

The Food Mafia as Food Cartels under Competition Law: An Analysis of KPPU Decisions in the Staple Food Sector

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ABSTRACT

The term food mafia is a popular expression that refers to the control of supply chains and prices of essential food commodities by a coordinated group of business actors. From the perspective of competition law in Indonesia, this practice closely resembles the structure and behavior of a cartel, which is clearly prohibited under Law Number 5 of 1999. This article examines the extent to which food mafia practices can be classified as food cartels within the legal framework of competition law, and how the Business Competition Supervisory Commission (KPPU) has proven and addressed these practices in its decisions. Using a normative juridical method with a legal and case study approach, this research focuses on two major decisions: Number 24 KPPU I 2009 on the cooking oil cartel and Number 05 KPPU I 2013 on garlic importation. The analysis shows that food mafia practices can be legally framed as cartels when evidence of agreement or coordinated conduct among business actors is established. However, complex regulations and limited evidentiary tools pose challenges for law enforcement. The study concludes that the cartel framework is important for explaining the food mafia phenomenon, but its effectiveness depends on the strength of economic and legal proof built by KPPU, as well as more coherent regulations to support consumer protection and food security.

Keywords: food mafia, cartel, competition law, KPPU, staple commodities, food security

1. INTRODUCTION

The term mafia pangan (food mafia) has become a common expression in public discourse whenever there is a surge in the prices of staple foods such as rice, cooking oil, and garlic. Although this term is not explicitly recognized in statutory regulations, the practices associated with it are closely related to the prohibition of cartels and monopolies as regulated in Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition.

From the perspective of economic law, a cartel is defined as an agreement between competing business actors to regulate prices, production volume, or distribution in order to reduce competition. The OECD (2012) even describes food cartels as one of the forms of cartel with the most significant social impact because they concern basic commodities for the population. The Business Competition Supervisory Commission (KPPU) as the competition authority in Indonesia

also emphasizes the importance of supervision in the food sector, as reflected in the large number of cases handled, including in the sectors of cooking oil, beef, and garlic.

The phenomenon of the food mafia typically arises in oligopolistic markets and is coloured by non transparent regulation. Kusnadi (2017) describes this situation as a form of regulatory capture, namely a condition in which public policy is co opted by the interests of dominant business actors. Therefore, the main question in this article is to what extent the food mafia can be understood and qualified as a food cartel within the framework of competition law, and how KPPU proves such practices through its decisions.

2. RESEARCH METHOD

This study employs a normative juridical method based on legal literature research and analysis of statutory provisions. Two main approaches are used, namely:

- a. Statutory approach, by examining Law Number 5 of 1999, KPPU implementing regulations, and other relevant regulations in the food sector, including policies on maximum retail prices and import mechanisms.
- b. Case study approach, focusing on two key decisions:
 - KPPU Decision Number 24/KPPU I/2009 concerning alleged cartel practices in the cooking oil sector.
 - KPPU Decision Number 05/KPPU I/2013 concerning practices in the importation of garlic.

Secondary legal sources include journal articles, policy reports, academic theses, and official publications of KPPU. Some of the main literature used are Setiono (2016), Levina (2017), and Dionesius (2019).

3. RESULTS AND DISCUSSION

Food Mafia As Cartel In The Perspective of Law

A food cartel may be defined as an agreement among business actors to regulate the price or distribution of food commodities. In the Indonesian context, Silalahi (2013) notes that the oligopolistic structure of food markets creates wide room for coordinated conduct that is difficult to distinguish from lawful market parallelism. Kusnadi (2017) further argues that the close relationship between business actors and regulators in the food distribution system creates opportunities for the food mafia to control supply through policies that appear legal on their face.

Pursuant to Law Number 5 of 1999, conduct can be categorized as a cartel if it meets the element of an agreement or coordinated behaviour that harms consumers or distorts the market. KPPU itself affirms that indirect evidence, such as price patterns and parallel conduct, may be used as proof, as is also practiced in other jurisdictions (OECD, 2012).

Case Study 1: Cooking Oil Cartel (24/KPPU I/2009)

In the 2009 cooking oil case, KPPU found that several major producers had engaged in price coordination. This decision demonstrates the successful use of indirect evidence, including uniform price movements and proof of meetings among business actors. Setiono (2016), in his thesis, states that this case is an important example of how KPPU succeeded in building an economic argument by taking into account the inelasticity of demand for the commodity.

The Supreme Court upheld KPPU's decision, even though some academics such as Levina (2017) highlight remaining weaknesses in the legal reasoning and the boundary between lawful and unlawful coordination. Nevertheless, this case strengthened KPPU's position in prosecuting food mafia practices that disguise themselves as ordinary market activities.

Case Study 2: Importation of Garlic (05/KPPU I/2013)

In contrast to the cooking oil case, in the garlic importation case KPPU failed to convincingly prove the existence of an explicit agreement among business actors. The complex regulatory structure on imports, the dominance of quota mechanisms, and the involvement of public officials made it very difficult to prove a cartel. Dzulhijjah and Budiharto (2016) argue that in the absence of direct evidence of communication among importers, it is difficult to establish a cartel in the legal sense.

Syafri (2018) notes that the food mafia in this context tends to operate as a form of white collar crime, by exploiting policy gaps to control the market. This illustrates the limitations of competition law instruments when faced with practices that are carried out through policy mechanisms rather than through overt market agreements.

Recent Development: Cooking Oil Case 2022

KPPU Decision Number 15/KPPU I/2022 marks an important development. KPPU held that business actors were not proven to have engaged in price fixing, but were proven to have restricted the distribution of goods, resulting in scarcity in the market. KPPU imposed sanctions on the basis of Article 19 letter c. This shows that the strategies of business actors are not always centred on price setting, but may also involve manipulation of distribution and stock, in line with the patterns of food mafia practices analysed by Pangestu (2019).

4. CONCLUSION

First, conceptually the food mafia can be qualified as a form of food cartel under competition law, particularly when there is proof of agreement or coordinated conduct that distorts market mechanisms.

Second, the 2009 cooking oil case illustrates KPPU's success in proving the existence of a food cartel by using an economic approach and indirect evidence, while the garlic importation case reflects the limitations of the law when the food mafia hides behind public policy.

Third, more recent developments show the importance of broadening legal instruments to prosecute violations relating to distribution restrictions, not only price fixing.

Fourth, strengthening KPPU's analytical capacity, harmonizing food regulations, and adopting a cross-sectoral approach among competition law, food policy, and consumer protection are essential. YLBHI (2021) even characterizes food cartel practices as a form of human rights violation because they undermine the right to food of the people.

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