International Journal Humanities Perspective
Vol. 1, No. 1, January 2024
e-ISSN 3031-9331
Journal Homepage: https://ejournal.papanda.org/index.php/ijhp/

Predatory Pricing Practices on E-Commerce from an Islamic Perspective

Agna Syakira Rahma[1], Fathimah Khoirunnisa[2], Muhammad Misbakul Munir[3]

[123]STIS AL WAFA, Indonesia
*Email: Agnasyakira89@gmail.com

ARTICLE INFO

Article history:
Received January 04, 2024
Accepted January 08, 2024
Available online January 10, 2024

Keyword:
Predatory Pricing; E-commerce; Maqhasyid Sharia.

ABSTRACT

Numerous e-commerce platforms for buying and selling have emerged due to the advancement of information technology. This has several benefits for firms in terms of product promotion. Despite the convenience of online shopping, there might be risks for small businesses. This is because international e-commerce trade has allowed imported items to dominate the Indonesian market at significantly lower selling prices than local goods. This type of study is desk research. Desk research aims to collect information about the subject at hand from books, articles, papers, journals, and other sources. To gather data for this study, various publications were reviewed, including books, articles, papers, research reports, periodicals, newspapers, and laws and regulations pertinent to the subjects under discussion. Data was also retrieved via literature reviews. This study utilized primary and secondary data sources for its material. Monopoly pricing is typically established to counteract losses, which might harm consumers. This strategy aims to maximize income while offsetting losses from sales at a loss or cheap pricing. Although some nations do not forbid it, predatory pricing is generally seen as an unethical trading practice, according to the research above. Regarding the perspective of maqashid sharia, Islamic economics acknowledges the concept of predatory pricing as إغراق. Ighraq is prohibited in Islam since it is a dishonest trading activity that causes injury and has the potential to undermine monopolies and the market process. Islam prohibits the practice of monopoly.

Copyright © 2023 The Author(s). This open-access article is distributed under the terms of the Creative Commons Attribution (CC-BY) 4.0 international license. (http://creativecommons.org/licenses/by/4.0/).

How to cite: Fathimah, F. K., Agna Syakira Rahma, & Muhammad Misbakul Munir. Predatory Pricing Practices on E-Commerce From an Islamic Perspective. *INTERNATIONAL JOURNAL HUMANITIES PERSPECTIVE*. Retrieved from https://ejournal.papanda.org/index.php/ijhp/article/view/628

1. Introduction

Given that the current generation was raised in the era of digital technology, it is an integral part of their daily lives. Because they grew up in the digital era, today's generation uses technology daily. Younger people are used to using technology for communication, socializing, and employment. This has been produced by the swift advancement of technology in the domains of commerce and information (Munir, 2022). Thanks to the Internet, which is available to everyone in society, more and more transactions and other contacts that were formerly conducted offline are now conducted online. This time, the focus is on using digital devices quickly and consistently and conducting online transactions. The term "e-commerce," for electronic commerce, is commonly used to describe any transaction that occurs through a digital platform. Indonesia continues to experience growth in the number of internet users every year (Syarief et al., 2021). The findings of an online user survey conducted by the Indonesian Internet Service Providers Association (APJII) between 2022 and 2023 demonstrate this. The study shows that 78.19 percent of Indonesians use Internet services (Arif, 2022). The general public's ease of using the Internet in this way facilitates the sale of products and services by company owners and electronic transactions that customers can carry out.

Of course, this is governed by constantly changing laws and regulations about trading operations over the Internet. Law No. 19 of 2016 concerning the revision of Law No. 11 of 2008, which regulates electronic information and transactions, has enforced this provision in paragraph 1 of Article 2. According to the law, online transactions occur when two or more economic actors exchange products or services producers provide through online platforms (Prahmana & Wiradiputra, 2022). This suggests that online platforms for consumer and producer interaction and transactions can be identified as e-commerce. The act of buying and selling goods online through e-commerce platforms, unfortunately, will present several legal challenges for parties involved or who have an interest in the matter at hand, according to the analysis of data that has been available. Individual sellers or groups can participate in this transactional online buying and selling e-commerce activity (Khoerulloh & Hidayah, 2023).

In a market economy, healthy competition is expected. However, unfair business practices often hinder international economic trade in specific business areas. Business owners must forge ahead to dominate the market and eliminate their tendency to manipulate prices. Aspirations in the field of international trade revolve around the primary goal of maximizing profits. The owners of the company want to maximize their profits. Therefore, they deliberately engage in dishonest business practices (Panjaitan, 2021).

Paying a country for huge profits will motivate that country to engage in unethical commercial activities. Predator pricing is one type of unfair commercial behavior. Since the General Agreement on Tariffs and Trade (GATT) was introduced, this issue has been resolved and ended. The Kennedy Round (1964-1967) raised the issue again, leading to the repealing of the Antidumping Code and its inclusion into the WTO. In GATT/WTO disputes, the term "predatory pricing" refers to exporters selling their goods at a price lower than the price sold in the home market. In this situation, a country may impose a price agreement, a temporary measure (antidumping duties), and definitive antidumping duties (BMAD) (balancing charges) as anti-predatory pricing measures to protect domestic industries (Nugroho & Amsori, 2022).

A country's ability to supply the needs of its citizens through imports and exports is demonstrated, as well as how these policies can be used to advance economic growth and increase state revenues from export-oriented industries. One cannot eliminate competition from any country regarding international, even global, economic conditions. Competition is carried out using deceptive tactics and unfair forms of advantage, which ultimately results in the sale of goods at prices intended to gain market share at the expense of the market system, one of which is predatory pricing (Simanjuntak, 2022).

Predatory pricing is the practice of selling goods on a large scale at a discount below market price, often to maintain high domestic prices to stabilize market prices eventually and allow price increases. The term "predatory pricing" describes a tactic used by businesses to discourage consumers from buying by lowering prices below production costs. "Business actors are prohibited from supplying goods or services by selling at a loss or setting meager prices with the intention of eliminating or shutting down the business of competitors in the relevant market so that it can result in monopolistic practices or unfair business competition," reads Article 20 of Law No. 5 of 1999 (Darania, 2019).

Nonetheless, predatory pricing has gained so much attention in society, especially on social media, that economists, especially those focused on MSMEs or lower-middle-class companies, often have productive discussions about it. One of the arguments is that predatory pricing exists in one of the marketplaces in Indonesia, and this will harm and weaken MSMEs, or the lower middle class. Predatory pricing has a detrimental impact on the country as well as MSMEs.(Wahjono & Marina, 2009) In the event of a price difference, the country's economy will suffer when imports are routinely carried out at predatory prices. The author is motivated to investigate exploitative pricing practices from a Shariah point of view on these grounds.

2. Method

This type of research involves collecting data and information using various library sources. It is a library research. Library research aims to gather information on the topic at hand from books, articles, papers, journals, and other sources. The data collection methods used in this research include retrieving data from literature reviews and reviewing various publications, including books, articles, papers, research reports, magazines, newspapers, and laws and regulations relevant to the topic. Primary and secondary data sources are the sources of information used in this research.

Data analysis is an essential component of research, and to focus their analysis, researchers often use quotes from previous research findings or the views of experts in scientific publications . The information gathered from the findings of the literature study was methodically organized to provide a complete picture of the problem being researched. Conclusions are derived from the discussion of the research and analysis findings.

3. Result and Discussion

According to General

Predatory pricing benefits consumers greatly in the short term, but dominant or incumbent businesses plan to raise prices dramatically after eliminating competitors and deterring potential new entrants. Usually, the (higher) monopoly price is set to offset losses, which may harm customers. This approach attempts to offset losses from selling at a loss or low price and maximize revenue.

Predatory pricing can benefit customers, but only for a short period. This is because if sellers set prices much higher than monopoly prices, many inexperienced sellers in the consumer market will eventually begin to lose money. We must see this by Law No. 5/1999, Article 20. Predatory pricing is usually used because the business actor will quickly try to limit production and raise prices, and not because the business actor tries to set prices that are too high compared to the price of goods already offered (Ariyanti & Nugroho, 2023). This can happen if problems affecting current business players force new and established businesses to enter the market.

As a result, there will be a higher chance of illegal predatory pricing if business actors use predatory pricing strategies without first reducing production or increasing prices. Three things may happen when business actors have a dominant position; in this case, the dominant position is also the cause of these three events. First, make trade agreements to prevent or prohibit customers from buying substandard products or services. Second, markets and technological progress must be balanced. Third, inspire other entrepreneurs who have the potential to succeed (Rezmia, 2017). According to the research mentioned above, there are several ways in which unethical business practices can be implemented, such as through defined agreements, practice models, and positions of power. After all, the market will be disrupted and function against market norms due to this unfair competition.

Customers will not determine prices, supply and demand will not work as they should, and new businesses will not be allowed to join the market. Customers will not be allowed to bid prices or visit the market. Predatory pricing reduces the production of local producers due to price discrimination, which harms the profitability of companies specializing in the manufacture of goods and adversely affects the national economy, especially MSMEs. The mining business in underdeveloped countries is one of the many organizations that suffer from predatory pricing—the mining industry in developing countries (AP, 2023).

Economists categorize predatory pricing techniques as a component of dumping attempts by businesses:

1) Sporadic
   The practice is temporarily selling goods on the international market at a price below the production cost or the exporting country's local price. Usually, the aim is to get rid of unwanted goods. Therefore, there is absolutely no purpose to kill or suppress rival products.
2) Persistent
   The practice of selling goods to foreign markets at prices lower than the cost of production or domestic prices is a continuation of previous sales of the same commodity.
3) Predatory
   A procedure used when a business temporarily discriminates against specific prices when dealing with overseas customers. This discrimination consists of removing all competitors from the market and then raising the price of the goods after the competitors are gone. Research method

According to Maqhasyid (Islam)

Predatory pricing in Arabic is defined as selling goods at below marginal cost on the open market, or "ighraq" (إغراق). This strategy is used by countries that want to reduce the amount of goods they export. Islam considers this act very controversial because it can annoy the local population. According to Islamic law, the saying "Do not harm yourself and do not harm others" expresses the Prophet Muhammad's warning to sell goods containing mudharat.

The doctrine of maqashid sharia is always studied about maslahah. The goal is maqashid sharia, or maṣlaḥah, for everyone. Maṣlaḥah itself is the direction of the goal to be achieved, according to the philosophy of maqashid sharia, which states that all activities must be able to cause maṣlaḥah both for the perpetrator and others. Therefore, the foundation of all government initiatives must be universal values and principles (Thoha et al., n.d.).

According to Imam Malik in al-Muwaththa, predatory pricing was a sporadic practice during the reign of Sayidin Umar. "Hatib bin Abu Balta'ah, a raisin seller in the market, was once met by Umar bin Khattab, and narrated by Sa'id bin al-Musayyab that Sayidin Umar expelled him from the market because of his behavior." Omar bin Khattab advised the woman: "You have two options: raise the price or leave our market."

The viewpoint cited earlier states that predatory pricing, essentially pricing to beat competitors, occurs in highly competitive markets where businesses want to maximize product sales. On the other hand, predatory pricing can be implemented with little difficulty and a transparent process (Setiowati, 2022). The only drawback is that it tends to be erratic and is limited to inexpensive items. Unlike persistent and predatory behavior that can damage markets, killing competitors is not allowed; when importing countries are oversupplied with products due to greater demand driven by lower prices, both can have the effect of eliminating competitors. Other products, especially local products, will not be able to compete with the predatory prices of producers, which turns them into monopolies. As a result, the product may lose money and go out of business. This is due to the strong correlation between price and demand and the high level of demand (Faishol et al., 2022).

The government may need to step in or impose higher import duties for the goods to enter the market at reasonable prices and encourage healthy competition. There are only two scenarios in which governments may need to intervene in the market: when educators fail to deliver the standards set by society, causing suffering and disrupting the free market. In these cases, the government can collaborate with other educators to achieve everyday health and education goals and make available materials in the market. Teachers who use predatory pricing, or Ighraq, can also undermine market stability and encourage pressure from dangerous fellow teachers(Darania, 2019).

4. Conclusion

According to the study above, predatory pricing is seen as an unfair trade practice, even though some nations do not forbid it. Regarding the perspective of maqashid sharia, Islamic economics acknowledges the concept of predatory pricing as إغراق (ighraq). Islam prohibits ighraq as a trading activity that involves injury, is dishonest, and can potentially undermine monopolies and the market process. Islam prohibits the practice of monopoly. According to the Islamic doctrine, market forces determine prices. The government must interfere with pricing problems by imposing an order on prices if merchants have behaved arbitrarily by increasing or reducing prices to jeopardize the state of the market and the public interest (Ayun, 2015).

References

AP, K. N. A. (2023). The role of the business competition supervisory commission in response to allegations of predatory pricing practices in e-commerce. *Jurnal Geuthèë: Penelitian Multidisiplin*, *6*(2), 175. https://doi.org/10.52626/jg.v6i2.249

Arif, M. (2022). Profil Internet Indonesia 2022. *SRA Consulting.*, *June*, 1–104.

Ariyanti, N., & Nugroho, W. C. (2023). Peran Kppu Dalam Melindungi Konsumen Dari Pelaku Usaha Tidak Sehat. *Indonesian Journal of Law and Social-Political Governance*, *3*(1), 885–896. https://doi.org/10.53363/bureau.v3i1.222

Ayun, et al. (2015). Universitas Islam Negeri Maulana Malik Ibrahim Malang. *Sufi Penjaga Hutan: Pencegahan Deforestasi Melalui Gerakan Tasawuf*, *1–37*, 134–137.

Darania, M. (2019). Persaingan Usaha Tidak Sehat Di Indonesia Menurut Hukum Ekonomi Islam Dan Undang-Undang Nomor 5 Tahun 1999 Tentang Larangan Monopoli Dan Persaingan Usaha Tidak Sehat. *El-Jizya : Jurnal Ekonomi Islam*, *7*(1), 21–46. https://doi.org/10.24090/ej.v7i1.3446

Faishol, M., Nisak, L. N. S., Najib, M. T. A., Mukminin, M. A. A., & Sadid, M. A. (2022). Praktek Predatory Pricing dalam Perspektif Maqashid Syariah. *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam*, *4*(2), 113–118. https://doi.org/10.37680/almanhaj.v4i1.1580

Khoerulloh, A. K., & Hidayah, S. R. (2023). Analisis Konsep Cashback dalam Transaksi E-commerce: Perspektif Hukum Ekonomi Islam. *Al Mashalih - Journal of Islamic Law, 4*(2), 73–82. https://doi.org/10.59270/mashalih.v4i2.209

Munir, M. M. (2023). *Islamic Finance For Gen Z Karakter Dan Kesejahteraan Finansial Untuk Gen Z Penerapan Islamic Finance Sebagai Solusi* (S. M. Komarudin (ed.)). CV. Green Publisher Indonesia. https://books.google.co.id/books?id=a9bUEAAAQBAJ&lpg=PR7&ots=gso8M48dqO&lr&hl=id&pg=PR7#v=onepage&q&f=false

Nugroho, M. A., & Amsori. (2022). Jurnal hukum indonesia. *Jurnal Hukum Indonesia*, *1*, 10–18. https://doi.org/10.58344/jhi.v2i2.45

Panjaitan, Y. A. (2021). Indikasi Predatory Pricing Pada Praktik Perang Harga Antara Pelaku Usaha Financial Technology (Fintech) Ditinjau Berdasarkan Hukum Persaingan Usaha Di Indonesia. *Jurnal Program Magister Hukum Fakultas Hukum Universitas Indonesia*, *1*(3),

1615–1629.
Prahmana, V. D., & Wiradiputra, D. (2022). Predatory Pricing Dalam E-Commerce Menurut Perspektif Hukum Persaingan Usaha. *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)*, *6*(3), 9844–9853. https://doi.org/10.58258/jisip.v6i3.3277
Rezmia, F. (2017). Dampak Kegiatan Jual Rugi (Predatory Pricing) yang Dilakukan Pelaku Usaha dalam Perspektif Persaingan Usaha. *Jurnal Selat*, *4*(2), 234–249. https://www.neliti.com/id/publications/235516/
Setiowati, H. diah. (2022). *Analisis Rule of Reason Dalam Jual Rugi Dan/Atau Menetapkan Harga Yang Sangat Rendah Pada Perkara Kppu Nomor 3/Kppu-L/2020 Dalam Mencapai Kepastian Hukum*. *3*(1), 1–87. https://medium.com/@arifwicaksanaa/pengertian-use-case-a7e576e1b6bf
Simanjuntak, M. S. H. (2022). *Dugaan Praktek Predatory Pricing Dalam Electronic Commerce Di Indonesia (Studi di Kantor Wilayah I KPPU)*. *10*(3), 1–51. https://repository.uhn.ac.id/handle/123456789/7635
Syarief, E., Shahrullah, R. S., Jaya, F., & Kurniawan, J. (2021). Potensi Terjadinya Persaingan Usaha Tidak Sehat pada Penggunaan Aplikasi Perdagangan Elektronik di Era Revolusi Industri 4.0. *Jurnal Supremasi*, *3*(2), 105–114. https://doi.org/10.35457/supremasi.v11i1.1290
Syamsul, E. M., & Kuswaya, A. (2023). Expert Wakaf, Wakif Family Social Security in The Achievment of Sustainable Development Goals. *Journal of International Conference Proceedings*, *6*(3), 35–49, DOI: https://doi.org/10.32535/jicp.v6i3.2379.
Thoha, J. M., Shofari, A., Chamim, M., & Afif, A. (n.d.). *Hukum Islam Terhadap Predatory Pricing Pada Persaingan Usaha Jual Beli Secara Online*.
Wahjono, S. ., & Marina, A. (2009). Kebijakan Anti Monopoli dalam Perekonomian Indonesia. *Balance*, *3*(1), 1–15