

The Relevance of the *al-Musâwâh* Principle and the Law Prohibiting Monopolistic Practices in the Use of Digital Payments

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Abstract: Using a single digital payment application exclusively among business entities has adverse effects on economic activities, leading to the emergence of monopolistic practices. Therefore, the principle of *al-Musâwâh* (balance) is crucial in economic transactions. This study aims to elucidate the prohibition of monopolistic practices, advocate for the application of the *al-Musâwâh* principle in business operations, and explore its relevance in curbing monopolistic behaviours in the utilisation of digital payments across various business sectors. This research employs a qualitative approach through a literature review, focusing on normative analysis related to the *al-Musâwâh* principles and the prohibition of monopolistic practices in digital payments. The critical-comparative analysis method is utilised to critique and correlate the application of the *al-Musâwâh* principle with the prohibition of monopolistic practices. The findings indicate that businesses should adhere to the *al-Musâwâh* principle when utilising digital payment systems and refrain from exclusive partnerships with single payment platforms. Current practices where companies restrict themselves to one digital payment application contribute to monopolistic tendencies. Consequently, the Indonesian Competition Commission (KPPU) and the Government are urged to amend Law Number 5 of 1999 on Prohibition of Monopolistic Practices and Unfair Business Competition promptly to effectively address issues in the digital economy.

Keywords: Digital Payment; Monopoly; *al-Musâwâh*

Abstrak: Penggunaan satu aplikasi pembayaran digital oleh pelaku bisnis memiliki dampak negatif untuk kegiatan ekonomi. Hal ini mengakibatkan munculnya praktik monopoli. Oleh karena itu perlu asas *al-Musâwâh* (keseimbangan) dalam kegiatan ekonomi. Tujuan dari penelitian ini adalah untuk menjelaskan larangan praktik monopoli dan penerapan asas *al-Musâwâh* dalam kegiatan Bisnis, dan untuk menjelaskan relevansi asas *al-Musâwâh* dalam larangan praktik monopoli pada penggunaan digital payment disetiap kegiatan bisnis. Adapun jenis penelitian ini adalah penelitian kualitatif dalam bentuk riset literatur dengan pendekatan normatif yang dihubungkan dengan teori asas *al-Musâwâh* dan larangan praktik monopoli dalam penggunaan digital payment. Sedangkan analisis yang digunakan menggunakan analisis komparatif-kritis dimana menkritisi dan menghubungkan penerapan asas *al-Musâwâh* dan larangan praktik monopoli. Hasil penelitian menunjukan bahwa pelaku usaha wajib menerapkan asas *al-Musâwâh* (keseimbangan) dalam penggunaan sistem pembayaran digital dan para pelaku usaha tidak boleh menutup kerjasama dengan platform pembayaran digital. Kesalahan yang dilakukan oleh perusahaan selama ini adalah mereka hanya menggunakan satu aplikasi pembayaran digital dengan menutup kerjasama dengan aplikasi pembayaran lain, sehingga ini memunculkan praktik monopoli. Selain itu KPPU dan Pemerintah segera melakukan perubahan UU No 5 tahun 1999 Tentang Larangan Praktik Monopoli dan Persaingan Usaha Tidak Sehat, agar persoalan ekonomi digital dapat terselesaikan

Keywords: Digital Payment, Monopoli, *al-Musâwâh*

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Introduction

Digital advancements have rapidly progressed to bolster business operations, notably by integrating digital payment systems. Various digital payment methods are available, including e-money, e-wallets, Internet/mobile banking, QRIS, and Paylater. These systems offer substantial advantages to both business actors and consumers by enhancing transaction efficiency. However, amidst the evolution of digital payments, businesses are advised against relying solely on a single payment application.

In 2022, the Business Competition Supervisory Commission (KPPU) warned Google about potential discrimination against Indonesian digital applications, particularly concerning digital payment methods.¹ The KPPU's 2020 report documented 19 violations related to business competition, while in 2021, the commission handled a total of 205 reports.²

So far, research on the prohibition of monopolistic practices in digital payments has highlighted the necessity of regulations to govern their use. Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition lacks detailed provisions addressing digital payments. Consequently, studies on this subject demonstrate two predominant perspectives. Firstly, several studies emphasise the inadequacy of existing regulations in enforcing competition laws and prohibiting monopolies concerning digital payment implementation among business entities.³ Secondly, other studies

point out disparities in online transactions that contribute to monopolistic practices.⁴

From the prevailing research trends, it is evident that online payment transactions significantly impact economic growth and can lead to unhealthy business competition and monopolistic behaviours if not properly managed. This research complements existing literature by emphasising the significance of the *al-Musâwâh* (balance) principle in combating monopolistic practices among companies, particularly in the context of digital payments in business transactions. Monopolistic practices foster unhealthy business competition and restrict opportunities for other business actors and digital payment platforms to participate in payment innovations. Consequently, this study addresses several research questions: 1) How has the development of digital payments progressed in Indonesia? 2) What are the implications of monopolistic practices and the application of the *al-Musâwâh* principle in business activities? 3) How does the principle of *al-Musâwâh* relate to prohibiting monopolistic practices in digital payments by business entities?

Usaha Di Indonesia," *Ilmu Hukum Prima (IHP)* 4, no. 3 (2022), <https://doi.org/10.34012/jihp.v4i3.2152>; M A Hasbullah, "Penegakan Hukum Persaingan Usaha Dalam Sektor Ekonomi Digital," *Jurnal Ilmiah MEA (Manajemen, Ekonomi, & ...)* 4, no. 1 (2020): 582–97, <http://journal.stiemb.ac.id/index.php/mea/article/view/1635>; Muhamad Arif Fahmi, M. Afif Hasbullah, and Ahmad Munir, "Pengaturan Hukum Persaingan Usaha Atas Jasa Keuangan Digital Di Indonesia," *Mimbar Yustitia* 6, no. 1 (2022): 20–32; Basri Effendi, "Pengawasan Dan Penegakan Hukum Terhadap Bisnis Digital (E-Commerce) Oleh Komisi Pengawas Persaingan Usaha (KPPU) Dalam Praktek Persaingan Usaha Tidak Sehat," *Syiah Kuala Law Journal* 4, no. 1 (2020): 21–32, <https://doi.org/10.24815/sklj.v4i1.16228>.

⁴ Ita Farida, Rahmi Zubaedah, and Rani Apriani, "Dinamika Praktik Pembayaran Parkir Menggunakan Satu Dompot Digital," *Singaperbangsa Law Review (SILREV)* 1, no. 1 (2020): 127–43, <https://doi.org/10.35706/silrev.v1i1.4254>; Raden Ajeng Astari Sekarwati, Nyulistiowati Suryanti, and Anita Afriana, "Sistem Online Pada Transaksi Pembayaran Jasa Ditinjau Dari Asas Keseimbangan Dalam Hukum Persaingan Usaha," *Litigasi* 23, no. 1 (2022): 21–38.

¹ "KPPU Usut Dugaan Monopoli Google, Ini Detail Biang Keroknya," accessed April 4, 2023, <https://www.cnbcindonesia.com/tech/20220920115613-37-373532/kppu-usut-dugaan-monopoli-google-ini-detail-biang-keroknya>.

² "Laporan Tahunan | Komisi Pengawas Persaingan Usaha," accessed April 13, 2023, <https://kppu.go.id/laporan-tahunan/>.

³ Rodiatn Adawiyah, "Analisis Tantangan E-Commerce Dalam Mengimplementasikan Hukum Persaingan

This article specifically underscores the critical role of the balance principle in preventing monopolistic behaviours within digital payment systems. A comprehensive understanding of the prohibition of monopolistic practices through the lens of the *al-Musâwâh* principle provides a framework for addressing current challenges in business operations.

The study argues that digital payments facilitate economic transactions aligned with digital development standards across various business activities. However, the concentration of business transactions within a single digital payment system, excluding other platforms, undermines fair competition. Such practices contravene regulations outlined in the Law Concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. Therefore, it is imperative for companies to adhere to the *al-Musâwâh* principle and avoid monopolistic practices to promote fair business conduct and encourage innovation in digital payment systems.

The novelty of this study lies in its comprehensive exploration of the *al-Musâwâh* (balance) principle as a crucial tool in addressing monopolistic practices within digital payment systems. While existing research predominantly focuses on the regulatory gaps and disparities in online transactions contributing to monopolistic behaviours, this research takes a distinctive approach. It underscores how the *al-Musâwâh* principle, rooted in Islamic economic ethics, offers a nuanced framework for mitigating monopolistic tendencies in digital payments. This study proposes a novel perspective that integrates ethical principles with regulatory concerns by emphasising fairness and equitable participation among digital payment platforms. This approach not only enriches

the discourse on digital payment regulations but also advocates for a balanced and inclusive digital economy conducive to healthy business competition and innovation

Literature Review

Several prior studies have examined the issue of monopolistic practices in digital payments. Adawiyah highlighted that efforts to safeguard business competition within digital payment systems are deemed imperfect and still pose complexities in implementation.⁵ Similarly, Hasbullah noted that legal frameworks addressing business competition in the digital economy era remain inadequately regulated.⁶ This observation is reinforced by previous research conducted by Farida et al., which illustrated instances where business actors affiliated with the Lippo Group engaged in prohibited practices by exclusively adopting a single digital payment application, thereby excluding other applications from participation.⁷

Sekarwati et al. further underscored that such practices disadvantage competing digital payment platforms by disregarding the principle of balance in business operations.⁸ Beyond impacting platform providers, consumers are also affected as they may lack access to preferred digital payment applications mandated by companies, thereby limiting their options for digital transactions.⁹

⁵ Adawiyah, "Analisis Tantangan E-Commerce Dalam Mengimplementasikan Hukum Persaingan Usaha Di Indonesia." 5

⁶ Hasbullah, "Penegakan Hukum Persaingan Usaha Dalam Sektor Ekonomi Digital." 585

⁷ Farida, Zubaedah, and Apriani, "Dinamika Praktik Pembayaran Parkir Menggunakan Satu Dompot Digital." 140

⁸ Sekarwati, Suryanti, and Afriana, "Sistem Online Pada Transaksi Pembayaran Jasa Ditinjau Dari Asas Keseimbangan Dalam Hukum Persaingan Usaha." 36

⁹ Amanda Ayu Rizkia and Suci Rahmawati, "Faktor-

Methods

This study explores the intersection between the principles of *al-Musâwâh* and the prohibition of monopolistic practices in digital payments. Employing a qualitative research approach, specifically library research, it delves into the prohibition of monopolistic practices in the realm of digital payments. This descriptive study aims to identify and elucidate the characteristics of the variables under scrutiny within their contextual settings.¹⁰ Additionally, it seeks to describe and expound upon pertinent aspects related to the challenges and impediments encountered by business actors in their endeavours to mitigate monopolistic practices in the use of digital payments.

The research methodology employs a normative approach intertwined with the theory of *al-Musâwâh* principles and the prohibition of monopolistic practices. Two analytical methods are utilised in this study. First is the critical analysis method, where researchers scrutinise the behaviours of business actors in the digital era and evaluate the effectiveness of existing governmental regulations and laws pertaining to digital payment platforms. This critical analysis aims not only to elucidate but also to critique and endorse the findings of this research, thereby providing insights into the relevance of the *al-Musâwâh* principle in combating monopolistic practices among business entities using digital payments. Second is the comparative analysis method, which juxtaposes Islamic perspectives rooted in the principles of *al-*

Musâwâh with positive laws concerning the prohibition of monopolistic practices in digital payments.

Results and Discussion

Development of Digital Payments in Indonesia

Online or digital payments have established themselves as legal, fast, and convenient payment systems supporting the economy. The term "fast and easy" refers to the ability to make payments without the need to carry cash, requiring only a smartphone or an e-money card. By definition, digital payment is a transaction made electronically, often referred to as an electronic payment.¹¹ No physical cash is involved in digital payments, and all transactions are conducted online. Currently, business actors utilise two payment methods: conventional (face-to-face) and online. With the advancement of digital technology, conventional methods are gradually being phased out by business actors.

Technological innovation, particularly in digital payment methods, is progressing rapidly. Previously, business transactions were predominantly conducted through cash payments, where the system was direct and physical. However, digital payment transactions are gaining popularity with changes in consumer behaviour and technological advancements. Digital payments have been around since 1950, with the advent of tools, systems, and electronic devices that facilitate economic transaction payments.¹² This innovation has significantly

Faktor Yang Mempengaruhi Anti Monopoli Dan Persaingan Bisnis Tidak Sehat : Globalisasi Ekonomi, Persaingan Usaha, Dan Pelaku Usaha. (Literature Review Etika)," *Jurnal Ilmu Manajemen Terapan* 2, no. 5 (2021): 631–43.

¹⁰ Assem Strauss and Juliet Corbin, *Dasar-Dasar Penelitian Kualitatif: Tata Langkah Dan Teknik-Teknik Teoritis Data* (Yogyakarta: Pustaka Pelajar, 2017).

¹¹ B K Dhanya, "Consumer Perception of Digital Payment Mode," *International Journal of Research and Analytical Reviews (IJRAR)* 6, no. 1 (2019): 176–83, www.ijrar.org.

¹² Raphael Bostic et al., "Shifting the Focus: Digital Payments and the Path to Financial Inclusion," *Promoting Safer Payments*, no. 20 (2020): 1–25, <https://axelkra.us/wp->

transformed economic transactions, although further system improvements are necessary to expand the technological network. Consequently, digital payments are poised to become the business sector's primary transaction system, considering the global economy's continuous evolution.

The COVID-19 pandemic accelerated the adoption of online payment systems among business actors to mitigate the spread of the coronavirus. This shift necessitated collaboration with third-party online payment application providers, making these applications attractive to entrepreneurs. The widespread use of smartphones has also been a major driver, encouraging companies to implement digital payment systems. In Indonesia, several digital payment applications such as Ovo, Go-Pay, ShopeePay, Dana, LinkAja, and others are well-known. The Ministry of Communication and Information (Kominfo) recorded the growth of companies registered as Electronic System Operators (PSE) in Indonesia up to June 2023. There were 12,716 PSEs registered, 60 companies temporarily suspended, and 14 companies had their registrations revoked.¹³

Digital payment applications in Indonesia are evolving to facilitate payment transactions for the public. The development of digital payments in Indonesia is comparable to that of other countries globally. For instance, India has numerous digital payment services such as Google Pay, Paytm, FreeCharge, PayPal, Mobile Banking Wallet Applications, PhonePe, PayUMoney, and MobiKwik.¹⁴

Digital payment services in India are integral to the government's main program, making India a digital and knowledge-empowered economy.¹⁵

Monopolistic Practices and the Theory of *Al-Musâwâh* Principles in Business Activities

Monopolistic practices have long been an issue in Indonesia. These practices can emerge when business actors exert excessive control over their market roles. The government can also contribute to monopoly conditions, particularly in industries lacking transparency, leading to natural monopolies.¹⁶ A monopoly market is characterised by a single producer who controls all sales and supply, effectively eliminating competition.¹⁷ This scenario results in a market where the company operates without competitors due to significant barriers to entry.¹⁸

A monopoly is defined as a business activity conducted by a single producer with exclusive control over goods and services, preventing others from entering the market.¹⁹ This definition aligns with Article 1, paragraphs 1 and 2 of Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition.

Multidiciplinary Education Research 514, no. 1 (2021): 2018–22.

¹⁵ Dhanya, "Consumer Perception of Digital Payment Mode." 176

¹⁶ Hasbullah, "Penegakan Hukum Persaingan Usaha Dalam Sektor Ekonomi Digital." 594

¹⁷ Farida, Zubaedah, and Apriani, "Dinamika Praktik Pembayaran Parkir Menggunakan Satu Dompot Digital." 129

¹⁸ Andi Fahmi Lubis et al., *Hukum Persaingan Usaha* (Jakarta: Komisi Pengawas Persaingan Usaha (KPPU), 2017). 47

¹⁹ Ayu Rizkia and Rahmawati, "Faktor-Faktor Yang Mempengaruhi Anti Monopoli Dan Persaingan Bisnis Tidak Sehat : Globalisasi Ekonomi, Persaingan Usaha, Dan Pelaku Usaha. (Literature Review Etika). 640"; Effendi, "Pengawasan Dan Penegakan Hukum Terhadap Bisnis Digital (E-Commerce) Oleh Komisi Pengawas Persaingan Usaha (KPPU) Dalam Praktek Persaingan Usaha Tidak Sehat." 30

content/uploads/2021/08/Shifting-the-Focus-Digital-Payments-and-the-Path-to-Financial-Inclusion.pdf.

¹³ "Perusahaan Anda Termasuk Penyelenggara Sistem Elektronik?," accessed June 16, 2023, <https://pse.kominfo.go.id/home/pse-domestik>.

¹⁴ Rajbir Saha, "Digital Payments Usage During Covid19 Pandemic With Special Reference To E-Wallet Users in Guwahati City," *International Journal of*

The law describes a monopoly as control by one business actor or group over production, marketing, and services. Monopolistic practices involve activities where one business actor or group concentrates power to control these areas, leading to unfair competition and detriment to the public interest. According to established laws, business actors must conduct economic activities within the regulatory framework. Competing to capture market share and consumers is permissible as long as it adheres to legal norms.

In Islamic economics, Al-Ghazali refers to monopolies as "ihtikar," meaning the hoarding of goods and services to increase market prices and subsequently sell them at higher prices.²⁰ Islamic economic jurisprudence derives "ihtikar" from "al-hukr," implying "to hold back," particularly concerning goods or food, to sell them later at elevated prices.²¹ The Prophet Muhammad condemned monopolistic practices, considering them a significant sin. Both "monopoly" and "ihtikar" involve a single business actor or group controlling goods, marketing, and services to profit from price increases.²²

The Prophet Muhammad's prohibition of "ihtikar" was aimed at protecting economic stability. Allowing such practices would lead to goods scarcity, price hikes, public losses, and reduced efficiency. The Prophet equated monopolistic behaviour with

disease and bankruptcy, highlighting the severe consequences.²³ Similarly, the Indonesian government enforces prohibitions on monopolistic practices to prevent disruptions in the national economy.

Theoretically, monopolies arise for two main reasons: First, certain business actors possess unique capabilities, such as superior production, cost reduction abilities, and control over natural and human resources. Second, monopolies can be legally established through intellectual property rights and exclusive government-granted rights, which are unavailable to other business actors.²⁴ For example, government monopolies like PT. PLN and PT. Pertamina are designed to maintain economic stability and resource availability.²⁵ Such government-created monopolies serve the general public interest and benefit.²⁶

Monopolistic practices by business actors impact economic activities significantly. According to Farida et al., monopolies can lead to four major consequences: 1) Increased prices and reduced availability of goods and services, 2) Inefficient production, 3) Suboptimal use of production capacity and resources, and 4) Emergence of new markets to sustain monopoly power.²⁷ Monopolistic practices disrupt general distribution and raise prices.

²⁰ al-Imam Abi Hamid Muhammad bin Muhammad Al-Ghazali, *Ihyâ 'Ulûmuddîn*, Jilid III (Kairo: Dâr al Kutûb al-'Arabiyyah, 1986).

²¹ Rahmat Firdaus, "Konsep Ihtikar Dalam Prespektif Fuqaha Dan Perbandingannya Dengan Konsep Monopoli Persaingan Usaha Tidak Sehat Dalam Undang-Undang NO. 5 Tahun 1999," *Jurnal Hukum Ekonomi Syariah* 3, no. 2 (2019): 136–54; Ibnu Al-Qazwini Faris, *Mu'jam Maqayis Al Lughah* (Beirut: Dar al-Fikr, 1979).

²² Ali 'Abdu Al-Rasul, *Al-Mabadi Al-Iqtishidiyyah Fi Al-Islam* (Kairo: Dar al-Fikr al-'Arabi, 1968). 16

²³ Ulfi Putra Sany, "Prinsip-Prinsip Pemberdayaan Masyarakat Dalam Perspektif Al Qur'an," *Jurnal Ilmu Dakwah* 39, no. 1 (2019): 32, <https://doi.org/10.21580/jid.v39.1.3989>.

²⁴ Lubis et al., *Hukum Persaingan Usaha*. 139

²⁵ Juanda Juanda and Hapzi Ali, "Literature Review Hukum Bisnis: Monopoli Bisnis Dan Kerusakan Lingkungan," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 2, no. 2 (2022): 233–40, <https://doi.org/10.38035/jihhp.v2i2.1072>.

²⁶ El Munawwarah, "Pasar Persaingan Sempurna Dalam Pandangan Islam," *Jurnal Citra Ekonomi* 2, no. 1 (2021): 93–99, <http://jurnal-citra-ekonomi.com/index.php/jurnalci/article/view/71>.

²⁷ Farida, Zubaedah, and Apriani, "Dinamika Praktik Pembayaran Parkir Menggunakan Satu Dompot Digital." 142

²⁸ Research by Davis and Orhangazi indicates that monopolies result in higher prices, limited output, and reduced consumer welfare, thereby damaging the economic system of a country. ²⁹

Business actors are not only prohibited from monopolistic practices but are also required to uphold the principles of balance (*al-Musâwâh*). *Al-Musâwâh*, which translates to balance or equality, emphasises that no individual should feel superior or more privileged. ³⁰ Generally, *al-Musâwâh* signifies equality and respect among humans as commanded by Allah SWT. ³¹ Another term for *al-Musâwâh* is "*tawazun*" (balance), encompassing spiritual, private, public, material, financial, real sector, business, social, utility, and sustainability aspects. ³²

In Islamic commerce, the *al-Musâwâh* principle promotes mutual respect and the absence of injustice in business activities and agreements. ³³ From the perspective of

Islamic economic law, *al-Musâwâh* empowers business parties by ensuring equality in determining rights and obligations. ³⁴ This principle ensures that business dealings are fair and balanced, devoid of exploitation. Law No. 8 of 1999 concerning Consumer Protection emphasises balance for consumers and business actors.

Table 1. *Al-Musâwâh* Principles in Islamic Commerce

| Principle | Description | Application in Business |
|----------------------------|--|---|
| Equality | All individuals are treated equally, without discrimination. | Fair business practices, non-exploitative terms |
| Balance (<i>Tawazun</i>) | Equilibrium in spiritual, material, and social aspects. | Ethical dealings, sustainable business models |
| Mutual Respect | Respect among all parties involved in business transactions. | Transparent agreements, honour commitments |
| Fairness | Just and equitable treatment in all business operations. | Non-monopolistic practices, competitive pricing |

Table 1 above demonstrates how these principles are applied in business practices to achieve equality, balance, mutual respect, and fairness. The principle of balance in contract law pertains to continuity and equality, requiring a balance of rights and obligations between contracting parties. ³⁵ In business activities, balance must be maintained in two key areas: demand and supply and price. Balance in these areas ensures active participation by market players in regulating business behaviour, thereby stabilising market dynamics and fostering economic growth. Thus, business

²⁸ Maryann Feldman, Frederick Guy, and Simona Iammarino, "Regional Income Disparities, Monopoly and Finance," *Cambridge Journal of Regions, Economy and Society* 14, no. 1 (2021): 25–49, <https://doi.org/10.1093/cjres/rsaa024>.

²⁹ Leila Davis and Özgür Orhangazi, "Competition and Monopoly in the U.S. Economy: What Do the Industrial Concentration Data Show?," *Competition and Change* 25, no. 1 (2021): 3–30, <https://doi.org/10.1177/1024529420934011>.

³⁰ Zulhamizan Ismail and Amiruddin Sobali, "Keseimbangan (Al-Mizan) Pembangunan Sosio-Ekonomi Menurut Sunnah Nabawi: Kajian Analisa Hadis Khutbah Jumaat Negeri Selangor," *Proceedings of the 7th International Prophetic Conference (SWAN) 2020*, no. October (2020): 333–46, <https://oarep.usim.edu.my/jspui/handle/123456789/6962>.

³¹ Iwan Kurniawan et al., *Literasi Multikultural Berbasis Agama Islam Sejarah Dan Edukasi* (Bengkulu: CV. Zigie Utama, 2020).

³² Walid Nopriansyah and M. Unggul, *Aspek Hukum Perbankan Syariah Di Indonesia Dilengkapi Perlindungan Nasabah Terhadap Kejahatan Cybercrime* (Jakarta: prenada Media, 2019), <https://books.google.co.id/books?id=XgxDDwAAQB-AJ>.

³³ Rahadian Firdaus and Achsan Hendratmi, "Solusi Pembiayaan UMKM Dengan Peer to Peer Lending

Syariah (Study Kasus Pada PT. Ammana Fintek Syariah)," *Jurnal Ekonomi Syariah Teori Dan Terapan* 6, no. 8 (2019): 1660–73.

³⁴ Fakhurrazi Reno Sutan, "Pendidikan Islam Dan Keadilan Ekonomi," *Perspektif* 2, no. 1 (2022): 85–96.

³⁵ Aryo Dwi Prasnowo and Siti Malikhatun Badriyah, "Implementasi Asas Keseimbangan Bagi Para Pihak Dalam Perjanjian Baku," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 8, no. 1 (2019), <https://doi.org/10.24843/jmhu.2019.v08.i01.p05>.

actors bear the responsibility of maintaining balance in market activities.³⁶

Business Actors and the Use of Digital Payments: Prohibition of Monopolies and Application of the *al-Musâwâh* Principle

The interest of business actors in digital payment platforms is a critical aspect of operating and growing their businesses. Digital payment systems foster an environment of complex business competition among enterprises. These systems allow businesses to collaborate and enter contractual agreements with application owners to achieve desired profits. However, this collaboration can also lead to business competition and even undesirable monopolistic practices.

Legal frameworks do not permit the control of a single digital payment application. Companies that exclusively collaborate with one application, excluding others, are considered to be violating regulations and engaging in monopolistic practices. This is corroborated by Article 17, Paragraph 1 of Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. This law stipulates that companies or business actors are prohibited from controlling the production and marketing of goods or services in a manner that results in monopolistic practices. Such control also prevents other business actors from entering the market.

When companies collaborate exclusively with one digital payment application, it constitutes a monopolistic practice, harming consumers who do not have access to the specified application and cannot make digital payments.³⁷ This exclusive

collaboration also disadvantages other digital payment platforms, as they are barred from entering the market and forming partnerships with these companies. Thus, monopolistic practices result in three primary harms: first, they disadvantage consumers who lack the specified application; second, they block opportunities for other digital payment platforms; and third, they harm business actors, as consumers might switch to competitors for their transactions.

Business actors should engage in healthy competition, avoiding harm to other parties. There are five key strategies for healthy competition: first, competing based on product quality; second, distributing products fairly; third, providing excellent service; fourth, offering appropriate pricing; and fifth, providing special incentives for consumers.³⁸ Healthy competition contributes to the growth of the Indonesian economy. Instances of monopolistic practices in Indonesia include Google's disregard for Indonesian digital payment applications and the Grab company, along with its partner PT Teknologi Pengangkutan Indonesia (TPI), which were involved in digital monopolistic practices.³⁹ Similarly, the Lippo Group's exclusive use of OVO for parking payments exemplifies monopolistic practices that disregard the principle of *al-Musâwâh* (balance) in business transactions.⁴⁰

The application of the *al-Musâwâh*

Pembayaran Parkir Menggunakan Satu Dompot Digital.”. 131

³⁸ Sekarwati, Suryanti, and Afriana, “Sistem Online Pada Transaksi Pembayaran Jasa Ditinjau Dari Asas Keseimbangan Dalam Hukum Persaingan Usaha.”. 34

³⁹ Effendi, “Pengawasan Dan Penegakan Hukum Terhadap Bisnis Digital (E-Commerce) Oleh Komisi Pengawas Persaingan Usaha (KPPU) Dalam Praktek Persaingan Usaha Tidak Sehat.”. 30

⁴⁰ Farida, Zubaedah, and Apriani, “Dinamika Praktik Pembayaran Parkir Menggunakan Satu Dompot Digital.”. 141

³⁶ Ainun Nurul Sya'diah, “Teori Keseimbangan Umum Dalam Ekonomi Islam,” *Jurnal Ilmu Akuntansi Dan Bisnis Syaria* 3, no. 2 (2021): 60–74.

³⁷ Farida, Zubaedah, and Apriani, “Dinamika Praktik

principle is crucial in business activities. The principle of *al-Musâwâh* is highly relevant to the prohibition of monopolistic practices in digital payments.⁴¹ Companies should not close opportunities for other parties wishing to collaborate, maintaining balance in the market. Article 2 of Law No. 5 of 1999 emphasises that business actors must uphold the principle of balance to protect both business and public interests. Islam reinforces this principle, as stated in the adage of *ushul fiqh* rules:

"The public benefit takes precedence over personal benefit."

This rule encourages business actors to maintain the common good by ensuring balance in business, both among business actors and between business actors and consumers. Maintaining and implementing balance leads to benefits that promote healthy business competition without monopolies. The principle of *al-Musâwâh* should be a fundamental guideline for business actors, ensuring no party suffers losses from monopolistic practices. Yusuf al-Qardhawi also noted that rampant monopolistic practices disrupt the economic balance, as Islam advocates for maintaining balance in human activities. Thus, the *al-Musâwâh* principle protects business actors participating in economic activities.⁴²

The principle of balance in contract law is defined as the principle of continuity and equality, which requires a balance of both rights and obligations between the promising parties. In business activities, balance must be maintained in at least two sectors: demand and supply and pricing.

Business actors play an active role in balancing all aspects of business behaviour, including demand, supply, and price. Balance in the economic world also fosters economic changes in a country. Therefore, business actors are responsible for maintaining the balance of business or market activities.

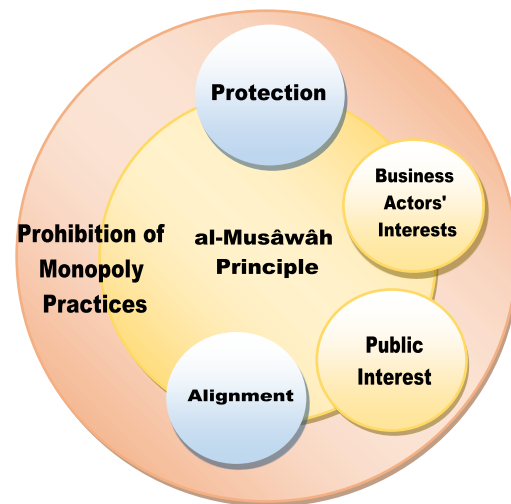


Figure 1. The Role of *Al-Musâwâh* Principles in Business Activities.

Source: From several sources processed by researchers.

The Figure 1 above shows how the principle of *al-Musâwâh* has relevance in bringing an important role to business activities.

When business actors uphold the values of *al-Musâwâh* in their collaborations involving digital payments, they can foster synergy and growth in their enterprises. The principle of balance is a crucial asset for business actors, enabling them to establish and maintain cooperative relationships with all involved parties.⁴³ In contract law, applying the principle of balance is essential to ensure that neither party suffers losses.⁴⁴

⁴¹ Sekarwati, Suryanti, and Afriana, "Sistem Online Pada Transaksi Pembayaran Jasa Ditinjau Dari Asas Keseimbangan Dalam Hukum Persaingan Usaha." 33

⁴² Yusuf Al-Qaradhwai, *Al-Khasa'li Al-'Ammah Li Al-Islam*, penj. Rafi (Surabaya: Risalah Gusti, 1995). 123

⁴³ Khairuddin Wahid, "Signifikansi Lembaga Al-Hisbah Dalam Sistem Ekonomi Islam," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 5, no. 2 (2019): 135, <https://doi.org/10.29300/mzn.v5i2.1442>.

⁴⁴ Prasnowo and Badriyah, "Implementasi Asas Keseimbangan Bagi Para Pihak Dalam Perjanjian

Therefore, in the context of digital payment platforms, business actors should engage in broad collaborations rather than limiting themselves to a single provider. Exclusivity with one digital payment platform can be seen as a violation of legal provisions and the principle of balance in legal agreements.

Business actors who utilise multiple digital payment platforms can optimise their reach within a healthy, competitive market.⁴⁵ To achieve optimal market competition, business actors must adhere to the principle of *al-Musâwâh*. The role KPPU is vital in maintaining this balance, particularly regarding digital payment systems. The KPPU has issued at least four preventive appeals to business actors:

1. No discrimination against digital payment platform providers.
2. Prevention of exclusive agreements with digital payment platform providers that disadvantage other service providers.
3. An appeal to business actors to avoid exploitative practices.
4. A prohibition on predatory pricing (selling goods below normal prices).

The cooperation between the KPPU and business actors is essential in preventing monopolistic practices prohibited by law. Additionally, a greater number of digital payment platforms allow consumers more options when choosing their preferred payment applications.

To strengthen laws prohibiting monopolistic practices and unfair business competition, several recommendations have been made to the KPPU and legal institutions. Given the evolving nature of business activities, Law No. 5 of 1999 should be amended to address current

developments. One proposed change is to include specific provisions prohibiting monopolistic practices in the use of digital (online) systems. This update is crucial for ensuring fair business competition in Indonesia, as the KPPU currently lacks explicit regulations regarding the use of digital systems in business activities. Moreover, amendments to Law No. 5 of 1999 are necessary to keep pace with the growing digital business landscape.

Based on current business challenges, several key points highlight the relevance of the *al-Musâwâh* principle in preventing monopolistic practices through digital payments:

1. Implementing the *al-Musâwâh* principle by collaborating with various digital payment platforms fosters healthy competition.
2. *Al-Musâwâh* in digital payment application use enhances company success through innovation.
3. The presence of multiple digital payment applications prevents monopolistic practices.
4. Business actors who rely on a single digital platform risk losing market power and are vulnerable to competitors using multiple platforms.

Therefore, applying the *al-Musâwâh* principle in digital payments offers significant benefits and helps avoid monopolistic practices prohibited by law.

Table 2 provides an overview of the preventive appeals by KPPU for business actors, emphasizing the importance of non-discrimination, avoiding exclusive agreements, steering clear of exploitative practices, and prohibiting predatory pricing. These measures are crucial in fostering a fair and competitive market environment. In conclusion, maintaining the principle of *al-*

Baku.”. 63

⁴⁵ Hasbullah, “Penegakan Hukum Persaingan Usaha Dalam Sektor Ekonomi Digital.”. 589

Musâwâh in digital payment collaborations ensures fair competition and market balance, benefiting both business actors and consumers.

Table 2. Preventive Appeals by KPPU for Business Actors

| No. | Preventive Appeal | Description |
|-----|---------------------------------|---|
| 1 | Non-Discrimination | Business actors must not discriminate against digital payment platform providers. |
| 2 | No Exclusive Agreements | Preventing exclusive agreements that harm other service providers. |
| 3 | Avoiding Exploitative Practices | Business actors should not engage in exploitative practices. |
| 4 | Prohibiting Predatory Pricing | Selling goods below normal prices is forbidden to prevent unfair competition. |

Conclusion

Economic activities have now entered the digital era. Companies must focus on maintaining healthy business competition and avoiding monopolistic practices. A common mistake made by business actors is entering agreements that restrict their operations to a single digital payment platform, thereby preventing other platforms from participating. Such agreements lead to monopolistic practices, which are prohibited by law. To foster healthy business competition, business actors must apply the principle of *al-Musâwâh* (balance) as a safeguard against monopolistic practices. There are four key considerations for business actors:

1. Collaborating with multiple digital platforms to uphold the principle of balance in business.
2. By adhering to the *al-Musâwâh* principle in digital payments, companies can enhance their capacity for innovation.
3. Utilising various digital platforms will help prevent monopolistic practices.
4. Business actors who rely solely on one digital platform will lack market power and be susceptible to competition from those using multiple platforms.

In addition to these points, the government and KPPU must urgently amend

Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. This law currently does not address the competitive issues arising from digital developments. Existing regulations on the digital economy are predominantly technical; thus, it is imperative that the KPPU and the government update the law to reflect the contemporary digital business environment.

This paper has limitations, including reliance on documents and online news sources, which may weaken its comprehensiveness and analytical depth. Future research requires extensive and detailed data to serve as a robust reference for improving laws that prohibit monopolistic practices. Therefore, further studies are necessary to gather in-depth knowledge to inform legal reforms aimed at preventing monopolistic practices.

Credit Authorship Contribution

Waldi Nopriansyah: Conceptualization, investigation, Writing - Original Draft, supervision, and project administration.

Arne Huzaimah: Conceptualization, resources, supervision, Writing - Review & Editing, and project administration.

Muhammad Salim: Methodology, formal analysis, data curation, and visualization.

Declaration of Competing Interest

The authors declare no competing interests related to this study. No financial or personal conflicts of interest are present.

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