and selling) will have access to a broader market, better-managed production costs, and a more secure flow of funds (Christensen et al., 2001).

Consumers are one of the parties that benefit the most from the transition from the traditional business model to the internet business model. At the very least, consumers gain advantages through more effective buying and selling, better management of time and money, and greater flexibility. A consumer can complete a purchase transaction thanks to the existence of an internet firm that engages in buying and selling. Transactions can be completed at any time and location, including sleeping on the mattress, in the restroom, upon waking up, or just before retiring to bed (Teece, 2018).

Online businesses, especially those involving purchasing and selling, make it easier for business players to enter the market. This depicts a competitive market, at least. The ease of inheritance will stimulate competition among corporate players so customers may choose high-quality, low-cost goods. Information flow between company actors and customers can be verified to assure free market entry and exit. Every commercial actor can attract the most clients by providing enough product information, good product quality, competitive prices, and competent service quality. (Pakurár et al., 2019).

When we talk about barriers to market entry, we refer to the condition in which no other company or entrepreneur can penetrate the monopoly market for a similar product. As a result of this condition, small companies unable to penetrate the monopoly market will have difficulty developing eventually and adequately go bankrupt (Shane & Venkataraman, 2000). A market may have an entry barrier if new business actors are blocked from joining the market due to the dominating position held by an existing business actor. This type of business actor had control over the market in the past. The primary attribute of a monopolistic market is the presence of a high barrier to entry. This is because, without such barriers, several businesses will eventually enter the same industry (Akadiyan Aliffia Husdanah et al., 2021).

In markets where confident entrepreneurs dominate, it is typically more accessible for them to engage in monopolistic practices that restrict competition. It is possible to restrict market access by erecting barriers to entry, regulating the supply of goods or restricting the circulation of goods or services within the relevant market, selling at a loss in order to displace other market competitors, engaging in certain forms of agreement, and engaging in discriminatory practices (Khan, 2019). One of the techniques that business players employ to eject their competitors from the same market is to drive them out via monopolistic activities and unfair commercial competition. When considered from the perspective of the obstacles to entry into the market, a competitive or healthy market is the polar opposite of a monopolistic market. One of the features of a monopoly market is the presence of market entrance barriers; yet, the availability of technology that enables business (buying and selling) online may be said to be the antithesis of these barriers. Although it is claimed that the likelihood of a monopoly is low, there are still business actors in the online business (buying and selling) that have a dominant position and sufficient resources to carry out inevitable dominance that limits the market (Khan, 2017). This is the case even though the barriers to market entry through online business have decreased. (Sale and purchase) are transactions that need to be acknowledged by both sides.

The growth of internet enterprises, particularly online shopping and selling, has resulted in several negative consequences in addition to the many positive outcomes it has brought for company actors and customers. One of the consequences of the proliferation of online commerce is the rise of cybercrime, also known as criminal activity involving internet transactions (buying and selling). A seller, the business actor himself, or other parties can take advantage of a purchasing and selling business online. Even if it is not a part of the regulatory framework for competition legislation, the possibility of cybercrime needs to be kept an eye on (Puspitarini et al., 2021).

There are still potential market restrictions in other forms, particularly those related to product prices, even though it has been described that the barriers to market entry in the online business (buying and selling) are relatively low. Although this is the case, there are still potential market restrictions. The competition law regime prohibits predatory pricing, first-level price discrimination, second-level, and third-level prices, price fixing, and vertical price fixing. These are the sorts of prohibitions included in the competition law regime.

4.2. Competition law: U.K. and Indonesia in comparison

Competition law is genuinely employed to limit behaviours damaging to free and fair competition, in the expectation that this would result in new products that are better and cheaper than previously available on the market (Drehmann et al., 2002). Countries such as the United Kingdom and Indonesia are examples of nations that include competition law in their domestic legal systems. Competition law in England is governed by the 1998 Competition Act, whereas Indonesia regulates commercial competition by Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition (Ningsih, 2019; Widiyanti et al., 2020). The Monopoly and Restrictive Practices (Inquiry and Control) Act of 1948 was the predecessor to the Competition Act of 1998, a rule regarding competition in the United Kingdom.

The labour unions thought that the British anti-competition regulations had many flaws in practice, and anecdotal evidence showed that the British market was challenging to enter at the time (Taylor, 2013). This led to the labour unions advocating for the passage of the 1998 Competition Act, which could not be divorced from their role in the matter. The Restrictive Trade Practices Act of 1976 places a disproportionate focus on the form of the agreement rather than its economic effect. This is in direct contradiction to the original intent of the law. Inadequate authorities exist to deal with abuse committed by corporations with excellent market power, and investigations are frequently drawn out for an extended period with only marginally beneficial results. As a direct consequence, the Labor Government elected in May 1997 successfully reformed the region by enacting the 1998 Competition Act as one of its first legislation (Lever, 1999).

The Competition Act is one of the three primary pieces of legislation that serve as the foundation for the current competition system in the United Kingdom. The other two are the following:

4.3. A. The competition act of 1998

The Competition Act 1998 harmonized UK competition law with European Commission competition law by adopting an adapted version of the latter for application in the UK, repealing restrictive practices legislation that was alien to European Commission law, and creating a new regime. Even where it differs from the European Commission regime, it should provide a compatible complement. At the outset of its implementation, the Competition Act (1998) was heavily criticized, particularly for its implementation and enforcement. Thus, The Competition Law (1998) was not implemented until 2000 due to many provision were made. The Competition Act (1998) as a whole contains two prohibitions: first, section 1 contains prohibitions on treaties and practices that have the object or effect of restricting competition modelled on Article 101(1) of the Treaty on the Functioning of the European Union (TFEU) (1957); second, modelled in Article 102 of the TFEU as well as the prohibition on abuse of dominant position. The Competition Act gives the regulator, which is currently called the Competition and Markets Authority (CMA), broad powers to obtain

information, conduct investigations, and impose penalties for violations of the prohibitions stipulated in the Competition Act (1998). These powers include the ability to impose fines (Motta, 2004).

4.4. B. Act of 2002 concerning businesses (E.A.)

The dispute provisions of The Enterprise Act (2002) became operational on 20 June 2003. These provisions seek to modernise merger control in the U.K., an aspect of The Competition Act, that has not been modified. Specifically, they aim to reduce the participation of the Minister in merger decision-making. The removal of the Minister's decision-making power in all but the most exceptional circumstances that involve issues of public concern is the result of the restriction on involvement, which signifies a significant shift in the process by which enforcement decisions are made. As a result of this change, the Office of Fair Trading (OFT) and the Competition Commission (CC) will have primary responsibility for the decisions' implementation (Wils, 2019).

The Enterprise Act (2002) brought about a significant change in the approach to making decisions about mergers and market issues. Under the prior merger and monopoly regimes of the Fair Trading Act, the DGFT (Director General of Fair Trading) would advise the Secretary of State regarding whether or not the conditions for a referral for an in-depth investigation looked to be satisfied (Graham, 2004). In light of the advice provided, it was the responsibility of the Secretary of State to determine whether or not such a reference should be made.

The aim of the Monopolies and Mergers Commission/Competition Commission (CC) was to study the merger or market that had been reported to it and to submit its findings to the Secretary of State, together with its suggestions for corrective actions to be taken. The Secretary of State was the one who made the ultimate decision over what course of action should be taken. Because of the Enterprise Act (2002), most ministers are no longer involved in decision-making. The OFT is the one that decides whether or not to recommend potential mergers or markets. After that, the Competition Commission (CC) will conduct an investigation and decide whether or not there is a competition problem. If it discovers that there are, it determines the appropriate corrective steps for any competition issues that have been found.

Even though the Minister is no longer directly involved in the competition regime, the residual role in the public interest related to market investigations and the merger regime is still maintained. This is the case even though the Minister no longer has direct involvement in the competition regime. The Enterprise Act (2002) 's Section 2 grants the Secretary of State the authority to interfere on the grounds of the nation's health and safety, the stability of the financial system, and the quality, plurality, and standards of the media. In addition, the Enterprise Act (2002) says that for OFT and CC to carry out their roles, they must apply the Competition tar. This is done so that a decision may be made regarding whether or not the proposed merger can be allowed to proceed. The authority will evaluate the merger based on two criteria: first, whether or not it would result in a significant reduction in competition, and second, whether or not the decision to merge will be against the public's interest.

The monopoly test is an element considered during the analysis of the merger decision in the context of the public interest. State secretaries' offices use competition tests to evaluate several public interest aspects. The Enterprise Act (2002) was created by redefining a substantive test as a competition test. This was done so that it would be clear that the decision to proceed with the merger was based on the prospect of a reduction in the number of other companies operating in the same industry. These types of substantive criteria are also based on the likelihood that an action will have substance to impede, ban, or distort competition in the U.K. market or portions of the U.K. (Rodger & Macculloch, 2008).

Whether or not it fits the criteria for examination depends on whether or not it meets the threshold for classifying the merger. The target company's maximum allowable annual revenue is £70 million. In addition, The Enterprise Act (2002) establishes criminal punishments for persons

participating in cartel practices and the increased ability for OFT before a court to disqualify directors who violate competition law. These provisions were added because cartels are illegal.

4.5. Enterprise and regulatory reform act 2013 (ERRA)

On 1 April 2014, the primary sections of ERRA about competition became legally binding. The activities of the Competition Commission (CC) and the Office of Fair Trading were transferred to a new organisation called the Competition and Markets Authority (CMA). ERRA established this new organisation (OFT; Lyons, 2021). The Competition and Markets Authority (CMA) is in charge of the regulation of mergers, as well as market investigations, cartels, and specific functions in the regulated utility sector. It also attempts to streamline and improve laws on mergers and markets, particularly by formalising the market study system, creating new deadlines for investigations, and expanding the ability to obtain information (Freeman, 2013). These are some of the specific ways in which it will do so.

The Competition Act of 1998, modelled after Treaty on the Functioning of the European Union (TFEU) sections 101(1) and 102(2), fosters competition law reform in the United Kingdom. Changes to U.K. competition law were brought about as a direct result of Brexit, which took place in January 2020. The competition case outcome is the same regardless of whether C.A. modelling is used in the Treaty on the Functioning of the European Union (TFEU). In circumstances where applying E.U. law and national law yields divergent results, the rights granted by E.U. law will be prioritised over those granted by national law.

The United Kingdom is the one that will be leaving the European Single Market on 31 December 2020. This will result in the E.U. Competition Laws no longer being implemented in the United Kingdom. Currently, the E.U. and the United Kingdom have entirely different competition regimes. The competition provisions of the UK-EU trade agreement may be found in Section 2 of the Level Playing Field Agreement, which is part of the Trade and Cooperation Agreement between the U. K. and the E.U. The Competition and Markets Authority (CMA) is currently in charge of all anti-competitive actions that affect the market in the United Kingdom and consumers. This includes practices that were once under the purview of the European Commission (Rodger & Stephan, 2021).

In contrast to Indonesia, which was beset by multiple crises beginning with a financial crisis, an economic crisis, and then a multidimensional crisis, the Law on Monopoly was not passed until 1999, more specifically in March, despite lengthy discussions regarding the significance of the Anti-Monopoly Law (McEwin, 2014). This has demonstrated how slow we are in responding to recent advances in the law, which are changing every second, particularly the rules that control business-related issues.

The Anti-Monopoly Law aims to correct the behavior of market-dominating groups. When dominant, they can use their influence to further corporate goals. The Anti-Monopoly Law controls unfair business competition between corporations. After further investigation, it was found that several factors can lead to monopolistic market concentration. Large industries with mass-production technology form monopolistic and oligopolistic market structures quickly. Reduced competition is another factor. The most important factor is price hikes. Large industries or businesses get adequate protection, sometimes above average. The industry may also have better access to natural and human resources, which hinders new ventures. Oligopolistic and monopolistic market structures are unavoidable in the next stage, but their birth is not predetermined. Emerging and some developing countries must regulate such market structures. This will restore market competition. Creating an Anti-Monopoly Law analogous to the one in effect in Indonesia is one option. This law aims to dissolve business groups that have become oligopolies or trusts, but it is only one of many legal tools to control behavior. Groups of business actors known as oligopolies or trusts harm the consumer community (Wie, 2004).

Cartels (which create horizontal barriers), Closed agreements (which create vertical barriers), Mergers, and Monopolies are the four primary forms of unfair commercial competition that can be

found in an economy. In Law Number 5 of 1999, there are two (two) groups of characteristics, specifically: a group of articles with the characteristics of the rule of reason and groups of articles with the characteristics of being prohibited per se (Pangestu et al., 2002).

The rule of reason can be read in such a way that it states that business actors are not automatically forbidden from engaging in certain business operations, such as entering into agreements, engaging in activities, or holding dominant positions. It is usually expressed in the sentence so that it can lead to monopolistic tactics or unfair commercial rivalry. Despite this, a violation of the article that contains the rule of reason still needs to be proven, and this demonstration of the infringement needs to be carried out by a panel constituted by the Business Competition Supervisory Commission specifically to handle this issue. In the meantime, what is meant by “per se illegal” (or infraction or offence) is business conduct of business actors that is expressly and utterly prohibited so that there is no opportunity for justifying the business practice? This contrasts with what is meant by “per se legal.”

In general, the behaviours that lead to market limits and a reduction in the amount of competition between business owners are subject to the constraints imposed by both countries. The following is a synopsis of the activities controlled by the Competition Act of 1998 and Law number 5 of 1999 (Table 1).

The Competition and Markets Authority (CMA) in the United Kingdom has wide latitude to investigate any behaviour indicative of anti-competitive tendencies in the United Kingdom market, in contrast to the Competition and Consumer Commission of Indonesia. According to Article 35 of Law No. 5 of 1999, the Business Competition Supervisory Commission is tasked with evaluating agreements, activities, and acts of business actors that may result in monopolistic practices and unfair business competition but do not have the indicators as provided in the 1998 Competition Act.

To the extent permitted by the provisions of U.K. competition law, the CMA may engage in such activities as it deems proper, critical, and appropriate for or in connection with the performance of its functions and the termination of its duties under competition law or other written laws, including the exercise of its powers as outlined in Schedule 9. The CMA has the authority to “request” information from any party without exception and to conduct investigations as it sees fit in order to enforce the provisions of the 1998 Competition Act. While the Business Competition Supervisory Commission can only obtain, examine, and evaluate letters, documents, and other evidence for investigation and examination, the CMA can do all of the above.

5. Discussion

This shift from traditional to online forms of doing business is not something that happens only in some kinds of businesses; instead, it has an impact on virtually every sector of the economy, but it is particularly profound in the realm of commerce involving the purchase and sale of goods. As stated several times, online businesses (buying and selling) get various benefits through flexibility and low market entry barriers. As long as all parties can enter the market and conduct business online (buying and selling), this benefits the market. However, what are the plans for the competition that will take place within it? Because it is natural for parties in dominant positions to employ various restrictive tactics to lessen the amount of competition in their respective markets. State must take precautions to safeguard business people and their consumers. The business competition legislation outlines protection for business actors, whereas consumer protection law is expressly tasked with putting protection into practice for customers. Then, what kinds of behaviours are not allowed because they have the potential to harm competitiveness (buying and selling) in the online business world? Naturally, this aspect is accounted for within the regulatory framework for competition law (Botta & Wiedemann, 2019).

The Bundeskartellamt and the French corporate competition authority (Autorité de la concurrence) (2016) stated that “The digital economy has a different nature from the industrial sector in

Table 1. Anti-competitive measures in the U.K. and Indonesia competition law regime

Anti-Competitive Measures	Competition Act 1998	Law Number 5 of 1999
Oligopoly	Set in Part II	Article 4
Predatory pricing		Article 7
Re-sell price		Article 8
Territory division agreement		Article 9
Cartel		Article 11
Trust		Article 12
Oligopsony		Article 13
Vertical Integration		Article 14
Land Area Agreement		Article 16
Monopoly		Set in Part III
Monopsony	Article 18	
Market control	Article 19	
Selling Loss	Set in Part II	Article 20
Production Costing Fraud		Article 21
Tender Conspiracy		Article 22
Conspiracy of Leaking Trade/ Company Secrets		Article 23
Dominant Position		Article 25
Double function		Article 26
Share Ownership		Article 27

Source: Author's conception based on secondary data obtained

general.” One component of the digital economy is the conduct of commerce (buying and selling) online. Network effects favour large corporations, which currently dominate the digital economy. These businesses can obtain a competitive advantage over their rivals by making use of the data that is already available to them (big data). On the other side, new entrants struggle to be able to compete with them due to their superior resources. Because of this, maintaining a healthy degree of competitiveness in cyberspace is crucial if one wishes to maintain an open market for numerous new business models, new business players, and existing business competitors.

Complexity is a factor in the practice of competition law. Market competitiveness in online business (buying and selling) is characterised by the rapid flow of technical innovation or the encouragement of technological innovation. In digital technology, business models and economic connections provide new challenges, particularly in light of the presence of digital behemoths like Amazon, Facebook, Alibaba, and others of their ilk (Da Silva & Núñez Reyes, 2021). These digital behemoths unquestionably have more resources than necessary to dominate the competitors in the market entirely. Because of the rapid pace of change and innovation in the digital market, the competition authorities should not solely concentrate on market share when determining the strength of the market (Reinartz et al., 2019). On the other hand, several other key elements need to be taken into consideration, including the following:

- Effects of Networking;
- The rate of return depends on the scale;
- Single-homing, multi-homing, and degrees of differentiation in a network;
- The opportunity to access relevant information (customers, users, or third parties); and
- The possibility of new developments in the digital market.

The network is one of the essential elements that influence market competition either directly or indirectly, and this element, in particular, continues to change over time or will increase from time to time. This influence can come from either side of the market rivalry. These shifts are observable because of the availability of a wide variety of buying and selling platforms in the present day, which range from those based on websites to those based on social media to those based on marketplaces. The indirect effect that arises because of this network is explained by a loss (damaging) or an increase (positive) in the value of a product or service, and this effect will be directly compared to the number of consumers who fall into other categories. While the indirect effect is explained by the condition that exists when product users get direct benefits from either an increase in the number of users of the same product (positive) or a decrease in the number of product users (negative), the direct effect is explained by the condition that exists when product users get direct benefits (negative). This direct influence does not extend beyond the network of group members, such as those connected through the same social media or telecommunications network. This restriction limits the scope of the direct influence's applicability (Kapoor et al., 2018).

Entrepreneurs who have access to an extensive network may significantly impact customers. Especially in the form of business-to-consumer (B2C) transactions, the strength of the network, especially when paired with the form of business in online business (buying and selling), will boost the position of entrepreneurs (Dwivedi et al., 2021). On the other hand, the presence of retailers in the online business (buying and selling) may also significantly impact the unhealthy competition level, particularly regarding price-related concerns. Because businesses can receive their commodity items from other entrepreneurs in the same network, there is a significant likelihood of pricing problems in this circumstance, which interfere with the competitiveness in the business of buying and selling goods and services online. The following are some pricing practices that are commonly used:

5.1. Pricing agreement

One of the business techniques that actors in the market employ in order to achieve their goal of making the most profit possible is the price-fixing agreement (Connor, 2013). The elimination of competition in terms of price for the products that business actors (producers or sellers) sell or market will result from the practice of price fixing that is carried out between business actors. This can then lead to a consumer surplus that should be enjoyed by buyers or consumers being forced to switch to producers or sellers. The ability to control a market and establish excessive pricing is essentially embodied in the power to set prices, which can be considered an embodiment of that power (Hou, 2011).

The quality of goods, services, or both, and costs, can be a point of competition between different actors in the business world. On the other hand, price competition is one of the most straightforward types of competition to understand, particularly in internet commerce (buying and selling). The presence of price competition will result in prices that are as low as possible, which will require businesses to make the most of the resources they already possess. On the other hand, with a price-fixing agreement, business actors involved in a price-fixing agreement may be able to dictate or impose the desired price unilaterally on consumers. Typically, the price imposed on consumers is higher than what would be considered reasonable. This is likely to occur in online business (buying and selling), particularly regarding the same product or service type. If every business actor in the relevant market does this, then it is possible that customers will not have any other choice but to accept the goods and prices offered by the business actor who entered the price-fixing agreement. This is because customers will not have access to any other options in the market.

5.2. Price discrimination agreement

Price discrimination can arise under several different circumstances. A business actor may make a price discrimination agreement with another business actor in which the same product is supplied to each consumer at a different price. This type of arrangement is known as a price

discrimination agreement. Price discrimination has taken place when to put it more simply, and there is a difference in the price paid by one buyer compared to the price paid by another customer (Odlyzko, 2004). Nevertheless, the pricing disparities may result from differences in expenses or other competing needs such as advertising costs and others. This could be the case.

The parties must be those who carry out commercial activities so that price discrimination will hurt the so-called “mainline” injury. This is where producers or wholesalers discriminate against their competitors by setting different prices for their goods. Also, price discrimination can harm a business’s “secondary line” if a producer practices it against a wholesaler or if one retailer is given preferential treatment (Beard et al., 2009). This will make it impossible for unpopular wholesalers or retailers to compete fairly with preferred wholesalers or retailers in their respective industries. There is a price difference, either directly or indirectly, for example, through a discount or payment by credit; however, it must be paid for in cash, and no discount will be offered and conducted with many purchasers. Therefore, there must be at least two customers purchasing this item. Compared to products of the same level and quality. The act will significantly harm, damage, or prevent fair competition from occurring and may impose a monopoly on trading activity.

5.3. Predatory price or selling loss

One pricing strategy that business players use is predatory pricing, which involves selling things at lower prices than the production costs (average cost or marginal cost). The term “predator” refers to a business that intentionally hurts its competitors by maintaining prices that are lower than the price at which it can make the most money in the short run (the price at which it maximises its short-term profits) or by maintaining prices that are lower than its costs in the expectation that it will recoup those losses in the long run through monopoly profits (Blair & Lopatka, 2008). According to Areeda and Turner (1975), pricing an item at a level equal to or higher than its marginal cost of production does not constitute predatory pricing.

The primary purpose of using predatory pricing is to eliminate rival business actors from the market and to stop other business actors who have the potential to become rivals from entering the same market (Guiltinan & Gundlach, 1996). To be in a position to do this, the business actor must have a significant portion of the market, and the profits that may be made must be sufficient to compensate for the losses that were incurred as a result of the predatory phase. As soon as he successfully removes a rival business actor from the market and postpones the admission of a newcomer, he will be able to raise the price once more and maximise the available profit.

The motivations behind predatory pricing methods, as well as whether or not they are effective, are still up for debate. The practice of predatory pricing has been called into question by many economists because this tactic can be just as costly for the business actor who engages in predatory pricing as it is for the victim. Similarly, the objective of using predatory pricing will not be simple because it will be very challenging to eradicate competitors from the market. Furthermore, as Areeda and Turner (1975) stated, predatory pricing is not necessarily in violation of the law all of the time. He made the point that we must differentiate it from ideal or very tight competition, saying that we must do so because it is possible to view it as predatory, but in reality, it is a very competitive form of competition.

Areeda and Turner (1975) went on to say that two requirements must be met before committing to predators. The first need is for the business actor to be convinced that his rival will pass away before he does. Second, the profits made after the predator will be greater than the losses incurred during the predatory era. In a robust market economy, it is incredibly challenging to engage in the business practice of predatory pricing, one of the techniques that company actors employ as one strategy they implement to eject their competitors from the same market. Because there are no entry barriers for business actors in a healthy market, initially (if successful), predatory pricing will expel competing business actors from the market; however, when the business actor implements

a predatory pricing strategy, this will no longer be the case. When the corporation halts production and then increases prices once more to generate the most significant possible profit, this is the point at which the company's business rivals will attempt to re-enter the market.

Therefore, there must be obstacles to entry into the market for predatory pricing to work; otherwise, it will not produce the desired consequences. As long as he engages in predatory pricing, the business actor won't have enough time to recoup his losses. Because his competitor may have returned to the market, if he continues to raise prices, his product may not sell, resulting in a loss of more money. As long as the business actor uses predatory pricing, consumers benefit in the short term. Predatory pricing lowers the prices of business products. Suppose a business actor uses predatory pricing to eliminate competitors. In that case, the business actor will raise the price again, possibly as high as possible, to maximize profit. Future events are uncertain. As long as the commercial actor uses paid predatory pricing (recoupment test).

According to Khemani (1998), predatory pricing is typically illegal not because of setting a price that is too low for the products it sells now but because in the future, business actors will try to reduce their production and increase prices. This is the reason why predatory pricing is typically prohibited. He went on to say that this is possible if the competition in the industry is weak and there are obstacles to entry into the market for both new companies and companies that have been defeated. Therefore, business actors who engage in predatory pricing may not engage in predatory pricing that violates the law if they do not limit their production and do not likewise increase their prices.

The frequent occurrence of "flash sales" is indicative of the high probability that the business of buying and selling goods online will engage in the pricing strategy of predatory pricing, which has a substantial possibility of occurring. "Flash sales" are promotions that offer prices that are significantly lower than the limited price, but there is only a minimal supply of the item being sold. This will serve as a barrier for those that compete with you in the market for consumers who want the same product or service. After the business person returns the price to the regular price, the product will have limited availability; in this condition, customers who have taste and high curiosity about the product will tend to make a purchase when the product is available regardless of the price stated by the seller. Pricing in "flash sales" is often well below the average price; it may be as low as 90% of the regular price or even lower. Over several years, this technique could have repercussions that lead to reduced competition in internet commerce (buying and selling).

5.4. Resale price maintenance or vertical price fixing

According to Mathewson and Winter (1998), resale price maintenance does not constitute an act violating competition law. Every business actor carries the responsibility and the right to control certain parts of the distribution of the things they produce. Because new business actors are not required to have qualified resources, or, to put it another way, because they only rely on cooperation between providers and resellers, becoming a reseller in an online business (buying and selling) does offer several advantages that make it more convenient for new business actors to enter the market. Business players can launch their retail operations or form partnerships with other organisations. Establishing a retail presence on one's own necessitates the expenditure of capital and energy, whereas doing so through cooperation with third parties does not require either of these resources but results in a loss of direct control.

There are two distinct forms of resale price maintenance: maximum price fixing and minimum price fixing. With this maximum price fixing, there is still competition between business actors, which may benefit consumers. This is because what was agreed upon was a prohibition on selling more expensively or above the agreed maximum price so that business actors could still compete on the selling price as long as this was the case. Consequently, consumers may benefit from this competition. Still considerably more than the predatory price (Moore, 2011).

The second kind is minimum resale maintenance, also known as a floor price. This kind of agreement takes place between parties involved in business transactions, stipulating that the buyer will resell the items he purchased at a price that cannot be lower than the specified price. Due to a minimum resale price maintenance agreement between the manufacturing company and the distribution company, the distribution company is no longer free to sell the product it distributes at a price lower than the price set by other distribution companies. This is because the manufacturing company had previously agreed with the distribution company.

Anti-competitive tactics in internet business are closely tied to price fixing, which is why the United Kingdom and Indonesia restrict actions closely related to price fixing. In general, anti-competitive measures are regulated in both countries (buying and selling). Both nations are committed to lowering obstacles to market entry on both the horizontal and vertical planes and eliminating monopolistic business practices. Abuse of a dominating position in the market is strongly linked to anti-competitive behaviour in business alone (buying and selling), which can only be defined as buying and selling. When referring to Law no. 5 of 1999, there is no prohibition against the dominant position of the entrepreneur as long as the dominant position is achieved through fair business competition. In other words, the law does not prohibit an entrepreneur from holding a dominant position. The violation of this ban would be considered an abuse of their dominant position.

How different commercial actors use their dominating position to distort the market must be answered. Article 25, paragraph 1, and Article 19 detail how business actors in a strong position might engage in practices that constitute an abuse of their dominant position or that create hurdles to free and fair competition among businesses. Even while there is an opinion that corporate actors that do not have a dominant position can carry out the provisions of Article 19, it is essential to note that the provisions of Article 19 have parallels with the provisions of Article 25, paragraph (1) of Law no. 5 of 1999. Article 25 paragraph 1 stipulates that it is forbidden for business actors to use their dominant position either directly or indirectly to a. establish trading conditions to prevent or hinder consumers from obtaining competitive goods and services in terms of price and quality; b. limit market and technology development; or c. Prevent the entry of other business actors who have the potential to become competitors. It is unlawful for commercial actors to establish trading conditions to prevent and or hinder

One of the activities of corporate actors in a dominant position is to engage in predatory pricing. To supply goods and or services by selling at a loss or setting a low price with the intention of getting rid of or shutting down the business of its competitors in the relevant market to result in monopolistic practices and unfair business competition is the definition of selling at a loss. Selling at a loss can also be thought of as the act of selling at a loss to get rid of or shutting down the business of its competitors. The elimination of one's rivals from a given market is the primary objective of business actors when they engage in the practice of selling at a loss. As a result, selling products at a loss is typically employed over the long term, typically until all of the company's competitors have been driven off the market.

In the near run, it is in the best interest of consumers to sell at a loss. On the other hand, if one of the businesses that competed with the dominant one is removed from the market, the dominating business actor will drastically raise the price to compensate for the loss (recoupment). The price being asked is relatively high because it is a monopolistic price to the detriment of the customers. This strategy attempts to maximise profits and replace losses made from selling at a loss or a price significantly lower than its original value. The question that needs to be answered is under what circumstances a business actor can be said to be selling at a loss. When a business actor seeks to get rid of his competitors from the market, which is the aim of selling at a loss, the provision of the restriction on selling at a loss provided in Article 20 applies. This is because selling at a loss is to make a profit. Because after the rival company is removed from the market, the dominating business actor will almost certainly raise the price of their product by a sizeable

amount to make up for the money they lost in the prior transaction. According to the decision made by the Court of the European Union (2007), Case T- 340/03, which reads as follows: “The Court of Justice has held that in order to establish predatory pricing, it is necessary to show that the alleged predator is selling at below average total costs and intending to eliminate a competitor” (Edlin, 2002).

Therefore, the Court decided that to establish a sale at a loss, it was necessary to demonstrate that the alleged predator was selling below the average total cost and eliminating competitors. In other words, to create a sale at a loss, it was necessary to demonstrate that the alleged predator was selling below average. When prices are set at a level that is higher than the average variable costs, there must be evidence of an intention to drive out competitors. Consequently, business actors with a dominant position in the market or who have better market power are capable of selling at a loss over the long run until their competitors are removed from the market. As a result, it is essential to provide evidence of the objective to free itself of its rivals. The United Kingdom and Indonesia have reached a consensus regarding regulating abuses of dominant position, particularly those that result in the following business practices: predatory pricing; price fixing agreements; price discrimination agreements; and resale price maintenance or vertical price fixing. However, due to the legislative reforms in the U.K. after Brexit, considerable modifications were made to vertical agreements (which are firmly associated with internet enterprises), as summarize in Table 2.

According to the retail parity obligation, also known as the “most favoured nation“ clause (MFN), one party to a contract is prohibited from offering a third party a lower price than the other party. This clause stipulates that the third party must pay the same price as the contract’s other party (e.g., online platforms). Because the “broad” retail parity provision applies to all of the various types of sales channels, there is no other location that can provide a lower price. The “limited” MFN clause stipulates that the provider cannot charge additional fees on their website. Dual distribution, on the other hand, refers to a situation in which retailers and distributors compete to supply

Table 2. U.K. approach vertical agreement in renewal of competition law

Subject	Proposed U.K. Approach (draft CMA VABEO)
Extensive retail parity liability	A “broad” retail parity obligation (which covers every sales channel) is a “hard” restriction, either direct or indirect, or applies to online and offline sales.
Multiple distributions	Agreements involving “dual distribution” may benefit from an exemption under VABEO if the parties’ market share is below 30%.
Hybrid platform/OISP	Platforms that host marketplace sellers and sell goods/services directly on their platform (known as “hybrid platforms”) may benefit from an exemption under VABEO.
Online vs offline dual/differential pricing	Suppliers will be able to charge buyers different prices for products intended to be sold online vs those sold offline, provided the goal is to reflect the different investments and costs for each channel.
Different quality requirements for online sales	Suppliers may restrict the use of specific online sales channels (e.g., online marketplaces) or set quality requirements for online sales—and quality requirements for online sales may differ from requirements for offline sales.
Some “exclusivity” for distributors	Multiple distributors may share the same “exclusive” territory or customer group.
Protection for selective distribution systems	Selective distribution systems can be protected from sales outside the region to authorised regional distributors.

Source: Processed from “Consultation outcome Draft VABEO Guidance” from www.gov.uk

the same customer. An aspect of this particularly intriguing circumstance is how the United Kingdom (U.K.) seeks to maintain a level of rivalry between offline shops and internet enterprises selling the same product line.

Nevertheless, the government of the United Kingdom has taken an extra step to begin the process of amending competition law and integrating features of “online” commerce into its competition legislation. This step was done recently. On the other hand, Indonesia’s Law no. 5 of 1999 does not govern the competition in online commerce, particularly in online buying and selling. This holds regardless of whether the action in question is conducted through the internet, social media, or e-commerce.

Regarding the development of competition laws in their respective countries, both nations have reached the same conclusion: competition is the most important factor to consider. Due to the absence of anti-competition regulations within the scope of competition law in Indonesia, an anti-competition regime may emerge in the future. This anti-competition policy could be detrimental to consumers, other businesses, and the state. Although the number of online platforms for buying and selling goods in Indonesia is on the rise, the nation is falling behind in recognising and anticipating the anti-competitive regime in online business (especially buying and selling). This is despite the fact that Indonesia currently lags behind in this area.

6. Conclusion

The United Kingdom and Indonesia are nations that actively police their respective business sectors to ensure compliance with competition rules. Price fixing agreements, price discrimination agreements, and resale price maintenance, also known as vertical price fixing, are all governed by England’s Competition Act of 1998, which regulates the anti-competition regime related to price fixing. This is similar to how Indonesia’s Law no. 5 of 1999 regulates the anti-competition regime related to price fixing. However, after Brexit, the United Kingdom began to pay attention to the competition between online and offline businesses based on the competition’s considerations, and both began to lean towards online business. On the other hand, until now, there has been no particular regulation on Competition in online business (buying and selling) in Indonesia. This came about as a result of the fact that both online and offline businesses began to lean towards online business. Indonesia, in particular, the Business Competition Supervisory Commission, which has more “narrow” powers than the CMA in the U.K., can carry out independent investigations if an indication of competition damage is found due to unfair competition in the online business sector that affects the market in the U.K. This is because the CMA in the U.K. has more expansive powers. The limited scope of the Commerce Competition Supervisory Commission’s authority in Indonesia can potentially affect the evolution of Indonesia’s anti-competition legislation, particularly in the internet business (buying and selling). In conclusion, the purpose of this discussion on competition law in internet business in the United Kingdom and Indonesia is to maintain a level of business rivalry that is as equitable as is humanly possible for the sake of customers and the larger community.

The Commerce Competition Supervisory Commission’s jurisdiction should be restructured; hence, the Legislative Body in Indonesia should update the Business Competition Law. By gaining knowledge from the Competition and Markets Authority (CMA) in the U.K., which can carry out impartial investigations if there are signs of damage to competition due to unfair competition in the internet business sector, which affects the market. It is believed that this will enable the Commerce Competition Supervisory Commission to perform all of its responsibilities and activities to the fullest extent possible, which is especially important in the modern era of online business.

This research has a weakness in the form of the research method used. This study only uses a normative juridical approach which only focuses on legislation. Recognizing that weakness, we will use a socio-legal approach that emphasizes more on a holistic and comprehensive realm of law to develop this research in the future.

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