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Investigation Policy on Crime of Unfair Business Competition After the Enforcement of the Omnibus Law

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ABSTRACT

Violations of Law 5/1999 may be subject to administrative and criminal sanctions. Administrative sanctions are imposed by KPPU, while for criminal sanctions it is not clear by whom. The legal problem is how are the investigation arrangements in Law 5/1999 in conjunction with Law 11/2020? and What is the investigation policy in the RUU Monopoly Practices?. This is a legal research with statute and conceptual approach. Primary and secondary sources were collected using the literature search and analyzed using a prescriptive method. The institution authorized to conduct investigations in Law 5/1999 in conjunction with Law 11/2020 is not clearly regulated whether from the Police or PPNS, in addition, legal subjects that can be investigated are not clearly regulated. Likewise, RUU Monopoly Practices does not improve the investigation arrangements. The only investigation setting is only in Article 39 paragraph (2) of the Monopoly Practices Bill which stipulates that KPPU in conducting

searches and/or confiscations may request assistance from Polri and is not given other powers. Whereas RUU Monopoly Practices, but it is not clear how the investigation will be carried out. Suggestions for solving these legal problems are that Law 5/1999 needs to improve the investigation arrangements. Should be in English, maximum 250 words, contain the background of research, facts, research problems, method, findings, suggestions.

KEYWORDS
Unfair Business, Omnibus Law

1 INTRODUCTION

The Law Number 5 of 1999 concerning "Prohibition of Monopolistic Practices and Unfair Business Competition" (hereinafter referred to as Law 5/1999) is one of the legal products that brings the spirit to realize people's welfare through fair business competition without monopoly. Ketut Rindjin noted that Law 5/1999 was born in a situation where the Indonesian economy continued to weaken due to massive economic fraud practices that resulted in a multidimensional crisis (Rindjin, 2004). Sjahdeini, in Rokan in Asmah, divides the purpose of Law 5/1999 into two efficiencies, namely efficiency of producers (productive efficiency) and efficiency of society (allocative efficiency), namely by producing goods and services at low costs and with little resources (Sjahdeini, 2017). In line with this situation, Law 5/1999 was drafted with several considerations as stated in the preamble to Law 5/1999, namely for economic development, equal opportunities for every citizen, and fair and fair competition.

All the provisions in Law 5/1999 essentially only boil down to three important parts, namely prohibited agreements, prohibited activities, and

DOI: 10.15294/ijcls.v6i2.31736

dominant positions. Prohibited agreements include oligopolies, price fixing, division of territory, boycotts, cartels, trusts, oligopsony, vertical integration, closed agreements, and agreements with foreign parties. Prohibited activities consist of monopoly, monopsony, market domination, conspiracy. Meanwhile, dominant positions that are prohibited include concurrent positions, share ownership, as well as mergers, consolidations, and takeovers (Handoko, Ismail, and Jasri, 2008). These prohibitions have exceptions, such as agreements relating to franchises or the actions of business actors belonging to business actors, and several other exceptions (Sari & Simanungsong, 2008).

Violation of the prohibition may be subject to administrative and criminal sanctions. Administrative sanctions are regulated in Article 47 of Law 5:

(1) The Commission is authorized to impose sanctions in the form of administrative actions against business actors violating the provisions of this Law.

(2) The administrative actions as referred to in paragraph 1 can be in the forms of:

a. determination of the cancellation of the agreement as referred to in Article 4, Article 5, Article 6, Article 7, Article 8, Article 9, Article 10, Article 1 1, Article 12, Article 13, Article 15, and Article 16;

b. orders to business actors to stop vertical integration as referred to in Article 14;

c. orders to business actors to stop activities that are proven to cause monopolistic practices, cause unfair business competition, and/or harm the public as referred to in Article 17, Article 18, Article 19, Article 20, Article 21, Article 22, Article 23, Article 24 , Article 26, and Article 27;

d. orders to business actors to stop the abuse of dominant position as referred to in Article 25;

e. stipulation of cancellation of merger or consolidation of business entities and acquisition of shares as referred to in Article 28;

f. determination of compensation payment; and/or

g. imposition of a fine of at least Rp. 1,000,000,000.00 (one billion rupiah).

DOI: 10.15294/ijcls.v6i2.31736

Meanwhile, criminal sanctions in the prohibition of monopoly and unfair business competition are regulated in Article 48 of Law 5/1999 in conjunction with Article 118 of the Job Creation Law which stipulates as follows "Violation of the provisions of Article 4l of this Law shall be punished with a maximum fine of Rp. 5,000,000,000. 0.00 (five billion rupiah) or a maximum imprisonment of 1 (one) year as a substitute for a fine. The provisions of Articles 47 and 48 of Law 5/1999 in conjunction with Article 118 of the Job Creation Law indicate that administrative sanctions are imposed by the Business Competition Supervisory Commission (KPPU), while for criminal sanctions it is not clear how the process is imposed (Hukum Online, 2017). Law 5/1999 only regulates criminal sanctions, but what institutions can investigate, what legal subjects can be investigated, evidence, and delegation after investigation, all are not regulated with certainty.

Historically, Law 5/1999 initially brought new hope, but in some of its regulations, Law 5/1999 is considered to still have many shortcomings and weaknesses (Sitompul, 1999). This legal problem can certainly hinder the prosecution of violations of monopoly and unfair business competition. Even though the enactment of Law 5/1999 has become a new hope for the development of healthy competition in Indonesia, this hope has not been realized properly.

Furthermore, Law 5/1999 has been included in the agenda for revision and there has been a Draft Law on Monopolistic Practices and Unfair Business Competition (hereinafter referred to as the Monopoly Practices Bill) to improve the provisions contained in Law 5/1999. In addition, several articles relating to the economy and investment have been revised in the job creation law. However, if you read in detail, both the Monopoly Practices Bill and the Job Creation Law are even more unclear about the investigation. This is certainly a legal vacuum (*recht vacuum*) in the formal criminal law process as an effort to enforce the material law (law enforcement). The legal issues discussed are:

1) How are the investigation arrangements in Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition in conjunction with Article 118 of Law Number 11 of 2020 concerning Job Creation?

DOI: 10.15294/ijcls.v6i2.31736

2) What is the investigation policy in the Draft Law on Monopolistic Practices and Unfair Business Competition?

2 METHOD

This research is legal research, namely research on law by covering principles, laws and regulations, agreements, and court decisions. Peter Mahmud Marzuki said that the type of legal research in principle is already normative, so there is no need to call it normative legal research (Marzuki, 2017). This legal research uses the type of doctrinal researches, which are to systematically explain certain legal rules, analyze the relationship between these legal rules, explain difficulties, and can even predict future legal developments.

The problem approach used in this research is the statute approach, namely the statutory approach that must be used in every legal research. Meanwhile, the other approach is a conceptual approach, which is an approach to concepts that exist and develop in legal science, both from views or legal interpretations from legal experts and legal practitioners. This approach is used to provide further explanations related to the existing laws and regulations as well as complement if the laws and regulations do not directly address the legal issues discussed in this study (Marzuki, 2017).

The research sources used in this research are primary sources and secondary sources. Primary legal sources are the main legal sources in legal research. This is what makes the primary source of legal material in legal research in the form of legislation, regulations, court decisions, and contracts. Sources of legal materials used next are secondary legal materials, namely legal materials sourced from literature such as books, journals, articles, news, and other literature that has relevance to the legal issues in this study.

All sources of legal research are then collected using library research, namely all legal materials, both primary and secondary legal materials, are traced and collected according to their type and hierarchy. The next step is to clarify the legal material in order to facilitate the stages in the research. The legal material that has been collected is then analyzed using a prescriptive method

DOI: 10.15294/ijcls.v6i2.31736

(Marzuki, 2017), in order to produce a prescription. The prescriptive method is carried out in stages; examine legal issues, draw conclusions, and provide prescriptions (applied basis)

3 RESULT AND DISCUSSION

A. Investigation Policy in Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition in conjunction with Article 118 of Law Number 11 of 2020 concerning Job Creation

The existence of "investigators" in Law 5/1999 is mentioned in the explanation of Article 36 of Law 5/1999 which explains that "Investigators are investigators as intended in Law Number 8 of 1981". The definition of investigator in Article 1 point (1) of Law Number 8 of 1981 concerning Criminal Procedure Code (hereinafter referred to as KUHAP) is defined as follows "an investigator is a State Police Officer of the Republic of Indonesia or certain Civil Service Officials who are given special authority by law to conduct an investigation." The definition of investigator in Law 5/1999 which is based on the definition in the Criminal Procedure Code certainly has a legal consequence that investigators can not only consist of Indonesian National Police Investigators, but also Civil Servant Investigators (PPNS). This is different from Law 5/1999 which only mentions the word "investigator" without any further explanation whether the investigator in question consists of only Polri investigators, or from PPNS also given the same authority as investigators. If the investigators also consist of civil servants, then which civil servants that have the right to investigate is also unclear.

Investigators in Law 5/1999 are only given limited authority on 2 (two) matters as stipulated in Article 41 of Law 5/1999 and Article 44 of Law 5/1999 in conjunction with Article 118 of the Job Creation Law. Article 41 of Law 5/1999 regulates the authority of investigators against business actors who refuse to be examined or are asked for information in the examination process by KPPU as follows:

1) Business actors and or other parties being examined are obligated to submit the evidence needed in the investigation and or examination.
2) Business actors are prohibited from refusing to be examined, refusing to provide information needed in an investigation and or examination,

DOI: 10.15294/ijcls.v6i2.31736

or obstructing the investigation and or examination process.

3) Violation of the provisions of paragraph 2, by the Commission is submitted to the investigator for the investigation in accordance with the applicable provisions.

Then Article 44 of Law 5/1999 in conjunction with Article 118 of the Job Creation Law which regulates the authority to investigate rejection, implements the KPPU's decision as follows:

1) Within 30 (thirty) days after the business actor receives notification of the Commission's decision as referred to in Article 43 paragraph (4), the business actor is obliged to implement the decision and submit a report on its implementation to the Commission.
2) Business actors may file an objection to the Commercial Court no later than 14 (fourteen) days after receiving the notification of the decision.
3) Business actors who do not file objections within the period as referred to in paragraph (2) are deemed to have accepted the Commission's decision.
4) If the provisions as referred to in paragraphs (1) and (2) are not implemented by the business actor, the Commission shall submit the decision to the investigator for investigation in accordance with the provisions of the applicable laws and regulations.
5) The Commission's decision as referred to in Article 43 paragraph (4) is sufficient preliminary evidence for investigators to conduct an investigation.

Budi Kagramanto explained that the case which was initially handled by KPPU could be submitted to investigators for criminal processing using the KPPU's decision as sufficient initial evidence to conduct an investigation. The handover was carried out because KPPU could not impose criminal sanctions, but could only impose administrative sanctions. If the process is carried out, then business actors who do not carry out administrative sanctions in the KPPU's decision and business actors who refuse to be examined or are asked for information during the examination process can be processed and subsequently subject to criminal sanctions (Kagramanto, 2009).

Investigators in Law 5/1999 in conjunction with Article 118 of the Job

DOI: 10.15294/ijcls.v6i2.31736

Creation Law are only authorized to conduct investigations on violations of Article 41 paragraph (2) of Law 5/1999 in conjunction with Article 118 of the Job Creation Law and investigations of violations of Article 44 paragraphs (1) and (2) Law 5/1999 in conjunction with Article 118 of the Job Creation Act. Investigators in Article 41 paragraph (3) of Law 5/1999 in conjunction with Article 118 of the Job Creation Law are given the authority to conduct investigations against business actors who refuse to be examined or are asked for information during the examination process. Meanwhile, Article 44 paragraph (4) of Law 5/1999 in conjunction with Article 118 of the Job Creation Law, investigators have the authority to carry out investigations against business actors who do not implement the KPPU's decision armed with the KPPU's Decision as sufficient preliminary evidence to conduct an investigation. It means that investigators in Law 5/1999 are only given the authority to investigate these 2 (two) things.

The problems that arise next are related to the investigation mechanism in implementing these provisions and there is also no technical instructions (Nugroho, 2014). The problem with the investigation mechanism is that Article 48 of Law 5/1999 does not explicitly state who the criminal subject is, whether an individual or a corporation so that when an investigation is to be carried out, for example, the legal basis is not clear to take action against a person or corporation (Sjahdeini, 2017). The mechanism of investigation that is no less absurd is related to evidence. Article 44 paragraph (5) of Law 5/1999 in conjunction with Article 118 of the Job Creation Law alludes to the phrase "sufficient preliminary evidence" but in the provisions of Law 5/1999 in conjunction with Article 118 of the Job Creation Law there is no evidence setting in monopolistic practices and unfair business competition. Not only in Law 5/1999, other laws and regulations that also regulate matters relating to monopolistic practices and unfair business competition, there are also no clear arrangements related to evidence and general investigations.

The next stage after the investigation should be that the case is transferred to the Prosecutor's Office for further trial in the Court, but it is not clear which case is delegated to the Court. If the objection to the KPPU's decision is clearly regulated what court has competence, it can be carried out in the Commercial

DOI: 10.15294/ijcls.v6i2.31736

Court (Article 45 paragraph [1] of Law 5/1999 in conjunction with Article 118 of the Job Creation Law), but for criminal sanctions it is not clear which court has competence. The ninth paragraph of the general explanation of Law 5/1999 explains as follows:

> In order for the implementation of this law and its implementing regulations to be effective according to its principles and objectives, it is necessary to establish a Business Competition Supervisory Commission, which is an independent institution that is independent from the influence of the government and other parties, authorized to supervise business competition and impose sanctions. The sanctions are in the form of administrative actions, while criminal sanctions are the authority of the court.

The sentence "criminal sanctions are the authority of the court" in the ninth paragraph of the general explanation of Law 5/1999 is actually an indication that the criminal provisions in Law 5/1999 can be transferred to the case and resolved in court. It means that the explanation provides a clear direction for the estuary of the criminal regulation in Law 5/1999, unfortunately in the explanation, it is not clear what court is meant in the explanation. There is no clear stipulation regarding absolute competence whether it is a District Court or another Court, even though it is stated in the filing of an objection that it can be done in the Commercial Court (Article 45 paragraph [1] of Law 5/1999 in conjunction with Article 118 of the Job Creation Law).

This means that after the investigation and other series are completed then the case will be transferred to the Court, it is not clear which Court will be addressed to delegate the case. Investigators who conduct investigations into 2 (two) matters regulated in Article 41 paragraph (3) and Article 44 paragraph (4) of Law 5/1999 in conjunction with Article 118 of the Job Creation Law are ultimately not clear on what the results of the investigation will be used for. This is because the court that will try it is not clearly regulated whether it is the District Court or the Special Court for Monopolistic Practices and Unfair Business Competition.

DOI: 10.15294/ijcls.v6i2.31736

The accumulation of problems in Law 5/1999 in conjunction with Article 118 of the Job Creation Law then brings legal consequences, namely all violations in the prohibition of monopoly and unfair business competition are only decided by administrative sanctions, and nothing has been decided by being sentenced to criminal sanctions (KPPU, 2019). As a result, criminal sanctions as mandated in Article 41 paragraph (3) and Article 44 paragraph (4) as well as Article 48 of Law 5/1999 in conjunction with Article 118 of the Job Creation Law are useless and futile provisions.

In fact, law enforcement, including investigation arrangements, can use the Criminal Procedure Code as a basis for handling, although Law 5/1999 does not explicitly stipulate that the criminal procedure law for monopolistic practices and unfair business competition originates in the Criminal Procedure Code. This is because the Criminal Procedure Code continues to apply to criminal acts outside the Criminal Code (KUHP) (H. Arief, 2016) as long as it is not rejected by law. This is as regulated in Article 284 paragraph (2) of the Criminal Procedure Code which stipulates as follows: "Within two years after the promulgation of this law, the provisions of this law will be applied to all cases, with the temporary exception of the special provisions on criminal procedures as referred to in the law. certain laws, until there are changes and or declared no longer valid". The existence of Article 284 paragraph (2) of the Criminal Procedure Code strengthens the authority of investigation (Alifah, 2008).

Nevertheless, Law 5/1999 in conjunction with Article 18 of the Job Creation Law needs to clarify many things and make many adjustments. As previously described, that the term “investigator” cannot simply be used in the Criminal Procedure Code, it needs to be clarified because investigators in the Criminal Procedure Code consist of two agencies, namely the National Police and PPNS. Then the investigator's authority must also be clearly regulated, not only limited to 2 (two) things as regulated in Article 41 paragraph (2) of Law 5/1999 and Article 44 paragraph (4) of Law 5/1999. The investigator's authority must also include technical investigations, legal subjects that can be acted upon by investigators (individuals or corporations), including the delegation of post-investigation cases.

DOI: 10.15294/ijcls.v6i2.31736

B. The Investigation Policy in the Draft Law on Monopolistic Practices and Unfair Business Competition

The government realizes that there are many shortcomings in Law 5/1999 so that revision is a necessity that must be taken. The initiative for this change has even started since 2016 by including Law 5/1999 in the list of the Government's National Legislation Program (Prolegnas) and the 2016 House of Representatives in the 22nd (twenty-second) list (Hukum Online, 2009). The Monopoly Practices Bill in principle brings the spirit of improvement and refinement to Law 5/1999. The Monopoly Practices Bill brings the spirit of perfection by covering up the shortcomings and weaknesses contained in Law 5/1999. This can be seen in the general explanation of the Monopoly Practices Bill, as follows:

This Law is a refinement of the weaknesses in Law Number 5 of 1999, including:

a) affirmation of KPPU's position as a state institution which has implications for the implementation of its functions, duties and authorities;
b) expanding the understanding of Business Actor so that law enforcement can reach Business Actor who is domiciled outside the territory of Indonesia whose behavior has an impact on the Indonesian market and economy;
c) changes regarding notification arrangements for merger or consolidation of business entities, acquisition of shares, or formation of joint ventures, are required to obtain KPPU's approval prior to merger or consolidation of business entities, acquisition of assets, acquisition of shares, or formation of joint ventures (pre-merger notification).
d) a more comprehensive arrangement regarding the mechanism and procedure for the settlement of business competition cases;
e) changes to administrative sanctions fines which originally used the nominal value to become a percentage of the sales value and/or transaction value within the period of violation;
f) transfer of provisions concerning conspiracy to the prohibited chapter

DOI: 10.15294/ijcls.v6i2.31736

of the agreement;

g) transfer of provisions on vertical integration into the chapter of prohibited activities; and

h) the exclusion of agreements relating to intellectual property rights and agreements relating to franchises as exempt from the provisions on the Prohibition of Monopolistic Practices and Unfair Business Competition.

As an improvement to the previous Law, there are new content materials added to this Law, including:

a) strengthening the function of KPPU (Business Competition Supervisory Commission) as a state institution that enforces the law on Prohibition of Monopolistic Practices and/or Unfair Business Competition;

b) regulations related to the prohibition of abuse of dominant bargaining position by Business Actor;

c) arrangements regarding pardons and reduced sentences (leniency programme); and

d) imposition of a criminal offense against the act of preventing or hindering the KPPU in carrying out the investigation and/or examination process, as well as against the Reported Party who does not implement the KPPU's decision.

However, the intended improvements and improvements do not touch the "investigation" setting. This means that in this refinement, there is still no clarity on the strengthening of investigators. This spirit should be embodied to cover the deficiencies in Law 5/1999 which is currently in effect, but the existing improvements are more directed at material provisions, not formal ones. The vacancy in the investigative arrangements still escapes the revision of the Monopoly Practices Bill so that all existing criminal sanctions cannot be imposed because the instruments are empty.

If the contents of the Monopoly Practices Bill are read in their entirety, the regulation on the authority of investigators is actually distorted. The provisions regarding investigators in Law 5/1999 have all been omitted, including the definition of investigator which is based on the Criminal Procedure Code. The only regulation regarding investigators is only regulated in Article 39

DOI: 10.15294/ijcls.v6i2.31736

paragraph (2) of the Monopoly Practices Bill, which stipulates that "In conducting the search and/or confiscation as referred to in paragraph (1) letter h, KPPU may request assistance from investigators from the Indonesian National Police". Meanwhile, KPPU remains positioned as a commission that can only impose administrative sanctions. This is as regulated in Article 39 paragraph (1) letter k of the Monopoly Practices Bill which regulates the authority of the KPPU, one of which is "to impose administrative sanctions on Business Actors who violate the provisions of this law".

The Monopoly Practices Bill does not at all give any authority to investigators except only as a party who can be asked for assistance by the KPPU who conducts searches and/or confiscations. Whereas in Article 54 of the Monopoly Practices Bill there are criminal provisions, namely as follows:

Article 54

1) Any person serving as a member of KPPU, an official or an employee of KPPU is prohibited from using or disclosing any confidential information to other parties, except in the context of carrying out his functions, duties, and authorities based on a KPPU Decree or required by law.
2) Any person who has served as a member of KPPU, or has served as a structural official or employee of KPPU is prohibited from using or disclosing any information of a confidential nature to other parties.
3) Everyone who knows information of a confidential nature, either because of his position, profession, as a party being supervised, or having a relationship with KPPU, is prohibited from using or disclosing confidential information to other parties, except in the context of carrying out functions, duties, and authority based on KPPU's decision or required by law.
4) Violation of the provisions of paragraph (1), paragraph (2), and paragraph (3) may be subject to administrative sanctions and/or criminal sanctions in accordance with the provisions of laws and regulations.
5) Further provisions regarding the confidentiality, use, and disclosure

DOI: 10.15294/ijcls.v6i2.31736

of information as referred to in paragraph (1) and paragraph (3), shall be regulated in the KPPU Regulation.

The provisions for criminal sanctions are not only regulated in Article 54 of the Monopoly Practices Bill, but are also regulated in Article 89 of the Monopoly Practices Bill which regulates the following:

Article 89

1) The Reported Party who does not implement the KPPU's Decision which has permanent legal force as referred to in Article 84, shall be subject to a maximum fine of Rp.2,000,000,000.00 (two trillion rupiah) or imprisonment in lieu of a fine for a maximum of 2 (two) years.
2) Any person who intentionally prevents, hinders, or thwarts KPPU directly or indirectly in carrying out the investigation and/or examination process as referred to in Article 88, shall be subject to a maximum fine of Rp. 5,000,000,000.00 (five billion rupiah) or imprisonment in lieu of a fine of a maximum of 6 (six) months.

The criminal provisions certainly cannot be implemented because there are no investigators who can carry out investigations. Supposedly if there is a material criminal arrangement, then there must be a provision regarding the formal punishment as a process to enforce the material crime. The Monopoly Practices Bill should provide clarity regarding who is authorized to carry out investigations, especially investigators from PPNS (Civil Servant Investigators) from certain government institutions that do have links to monopolies and unfair business competition.

Special Investigator of Monopolistic Practices and Unfair Business Competition is a rational choice considering that the resolution of special cases of monopolistic practices and unfair business competition requires special knowledge of economics and market behavior. Budi Kagramanto stated that "To understand what and how business competition law works and can achieve its main objectives, it is necessary to understand the basic economic concepts that can explain the rationality of the emergence of company behaviors in the

DOI: 10.15294/ijcls.v6i2.31736

market" (Kagramanto, 2009). The existence of business competition is a market-based competition in the economic field (Kagramanto, 2012). These legal issues should also be the object of improvement in the Monopoly Practices Bill.

If the investigation arrangements are clearly regulated, then the enforcement of sanctions in the prohibition of monopolistic practices and unfair business competition can be carried out easily, especially if it is carried out by integrating administrative sanctions with criminal sanctions. This is as expressed by Barda Nawawi Arif who stated that Law 5/1999 should integrate administrative sanctions into all criminal sanctions or the system of criminal liability systems, especially those for corporations (B. N. Arief, 2001; Muladi & Priyatno, 2011). The integration of administrative sanctions with criminal sanctions will certainly be the key to the clarity of the existence of investigators and investigations in monopoly and unfair business competition. The integration then leads to the implementation of law enforcement. The integration will clearly direct the stages of administrative sanctions and criminal sanctions, the timing of the stages, who is the party that handles and can be handled, then what are their authorities so that they can adjust to the provisions in the Criminal Procedure Code. All of these things will be integrated and provide legal certainty.

Not only the question of the investigation which remains an unresolved problem, the mechanism for handling post-investigation cases such as the Court also still escapes attention. Article 1 number (21) of the Monopoly Practices Bill provides a clear definition related to the court, namely "The District Court is a court, as referred to in the applicable laws and regulations, at the place of business of Business Actors". However, the Monopoly Practices Bill still stipulates that the District Court is only a place for filing legal remedies for business actors who object to the KPPU's decision (Articles 86 and 87 of the Monopoly Practices Bill), not as a place to settle criminal cases. Furthermore, this provision is different from Article 45 paragraph [1] of Law 5/1999 in conjunction with Article 118 of the Job Creation Law which stipulates that objections to the KPPU's Decision are clearly regulated what Courts have competence, that is, they can be carried out in the Commercial Court. This means that the arrangements in the Monopoly Practices Bill and Article 118 of

DOI: 10.15294/ijcls.v6i2.31736

the Job Creation Law are not in sync with each other, making it difficult to understand.

Actually, the Monopoly Practices Bill was discussed first by the DPR as legislators, but then Article 118 of the Job Creation Law hijacked several articles in the revision of the Monopoly Practices Bill so that they were promulgated. This then creates a confusion of understanding. Apart from these differences, the Court is only a place for submitting objections by business actors to the KPPU's decision, the rest does not exist. The criminal provisions in Article 89 of the Monopoly Practices Bill cannot be enforced because there is no court arrangement designated as a place of settlement.

4 CONCLUSION

Based on the description above, it can be concluded that the investigation policy in Law 5/1999 in conjunction with Article 118 of the Job Creation Law is not clearly regulated, whether the institution is authorized to conduct investigations (Police and/or PPNS), technical investigations, legal subjects who can be acted upon by investigators (individuals or corporations), including the delegation of post-investigation cases. Meanwhile, the investigative policy in the Monopoly Practices Bill does not perfect or clarify the investigation arrangements and its existence actually distorts the investigation provisions in Law 5/1999 even though the Monopoly Practices Bill was drafted to perfect Law 5/1999. The only investigation setting is only in Article 39 paragraph (2) of the Monopoly Practices Bill which stipulates that the KPPU in conducting searches and/or confiscations may request assistance from Polri investigators and is not given other powers. Meanwhile, KPPU is still given the authority to impose administrative sanctions (Article 39 paragraph (1) letter k of the Monopoly Practices Bill). Whereas Article 54 and Article 59 of the Monopoly Practices Bill regulate criminal acts, but it is not clear who and how the investigation will be carried out. The investigative policies, investigative institutions, investigation techniques, investigated subjects, and case delegation are still not clearly

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regulated in the Monopoly Practices Bill.

5 DECLARATION OF CONFLICTION INTERESTS

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