



Strengthening Legal Protection for Local Businesses in Indonesia amid Free Trade Competition

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Article History Received : 2026-08-12 Revised: 2026-08-15 Published: 2026-09-30 Keywords: <i>Competitive Equality; Free Trade Competition; Legal Protection; Local Businesses; Regulatory Reform</i>	Free trade expands market opportunities for local businesses, but at the same time increases the inequality of competitive capacity between domestic businesses and business actors with stronger resources, technology, and market networks. This study aims to analyze the adequacy of Indonesia's legal framework in protecting local businesses in the midst of free trade competition and formulate a model of strengthening law based on <i>competitive equality</i> . The research uses normative legal methods with legislative, conceptual, analytical, and comparative approaches, through the analysis of primary, secondary, and relevant international trade instruments. The results of the study show that local business protection is available through the MSME regime, competition law, and national economic policies, but is still fragmented and has not fully responded to structural inequality and digital market transformation. The study found that repressive protection alone is inadequate to deal with data mastery, platform dependence, bargaining power inequality, and market access barriers. The research recommends the implementation of integrated legal protection based on competitive equality through strengthening business capacity, protecting market access, and institutional capacity for law enforcement. This model allows Indonesia to maintain trade openness while fulfilling the mandate of economic democracy and creating fairer competition for local businesses.

I. INTRODUCTION

Free trade has changed the boundaries of business competition by bringing together domestic and foreign business actors in an increasingly open market space. This openness can theoretically increase efficiency, expand consumer choice, encourage innovation, and open up new market access for business actors. The international trade system itself is not solely built on the principle of free trade, but is also directed at the

creation of open, fair, and undistorted competition (Phobia, 2026). The World Trade Organization (WTO) places the principles of non-discrimination, national treatment, and control of unfair trade practices as part of efforts to build fair competition conditions (Rahmadani, 2026). The problem arises when freedom of market entry is not accompanied by a relatively balanced ability to compete. Local businesses, especially micro and small-scale enterprises, often face

limitations in capital, technology, market information, access to financing, and capacity to meet trade requirements compared to businesses with greater resources (Pentanurbowo, 2025). The WTO also recognizes that although micro, small and medium-sized enterprises make up the majority of businesses globally, their contribution to international trade is still relatively small due to limited resources and access to trade information (Ramadhan et al., 2026). Thus, the main issue of free trade is not solely whether the market is opened, but whether it produces opportunities for competition that is substantively fair for business actors with different capacities.

This issue has special relevance for Indonesia because the national economic system is not built solely on the logic of market efficiency. Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia places economic democracy in the principles of togetherness, equitable efficiency, sustainability, independence, and balance of progress and national economic unity. This constitutional orientation is more concretely articulated in Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises, which emphasizes that MSMEs are an integral part of the people's economy and need to obtain business opportunities, support, protection, and development in order to be able to contribute to economic growth, income equity, and job creation. The

framework was then strengthened through Government Regulation Number 7 of 2021, which specifically regulates the facilitation, protection, and empowerment of cooperatives and MSMEs, including the obligation to provide space for the promotion and development of micro and small businesses in public infrastructure and certain commercial areas. This normative construction shows that the protection of local businesses is not an economic policy that is outside the trading system, but part of the national legal mandate to maintain balance in the economic structure.

The problem is that the protection of local businesses must be confronted with the principle of healthy competition. Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition provides legal instruments to prevent anti-competitive practices and maintain a competitive market structure (Rohim et al., 2026). The law is still in force and has undergone changes in the development of legislation after the Job Creation regime. However, conventional competition approaches that are primarily oriented towards monopolistic behavior, anti-competitive agreements, and abuse of dominant positions face challenges when market forces are formed through digital ecosystems, user networks, data mastery, algorithms, as well as the reliance of small businesses on platforms (Karima & Yusman, 2026). Recent studies on

Indonesia show that the development of the digital market raises new problems related to platform dominance, predatory pricing, and the limitations of conventional competition laws in protecting small businesses. This problem is not unique to Indonesia. UNCTAD emphasizes that developing countries face difficulties in controlling the market power of digital platforms, while small businesses face obstacles in contractual relationships with large platforms and require *Level playing field* in order to participate in a sustainable manner (Sirait et al., 2025).

Research developments show that the discourse on MSME protection in Indonesia has developed on the issue of business legalization, market access, digitalization, empowerment, and competition law enforcement. Recent research, for example, found that the limitations of conventional competition regulations in the face of the dominance of digital platforms pose the need to develop more adaptive protections for MSMEs (Ausat et al., 2025). Other research shows that the problem of predatory pricing in digital marketplaces can create a structural dependence of MSMEs on platforms, while existing competition laws are not fully oriented towards the protection of business actors as vulnerable parties in the market structure (Leeland & Adam, 2025). These findings are important, but most of them still examine MSME protection,

competition law, and digital transformation as stand-alone issues. The research space that has not received adequate attention is how the entire instrument can be constructed into a legal protection architecture that is able to maintain competitive equality for local businesses in increasingly open trade conditions.

These gaps give rise to more fundamental normative problems. The protection of local businesses must not turn into protectionism that closes markets, but trade liberalization should also not be interpreted as an obligation of the state to allow inequality of bargaining power to develop without legal correction. Between the two poles, there is a need to build a law that is able to distinguish between legitimate protections to create fair competition and protections that distort markets. UNCTAD emphasizes that competition policies in developing countries need to keep markets open while ensuring the existence of markets. *Level playing field*, especially when small businesses are dealing with greater economic forces (Sommaliagustina & Nosi, 2025). In the Indonesian context, this need is becoming increasingly important because the state not only functions as a market regulator, but also has a constitutional mandate to ensure that economic efficiency runs alongside justice, independence, and equity.

Based on these issues, this study analyzes the adequacy of Indonesia's

legal framework in providing protection to local businesses in the midst of free trade competition and formulates a direction to strengthen legal protection that is not protectionistic, but is oriented towards the creation of competitive equality. The novelty of the research lies in the effort to shift the perspective of local business protection from a sectoral empowerment approach to an integrated legal protection approach, which links the principles of economic democracy in the constitution, the MSME protection regime, business competition law, and the demand for trade openness. This approach places legal protection not as a restriction on competition, but as a corrective mechanism to ensure that market freedom results in fair and inclusive competition. With such a perspective, the strengthening of the law for local businesses can be placed in a broader and more internationally relevant framework: how developing countries maintain trade openness while ensuring that domestic business actors do not lose the ability to participate meaningfully in the global market.

II. RESEARCH METHODS

This research uses normative legal research with doctrinal and prescriptive characteristics. The selection of the method is based on the purpose of the research which is not directed at measuring the behavior of business actors or testing the

relationship between empirical variables, but rather to identify, interpret, test coherence, and reconstruct legal norms that govern the protection of local businesses in the context of free trade competition. Normative legal research views law as a system of norms consisting of laws and regulations, legal principles, doctrines, court decisions, and relevant legal principles (Rizkia & Fardiansyah, 2023). Therefore, this study does not stop at the inventory of legal provisions, but uses juridical reasoning to assess whether the applicable legal framework is able to produce substantive protection for local businesses. Such an approach allows the research to produce prescriptive propositions regarding the direction of law enforcement that is needed.

The research uses four complementary approaches, namely statute approach, conceptual approach, analytical approach, and comparative approach. *The statute approach* is used to identify and analyze normative constructions that govern local businesses, MSMEs, business competition, and trade openness. The main legal materials in this approach include the 1945 Constitution of the Republic of Indonesia, especially Article 33, Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises as amended, Law Number 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition, Government

Regulation Number 7 of 2021 concerning the Facilitation, Protection, and Empowerment of Cooperatives and Micro, Small, and Medium Enterprises, as well as other regulations that have relevance to trade and the protection of business actors. The analysis also considers relevant international trade norms, including the principles of *national treatment*, non-discrimination, and fair competition within the framework of the WTO. The WTO legal framework is used not to assume that the protection of local businesses is always at odds with trade liberalization, but to test the line between legitimate domestic regulation and protectionistic policies. The question of the balance between trade liberalization and domestic regulation space is one of the important issues in international trade law.

The conceptual approach is used to build a conceptual framework regarding legal protection, local businesses, competitive equality, free trade competition, economic democracy, and regulatory protection. This approach is necessary because the term "protection of local businesses" cannot be understood solely as giving preference to domestic business actors. Protection must be distinguished between state actions that create *a level playing field* and actions that result in unjustified discrimination or barriers against foreign business actors. The concept is then linked to the principles of

Indonesian economic democracy so that the protection of local businesses is placed as a mechanism to correct competitive capacity imbalances, not as an instrument to close the market.

Furthermore, the *analytical approach* is used to examine the relationship, consistency, and potential conflicts between legal regimes. The analysis is directed at three main questions: whether MSME protection norms have provided substantive protection for local businesses; whether competition laws are adequate to deal with market power inequality; and whether the protection instruments are compatible with the principle of trade openness. The analysis is carried out by systematically reading norms, linking one provision to another, identifying overlapping norms or having potential conflicts, and evaluating their juridical consequences on the position of local businesses.

The comparative approach is used functionally and limitedly, not to make comparisons of the legal system as a whole. Comparisons are directed at regulatory practices that allow the state to provide protection to domestic business actors without eliminating the principles of competition and market openness. The selection of comparative materials is based on the similarity of legal functions, i.e. how a legal system maintains *competitive equality* for domestic businesses in an open trade environment. This kind of

comparative approach is important so that research recommendations are not *Indonesia-centric*, but can be placed in a broader legal debate on the relationship between free trade, competition policy, and the protection of domestic enterprises.

The research legal material consists of primary, secondary, and tertiary legal materials. The primary legal material includes the constitution, laws, government regulations, regulations related to trade and business competition, and relevant international legal instruments. Secondary legal materials consist of articles from reputable national and international journals, law books, doctrines, reports from international institutions, as well as the results of previous research relevant to free trade, competition law, MSMEs, and domestic business protection. Tertiary legal materials are used on a limited basis as an instrument for tracing and clarifying legal terminology.

The collection of legal materials is carried out through document studies and systematic literature searches by prioritizing primary legal sources and relevant academic publications. The collected materials are then classified based on legal issues, namely the protection of local businesses, business competition, trade liberalization, and the principles of economic democracy. The analysis is carried out qualitatively-juridically through the stages of norm identification, legal interpretation,

horizontal and vertical synchronization, conceptual analysis, functional comparison, and prescriptive evaluation. The final stage is directed at the construction of legal arguments to formulate an integrated legal protection model based on competitive equality. With this method, the research not only answers how the applicable law regulates the protection of local businesses, but also assesses why the existing framework is not fully adequate and how the law can be reconstructed so that the protection of local businesses remains compatible with the principles of competition and free trade. This kind of prescriptive approach is an important characteristic of doctrinal law research because research does not stop at *law as it is*, but provides arguments about *law as it ought to be*.

III. RESULTS AND DISCUSSION

A. The Gap Between Trade Openness and Local Business Competitive Equity

The results of the study show that the main problem of local business protection in Indonesia does not lie in the absence of a legal basis, but in the imbalance between market openness and the ability of the law to create equal competitive conditions. Indonesia's legal framework has basically recognized the importance of local businesses as part of the national economic structure. Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises places MSMEs as

an integral part of the people's economy and links their empowerment to economic growth, income equity, job creation, and poverty alleviation (Muttaqim & Dev, 2025). The law has also been amended through the Job Creation regime, including through Law Number 6 of 2023. The problem arises when the protection mandate is faced with an increasingly open trade structure and competition that is increasingly determined by capital capacity, technology, distribution networks, data, and the ability to enter the global market. Thus, the legal problem found is not in the form of a regulatory vacuum, but a regulatory mismatch between the purpose of protecting local businesses and the character of contemporary competition.

Such inequality is important because free trade works on the assumption that businesses have the opportunity to enter and utilize markets. Formal opportunities, however, are not synonymous with substantive ability to compete. The WTO shows that the participation of MSMEs in international trade is still relatively limited and that barriers such as limited skills, market information, trade finance, regulations, and border procedures disproportionately affect smaller firms (Purrohman et al., 2025). In manufacturing trade in developing countries, for example, direct exports of MSMEs were recorded at only about 7.6% of total sales, compared to 14.1% in large manufacturing

companies (Iskandar et al., 2024). The data has important legal implications. If the law only guarantees freedom of market entry without taking into account structural barriers that distinguish the capabilities of business actors, then legal equality can result in economic inequality. Competitive equality cannot therefore be reduced to identical treatment, but must be understood as the ability of the law to create conditions that allow business actors with different capacities to compete meaningfully.

This perspective is changing the way we understand the protection of local businesses. Protection should not be interpreted as granting permanent privileges to domestic firms, as such an approach can turn into protectionism and potentially reduce the competitive pressures that are necessary to improve efficiency. A more accountable protection is protection against competitive processes and conditions. The WTO itself emphasizes the need to create an environment that allows small firms to benefit from trade openness, while UNCTAD underlines that developing countries need to ensure the existence of *Level playing field* for small businesses in an increasingly integrated market (Azizah & Baik, 2024). The position suggests that liberalization and protection are not always two conflicting concepts. The two can go hand in hand when protection is directed at removing structural barriers to competition, not at eliminating competition itself.

The construction obtained a stronger basis in national law through Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia. Indonesia's economic democracy is built on the principles of togetherness, efficiency, justice, sustainability, independence, and the balance of progress and national economic unity (Hapsari, 2018). This means that economic efficiency does not have an absolute position that can override the dimensions of justice and independence. This principle is then translated in Law No. 20 of 2008 through the recognition of the need to create a conducive business climate, business opportunities, support, protection, and development for MSMEs. Conceptually, there is a relationship between the constitutional mandate and the idea *Competitive Equality*, the state is not obliged to win local businesses in every competition, but has a juridical reason to ensure that market structures do not deprive local businesses of the opportunity to compete before the competition actually takes place (Sommaliagustina & Nosi, 2025).

Government Regulation No. 7 of 2021 shows that the orientation has moved from a normative declaration to a more concrete instrument. This regulation regulates the facilitation, protection, and empowerment of cooperatives and MSMEs and requires the government, certain business entities, and commercial area managers to provide space for the

promotion and development of micro and small businesses at least 30% of the area of certain commercial areas or strategic promotion places on public infrastructure (Saragih et al., 2024). This provision is important because it shows that Indonesian law has actually adopted a form of affirmative legal protection for local businesses. However, the protection still tends to be sectoral. It improves access to business space and economic facilities, but it has not fully answered the problems of bargaining power, data access, dependence on platforms, control of the distribution chain, and the behavior of dominant business actors. Thus, the results of the analysis show that facility-based protection is not enough if the source of inequality moves from physical spaces to market structures and digital infrastructure.

The problem becomes more complex because free trade does not only mean the entry of foreign goods into the Indonesian market (Kaman et al., 2025). Economic integration also brings capital, technology, network platforms, payment systems, business models, and global value chains that can change the structure of domestic competition (Azizi et al., 2025). Local businesses do not always deal with foreign companies directly, they can deal with a business ecosystem that is indirectly controlled by large companies (Syafiuddin, 2025). Under these conditions, the category of "local businesses" is not seen simply on the basis of the nationality of the owner,

but rather on its structural position in the market. Local businesses that are formally free to do business can remain in a subordinate position if access to consumers, distribution, data, financing, or platforms is determined by actors with greater market power.

The findings lead to the first conclusion that the measure of the success of legal protection should not be in the form of the number of regulations that provide facilities to MSMEs, but how far the law is able to reduce the structural barriers that make competitive opportunities unequal. This approach also prevents two policy extremes. Excessive protectionism can protect inefficient firms, while liberalization without correction can perpetuate competitive inequality. A model that is more consistent with economic democracy is protection that is corrective, proportional, and aimed at competitive conditions. In this framework, *competitive equality* is the principle that connects trade openness with the mandate of national economic protection.

B. The Limitations of the Competition Law Regime in Protecting Local Businesses from Structural Inequality

An analysis of Law No. 5 of 1999 shows that Indonesia's competition law actually has a goal that is very close to the idea of competitive equality. ICC explained that Article 3 of Law No. 5 of 1999 aims, among

other things, to maintain the public interest and national economic efficiency, to create a conducive business climate by guaranteeing equal business opportunities for large, medium, and small business actors, to prevent monopolistic practices and unfair business competition, and to create the effectiveness and efficiency of business activities (Mustamin, 2024). The formulation suggests that the protection of small businesses has actually become part of the purpose of Indonesian competition law. However, there is a conceptual problem: the same business opportunities do not necessarily result in equal competitiveness when business actors enter the market with very different resources and bargaining power.

The structure of Law No. 5 of 1999 mainly works through the control of prohibited agreements, prohibited activities, and abuse of dominant positions. The framework is rational to prevent business actors from using their market power to eliminate competitors. ICC itself explained that its duties include assessments of agreements that have the potential to cause monopolies or unfair competition, business activities that have similar impacts, and abuse of dominant positions (Dewi et al., 2024). Theoretically, such mechanisms are sufficient to address identifiable anticompetitive behavior. However, local business problems often arise before they meet all the characteristics of a competition

violation. Reliance on a single distribution channel, inequality of bargaining power in contractual relationships, limited access to data, or reliance on platforms can weaken a small business's position without always being easily qualified as a conventional violation.

These limitations are increasingly visible in the digital market. The digital market has a multi-sided, data-based character, has *Network Effects*, and allows the platform to control the relationship between sellers and consumers at the same time (Mariska et al., 2026). ICC in 2026 highlights that digital markets have special characteristics based on data and multi-sided markets that can result in a concentration of power on certain platforms, including the potential for abuse of dominant positions and discrimination against certain actors (Fahrezi et al., 2026). UNCTAD has previously pointed out the same issue from the perspective of developing countries, contractual relationships between large platforms and small businesses can create imbalances that require legal attention, while competition rules must be able to ensure that large platforms and small online businesses can coexist and compete (Karar et al., 2025). The findings suggest that modern market forces do not always appear to be classic monopolies; power can arise from mastery of data, digital infrastructure, user networks, and access to consumers.

The legal consequences of such changes are quite serious. If the law focuses only on market share and forms of anticompetitive behavior that have been known since the conventional economic era, then there is a risk that actions that economically hinder local businesses will not immediately receive a legal response (Handayani et al., 2020). For example, algorithms for determining product visibility can affect market access without directly discriminating that is easy to prove. The platform's use of seller data can create an information advantage for the platform itself. Vertical integration between platforms and sellers can also put local businesses in a competitive position with entities that simultaneously control market infrastructure. Literature and institutional studies in Indonesia are beginning to identify this problem. Studies on the digital ecosystem state that platforms can use data mastery, business integration, discrimination, exclusivity, and certain pricing practices that have the potential to make competitors uncompetitive (Hsb et al., 2025). Thus, the issue of local businesses is no longer just about "who is bigger", but who controls the market architecture.

This condition explains why the push to update Law No. 5 of 1999 is getting stronger. ICC in December 2025 openly stated that the change in the economic landscape from conventional trade to a digital ecosystem has created a gap between

the existing competition law foundations and the new market reality. In June 2026, ICC reiterated that amendments to Law No. 5 of 1999 need to be directed to address the challenges of the digital economy and changes in market structure. This impetus shows that the problems analyzed in this study are not just academic constructions, but have relevance to the direction of Indonesia's competition law reform.

However, updating competition law is not enough just by expanding the list of prohibitions. The addition of more types of violations can result in increasingly repressive laws without resolving structural problems. What is needed is a change in the way of viewing harm to competition. Losses to competition need to be assessed not only on the basis of their impact on consumers in the form of prices, but also on the market's ability to maintain a plurality of business actors and prevent excessive structural dependence (Bahri et al., 2025). Such an approach does not mean that every small business failure should be considered a violation of competition. Small companies can fail due to inefficiencies, low product quality, or changes in consumer preferences. Legal intervention only gains legitimacy when the failure relates to market mechanisms that are unreasonably controlled by actors with market power.

This distinction is important to avoid mistaking the distinction between protection of small

businesses and protection against inefficient enterprises. Competition law should not freeze market structures for small businesses to survive. A more appropriate goal is to ensure that small businesses have the opportunity to survive through fair competition. This principle is in line with UNCTAD's idea that developing countries need competition that is not only free but also fair, especially in digital markets when small companies are in contact with large platforms (Kennedy, 2024). In other words, legal protection should not remove *Competitive pressure*, but must prevent *Competitive pressure* changed to *structural exclusion*.

This analysis also shows the need to expand understanding of the relationship between MSME law and competition law. Law No. 20 of 2008 and Government Regulation No. 7 of 2021 provide a mechanism for protection, convenience, and empowerment, while Law No. 5 of 1999 maintains the competition process. However, these three functions have not always been treated as a single policy. MSME protection can run as an empowerment policy, while competition law works as an enforcement regime against anti-competitive behavior. This fragmentation creates a gap because the causes of local business vulnerability often lie between the two regimes. The research findings show that the main problem is not only the weaknesses of each

instrument, but the lack of integration of functions between empowerment, protection, and competition supervision.

Thus, the results of the second analysis show that the legal reform needed is not just to increase sanctions or expand law enforcement power, but to build an approach that connects market access, bargaining power, platform governance, competition enforcement, and SME protection. Local businesses need to be seen as participants in the market ecosystem, not just as recipients of state assistance. This change in perspective is important because the source of modern inequality increasingly lies in market structures, not just in the individual actions of business actors. An effective competition regime must be able to identify and correct these structures without losing the principles of efficiency and innovation.

C. Reconstruction of Integrated Legal Protection Based on Competitive Equality

The findings of further research show that strengthening local business protection requires a change from sectoral protection to integrated legal protection. Sectoral protection works by providing certain facilities to MSMEs, while integrated protection links empowerment, competition, trade, digitalization, and law enforcement policies within a single framework (Poli et al., 2025). This need arises because the obstacles

faced by local businesses are multidimensional. Access to capital is not enough if business actors remain dependent on platforms that determine access to consumers. Market access is also insufficient if competition takes place in asymmetrical conditions. Likewise, the monopoly ban does not completely solve the problem if small businesses do not have bargaining power in contractual relationships (Shahrullah & Cokro, 2020). Therefore, legal protection must be directed at the competition ecosystem as a whole, not at one form of loss separately.

The first model that is needed is preventive protection against competitive conditions. The state does not simply wait for violations to occur, but must test regulations and market structures that have the potential to hinder local businesses. This principle can be applied through *Competition Assessment* on trade policy, sectoral regulation, licensing, distribution, and platform governance. The OECD in its study on Indonesia emphasizes that the digital economy creates new challenges for competition policy and recommends a systematic review of competitive pressures in the digital sector through market studies and tools *Competition Assessment* (Siswanto, 2026). The OECD also noted that the adoption of digital tools is still lagging behind among Indonesian MSMEs and that more targeted public support is needed to accelerate the digitalization of small

businesses. The findings show that the protection of local businesses cannot be separated from competition policies and digital transformation policies.

The second model is the protection against inequality of bargaining power. In many modern business relationships, local businesses do not deal with large business actors in truly equal transactions. They may be platform users, suppliers, distributors, franchise partners, or part of a large company's supply chain. Such relationships can create dependency where one party has the unilateral ability to determine pricing, commissions, visibility, data access, or contract terms. UNCTAD recommends that developing countries consider rules that more effectively protect small companies from the power of large platforms, including through regulation of the platform's relationship with its business users (Puspawardani et al., 2025). In the Indonesian context, this approach can be translated through strengthening supervision of *Abuse of superior bargaining position*, discriminatory practices, disproportionate exclusivity, and the use of small business data that can result in conflicts of interest (Singal et al., 2026).

The third model is the protection of market access. Market access must be understood more broadly than just the right to obtain a business license. For local businesses, market access

includes the ability to reach consumers, acquire a place of business, enter the supply chain, follow procurement, use digital platforms, and obtain market information. Government Regulation No. 7 of 2021 has shown the embryo of this approach through the obligation to provide promotion and development space for micro and small enterprises in certain commercial areas. However, in the digital economy, such access must be expanded to equitable access to digital infrastructure and distribution mechanisms. If product visibility is fully determined by a non-transparent system, then market access is formally available but substantively controlled by other parties.

The fourth model is to strengthen ICC's institutional capacity. The protection of local businesses will lose effectiveness if supervisory institutions do not have the ability to understand the rapidly changing market. This challenge becomes even more evident when ICC itself identifies the characteristics of the digital market in the form of data, *Multi-sided market*, and the concentration of platform strength. ICC in 2026 also encourages digital economy regulations that are adaptive to technological developments while being able to maintain competition and innovation (Habibah et al., 2026). This means that institutional reform needs to move from a conventional document-based enforcement model to the ability to analyze the digital

economy, data, algorithms, and network structures. Without this capacity, the expansion of legal norms can actually result in *Enforcement Gap*.

The fifth model is the integration of domestic protection with international trade obligations. Strengthening local businesses should not be formulated as a policy that automatically discriminates against foreign business actors. The principles of non-discrimination and trade openness remain important normative boundaries. At the same time, the international trading system does not eliminate the entire domestic regulatory space. The WTO provides a number of mechanisms and special treatment for developing countries, including the *special and differential treatment* in various agreements (Sutrisno, 2009). Therefore, Indonesia's legal approach should be directed towards protection to increase competitive capacity, not to prohibition of competition based on the origin of business actors. Policies that strengthen productivity, access to information, financing, digitalization, standards, infrastructure, and the ability to meet trade requirements are easier to defend legally than policies that directly close markets to foreign competitors.

The framework resulted in the concept of integrated legal protection based on competitive equality. This concept consists of three layers. The first layer is *Capacity Protection*, namely state actions to improve local business capabilities through access

to financing, technology, information, infrastructure, standardization, and digitalization. The second layer is *Market Protection*, namely oversight of practices that hinder market access, abuse of dominant positions, discrimination, contractual dependencies, and structural barriers (Kurniasari & Rahman, 2022). The third layer is *Institutional Protection*, namely strengthening institutions that are able to detect, prevent, and restore competitive imbalances. The three layers must run together because the weakness of one layer can reduce the effectiveness of the other.

The model differs from the conventional protectionist approach. Protectionism aims to reduce external competitive pressures through trade barriers or domestic preferences. *Competitive-equality protection* rather, it maintains competition but seeks to ensure that it takes place in conditions that do not result in structural exclusion (Singal et al., 2026). This distinction is crucial to policy legitimacy. The protection of local businesses is justified if the goal is to improve their ability to compete, not if the goal is to keep them from competition. Thus, the measure of policy success is not how many foreign businesses are successfully restricted, but how far local businesses acquire the ability to survive, innovate, enter the market, and thrive in an open environment.

Such reconstruction also requires a change in the orientation of law enforcement. Enforcement is not

enough after losses have occurred, but it is necessary to develop a risk-based approach. Markets with *winner-takes-most characteristics, network effects, data concentration, and high dependence on platforms* need to receive greater attention because failure to intervene at an early stage can make the restoration of competition very expensive. UNCTAD has emphasized that merger analysis in digital markets needs to consider the role of data in acquiring and maintaining market power and creating barriers to entry for new companies. This approach can be applied in the Indonesian context through market studies, transaction surveillance, evaluation of platform behavior, and the development of indicators of small business dependency.

The urgency of this approach is getting stronger as competition law reform in Indonesia is gaining institutional attention. ICC and the Indonesian Chamber of Commerce and Industry in April 2026 are pushing for the acceleration of changes to Law No. 5 of 1999 to adapt the competitive framework to the disruption of the digital economy and modern market dynamics. These developments open up an important space to incorporate the perspective of protecting local businesses into the competition law reform agenda. Reforms should not only expand ICC's authority, but also clarify how the law responds to the relationship between platforms and small businesses, how

superior bargaining positions are assessed, how data can be a source of market power, and how remediation can be directed to restore competitive opportunities.

Thus, the results of the study show that strengthening legal protection for local businesses does not require a choice between free trade and domestic protection in a binary manner. A more appropriate option is to build a legal architecture that makes trade openness a market condition, while the state ensures that these conditions do not develop into structural inequality that eliminates the competitive opportunities of local businesses. The *integrated legal protection model based on competitive equality* offers a meeting point between Article 33 of the 1945 Constitution, the MSME protection regime, competition law, and the principle of trade openness. The protection of local businesses is thus not positioned as an exception to the market, but as a legal mechanism to make the market truly competitive.

These findings provide theoretical implications that the concept of legal protection in economic law needs to move from the paradigm of "protecting the weaker business" to "protecting the conditions of fair competition." This shift is important because the status of a small business does not automatically justify obtaining preferential treatment, just as the size of a large company does not automatically prove anti-competitive

behavior. The object of protection is a competitive condition that allows every business actor to enter, run, and develop his or her business activities without facing structural barriers unreasonably created by market forces. It is at this point that the protection of local businesses obtains a stronger legal justification while being compatible with the principles of free trade.

Overall, the discussion shows three main findings. First, Indonesia's legal framework has provided a fairly broad basis for protection, but it is still fragmented between MSME empowerment, business protection, and competition law. Second, the transformation of trade and the digital economy has created a new form of inequality that cannot be fully reached by conventional competition law approaches. Third, a more consistent solution is to build integrated legal protection based on competitive equality, which combines local business capacity building, market access protection, market force control, institutional strengthening, and compliance with international trade principles. With this construction, the state is not placed as a protector of local businesses from competition, but rather as a guarantor that competition itself takes place in fair, open conditions, and does not result in structural exclusion.

IV. CONCLUSION

This study shows that the problem of protecting local businesses

in Indonesia in the face of free trade competition is not mainly caused by the absence of regulations, but by the fragmentation of legal protection and the incompatibility between the regulatory framework and the development of competition structures. Legal instruments regarding MSMEs, business competition, and economic policies have provided a strong basis for protection, but have not been fully able to ensure equality of competition for local businesses.

Trade openness creates opportunities for local businesses to expand markets, but at the same time brings them together with business actors who have advantages in capital, technology, distribution networks, information, and digital infrastructure. These conditions show that formal equality in market access does not always result in substantive equality in competition. The problem becomes increasingly complex in the digital economy because market power can be formed through data mastery, algorithms, *network effects*, dependence on platforms, and inequality of bargaining power that are not entirely accessible by conventional competition law approaches.

Based on these findings, this study offers the concept of integrated legal protection based on competitive equality. Legal protection is not directed to isolate local businesses from competition or create protectionism, but to ensure that

competition takes place under fair conditions. The framework includes strengthening the capacity of local businesses through access to financing, technology, information, and digitalization; protection of market access and inequality of bargaining power; and strengthening institutional capacity in supervising conventional and digital market structures.

Theoretically, this study shifts the orientation of protection from "protecting local businesses" to "protecting the conditions of fair competition." This shift allows the protection of local businesses to be placed in a balance between the mandate of economic democracy as reflected in Article 33 of the 1945 Constitution and the principle of trade openness. Practically, the government needs to integrate MSME protection policies with competition and trade policies and strengthen competition law reforms to be able to respond to platform dominance, data control, and new forms of market inequality. Thus, the goal of protection is not to reduce competition, but to ensure that free trade results in fair, inclusive, and sustainable competition for local businesses.

REFERENCES

- Ausat, A. M. A., Suparwata, D. O., & Risdwiyanto, A. (2025). Optimalisasi digital competence sebagai strategi adaptasi dinamis wirausahawan dalam menghadapi disrupsi pasar di era digital. *Jurnal Minfo Polgan*, 14(1), 173–182.
- Azizah, W., & Baik, B. N. (2024). Memahami liberalisasi perdagangan: Dampak dan implikasinya dalam konteks ekonomi global. *Jurnal Akademik Ekonomi Dan Manajemen*, 1(4), 251–265.
- Azizi, M., Rialdy, N., Wahyuni, S. T., Pudjowati, J., Purnama, N. I., Sundari, A., Ladjin, N., Sakti, M., & Deden Abdul Wahid. (2025). *Strategi Ekonomi Berbasis Inovasi dan Keberlanjutan*. PT. Nawala Gama Education.
- Bahri, S., Tirsya, R., & Erniwati, E. (2025). Struktur Pasar Dan Persaingan Harga Dalam Perspektif Ekonomi Syariah. *Jurnal Sosial Dan Sains*, 5(9), 3128–3139.
- Dewi, R., Timori, H. P., Zakariya, A., Putri, A. A., Taena, M., & Ramadhanty, A. E. (2024). Peran Komisi Pengawas Persaingan Usaha Sebagai Wasit Sekaligus Hakim Dalam Ekonomi. *Collegium Studiosum Journal*, 7(2), 481–496.
- Fahrezi, R., Adjielaksono, A. D. L., Ufara, B., Putri, M. S., & Siswajanthi, F. (2026). PERLINDUNGAN KONSUMEN DALAM EKOSISTEM EKONOMI DIGITAL: STUDI KASUS REGULASI PLATFORM BERBASIS HUKUM PERSAINGAN USAHA. *LEXORIA (Jurnal Pluralisme Hukum Indonesia)*, 2(1), 36–43.
- Fobia, M. L. H. (2026). *SENGKETA PERDAGANGAN INTERNASIONAL: WTO, Perang Dagang Amerika Serikat–China, dan Dinamika Sistem Perdagangan Dunia*. Pustaka Aksara.
- Habibah, K. N., Shahira, J. N., & Halim,

- R. W. (2026). Analisis Perkembangan Teori Pasar Monopoli Dan AntiTrust: Tinjauan Systematic Literature Review. *JKAM: Jurnal Kajian Akademik Multidisiplin*, 1(2), 63–73.
- Handayani, O., Al Adawiah, R., Sulistiyono, A., & Pamungkas, A. J. (2020). Analisis pasar bersangkutan dalam hukum persaingan usaha pada era disrupsi 4.0 (Bisnis online versus bisnis konvensional). *Soumatra Law Review*, 3(2), 156–172.
- Hapsari, D. R. I. (2018). Hukum dalam mendorong dinamika pembangunan perekonomian nasional ditinjau dari prinsip ekonomi kerakyatan. *Legality: Jurnal Ilmiah Hukum*, 26(2), 238–252.
- Hsb, N. L., Qinvi, N. U., & Nabila, Q. A. (2025). Rekonstruksi Penegakan Hukum Persaingan Usaha terhadap Dominasi Pasar dalam Ekonomi Digital di Indonesia. *Opinia de Journal*, 5(2), 71–84.
- Iskandar, A. R. A., Subandi, M. D., & Pasaribu, R. R. B. (2024). Penurunan industri manufaktur terhadap turunnya ekspor impor. *Investama: Jurnal Ekonomi Dan Bisnis*, 10(01), 55–70.
- Kaman, S. A., Al-Aluf, G. S., Anugrah, E. S., Panduwinata, V., & Ramadani, Z. (2025). Eksplorasi Implikasi Perdagangan Bebas Terhadap Transformasi Struktur Ekonomi Negara Berkembang. *Menulis: Jurnal Penelitian Nusantara*, 1(12), 676–680.
- Karar, F., Handayani, U. J., Putri, D. A., & Handayani, S. (2025). Perlindungan hukum bagi pelaku UMKM dalam kontrak bisnis digital. *Eksekusi: Jurnal Ilmu Hukum Dan Administrasi Negara*, 3(2), 139–152.
- Karima, N. K., & Yusman, M. (2026). Praktik Self-Preferencing oleh Platform Digital sebagai Penyalahgunaan Posisi Dominan (Perbandingan Praktik Hukum Indonesia dan Jerman). *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 4(5), 2533–2550.
- Kennedy, A. (2024). Analisis hukum persaingan usaha platform marketplace online pada era ekonomi digital. *Ethics and Law Journal: Business and Notary*, 2(4).
- Kurniasari, T. W. K., & Rahman, A. (2022). Perlindungan Hukum Bagi Pelaku Usaha Umkm Terhadap Penyalahgunaan Posisi Dominan Platform Digital: Marketplace Melalui Penetapan Harga Dan Penguasaan Pasar. *REUSAM: Jurnal Ilmu Hukum*, 10(2), 131–153.
- Leeland, D., & Adam, R. C. (2025). Predatory Pricing in Indonesia's Digital Trade Ecosystem: An Analysis of Inhibiting Factors and the Ideal Model for Equitable Regulation: Predatory Pricing dalam Ekosistem Perdagangan Digital di Indonesia: Analisis Faktor Penghambat dan Model Ideal Pengaturan yang Berkeadilan. *Indonesian Journal of Law and Economics Review*, 20(4), 10–21070.
- Mariska, M. A., Rantikasari, Z., Nugraha, A., Yanuar, A. H., Angkasa, A. N., Rizki, J. M., & Najmudin, N. (2026). Dominasi Pasar Platform Digital dan Implikasinya terhadap Hukum Persaingan Usaha di Indonesia. *RUMI: Rumah Jurnal Ilmiah Multidisiplin*, 1(3), 713–722.

- Mustamin, M. (2024). Analisis Hukum Anti Monopoli Dan Persaingan Usaha Tidak Sehat Di Indonesia Berdasarkan Peraturan Perundang-Undangan. *Jurnal Asy-Syarikah: Jurnal Lembaga Keuangan, Ekonomi Dan Bisnis Islam*, 6(1), 57–72.
- Muttaqim, H., & Dev, M. E. (2025). *KOPERASI DAN UMKM: Pilar Penggerak Ekonomi Indonesia*. Sada Kurnia Pustaka.
- Pentanurbowo, S. (2025). Dinamika Pertumbuhan UMKM dan Perdagangan Informal dalam Memenuhi Kebutuhan Lokal Serta Lintas Batas: Kendala Akses Modal dan Pasar. *JEBIMAN: Jurnal Ekonomi, Bisnis, Manajemen Dan Akuntansi*, 3(5), 350–359.
- Poli, K. J. A., Sondakh, J., & Sondakh, D. K. G. (2025). Perlindungan hukum bagi pelaku usaha mikro kecil dan menengah (UMKM) dalam pasar digital. *Innovative: Journal Of Social Science Research*, 5(4), 5995–6009.
- Purrohman, P. S., Ruslan, A., Lidiaputri, H., & Azizah, Z. N. (2025). *Dinamika perdagangan internasional dan transformasi ekonomi global*. Uwais Inspirasi Indonesia.
- Puspawardani, R. N., Junus, N., & Elfikri, N. F. (2025). Pengaturan Hukum Pasar Digital dalam memperkuat dukungan terhadap UMKM di Platform E-commerce. *Almufi Jurnal Sosial Dan Humaniora*, 2(1), 20–29.
- Rahmadani, D. (2026). Konflik Antara Kebijakan Green Subsidi Uni Eropa dan Prinsip Non-Diskriminasi WTO. *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory*, 4(2), 1447–1470.
- Ramadhan, S., Hardiansyah, & Yusuf, M. (2026). PERAN TRADE FACILITATION AGREEMENT (TFA) WORLD TRADE ORGANIZATION (WTO) DALAM MENINGKATKAN KEWIRAUSAHAAN UMKM SEKTOR PANGAN DI INDONESIA. *Seminar Nasional Pariwisata Dan Kewirausahaan (SNPK)*, 5, 867–874.
- Rizkia, N. D., & Fardiansyah, H. (2023). *Metode Penelitian Hukum (Normatif dan Empiris)*. Bandung: Penerbit Widina.
- Rohim, D. F., Zahara, S., & Sitorus, I. (2026). Perlindungan Kepentingan Umum dalam Hukum Persaingan Usaha di Indonesia: Analisis Undang-Undang Nomor 5 Tahun 1999 tentang Larangan Praktik Monopoli dan Persaingan Usaha Tidak Sehat. *Polyscopia*, 3(3), 129–138.
- Saragih, Y. N. N., Mulyana, A., & Zusnita, W. O. (2024). Pemberdayaan Usaha Mikro dan Kecil pada Infrastruktur Publik Melalui Pola Kerjasama Mitra Sewa di Terminal Leuwipanjang. *Al Qalam: Jurnal Ilmiah Keagamaan Dan Kemasyarakatan*, 18(2), 1513–1526.
- Shahrullah, R. S., & Cokro, H. H. (2020). Penegakan Hukum Bagi Pedagang Usaha Mikro, Kecil Dan Menengah Terhadap Para Pelaku Usaha Monopoli. *Journal of Law and Policy Transformation*, 5(2), hlm. 113-127.
- Singal, A. S. D., Pramono, D. S., & Kira, J. H. V. I. S. (2026). Dominant Positions and Monopolistic Practices in Indonesian Competition Law: Posisi

- Dominan dan Praktik Monopoli dalam Hukum Persaingan Usaha Indonesia. *Indonesian Journal of Law and Economics Review*, 21(2), 10-21070.
- Sirait, H., Chatra, A., Febrianti, S., Rachim, A., Suarjana, I. W., & Sirait, M. J. (2025). *Ekonomi Mikro dan Umkm di Indonesia: Tantangan, Strategi menghadapi Efisiensi dan Pasar Global*. Yogyakarta: Star Digital Publishing.
- Siswanto, D. (2026). OECD: Mesin Pajak Penghasilan RI Mulai Melemah, Konsumsi Jadi Andalan Penerimaan. *Kontan.Co.Id*. <https://nasional.kontan.co.id/news/oecd-mesin-pajak-penghasilan-ri-mulai-melemah-konsumsi-jadi-andalan-penerimaan>
- Sommaliagustina, D., & Nosi, V. S. (2025). Hukum Persaingan Usaha Di Indonesia Agar Menjamin Pasar Yang Adil Dan Efisien. *Judakum: Jurnal Dedikasi Hukum*, 4(2), 112-123.
- Sutrisno, N. (2009). Efektifitas Ketentuan-Ketentuan World Trade Organization tentang Perlakuan Khusus dan Berbeda Bagi Negara Berkembang: Implementasi dalam Praktek dan dalam Penyelesaian Sengketa. *Jurnal Hukum IUS QUIA IUSTUM*.
- Syafiuddin, A. (2025). Persaingan Usaha di Tingkat Lokal: Tantangan Dan Peluang Bagi Pengusaha Kecil Dalam Menghadapi Pengusaha Lama. *Jurnal Riset Rumpun Ilmu Sosial, Politik Dan Humaniora*, 4(2), hlm. 760-772.