



Legal Analysis Of Interbank Business Competition In Lending

Marpol¹,Erinaldo ²

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ABSTRACT

Competition between banks, especially in lending between commercial banks and BPRS can cause unfair business competition, given the ability of commercial banks to capitalize far above the BPRS, which has an impact on losses for BPRS. Business competition can not be avoided both commercial banks and commercial banks and commercial banks with Rural Banks. The problem of business competition between banks can occur due to problems of location, product, type of business and market share. This study focuses on the problems of what is the cause of the emergence of business competition. The research method in this paper is used empirical juridical approach and supported normative juridical research. The results of this study indicate that things that can cause unfair business competition between banks can be caused due to differences in interest rates, bank products and services and bank office network while business competition between BPR and commercial banks occurs in the type of credit distributed to MSMEs and Commercial Bank expansion by opening a branch office in the operational area of BPR on the outskirts of the city is unfair business competition the solution with Law No. 5 of 1999 aims, among others, to realize a conducive climate for healthy business competition arrangements so as to ensure the certainty of equal business opportunities for large businesses, medium businesses and small businesses.

INTRODUCTION

In Accordance With Law No. 7 of 1992 on Banking which has been amended by Law No. 10 of 1998 on amendments to Law No. 7 of 1992 stated that "Bank is a business entity that collects public funds in the form of deposits and distribute them to the public in the form of credit and or other forms in order to improve the standard of living of the people". In carrying out its functions, each bank has its own strategy, especially in the field of marketing in order to obtain the maximum funds and also to distribute funds to the public in the form of credit in

accordance with the provisions of Bank Indonesia. Banks are basically divided into 2 types as namely commercial banks and Rural Banks (BPR). The functions of each bank have similarities in particular in collecting public funds and providing credit in accordance with lending procedures that apply to each bank. In this case, the business feasibility of the prospective debtor is one of the factors that are the main consideration in granting credit.

In carrying out its business in the banking sector, there is business competition between banks both in its efforts to obtain public funds and in lending.

Each bank, in carrying out its functions, undertakes to obtain the maximum amount of public funds by creating banking products that attract the public as well as by performing or improving services to its customers. The bank's efforts are carried out in an organized and planned manner by each bank including offers by promoting intensively through the mass media.

The rapid development of banks both in the physical amount of the number of existing banks and funds raised by the community along with the development of the community's economy, is also a factor causing business competition between banks. Business competition that occurs can not be avoided either between commercial banks and commercial banks and Rural Banks. The problem of business competition between banks can occur due to problems of location, product, type of business and market share. Each Bank both commercial banks MAJOUN BPR has advantages and disadvantages of each. One of the advantages of Commercial Banks is a strong bank capital, while BPR is weak in its capital, however, in an effort to raise public funds BPR has advantages considering its location on the edge of the city so that it is closer to the people in the countryside but it is also usually the buga rate given both savings and deposit interest, BPR is greater when compared to commercial banks.

Commercial banks that are very strong in capital are currently active in marketing their credit products, especially those related to small and Medium Business Loans (SMEs) including micro loans by making special units to rural areas that become BPR land, causing concern among BPR with the aggressiveness of the Commercial Bank considering the market share of the BPR is currently also a struggle for commercial banks. Problems of business competition between BPR BPR market share is very promising has invited the commercial banks as competitors in lending small and medium enterprises. Regarding the function of the Bank, especially in the distribution of credit, actually between commercial banks and BPR has regulated the form of cooperation in Bank Indonesia regulations, especially in the distribution of Small Business Loans (KUK) in the form of Direct Credit, Credit distribution (channeling) and joint Financing (Joint Financing).

The pattern of cooperation that has been arranged so far has been ongoing, however, the problem that occurs is that although there has been cooperation with BPR, commercial banks can channel their credit to entrepreneurs or customers located in the operational area of BPR.

METHOD

Legal research requires accurate data obtained through legal approach procedures and field approaches in order to produce research that can be justified. In achieving the purpose of the research mentioned above, it is necessary to use several research methods first, the approach method, the empirical juridical approach method is used and supported by normative juridical research. The approach in this way is carried out considering that in this study starting from the normative aspects governing banking institutions. Second, the types and sources of data used include primary and secondary data. Primary data is data received directly from the public, while secondary data is data obtained library materials.

RESULTS AND DISCUSSION

A. The Occurrence Of Business Competition Between Banks In Lending.

The difference in interest rates is one of the factors that can lead to competition between banks such as savings deposits and mortgage interest. The size of interest rates on deposits and loans is strongly influenced by various factors, including the size of funds raised by both, meaning that interest on deposits and loans affect each other, in addition to the influence of other factors such as guarantees, durations, government policies and profit targets. The main factors that affect the size of the determination of interest rates broadly, among others, as follows :

- a) The need for funds, if the bank lacks funds, while loan applications increase, then what is done by the bank so that these funds are quickly met one of them is by increasing the interest rate on savings. Thus the need for funds can be met. Conversely, if the bank has excess funds, but few credit applications, then the bank will reduce deposit interest, thereby reducing customer interest to save.
- b) Competition between banks, in the fight for deposit funds, then in addition to promotional factors, the most important thing is that banks must pay attention to competitors. In the sense that if the average deposit interest is 2% per year, then if you want to need quick funds, the deposit interest should be increased above the competitor's interest, for example, 3% or 4% per year. But otherwise for the loan interest must be below the interest of competitors.

- c) Government policy, under certain conditions the government can determine the maximum or minimum limit of interest rates on deposits and loans . Banks must not exceed the limit set by the government.
- d) Desired profit Target the desired profit Target is the amount of profit desired by the bank. If the desired profit is large, the interest rate will be adjusted to the target.

In accordance with the provisions of Law No.7 of 1992 on Banking which has been amended by law No.10 of 1998 in accordance with Article 5, the type of bank has been determined to be 2 types, namely commercial banks and rural banks, each of which has a business as mentioned in Article 6 and Article 13. Commercial banks have many advantages considering the type of business regulated in the Banking Act is also different, so that commercial banks can create more products than BPR. Basically, the bank's products are divided into 2 groups, namely :

- a. Products related to individual customer service (Personal banking/ Priority Banking) such as services to customers who want deposit interest that is easily credited or transferred to a savings account that is easy to use.
- b. Products related to institutional or corporate /commercial customer service (Corporate Banking) for example banks offer mortgages collectively at institutions with institutional recommendations.

Bank business is a business with Trust Capital, therefore when people / people put their funds in a bank means that people / people trust the bank, on the contrary when people withdraw their funds and move to another Bank means that

people who don't trust the bank.

Customer satisfaction is closely related to the ease of a bank's products offered in the services provided by the bank. In this case, higher quality will result in high customer service. For that then in satisfying customers, it is necessary to do the following strategies :

- A) the Bank must know the customer's needs, so that the quality of the bank's products/services is exactly as desired by the customer.
- B) employees must work as a team work to satisfy internal customers and external customers. For this reason, employees as front office must be able to provide the best service and provide customer

financial solutions. In this case, the skills and expertise of employees must always be improved.

C) perform bench marking, which measures the performance of the bank compared to the best competitors in its class and seeks to imitate and even exceed it, improving the quality of bank service products can be improved.

In Accordance With Law No. 7 of 1992 on Banking which has been amended by law No. 10 of 1998 in Article 1 it is stated that : " credit is the provision of money or bills that can be equated with it, based on an agreement or loan agreement between the bank and another party that requires the borrower to repay the debt after a certain period of time with the amount of interest, benefits or profit sharing". In a general sense, the credit was given to prospective debtors based to trust in the borrower's ability to pay a certain amount of money in the future. Lending is one of the functions of the bank in managing public funds collected, due to the excess of public funds formed from excess income, which is collected through saving deposits such as deposits, savings and others. Small, medium and micro entrepreneurs are currently receiving enormous attention from the government, given their enormous potential to help move the national economy and absorb labor. Therefore, in the Medium-Term Development Plan, the government formulated 3 economic targets. All three are to reduce the poverty rate from 9.22% in 2019 to 6.5% in 2020.

In financing the MSME sector, there are still problems as follows :

1. Banking financing systems and mechanisms have not been able to meet the needs of MSMEs, especially due to the constraints of meeting the 5C requirements. especially the fulfillment of guarantees, considering that many small entrepreneurs do not have qualified guarantees such as certificates.
2. Generally, formal requirements that are difficult to meet by MSMEs include business formalities, collateral, business plan, financial statements, business experience and self-financing.
3. In addition, the HR factor, the seasonal character of the business.
4. This condition causes only a small percentage of MSMEs to be able to access financing.

The experience of the monetary crisis in 1997, provides evidence that MSMEs are actually able to support the Indonesian economy and not

experience a decline economic activity (collapse) in the period of the crisis. The MSME economic sector is actually a safety valve for the negative impact of the crisis in the form of an increase in the number of unemployed and poverty and other social problems.

B. Unfair Business Competition Among Banks

Definition of unfair business competition in Article 1 of Law No.5 of 1999 on the Prohibition of monopolistic practices and unfair business competition mentioned as follows :

"Unfair business competition is competition between business actors in carrying out production and or marketing activities of goods and or services that are carried out dishonestly or against the law or inhibit business competition."

The reasons for the importance of healthy business competition are: first: ensure the freedom of all products to enter and exit certain business activities (free entry and exit). The same is also true for consumers and distributors in choosing any product or service from any company according to their choice.

Second: ensure fairness among all interested products, especially producers and consumers or buyers and sellers in business transactions. With fair and honest competition, each producer competes to reduce prices, and this will benefit consumers. In addition, fair and fair competition will dispel monopolies and oligopolies.

Third: ensure economic efficiency. With competition, companies will try to save the use of resources economic power and production costs so that prices can compete. This efficiency will ultimately contribute greatly to the efficiency of the national economy.

Fourth: increase managerial professionalism and employees in order to achieve efficiency.

Fifth: provide satisfaction to the community, which in turn contributes to improving the overall business climate to be healthy. In accordance with the provisions of Bank Indonesia No.2/27/PBI/2000 dated December 15, 2000 concerning commercial banks, the establishment of Bank branch offices, stated in Article 27 which regulates the opening of branch offices in the country reads as follows:

Article 27 paragraph (1) : opening a branch office in the country can only be done with the permission of the Board of Governors of Bank Indonesia.

In the provisions of Article 27 mentioned above, the establishment of a Commercial Bank branch office is not limited to its operational area by Bank Indonesia. The opening of Commercial Bank branch offices in a region, especially in rural areas which are operational areas of BPR, as happened in 2004

with the establishment of Danamon Simpan Pinjam (DSP) in several rural areas such as in Semarang, Kendal, Cepiring and other areas, has caused protests from rural banks. The opening of DSP is done by recruiting employees who have worked in BPR so that debtors or customers of the BPR also move to the DSP. This led to protests from among Perbarindo (Association of Indonesian credit banks) throughout Indonesia.

Commercial banks are very easy to carry out their business considering the absence of restrictions on opening branches every year if they meet the requirements of Bank Indonesia, but in contrast to BPR which is limited to only opening 1 branch in a year. In addition to the unbalanced capital strength between commercial banks and BPR, other factors are Branch Office networks and banking technologies owned by commercial banks such as ATM networks scattered in strategic locations and roadsides which are also cash offices of commercial banks, making it more attractive to customers.

In accordance with the description above, the expansion of commercial banks by opening branch offices / unit offices located close to BPR operations, in terms of unbalanced capital capabilities and ATM networks that spread in rural suburban locations is unfair business competition and is not in accordance with the purpose of establishing Law No. 5 of 1999 article 3

(b) namely:

- a. Maintaining the public interest and improving the efficiency of the national economy as one of the efforts to improve the welfare of the people.
- b. Realizing a conducive business climate through healthy business competition arrangements so as to ensure there is certainty of equal business opportunities for large businesses, middle-income businesses and small businesses.
- c. Prevent monopolistic practices and / or unfair business competition caused by business actors
- d. Creation of effectiveness and efficiency in business activities.

CONCLUSION

Based on the results of research on usha competition among banks in lending, the following conclusions can be drawn :

First, things that can cause unfair business competition between commercial banks can be caused by differences in interest rates, bank products and services and bank office networks. While business competition in the provision of credit to the public between BPR and commercial banks occurs in the type of credit distributed to SMEs,

namely Small, Medium and micro business loans or MSMEs. Lending to MSMEs aims to improve the ability of Micro, Small and medium entrepreneurs to grow.

Second, the expansion of commercial banks by opening branches /offices of Commercial Bank units in the operational areas of rural banks on the outskirts of the city / countryside in terms of Law No. 5 of 1999 on the Prohibition of monopolistic practices and unfair business competition, is unfair business competition, considering that in terms of capital, commercial banks have very strong capital when compared to rural banks. The existence of Law No. 5 of 1999 aims, among others, to realize a conducive climate of healthy business competition arrangements so as to ensure the certainty of equal business opportunities for large businesses, medium businesses and small businesses.

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