

## The Application of Indirect Evidence in Cartel Practices

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**Abstract.** *KPPU is tasked with overseeing business competitions, confronting challenges in identifying and proving cartel practices. According to Article 1, paragraph 7 of Law Number 5 of 1999, agreements among business actors need not be written to constitute cartels, potentially allowing for covert operations. This absence of written documentation complicates KPPU's efforts to substantiate suspicions of cartel behavior, often hindering the discovery of tangible evidence necessary for legal proceedings. Consequently, proving cartel activities in court becomes arduous, as direct evidence is typically required while these agreements may lack physical documentation, posing ongoing challenges for regulatory enforcement. To prove business actors did, in fact, make a patch about cartels, KPPU is able to use indirect evidence. The purpose of this research is to analyze how indirect evidence is applied in the practice of the packaged cooking oil cartel in KPPU Decision Number: 15/KPPU-I/2022 and how protection towards harmed consumers is provided in this context. This research uses a normative juridical method, or literary-based legal research, focusing on primary and secondary legal sources. It employs a statute approach and a case approach. Data analysis is conducted qualitatively. This research concluded that the use of indirect evidence, such as economic analysis and communication records, is crucial in uncovering cartel practices, underscoring the challenges of proving cartels with direct evidence and effective consumer protection requires both preventive and repressive measures, including regulatory oversight and sanctions against unfair business practices.*

**Keywords:** Cartel; Consume; Evidence; Protection.

### 1. Introduction

Essentially, competition has become an inseparable aspect of the business world. Competition in the business realm offers numerous positive benefits, one of which is

to keep the economy oriented towards the market.<sup>1</sup> The presence of competition creates conditions that stimulate business actors to focus on producing high-quality products for society at reasonable prices. In other words, a competitive environment leads to a more efficient allocation of resources and companies are driven to produce goods and services of high quality. Conversely, in the absence of competition, monopoly markets would develop, as there would be no rivalry or innovation in the products and services offered.<sup>2</sup> Also, with competition, business actors flock to lower prices to attract people's purchasing power for their products.<sup>3</sup> Therefore, instances of unhealthy business competition are frequently observed.

To prevent the emergence of unhealthy business competition, the role of competition law is essential, as embodied in Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. With the enactment of this law, it is hoped that a conducive business climate can be established, providing a platform for business actors to develop a healthy market environment, ultimately benefiting societal welfare.

Competition law contains regulations that restrict the behavior of business actors. One of the prohibited practices is forming cartels. A cartel is a form of cooperation between several business actors or producers of similar products aimed at controlling production, setting prices, and managing sales. It can also be considered a form of monopoly, where several legally separate business actors or producers collude to control the production, pricing, and/or marketing territories of specific products or services, thereby eliminating competition among them.<sup>4</sup>

As a supervisory institution for business competition, the Business Competition Supervisory Commission (KPPU) is tasked with determining whether certain actions fall under the category of cartel practices. This is undoubtedly challenging because Article 1, paragraph 7 of Law Number 5 of 1999 states that an agreement is an act of business actors that binds themselves to one or more other business actors, either written or unwritten.<sup>5</sup> The concern here is the continuous occurrence of various

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<sup>1</sup> Nugroho, S. A. (2014). *Hukum persaingan usaha di Indonesia*. Jakarta: Prenada Media. p.107.

<sup>2</sup> Paripurno, L. D. (2011). *Praktik Kartel Dalam Industri Minyak Goreng di Indonesia Ditinjau Menurut Hukum Persaingan Usaha (Skripsi)*. Universitas Indonesia, Depok., p. 2.

<sup>3</sup> Komisi Pengawas Persaingan Usaha, 2010, *Pedoman Pelaksanaan Pasal 11 Tentang Kartel Nomor 04 Tahun 2010*, KPPU, p. 3

<sup>4</sup> Fachri, F., & Joesoef, I. E. (2021). Analisis Pertimbangan KPPU Terhadap Pelanggaran Persaingan Usaha Tidak Sehat Dilakukan Oleh Perusahaan Penerbangan BUMN (Studi Kasus Putusan No. 15/KPPU-I/2019). *Jurnal Cahaya Keadilan*, 9(1), 66. DOI: [10.33884/jck.v9i1.2764](https://ejournal.upbatam.ac.id/index.php/cahayakeadilan/article/view/2764), accessed from <https://ejournal.upbatam.ac.id/index.php/cahayakeadilan/article/view/2764>

<sup>5</sup> Law Number 5 of 1999

forms of cartel practices since agreements do not necessarily have to be in writing. Cartel practices can be carried out covertly. When consumers, producers, or other parties sense the presence of cartel practices, KPPU faces difficulties in proving these practices due to the necessity of direct evidence in court, while the agreements made by cartel practitioners may not always have a physical form.

One example of proving cartel practices using indirect evidence is the case of packaged cooking oil sales, as detailed in KPPU Decision Case Number 15 of 2022. The issue in this case began with public unrest caused by the rise in packaged cooking oil prices, both in traditional markets and modern retail. Essentially, cooking oil is a basic commodity that is highly essential for many people or consumers.

As stated in Article 5 of Law Number 5 of 1999, business actors are prohibited from making agreements with their competitors to set prices for goods that consumers must pay. In this context, the KPPU, in carrying out its duties and functions, conducted research and investigations on 27 business actors suspected of engaging in cooking oil cartel practices. The KPPU concluded that these business actors were allegedly violating Article 5 and Article 11 of Law Number 5 of 1999, as detailed in Decision Case Number: 15/KPPU-I/2022.

In 2018, Fatria Hikmatiar Al Qindy discussed cooking oil cartel practices in an article titled "Kajian Hukum Terhadap Kasus Kartel Minyak Goreng di Indonesia (Studi Putusan KPPU Nomor 24/KPPU-1/2009)".<sup>6</sup> The research highlighted how 20 palm oil producing companies violated Law No. 5 of 1999. It reviewed the cartel criteria regulated by this law and evaluated whether KPPU Decision No. 24/KPPU-1/2009 complied with Articles 4, 5, and 11 of the law. The journal focused on the cartel practices by these companies in 2009 and the compliance of the KPPU decision with the law's provisions. In contrast, this study will focus on the use of indirect evidence in the case of the packaged cooking oil cartel as stated in the KPPU Decision Case Number 15 of 2022 and legal protection for the public as consumers who have been harmed.

Based on the background described above, the purpose of this research is to analyze how indirect evidence is applied in the practice of the packaged cooking oil cartel in KPPU Decision Number: 15/KPPU-I/2022 and how protection for harmed consumers is provided in this context.

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<sup>6</sup> Fitria Hikmatiar A.Q. (2018), Kajian Hukum Terhadap Kasus Kartel Minyak Goreng Di Indonesia (Studi Putusan KPPU Nomor 24/KPPU-1/2009), Jurnal Hukum Bisnis Bonum Commune, Vol.1, No.1, p. 39, <https://doi.org/10.30996/jhbbc.v0i0.1755>

## 2. Research Methods

This research and writing are based on a normative juridical research method, commonly known as library-based legal research, which emphasizes the examination of primary and secondary legal sources.<sup>7</sup> This research employs two approaches: a statute approach, where the regulations on the use of indirect evidence remain unclear in court, potentially complicating the KPPU's efforts to prove cartel practices; and a case approach, which can serve as a foundational basis for jurisprudence that strengthens the use of indirect evidence from existing cases.<sup>8</sup> Data analysis in this research uses qualitative analysis.

## 3. Result and Discussion

### 3.1. The application of indirect evidence in KPPU Decision Number: 15/KPPU-I/2022

In the KPPU Decision Case Number: 15/KPPU-I/2022, numerous parties were involved, all of which were business entities in the form of legal entities established, domiciled, and operating in the economic sector within the jurisdiction of the Republic of Indonesia. The issue in this case began with public unrest caused by the increase in the price of packaged cooking oil, both in traditional markets and modern retail. Cooking oil is a basic necessity highly demanded by society, especially household consumers who use it for various daily cooking needs. When the price of cooking oil surges, the purchasing power of the public is disrupted, making this essential need difficult to fulfill for many people, leading to widespread concern and dissatisfaction among consumers.

Generally, the rise in cooking oil prices can be attributed to various factors, including increased production costs, supply chain disruptions, government policies, or business strategies of the enterprises.<sup>9</sup> However, the price of packaged cooking oil during the period from January 2021 to May 2022 saw a significant increase. During this period, the price of 1-kilogram packaged cooking oil skyrocketed, experiencing a rise of 54% in traditional markets and 60% in modern retail. Given this situation,

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<sup>7</sup> Ochtorina, Dyah, dan Effendi, A'an. *Penelitian Hukum (Legal Research)*. (Jakarta, Sinar Grafika, 2014), 110.

<sup>8</sup> Peter Mahmud Marzuki, *Penelitian Hukum Edisi Revisi*, Bandung: PT. Kharisma Putra Utama, 2015, hal 134.

<sup>9</sup> Pratiwi, D.S., Arkusi, F. and Wardani, K.H.J., 2023. ANALISIS FAKTOR–FAKTOR YANG MENYEBABKAN KELANGKAAN MINYAK GORENG INDONESIA TAHUN 2022. *JURNAL ECONOMINA*, 2(12), pp.3688-3696.

KPPU promptly took the initiative to address the issue by conducting in-depth research and investigation.

To determine whether the Respondents fulfilled the elements of violating Article 5 of Law Number 5 of 1999, the Commission considered the elements of business actors, competing business actors, goods and/or services that must be paid for by consumers, and agreements to set prices. In this case, the Respondents fulfilled the element of business actors as they are legal business entities established, domiciled, or operating within the territory of the Republic of Indonesia.<sup>10</sup> The Respondents also fulfilled the element of competing business actors as they are engaged in the same relevant market.

However, the Commission concluded that the significant price increase did not meet the element of price-setting influenced by input variables, namely the increase in CPO (Crude Palm Oil) prices. The Commission noted that the ratio of the packaged cooking oil selling price increase by each Respondent was lower than the increase in CPO prices that had been tested. Based on the ratio test results between input and output variables, the Commission concluded that there were no excessive prices or profits set by each Respondent during the alleged violation period. Since the actions of the Respondents did not fulfill all the elements of Article 5 of Law Number 5 of 1999, the Commission ruled that the Respondents did not violate Article 5 of Law Number 5 of 1999.

Furthermore, the Commission found that the Respondents did not comply with the government's highest retail price (HET) policy by intentionally reducing production and/or sales volumes during the violation period. This action was taken to influence the HET policy because when the HET policy was lifted, the supply of packaged cooking oil immediately returned to the market but at higher prices than before the HET policy was implemented. This non-compliance caused a shortage of cooking oil, negatively impacting societal welfare (deadweight loss). Reducing production and/or sales volumes despite the availability of raw materials constitutes dishonest behavior by business actors and impedes fair competition in the production and marketing of packaged cooking oil. Therefore, the Commission concluded that there was a violation of Article 19(c) of Law Number 5 of 1999.

Essentially, a cartel is an agreement where business actors make deals with other business actors engaged in the same type of business to influence production, distribution, and sales prices in the market. Cartels usually involve a number of

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<sup>10</sup> Law Number 5 of 1999 on Prohibition of Monopolistic Practices and Unfair Business Competition

companies competing in the same industry, and they cooperate either covertly or overtly to reduce or eliminate competition among themselves.<sup>11</sup> The cartel system has the ability to influence market prices because cartel members can work together to control prices, production, quality, and supply capacity to meet demand for certain goods or services. The ability of cartels to influence supply and demand can also harm other business actors who are not part of the cartel. By controlling supply capacity, cartels can make the supply of goods or services less than what consumers need, creating a situation where they can raise prices even higher.<sup>12</sup>

Competition law in Indonesia is regulated by Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. With the enactment of this law, every business actor must comply with the provisions on conducting business activities in a healthy and conducive manner. However, overseeing cartels and proving cartel practices pose significant challenges. This is because cartels are often conducted secretly, sometimes without physical evidence by the business actors, making it difficult for KPPU to find documents containing agreements between business actors. Therefore, in this context, the KPPU can prove the existence of cartel practices using indirect evidence.

The concept of indirect evidence, also known as circumstantial evidence, refers to a type of evidence that does not directly depict the content of the agreement or the identities of the parties involved in monopolistic practices. Instead, this evidence provides information that can be used to infer the existence of an agreement or specific actions based on the related context and situations.<sup>13</sup>

An important form of indirect evidence is the communication between business actors suspected of being involved in cartel practices. This communication can include emails, text messages, phone call recordings, or other documents that show coordination between business actors to set prices, control production, or divide the market among themselves. For example, if emails are found between two companies discussing the establishment of minimum prices for their products, this could be a strong indication of a cartel even if no formal agreement documents are

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<sup>11</sup> Fachri, F. and Joesoef, I.E., 2021. Analisis Pertimbangan KPPU Terhadap Pelanggaran Persaingan Usaha Tidak Sehat Dilakukan Oleh Perusahaan Penerbangan BUMN (Studi Kasus Putusan No. 15/KPPU-I/2019). *Jurnal Cahaya Keadilan*, 9(1), pp.58. <https://doi.org/10.33884/jck.v9i1.2764>

<sup>12</sup> Ananda Nugraha, dkk, 2022, Faktor-Faktor Penyebab Adanya Dugaan Praktek Kartel Harga Minyak Goreng Di Indonesia, *Jurnal Ilmiah Wahana Pendidikan*, Vol. 8, No. 15, p. 56. <https://doi.org/10.5281/zenodo.7040027>

<sup>13</sup> Pangestu, K., Suyanto, H. and Agustanti, R.D., 2021. Application of Circumstantial Evidence in Criminal Laws in Indonesia. *Jurnal Hukum Novelty*, 12(1), pp.54-66. <https://doi.org/10.26555/novelty.v12i01.a16996>

found.<sup>14</sup>

In addition to communication, economic evidence is also a crucial element of indirect evidence. This includes market analysis that shows unusual or consistent patterns of behavior indicative of cartel practices. For instance, if product prices suddenly rise uniformly across the market despite no significant changes in production costs or demand, this could indicate an agreement among business actors to raise prices. Other economic evidence might include production quota analysis showing that all companies in the industry simultaneously reduced production to create artificial scarcity and increase price.<sup>15</sup>

In the case of the packaged cooking oil cartel, the KPPU conducted an investigation and found indications of unfair business competition practiced by 27 packaged cooking oil production companies in Indonesia. The KPPU suspects that these business actors have violated Article 5 and Article 19(c) of Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition.

Based on the provisions stated in Article 5 and Article 19(c) of Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, business actors are prohibited from making agreements with other business actors for the purpose of influencing prices. This prohibition includes efforts to regulate production, distribution, and limit the circulation and sale of goods in the relevant market, which can lead to monopolies or unfair business competition.

To establish that business actors have violated the provisions of Article 5 and Article 19(c) of Law Number 5 of 1999 in a legal and proper manner, the KPPU must be able to prove the fulfillment of the characteristics of a cartel, which include business actor, agreement, competing business actor, price paid by consumers, regulation of production and/or marketing, goods, services, potential to cause monopolistic practices.<sup>16</sup>

To prove the fulfillment of the above elements, the KPPU can use evidence as

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<sup>14</sup> Udin Silalahi & Isabella Cynthia Edgina. 2017. "Pembuktian Perkara Kartel di Indonesia dengan Menggunakan Bukti Tidak Langsung (Indirect Evidence) Kajian Putusan KPPU Nonor 17/KPPU-I/2010 dan Nomor 08/KPPU-I/2014 serta Putusan Nomor 294 K/PDT.SUS/2012 dan Nomor 221". DOI: <https://doi.org/10.29123/jy.v10i3.216>

<sup>15</sup> Ibid., p. 383

<sup>16</sup> KPPU Regulation Number 4 of 2010 on Implementation Guidelines Article 11 on Cartel

stipulated in Article 42 of Law Number 5 of 1999, which are witness testimony, expert testimony, letters and/or documents, indications, and statements from business actors.

However, the use of indirect evidence is not regulated in Law Number 5 of 1999. In practice, though, the KPPU often employs indirect evidence to prove cartel practices. The indirect evidence frequently used involves data analysis that shows unreasonable profits not due to increased company productivity.<sup>17</sup> Former KPPU Commissioner, Pande Radjaja Silalahi, explained that the historical regulation of indirect evidence is based on the consideration that it is very difficult to obtain direct evidence of cartel practices, as it would require written agreements.<sup>18</sup>

Therefore, KPPU issued Commission Regulation Number 1 of 2019 concerning Procedures for Handling Cases of Monopolistic Practices and Unfair Business Competition. Article 57, paragraph 2, of Commission Regulation Number 1 of 2019 states that indications include economic and/or communication evidence that is believed to be true by the Commission.

Economic evidence is divided into two categories, structural evidence and behavioral evidence.<sup>19</sup> Structural evidence includes high market concentration, indicating dominance by a few large players, and low market concentration, suggesting many small players. High barriers to market entry also signify difficulty for new companies to compete. Product homogeneity, where goods are very similar, is another factor. These elements indicate whether the market structure facilitates cartel formation, an agreement between companies to control prices or production, harming healthy competition.<sup>20</sup>

While behavioral evidence includes signs such as parallel price increases among various companies in the same market and suspicious, seemingly unnatural bidding

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<sup>17</sup> Zega, I.G., 2012. Tinjauan Mengenai Indirect Evidence (Bukti tidak langsung (*indirect evidence*)) Sebagai Alat Bukti Dalam Kasus Dugaan Kartel Fuel Surcharge Maskapai Penerbangan di Indonesia. Jakarta: Fakultas Hukum Universitas Indonesia, p. 29.

<sup>18</sup> Nanda Narendra Putra. "Berjuang Mencari Legitimasi Indirect Evidence" <https://www.hukumonline.com/berita/baca/lt598aba978d57c/berjuang-mencari-legitimasiindirect-evidence>, accessed on 12 Mei 2024

<sup>19</sup> Silalahi, U. and Edgina, I.C., 2017. Pembuktian Perkara Kartel Di Indonesia Dengan Menggunakan Bukti tidak langsung (*indirect evidence*). *Jurnal Yudisial*, 10(3), hlm 320.

<sup>20</sup> Siregar, M. (2018). Bukti Tidak Langsung (Indirect Evidence) Dalam Penegakan Hukum Persaingan Usaha Di Indonesia. *Jurnal Hukum Samudra Keadilan*, 13(2), p.193. DOI: <https://doi.org/10.33059/jhsk.v13i2.910>. Accessed from <https://mail.ejurnalunsam.id/index.php/jhsk/article/view/910>



patterns. These bidding patterns, where offers from various competitors appear too uniform or coordinated, can indicate non-competitive behavior. This may suggest that market competitors are involved in practices such as cartels or price-fixing agreements to avoid competition and maintain their profits.<sup>21</sup>

Meanwhile, communication evidence includes proof that cartel participants meet or communicate, even if this evidence does not directly reveal the substance of their communications. Examples of such evidence include records of telephone conversations between suspected cartel participants, records of their travels to specific locations for particular purposes, and notes or minutes of the meetings they attended. This communication evidence can provide strong indications of an agreement among cartel participants. This is crucial because nearly all cartel cases can be uncovered indirectly through evidence of communication among the participants.<sup>22</sup>

The use of indirect evidence regarding the cooking oil industry has been addressed in previous rulings and considered by the Supreme Court in Decision No. 582/K/Pdt.Sus/2011. In its consideration, the Judge determined that indirect evidence is not a valid form of evidence in Competition Law. However, in several other cases, there are KPPU decisions that have used indirect evidence in the form of economic and/or communication evidence, which have been upheld by the Supreme Court's jurisprudence, including Decisions No. 221 K/Pdt.Sus-KPPU/2016, 217 K/Pdt.Sus-KPPU/2019, and 7 PK/Pdt.Sus-KPPU/2021.

In these decisions, it can be concluded that the Judges held that indirect evidence can be accepted as valid evidence as long as it is sufficiently strong and logical. Indirect evidence is considered valid if there is no stronger evidence that can refute it, based on the consideration that agreements regarding price, production, territory, or anti-competitive agreements are often conducted covertly by business actors.

The application of indirect evidence in Case No. 15/KPPU-I/2022 utilized economic analysis evidence as well as communication evidence. The KPPU found evidence of price parallelism among the Respondents by conducting a homogeneity of variance test on the sales price data of packaged cooking oil from the Respondents. Additionally, the KPPU analyzed the correlation between CPO (Crude Palm Oil) prices and packaged cooking oil prices. Whenever there was an increase in CPO

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<sup>21</sup> Ibid, p.193

<sup>22</sup> Kodrat Wibowo, 2020, Tantangan Pembuktian Ekonomi Dalam Kasus Kartel, PPT Webinar, Komisi Pengawas Persaingan Usaha, p. 15

prices, the Respondents consistently raised their packaged cooking oil prices. However, when CPO prices declined, the Respondents' packaged cooking oil prices did not follow suit and instead tended to increase on average.

Based on documentary evidence, it was found that there were several meetings of members of the GIMNI (Indonesian Vegetable Oil Industry Association) from 2019 to early 2022. The KPPU's investigative team believes that communication and/or coordination among the Respondents took place during these association meetings. The investigative team suspects that the Respondents sent notifications regarding changes in the sales prices of packaged cooking oil.

### **3.2. Legal Protection for the Public Affected by the Packaged Cooking Oil Cartel Practices**

According to Article 1, Paragraph 1 of Law Number 8 of 1999 on Consumer Protection, it is stated that consumer protection is an effort to ensure legal certainty in providing protection to consumers.<sup>23</sup> The term 'consumer' refers to any person who uses goods and/or services. In other words, consumer protection can also mean all legal measures must be provided by enforcement officials law in order to provide a sense of security, both mentally and physically from disturbances and various threats from any party.<sup>24</sup>

Consumer protection and competition are two interrelated and mutually supportive elements. For consumers, the three most important components are affordable prices, high product quality, and satisfactory services.<sup>25</sup> As part of the economic chain, consumers also participate in economic activities, which do not eliminate the possibility of incurring losses. Consumer protection is an integral element of healthy and sustainable business practices.

In the context of healthy business activities, there is a fair balance in legal protection between consumers and producers. This balance ensures that both parties have clear and respected rights and obligations, creating a mutually beneficial

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<sup>23</sup> Law Number 8 of 1999 on Consumer Protection

<sup>24</sup> Haryanto, I. (2021). Pendaftaran Indikasi Geografis Tahu Sumedang Sebagai Aset Potensial Daerah. *Zaaken: Journal of Civil and Business Law*, 2(1), 25-46. DOI: <https://doi.org/10.22437/zaaken.v2i1.11667>, accessed from <https://online-journal.unja.ac.id/Zaaken/article/view/11667>.

<sup>25</sup> Andi Fahmi Lubis, dkk, *Hukum Persaingan Kedua Edisi Kedua*, (Jakarta: Komisi Pengawas Persaingan Usaha, 2017), 37.

relationship.<sup>26</sup> When legal protection is unbalanced, consumers tend to be in a weak position and vulnerable to unfair or detrimental business practices. In providing legal protection, a medium or place called a legal protection facility is necessary. These facilities can be divided into two types: preventive legal protection facilities, which aim to prevent legal violations from the outset, and repressive legal protection facilities, which function to address or deal with legal violations that have occurred.<sup>27</sup>

Article 4 of Law Number 8 of 1999 explains that consumers or the public have rights that must be fulfilled by business actors, including consumer rights that are often neglected by business actors involved in cartel agreement. In the case of the alleged packaged cooking oil cartel as outlined in KPPU Case Number: 15/KPPU-I/2022, consumer rights were not fully met. This occurred because cartel practices affected the distribution process and selling prices of goods, ultimately harming consumers as a group of business actors controlled the prices and supply of goods in the market, contrary to the principles of free and fair competition.<sup>28</sup> Cartels often cause price instability, leading to shortages of goods and/or services. Furthermore, consumers who should be able to enjoy goods at affordable prices are now forced to pay more for the same products. Not only do cartels harm consumers, but they can also damage the national economy.<sup>29</sup>

This results in consumers losing the opportunity to obtain goods and/or services at the promised exchange value, condition, and warranty. In a normal situation, a competitive market allows consumers to purchase goods at prices determined by the mechanism of supply and demand. However, with the presence of cartels, prices become distorted and usually higher than they should be because they are set by agreements among business actors, rather than by actual market conditions.

To achieve full legal protection, certain elements must be met, such as government

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<sup>26</sup> Hamid, A.H. and SH, M., 2017. *Hukum Perlindungan Konsumen Indonesia* (Vol. 1). Sah Media. Hlm 4.

<sup>27</sup> Tampubolon, W.S., 2016. Upaya Perlindungan Hukum Bagi Konsumen Ditinjau Dari Undang Undang Perlindungan Konsumen. *Jurnal Ilmiah Advokasi*, 4(1), pp.53. DOI: <https://doi.org/10.36987/jiad.v4i1.356>, accessed from <https://jurnal.ulb.ac.id/index.php/advokasi/article/view/356>

<sup>28</sup> Bhakti, R.T.A., 2015. Analisis Yuridis Dampak Terjadinya pasar oligopoli bagi persaingan usaha maupun konsumen di Indonesia. *Jurnal Cahaya Keadilan*, 3(2), pp.69, accessed from <https://ejournal.upbatam.ac.id/index.php/cahayakeadilan/article/view/965>

<sup>29</sup> Yohana Doloksaribu, "Karten dan Dampaknya bagi Perekonomian". <https://kumparan.com/3082210088yohana/kartel-dan-dampaknya-bagi-perekonomian-1xLWDW6N90R>, accessed on 23 May 2024

protection, assurance of legal certainty, protection of citizens' rights, and sanctions for violators.<sup>30</sup> In the case of consumer protection against the alleged packaged cooking oil cartel, the government has acted preventively:

1. The National Consumer Protection Agency (BPKN) was established to function as the body responsible for protecting consumer rights in Indonesia. Additionally, the Business Competition Supervisory Commission (KPPU) was formed to monitor and control violations related to price-setting by business actors. These two institutions are responsible for ensuring that consumer rights are protected and that the market remains fair.
2. Strict and appropriate regulations are needed to protect consumers harmed by cartel practices. In this context, the government issued Minister of Trade Regulation Number 49 of 2022 on the Governance of People's Cooking Oil. This regulation governs the distribution of cooking oil by selling it in traditional markets, supermarkets, and marketplaces to ensure that its distribution is more equitable and accessible to all citizens, thus meeting the needs for cooking oil across various social strata.

In addition to preventive measures, the government also provides repressive legal protection. KPPU, as the authority responsible for overseeing business competition, has taken further steps based on the results of investigations into alleged violations of Article 5 and Article 19(c) of Law Number 5 of 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition by 27 business actors. KPPU has conducted a thorough investigation of the existing evidence to ensure that business actors involved in cartel practices are subject to appropriate sanctions.

#### **4. Conclusion**

In KPPU Decision Number 15/KPPU-I/2022, numerous business entities were investigated for suspected cartel practices leading to a significant rise in packaged cooking oil prices, disrupting consumer purchasing power. Although the Commission found that the price increases did not meet the criteria for a direct violation of Article 5 of Law Number 5 of 1999, it concluded that the reduction in production and sales volumes constituted a violation of Article 19(c) due to the negative impact on market competition and consumer welfare. The use of indirect evidence, such as economic analysis and communication records, was crucial in uncovering these

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<sup>30</sup> Tim Hukumonline. "Perlindungan Hukum: Pengertian, Unsur, dan Contohnya". <https://www.hukumonline.com/berita/a/perlindungan-hukum-lt61a8a59ce8062/?page=all>, accessed on 22 May 2024

practices, underscoring the challenges of proving cartels with direct evidence. Effective consumer protection requires both preventive and repressive measures, including regulatory oversight and sanctions against unfair business practices.

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