



Analysis of used clothing business competition with predatory pricing in the local clothing industry

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Abstract

This research intends to examine juridically about used clothes that are offered with relatively cheap quality. This business is developing in Indonesia and can even kill the local clothing industry because the price difference is very large. This clothing business can weaken the local industry in the small and medium market, especially when local entrepreneurs want to improve the quality of their products so that they cannot compete with foreign products. Sales of used clothing due to low prices indicate competitive prices. The strategy of selling products at higher prices worries the Indonesian government because it can lead to unfair business practices. The approach is normative jurisprudence, namely the study of legal basis and standards. The results of this study indicate that the sale of used clothing is not part of predatory pricing practices. However, selling used clothing at relatively low prices reduces consumer interest in local products and can hurt the economy of the local clothing industry.

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1. Introduction

Along with globalization, Indonesia's economic sector developments are also growing. Economic development has been essential in increasing state income and community welfare. The government has made various efforts to encourage the growth of local industries in various sectors. Today, business opportunities can be found in every sector of life, from technology to culinary. Every business actor can innovate to create something new that can be used as a business to make a profit. The business sector that continues to innovate and grow in Indonesia is fashion. The development of *fashion* that continues to grow and innovate has led to the emergence of many choices for consumers considering fashion is constantly changing rapidly from time to time along with ideas, human creativity, and sophisticated technology. One of the fashion businesses that is growing among the public is high-end brands. With high quality and price, *branded* can give you pride when worn. No wonder the use of branded itself is increasingly mushrooming among young people.

Everyone needs a life that is unlimited and varied. Human needs, seen from the order of importance, are primary, secondary, and tertiary needs. Primary needs are the most essential or fundamental needs to sustain human survival. These basic needs include clothing (clothing), sustenance (eating and drinking), and sustenance (living space). Clothing is one of the essential human needs because, without clothing, humans cannot cover and protect their bodies. Clothing also has other functions such as B. Supporting people's lifestyles so that they appear confident in front of other people and make people dress according to their lifestyle. But few people prefer to dress for comfort over appearance (Dewi, 2020)

However, not all people can afford to buy good-quality branded goods. With such a reality,

some business people have the idea to sell used clothes that are well-branded, quality, and still suitable for use. Nowadays, it is common to find business actors selling used clothes at relatively low prices. With a small quantity of capital, a business actor can already profit. Used clothes that are sold can come from their own or from suppliers. The target market is everyone who wants to buy branded or good quality clothes but only has minimal costs.

Attitudes and behavior of people who prefer to buy imported used clothes because foreign brands tempt them. Especially in the middle-class economic community, apart from necessity, people think that using foreign brands will be able to improve their social status. This allows traders to sell used clothes with foreign brands at affordable prices. (Diana, 2019)

The business of selling used clothes is already rife and mushrooming in the community. The used clothes are sold either through shops in the market or online stores using social media as a place where buyers can choose the clothes they want. The tendency to buy used goods, and clothing, is often called a thrift shop or second-hand shop. On the other hand, some business actors take advantage of this situation to open a business by selling used clothes at low prices. With the principle of getting the best clothes even though they are used, these used clothes are becoming increasingly popular in the community. The second-hand clothing business also managed to get significant profits.

As previously explained, in principle, everyone is oriented to gain in economic activity. Thus, if an unfair practice occurs on the part of the business actor, certain factors may result in the business actor committing the act of predatory pricing (loss selling). The commonly known factor is that business actors want to remove competitors from the industry permanently, and the market becomes

controlled by predators (predatory pricing actors). (Hamidi, at all., 2022)

If you pay attention, these used clothing business activities tend to have a cheap and affordable selling price. It is often found that high-brands are still suitable for sale at meager prices. In addition to the reason that the goods are used goods by other people, several other factors cause the used clothing business to grow. Even with low prices, the sale of used clothing in the field can still be negotiated, thus making more and more enthusiasts. This activity of selling used clothes at low prices with good quality can then be indicated as predatory pricing. This certainly has the potential to kill the local industry in the textile clothing sector.

The development of the national clothing industry itself has high competitiveness because it has been integrated from upstream to downstream. Several domestic brands have even reached the international scene. However, not a few business actors are just starting their businesses. With significant capital, the selling price often feels very high and even higher than branded clothes in shopping centers. This makes the interest in local products less because of the high price. With the existence of shops, the condition of the local industry will be increasingly threatened.

I will mention only two of the possible explanations for a renewed interest in business predation. First, much money is being spent on trust cases. Furthermore, courts are increasingly using or at least citing economic arguments when they try predatory pricing cases. This may explain why lawyers and judges are willing to read more of what economists say about predation and shy economists are willing to write more about it. Second, economists who think there is much more industrial concentration than there "ought" to be have gone through hard times. Theoretical and

empirical work has shown that efficiency explanations of industrial structure can no longer be ignored. (Mc Gee, 1980)

In competition law, prohibited activities are known, one of which is predatory pricing or selling at a loss. In practice, exporters often carry this loss-selling activity by selling goods or services in the global market at prices below fair value. This predatory pricing can have an impact on weakening other business actors, in this case, the small and medium industry in the clothing sector. Buying and selling used clothing can indirectly hamper the growth of small and medium industries at the national level.

In connection with the study chosen with the title mentioned above, no one has ever reviewed it; the study focuses more on predatory pricing with other discussions, not on used clothing business activities, such as Vicky Darmawan and Ditha Wiradiputra have written about predatory pricing in e-commerce. -commerce according to the perspective of business competition law in 2022 (Prahmana, 2022); apart from that, there is also Dheny Biantara, who examines the analysis of the role of regulators and aspects of costs in preventing predatory pricing practices in Indonesian e-commerce (Biantara, 2022).

Based on the background described previously, the author will propose several formulations of the problem: 1. What is the practice of selling used clothing in the field with indications of predatory pricing? 2. How is the competition between the used clothing business and the local clothing industry?

2. Methods

The writing of this research is normative juridical, which bases research on norms and principles related to law as stated in the legislation.

The research will be conducted by examining library materials through the library research or library materials with the types of research sources data in the form of primary, secondary, and tertiary legal materials related to competition law.

3. Result and Discussion

3.1 Indications of Predatory Pricing on Sales of Used Clothing

In business competition law, the basic principles of economic democracy and the economic ideology of Pancasila require freedom for business actors to develop innovation and creativity in carrying out their business. However, they must be limited and balanced by regulations approved by the Government and be implemented wisely. (Yanuar, 2022)

Trading activities in various sectors in Indonesia have contributed significantly to economic growth in Indonesia. One of the fields that contribute dramatically is the textile industry. The fashion sector continues to develop into various forms and choices. One of them is currently booming namely the used clothing business. There is no prohibition on trading used goods, especially clothing, in Indonesia. The sale of used goods has existed for a long time in Indonesia, but its existence is increasingly mushrooming among the public. This second-hand shopping activity is often referred to as thrifting. The meaning of thrifting also varies with the development from time to time. Some people think that thrifting is an activity to buy used goods to be economical and save expenses in buying an item.

The Thrifting business, or buying used clothes, has been around for a long time. Initially, this thrifting business emerged as an activity to raise money as a form of charity through non-profit organizations. The items sold also come from

donations or donations, one of which is clothing. In addition, the sale of used clothing was also driven by the industrial revolution, where many well-off people chose to throw away clothes that were no longer worn and created a business opportunity to sell used clothes. The development of this business was even more rapid when the economic depression occurred, which caused the demand for second-hand goods to increase, considering that many people did not have money. (Hikam, 2022)

The company's activities can be identified as predatory pricing activities, which are prohibited if the sale or supply of goods or services is intended to kill competitors in the market, for example, by setting unreasonable prices (lower than the average variable cost).

Due to these reasons, many people are interested in buying used clothes. With a meager price compared to the price of new clothes, one can still wear branded goods of good quality. It is easy to find used clothes from world-renowned brands. Of course, this increases customer satisfaction. The increasing demand for these goods makes used clothing sales increasingly popular and skyrocketing. Business actors compete to provide low prices. They are coupled with various promos and discounts if consumers buy a lot at once. This gives rise to indications of predatory pricing in the practice of selling used clothing.

From an economic perspective, predatory pricing can be implemented by setting an unreasonable price, where the condition is that the price is lower than the average variable cost. In practice, determining the average variable cost is very complicated. Therefore, scholars argue that predatory pricing sets prices below the average price or sells at a loss. Predatory pricing themselves are often carried out in trading practices carried out by exporters by selling goods, services, or goods

and services in the international market at a price less than the average value or lower than the price of the goods in their own country or than the selling price to other countries. This creates the potential to kill competitors and businesses in the relevant market. This causes losses for similar business actors in the importing country, in this case, the local clothing industry in Indonesia.

Competition is a good thing if done healthily. The competition will bring up good quality products with selected prices and qualities. Therefore, the product that reaches the consumer is the best and deserves to be obtained. However, on the other hand, not all business competition creates positive things for consumers and business actors. Unfair business competition can eliminate similar business actors in a particular market, and consumers lose their right to get the best product. In addition, business actors who succeed in killing their competitors will dominate the market, and consumers will have no other choice depending on business actors who carry out market monopolies.

The prohibition against the practice of predatory pricing itself has been regulated in Article 20 of Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. If violated, the business actor may be subject to a minimum fine of Rp. 5,000,000,000 (five billion rupiahs) and a maximum of Rp. 25,000,000,000 (twenty-five billion rupiahs) or imprisonment instead of a maximum fine of 5 months as stated in Article 48 of Law Number 5 of 1999. Activities that can be considered predatory pricing are prohibited, namely if the sale or marketing of goods or services is intended to kill competitors in the market, for example, by fixing unreasonable prices. To be able to say that an attempt to do predatory pricing is prohibited, it is necessary to prove the following: a. The company

sells its products at a loss below the average cost. If the business actor sells at a low price but does not lose, the company competes healthily. b. Furthermore, it needs to be proven that the company can make it possible to sell at a loss. c. A company believes that the losses taken or incurred at the beginning can be covered by providing a very high price (supra-competitive) later.

This business sets a low selling price if predatory pricing is applied to selling used clothing. However, business actors do not necessarily sell at a loss or sell below the average cost. Observing whether such actions may result in practices or unfair business competition is necessary. This makes predatory pricing prohibited by the rule of reason because it is necessary to prove whether the activity is detrimental or beneficial to business competition before being declared as an activity prohibited by law. Apart from that, selling used clothes is not intended to get long-term profits in the future. Success in predatory pricing requires a considerable profit sacrifice and will result in little prospect of significant profit recovery. (Katz, 2006)

Compared to the local clothing industry in the country, the sale of used clothing has several differences. Although it is a business in the same field, namely the clothing sector, the target market for selling used clothing differs from the local clothing industry. Sales of used clothing have a target market, namely the middle to lower-class people who want to wear clothes with world brands with the quality offered. However, for the local clothing industry, the targeted market varies according to the standards used by business actors. Some brands, there are even those that have penetrated the international scene and compete with the fashion clothing in the world. Each type of business, local industry, and used clothing has its market segmentation with different qualities offered. With various choices offered in the

market, everything returns to consumers in determining the best choice according to their abilities and needs.

3.2 Competition between Used Apparel Business Activities and Local Apparel Industry

In the era of globalization, business competition has become very sharp, both in the national and international markets. The increasing intensity of competition and the number of competitors also requires every company to always pay attention to the needs and desires of consumers and try to fulfill what they expect in a way that is more satisfying than what competitors do. Quality is the most critical factor in producing quality standards in making decisions. So far, the company has only relied on manual calculations for decision support systems. The assessment of the quality of a type of clothing usually depends on the type of material. Even though it is not just clothing material that can be a reference for quality. (Rachman, 2019)

The Indonesian government has been targeting the use of locally produced goods and services for a long time. Various domestic potentials continue to be encouraged to support the domestic industry. Domestic industry is ready to support the provision of goods and services by government institutions and the public. The development of domestic industry has helped move the country's economy by providing employment opportunities and improving the quality of human resources. This has a positive impact on reducing poverty and unemployment rates in Indonesia. The clothing industry itself in Indonesia has contributed significantly to the country's economy. Based on a report from the Central Statistics Agency, GDP at constant prices in the textile and apparel

industry was IDR 35.17 trillion in the second quarter of 2022. This number has increased by 13.74% from the same period in 2021 of Rp30.92 trillion.

The local clothing industry has received many positive responses from the community, especially regarding its quality which is not inferior to foreign products. The government also supports its existence to create a great demand for domestic products, develop industrialization and create new jobs. In running its business, the local clothing industry faces various challenges. Local clothing products generally have a reasonably high price when viewed in the field. This is caused by various factors, including high quality by using high-quality domestic raw materials.

Given that Indonesia is rich in resources, the quality offered is expected to vary. For example, for textile products such as cloth or scarves, Indonesia has a variety of materials to motifs that consumers can choose from. It is common for local products to be produced manually or by hand; this causes higher production costs. Because of these things, the output of local products has a high value.

Competition in the local clothing business itself in Indonesia continues to grow. This can be seen with the growing number of small to large businesses. Economic actors provide consumers with various choices that make competition in the market healthy. The growth of the local clothing market also causes local clothing to develop more creatively because increasing demand for the desired product triggers it. The development of regional industries, especially in the clothing industry, will positively impact business actors, one of which is improving the quality of products and services to achieve customer satisfaction. However, considering that there are various kinds of consumer needs, the clothing industry is increasingly developing into various choices. Starting from the

quality, from ordinary to high quality, various choices of colors and sizes then determine the high and low prices, even to the condition of the clothes, which can be in the form of new goods or used goods.

Compared to clothing businesses in general, this thrift shop or one that sells used clothing requires less capital. Used clothing businesses can look for the first supplier, suitable quality fabrics, or even rent various facilities to make their products look attractive; however, back to the way of trading that every business actor chooses. Maybe previously used clothes were identical to those that were shabby, smelly, and wrinkled or no longer fit for use. Even at this time, various business actors have innovated by selling used clothes that have been washed clean and smell like new clothes. This is done to improve quality and attract consumers' attention. In addition to good brands, used clothes that have been cleaned and arranged also have a higher value and even equal the value of new clothes with standard quality. This shows that various factors cause the used clothing business with local, new clothes to become increasingly fierce.

To get high branded, consumers no longer need to look at shopping centers but can also visit thrift shops. This should motivate the local clothing industry to continue improving the quality of its products to maintain competitiveness with well-known branded clothes, especially those used goods. As consumers, you also need to be smart in choosing and not be hungry for your eyes or just trying to fulfill your desire to buy things that do not suit your needs. There is nothing wrong with consumers' taste in local products. Not infrequently, many people need to pay more attention to local products.

On the other hand, many foreign products use materials from within the country. Some people

also think clothing products with brands will increase social status and give more confidence. This kind of thinking should be changed early on because, with the support of local consumers, the clothing industry with local products in the country is easier to develop.

Globalization has a significant impact on the economy, especially the local clothing industry in the country. On the one hand, the threats the local clothing industry faces will be increasing. However, on the other hand, globalization can also provide opportunities for local clothing industry business actors to compete in the global market. Not only competing with used clothing businesses, but there are still various other threats, such as the emergence of imported clothes that make local clothes even more depressed. Of course, this will also lead to reduced consumer interest in local clothing products because some assume that local products are more expensive. Competition in the clothing industry will involve various large and small traders. Not infrequently, this competition creates gaps. In addition, subsidies for various business sectors are shrinking. If left unchecked, this will impact the growth of national income. Therefore, the activities of the local clothing industry in the country need to get more attention to provide various benefits to support the country's progress.

The practice of selling at a loss (Predatory pricing) is a form of activity that is prohibited in the Business Competition Law. The prohibition of predatory pricing activities is regulated in article 20 of Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. In indicating the existence of predatory pricing activities, an analysis must first be carried out on the elements that can determine the presence of predatory pricing activities. The elements that can determine the presence of preda-

tory pricing activities include very low pricing for a temporary period (until competitors are eliminated from the relevant market), there is an intention of the business actor to get rid of or kill the competing business actor, there is a very high price applied after the competing business actor is eliminated from the market, and the business actor must have a market share (market share) is enormous. In addition, a juridical approach must also be carried out by using the rule of reason approach through Hard Line Evidence Theory, which must use evidence through economics or by economic analysis of law, namely in the form of the relevant market/relevant market (relevant market, market power (market power), barriers to entry in the relevant market (barrier to entry), and price strategy (price strategy). (Saida, 2011)

Imported used clothing is an item that is considered illegal in Indonesia. The meaning here is illegal, not by applicable laws or regulations. These imported used clothes can be categorized as dangerous goods because they circulate freely and without prior checking. Imported used clothes that come to Indonesia are not all of good quality. (Arifah, 2015)

4. Conclusion

Selling used clothes is not prohibited in Indonesia. Buying and selling used clothes is also increasing in society. Due to the tremendous public interest in cheap branded products, sales of used goods, especially clothing, are increasing. Many requests are due to people's desire to wear branded clothing at affordable prices. The low price of used clothing is an indication of competitive prices. However, for a company to be considered predatory, it must meet several elements. Sales of used clothes themselves are not subject to predatory pricing because companies do not sell their prod-

ucts below the average price or make a loss. The selling price set by the entrepreneur is relatively cheap because the capital used is not too large. The impact of the second-hand clothing trade on the local clothing industry is modest. Each has its market. However, it is common for some traders to argue that selling used clothes is detrimental to the local clothing industry because prices are so low and consumers are more easily attracted.

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