

UNDERGRADUATE THESIS

**BIG DATA AND MULTI-SIDED PLATFORMS IN THE INDONESIAN
COMPETITION LAW**

(A Comparison Study to the European Union)



WRITTEN BY:

ZALFA A. F. JATMIKO

NIM. 031811133230

**FACULTY OF LAW
UNIVERSITAS AIRLANGGA
SURABAYA**

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UNDERGRADUATE THESIS PROPOSAL

Submitted as the final assignment to complete Bachelor of Law

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Therefore, this statement of originality is signed without force from outside parties. And if this statement is proven to be false, the signee will be accountable for the sanction given by the Head of the Faculty.

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PRE-WORD

The idea of competition law is to give each undertaking its own portion of responsibility to protect fair market. The bigger the undertakings, the bigger their responsibility is to not allow their behavior to distort fair competition. Therefore, the idea of competition law is the *equity between undertakings*. That's why competition law is inherently fascinating.

ACKNOWLEDGEMENTS

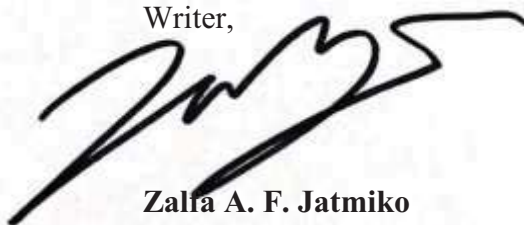
Bismillah, the completion of this undergraduate thesis will not be possible without:

1. **Allah Almighty** — for there is no greater Sovereign and Truth than He is. The Giver of Knowledge and the Best of Judge.
2. **My family** — *the noor of my heart and the happiness in my eyes*, Salwaa Jatmiko for the supply of endless laughter she gave to our home. My Mother, Roisatul Umami, who had taught me to speak and to write for the first time. This undergraduate thesis will not be here without her prayers and bowl of *sayur asem* which invigorates me whenever. My Father, Pulung Jatmiko, who had always been there with a glass of *Chatime Hazelnut Chocolate Milk Tea* without which I won't find the strength to expand my research more.
3. **We Bare Bears, ILSA, and IMCC family** — Katherine Abidea who had always stood on my right when they don't understand the difference between military and law enforcement activity, and was there on the last day to help me format the whole document. Yosua Iskandar who always stood on my left when the other side fail to understand Article 51 of the UN Charter. And, all JESSUP seniors, Regine Wiranata, S.H., Bima Adhijoso, S.H., Dewi Santoso, S.H., and Shofy Suma, S.H., who had been there since the start, juniors and ILSA family.
4. **FH International Undergraduate Programme 2018** — Dinda Ajeng and Christopher Wongsonegoro who I can always find companionship and without whom I won't be able to comprehend the importance of *setting clear targets*.
5. **Fakultas Hukum Universitas Airlangga** — Bu Ria, my supervisor without whom this undergraduate thesis will not look as comprehensive as it may appear now. Pak Kuku, Pak Ghansam, and Pak Iman who always pushed me to fly higher. Bu Intan, for her consistent mentorship during the JESSUP.

And others — in *Malaysia, Jakarta, Istanbul, Roma, Surabaya*, and the world who had taught me to open my eyes bigger and wider to understand what I'm learning now will one day become an investment for myself and for Indonesia.

Surabaya, 4 July 2022

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ABSTRAK

Normalisasi penggunaan internet dalam semua aspek kehidupan menciptakan pasar digital yang ditandai dengan penggunaan big data dalam strategi bisnis dan munculnya pasar multi-sisi. Big data memungkinkan pemain dominan di pasar bersangkutan platform digital seperti GOJEK dan Instagram untuk merekam perilaku pengguna mereka, memperkirakan *spending capacity*, kemudian meningkatkan skala ekonomi dengan cara mengeluarkan produk sesuai dengan permintaan pelanggan. Big data menjadi kekuatan pasar dan elemen penting agar pendatang baru bisa mempenetrasi dan agar perusahaan yang sudah lama bisa bertahan di pasar bersangkutan. Namun, karena big data diambil dari perseorangan, maka akses ke data ini dibatasi dan tidak dibuka untuk semua. Tantangan ini membawa implikasi hukum yang signifikan. Di sisi lain, pasar multi-sisi mengacu pada pasar di mana pelaku usaha menjual produk yang berbeda ke berbagai jenis konsumen di setiap sisi platform yang saling mempengaruhi satu sama lain akibat *cross-group network effect*. Perusahaan sering kali menjual produk dengan harga nol ke satu sisi platform dan memperoleh pendapatan dari sisi lain platform, dan hal ini memberikan tantangan hukum terhadap konsep perhitungan pangsa pasar yang pada dasarnya berbasis matematika yang jumlahnya sangat diperlukan untuk penentuan posisi dominan. Lebih lanjut, big data dan pasar multi-sisi juga memicu perdebatan tentang berbagai praktik penyalahgunaan baru di pasar digital. Oleh karena itu, internet menimbulkan implikasi hukum dan tantangan terhadap kerangka Pasal 25 UU No. 5 tahun 1999 yang akan dianalisis dalam skripsi ini dengan perbandingan terhadap hukum serta praktek yang ada di Uni Eropa.

Kata kunci: big data, pasar multi-sisi, pasar digital, hukum persaingan usaha

ABSTRACT

The internet contributes to the creation of the digital market that is characterized by using big data as a business strategy and the emergence of multi-sided markets. Big data enabled dominant, digital platforms, keyplayers such as GOJEK and Instagram to record their user behavior and forecast their spending capacity, hence increasing economies of scale as they are able to increase their service quality—tailor-made to users' demand. Big data becomes the new market power and essential input to enter and survive in the market. But such data is not accessible to anyone and pose significant challenges to newer entrants that may not access the same amount of large dataset as the dominant player. On the other hand, multi-sided markets refer to the situation where undertakings sell different products to different types of consumers on each side of the platform which affects each other due to cross-group network effect. Undertakings often sell zero-price products to one side of the platform and gain revenue from the other side of the platform, imposing legal challenges to the calculation of market share that is essentially mathematical-based, necessary for the determination of the dominant position. Further, big data and multi-sided markets also triggered the debate on the variety of novel abusive practices in the digital market. Therefore, the internet posed legal implications and challenges to the framework of Article 25 of the Indonesian 1999 competition law which will be analyzed in this undergraduate thesis by comparison to the existing law and precedents in the European Union.

Keyword: big data, multi-sided platform, digital market, competition law

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ABBREVIATIONS

EU	: the European Union
CJEU	: Court Justice of the European Union
TFEU	: Treaty on the Functioning of the European Union
KPPU	: Komisi Pengawas Persaingan Usaha Indonesia
RUU DPD	: Personal Data Protection Bill
Inputs	: Relevant technology, dataset, or distribution network

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