The Decentralization Via Self-Regulation of Online Platform and Competition Policy Challenges: A Study on Go-Jek in Indonesia

Sih Yuliana Wahyuningtyas

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Research Questions

The role of self-regulation of online platform in the decentralization of the law-making process

Challenges posed to competition and competition law
Go-Jek Services and Online Transportation Network in Indonesia

Percentage of Online Transportation Network Users in Indonesia [Prior to Uber acquisition by Grab]

Google Maps

[Chart showing the percentage of users for Uber, Grab, and Go-Jek]

- Uber: 50.06%
- Grab: 66.24%
- Go-Jek: 85.22%
Go-Jek and Other Indonesian Unicorns

4 INDONESIAN UNICORNS IN 2018

Value in Billion IDR

- Go-Jek
- Traveloka
- Tokopedia
- Bukalapak
GoJek Services

Combined with the lack of adequate data protection in Indonesia [Constitution, IT Law, Ministry Regulation → no comprehensive regulation]

Privacy issue & non-negotiable policy

From consumers to prosumers

Geolocation services:
- Finding nearest services
- Estimation of price and pick up time
- Hindering misuse

Tracking & rating system

Independent user review:
- Evaluation of services
- Reward & penalties
- Reputation & quality assurance

- User friendly tech
- Skilful users
- Not powerful enough to negotiate terms of use
Self-Regulation of Online Platforms

**Terms and Conditions** → **Contract** → **Public interests?**

**Pros:**
- More commitments of parties
- Less expenses for state, focus on essential matters \(\rightarrow\) BUT: what are essential matters?
- Effective enforcement \(\rightarrow\) by design mechanism, e.g. online reputation
- Practical, fast process

**Cons:**
- Non-negotiable for weaker parties
- Lack of accountability
- Unequal engagement
- Lack of constitutional or ethical principles by design
Decentralization via Self-Regulation

Self-regulation could be a better alternative than state regulation

However, state intervention in the form of state regulation, supervision and regulatory reviews remains necessary to protect public interests [e.g. tax compliance, security measures, IPR, consumer protection, and fair competition]

1. Comp. law: ex-post approach
2. Comp. authority approach [KPPU Reg. No. 4/2016]: Concern: risk of reduction of incentives to compete → reduction of consumer welfare
3. Likelihood to treat digital market industry with telecommunication industry (reg. and pol. Under the same roof [BRTI, Min. of Com & Info])
4. Ex-ante reg. to address asymmetrical reg with conventional services
Challenges

Competition policy: self-regulation v. innovation [contains a reduction of incentives to compete \(\Rightarrow\) facilitating cartels]

Conventional taxi’s minimum tariffs imposed by ORGANDA”

→ Co-regulation issue

Challenge to competition law: facilitation of anti-competitive conducts; current issues: predatory pricing allegation [Go-Jek], asset takeover between competitors [Grab and Uber]

✓ Asset takeover
✓ Art. 28 of Law No. 5/1999:
  ❖ Merger
  ❖ Share take over \(\Rightarrow\) not asset take over
Thank You!

Sih Yuliana Wahyuningtyas
Email:
yuliana.siswartono@atmajaya.ac.id