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Consumer Protection and Competition Law Implications of Pertamina Fuel Pricing Policies in Indonesia

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ABSTRACT

Fuel price adjustments by PT Pertamina, an Indonesian dominant state enterprise, significantly affect consumer purchasing power. Previous literature focuses on localized fraud, leaving the dual framework analysis of national pricing policies under consumer and antimonopoly regulations underexplored. This study aims to analyze the consumer protection and competition law implications of Pertamina fuel pricing policies. Employing a normative legal research design, the study utilizes statutory, case, and conceptual approaches. Data from legal materials are analyzed qualitatively through deductive logic and teleological interpretation. The findings indicate that unilateral pricing mechanisms challenge consumer rights to accurate information. Furthermore, while macroeconomic pricing of unsubsidized fuel follows global markets and rarely constitutes an abuse of dominant position, related operational allegations like fuel blending and tender discrimination raise significant legal concerns. In conclusion, current legal remedies face severe implementation barriers due to fragmented authority and heavy proof burdens. The study recommends preventive mechanisms through structured public consultation and proposes harmonized litigation instruments for future legal reform.

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1. INTRODUCTION

Fuel is an essential and fundamentally irreplaceable commodity for the Indonesian economy, serving as the primary energy source across multiple vital sectors, including mass transportation, industrial manufacturing, logistics, and domestic households. The national dependency on this energy source is remarkably substantial. Data from the Central Bureau of Statistics illustrates that daily fuel consumption in Indonesia reached 1.5 million barrels in 2022, underscoring its critical role in maintaining macroeconomic and social stability [1]. Given this absolute reliance, the availability and pricing stability of fuel serve as primary determinants of national economic health. Adjustments in fuel prices directly impact consumers across all socioeconomic stratifications, often triggering severe cost-driven inflation and rapidly escalating the prices of essential goods and services across the entire supply chain. A comprehensive study by the Institute for Development of Economics and Finance indicated that a mere 10 percent increase in fuel prices could inherently trigger a 1.07 percent rise in national inflation. Public sentiment surveys, such as those conducted by the Indonesian Survey Institute in 2023, consistently reflect this economic strain, with 75 percent of respondents acknowledging severe negative impacts on their monthly financial allocations. This dynamic particularly cripples low-income populations who rely heavily on subsidized pricing structures to sustain their daily livelihoods [2], [3].

As the dominant state enterprise controlling the domestic fuel supply market, PT Pertamina bears the colossal responsibility of maintaining price stability and ensuring continuous supply across the vast Indonesian archipelago. However, Pertamina operates within a highly complex legal and operational paradigm characterized by a dual statutory role. On one hand, it functions as an executor of public service obligations mandated by the state for subsidized fuels such as Biosolar and Pertalite, where the government strictly caps retail prices to protect public purchasing power and fulfill constitutional mandates regarding the welfare of the people. Simultaneously, it operates as a profit-oriented corporate entity for unsubsidized fuels such as Pertamax and Dexlite, which are subject to market-driven price fluctuations and the principles of fair market competition [4]. Under Law Number 8 of 1999 on Consumer Protection, Indonesian consumers are legally entitled to fundamental, nonnegotiable rights. These prominently include the right to clear, truthful, and accurate information regarding the products they purchase, the right to safety, the right to choose, and the imperative right to have their opinions and grievances addressed by business actors and the state [5], [6]. Despite these robust legislative frameworks, regulatory bodies such as the Business Competition Supervisory Commission and the National Consumer Protection Agency have repeatedly documented widespread consumer grievances regarding opaque pricing mechanisms, sudden price adjustments, and misleading product qualities.

In this asymmetric market context, consumers frequently face profound challenges during periods of economic adjustment or corporate restructuring. The structural imbalance of power between a dominant monopolistic business actor and individual retail consumers dictates that consumer rights are often marginalized in favor of corporate financial health [7]. Furthermore, many consumers lack awareness of their legal rights and remain uneducated regarding the procedural mechanisms available to seek redress when disadvantaged by dominant market players [8], [9]. Prior academic discourse has certainly explored consumer protection within the energy and fuel sectors; however, these investigations have primarily adopted localized, micro-operational, or singular disciplinary perspectives. Existing literature has investigated the legal protection of consumers against localized fuel price markups in specific provincial cities [10], volumetric manipulation and fraud during fuel-filling processes at localized gas stations [11], and the ethical implications of rounding up transaction totals from an Islamic business law perspective [12], [13]. Moreover, studies have analyzed the legal implications of withholding exact change in retail transactions [14]. While these prior studies successfully address micro-level consumer grievances and specific localized violations, they leave the broader structural issues surrounding national corporate pricing policies and antimonopoly frameworks largely underexplored.

Consequently, there remains a significant scholarly gap in comprehensive, multidimensional studies analyzing the precise intersection of national consumer protection laws and business competition regulations regarding corporate-level pricing policies. Previous research has not simultaneously integrated the implications of macroeconomic pricing policies enacted by a dominant state enterprise with the specific, practical legal remedies available under Indonesian business competition law. This study addresses this academic void by employing a dual-framework analytical approach, evaluating the issue concurrently through the lens of the Consumer Protection Law and the Antimonopoly Law [15], [16]. Therefore, this study is driven by two primary objectives. The first objective is to comprehensively analyze the application of Pertamina fuel price adjustments and their direct structural implications for consumer protection in Indonesia. The second objective is to critically examine and evaluate the specific forms of legal protection available to consumers within the complex framework of Indonesian business competition law. To achieve this, the study applies an analytical framework starting with the identification of the consumer issue, identifying the corresponding legal norm, applying theoretical perspectives, namely Hadjon's preventive and repressive protection alongside Friedman's legal system framework assessing the institutional mechanism, and finally evaluating the legal remedy.

2. METHOD

This study fundamentally constitutes normative legal research, commonly recognized as doctrinal legal research within academic jurisprudence, which conceptualizes the law as a coherent system of norms formulated in prevailing legislation to address specific legal issues. To construct a comprehensive and multidimensional analysis, this study adopts three complementary approaches, namely the statutory approach to critically analyze legislative consistency, the case approach to examine specific empirical applications such as Pertamina historical pricing events and formal investigation reports, and the conceptual approach to build robust legal arguments based on underlying legal doctrines when existing positive laws remain ambiguous. As a normative doctrinal study, the research was primarily conducted through a comprehensive library and document review focusing on the regulatory framework and corporate practices actively implemented by PT Pertamina. The data were exclusively gathered through comprehensive library research by systematically categorizing sources into primary, secondary, and tertiary legal materials. Primary legal materials encompass authoritative statutes, notably Law Number 8 of 1999 on Consumer Protection, Law Number 5 of 1999 on Antimonopoly and Unfair Business Competition, Law Number 22 of 2001 on Oil and Gas, Law Number 6 of 2023 concerning Job Creation, Presidential Regulation Number 191 of 2014, and specific Ministry of Energy and Mineral Resources directives. Secondary legal materials support the primary texts and include academic textbooks, peer-reviewed legal journals, and official institutional documents, notably formal investigation statements from the Business Competition Supervisory Commission, while tertiary materials include legal dictionaries for strict terminology clarification.

The data collection technique rigorously employed is a systematic literature review and document study, where the researcher acts as the primary analytical instrument, utilizing three foundational theories to evaluate the collected legal materials critically. These theoretical frameworks include the Theory of Legal Protection by Philipus M. Hadjon for evaluating preventive and repressive mechanisms, the Theory of Law Enforcement by Lawrence M. Friedman for assessing legal structure, substance, and culture, alongside Business Competition Concepts to distinguish between holding a dominant market position and the unlawful abuse of that position. To ensure the academic credibility and trustworthiness of the qualitative findings, this study employs a triangulation of legal sources by cross-verifying statutory norms with their practical implementation as documented in official government reports. The collected legal materials were analyzed qualitatively using deductive logic through a highly structured analytical pathway. The analysis begins with the identification of applicable statutory provisions regarding national fuel pricing, consumer rights, and antimonopoly regulations. This is followed by statutory interpretation utilizing grammatical interpretation to understand the literal meaning of the text, systematic interpretation to connect various laws comprehensively, and teleological interpretation to ascertain the ultimate legislative intent behind the laws protecting public welfare.

Furthermore, the study proceeds with a comparison with documented practice by explicitly utilizing factual propositions such as regional price disparities, formal allegations of fuel blending, established corporate market shares, and exclusionary procurement practices as the vital empirical context for the normative evaluation. Ultimately, the research conducts an assessment using legal protection theory to evaluate corporate practices, an assessment under competition law to differentiate lawful market dominance from actionable abusive practices, and a comprehensive analysis of remedies to evaluate the efficacy and practical limitations of available legal protections for consumers. As this is a normative legal study that does not involve human participants, ethical considerations primarily focus on ensuring rigorous academic integrity, strictly avoiding plagiarism, and maintaining objective citations of all utilized literature [17].

To establish clear temporal and prescriptive boundaries, the evaluation of legal materials is strictly confined to the regulatory landscape active up to the most recent structural adjustments in national energy policies. The culmination of the deductive analysis is specifically oriented toward a prescriptive synthesis. Rather than merely describing the intersection of consumer and antimonopoly laws, this methodological design is strategically engineered to diagnose precise regulatory vacuums and institutional enforcement overlaps. By synthesizing these identified legal gaps against the documented empirical practices of the state enterprise, the research systematically constructs targeted propositions for future legal reform. This final prescriptive phase ensures that the methodological workflow does not stop at theoretical critique, but directly produces viable, legally sound recommendations to harmonize corporate pricing authority with robust consumer rights and fair market competition.

3. RESULTS AND DISCUSSION

3.1. The Regulatory Framework and Implementation of Pertamina Fuel Pricing

PT Pertamina possesses the statutory authority to determine the retail price of unsubsidized fuel, guided by the regulatory framework established by the Ministry of Energy and Mineral Resources, specifically Decree Number 245 of 2022, which amended previous formulas for calculating the basic retail price of general fuel types distributed through gas stations. It is legally and economically crucial to distinguish between subsidized fuels, where prices are strictly capped and subsidized by the government budget to fulfill constitutional public service mandates, and unsubsidized fuels, where prices are adjusted periodically based on international benchmarks and currency fluctuations. In the unsubsidized sector, Pertamina positions itself purely as a standard commercial business entity seeking operational profitability.

In its operational rhetoric, Pertamina adjusts unsubsidized prices periodically based on two primary macroeconomic variables: the trend of international oil prices measured via the Mean of Platts Singapore index and the fluctuation of the Rupiah exchange rate against the United States Dollar. However, the fundamental issue lies in the structural reality of the domestic market. While Pertamina claims to operate as a standard competitor, it commands an overwhelming market share exceeding 80 percent across various domestic retail territories. Consequently, Pertamina exercises definitive price leadership. While smaller private competitors exist within the nation, they are structurally compelled to mirror these price adjustments to maintain their own operational margins without triggering price wars they cannot endure. This tacit coordination creates a highly concentrated, oligopolistic market that inherently limits consumer choices and exit options, leaving the public entirely captive to the corporate pricing strategies of the dominant state enterprise.

3.2. Application of Preventive Protection: Implications for Consumer Rights

Applying Hadjon's concept of preventive protection, which aims to prevent disputes by ensuring policies are formulated with transparency and stakeholder consensus, the current implementation of fuel pricing reveals substantial gaps in fulfilling fundamental consumer rights mandated by Law Number 8 of 1999.

Price Disclosure and the Right to Information

Preventive protection necessitates absolute transparency from dominant actors. Article 4c of the Consumer Protection Law guarantees the right to correct, clear, and honest information regarding the condition and guarantee of goods and services. However, the exact mathematical breakdown of the final pump price for unsubsidized fuels remains entirely opaque. Consumers are never provided with transparent, publicly accessible data detailing the percentage allocations for basic acquisition costs, distribution logistics, storage fees, corporate profit margins, and specific government taxes. This systemic opacity severely limits the consumer right to correct information, making it impossible to independently verify if a price hike is mathematically justified by global markets or arbitrarily inflated to cover internal corporate inefficiencies.

Furthermore, the right to honest information is severely challenged by alleged operational discrepancies. Administrative investigations have addressed high-profile allegations of fuel blending, where premium higher-octane fuel was allegedly mixed with lower-octane subsidized fuel between 2018 and 2023. While pending final judicial determination and currently treated as investigation findings, such allegations highlight severe vulnerabilities in product quality guarantees and demonstrate a systemic failure of preventive regulatory oversight.

Public Consultation and the Right to be Heard:

Article 4d asserts the consumer right to have their opinions and complaints heard. Preventive protection requires that stakeholders are actively heard before detrimental policies are enacted. In the context of national fuel pricing, regulatory review mechanisms and public consultations prior to price adjustments are virtually nonexistent. Unlike developed regulatory environments where independent energy commissions mandate extensive public hearings, economic impact assessments, and legislative approvals prior to enacting tariff adjustments, the Pertamina pricing mechanism is strictly unilateral. The corporation sets the price, issues a press release, and consumers are forced to comply. This mechanism treats consumers as passive recipients of corporate policy rather than active economic stakeholders, thereby weakening their statutory democratic right to participate in the formulation of policies that possess massive socioeconomic impacts.

3.3. Competition Law versus Consumer Law: Distinguishing Dominance and Abuse

In analyzing market behavior, it is legally imperative to distinguish carefully between consumer law, which primarily addresses the relationship and fairness between business actors and end consumers, and competition law, which examines the broader macroeconomic effects on market competition and rival entities. Furthermore, a fundamental distinction exists in Law Number 5 of 1999 between holding a dominant position and the unlawful, exploitative abuse of a dominant position. Dominance itself, or possessing a high market share, is not automatically unlawful conduct under Indonesian jurisprudence.

The Complexity of Prosecuting Pricing as an Abuse of Dominance

Article 25 of the Antimonopoly Law prohibits business actors from utilizing their dominant position to dictate unfair trading terms. Given its massive market share, Pertamina unequivocally holds a dominant position. However, prosecuting macroeconomic unsubsidized fuel price hikes as a direct abuse of this position, specifically as unreasonable pricing under Article 19c, presents immense legal complexities. A fuel price increase should not automatically be treated as an unfair competition practice merely because the company is dominant [18], [19]. Pertamina pricing for unsubsidized fuels ostensibly aligns with international benchmarks, and superficial competition exists in the retail market. Consumer financial strain resulting from a price hike is not, in itself, sufficient evidence of an antitrust violation without decisively proving that the pricing behavior is predatory, cartelized, or entirely disconnected from actual production costs [20]. The competition commission lacks unfettered access to internal, highly confidential corporate cost structures, making such prosecutions legally strenuous and incredibly rare.

Anticompetitive Behaviors in Related Operational Practices

While macroeconomic pricing policies may not constitute a direct abuse of dominance, clear indications of anticompetitive behavior exist in related operational practices. For example, the competition commission initiated formal investigations into Pertamina gas station digitalization projects, citing alleged tender discrimination. The investigation highlighted direct appointments that deliberately excluded capable private competitors, potentially violating Article 19d of the Antimonopoly Law regarding discriminatory practices against specific business actors. This illustrates that while the retail price point itself may be legally defensible under global market mechanisms, the operational and procurement mechanisms surrounding the dominant entity can still severely infringe upon competition laws, subsequently harming market efficiency and indirectly impacting long-term consumer welfare [21].

3.4. Repressive Protection and Enforcement Barriers

Applying Hadjon's concept of repressive protection, the Indonesian legal system provides consumers with avenues to seek redress. However, applying Friedman's framework of Substance, Structure, and Culture reveals why enforcement faces severe barriers.

Regarding Legal Substance, regulatory gaps exist concerning the intersection of state enterprise exemptions and commercial activities [22]. While state enterprises are exempt when executing statutory public interest tasks for subsidized fuel, this exemption creates a legal gray area when applied to unsubsidized commercial sectors, complicating the legal basis for lawsuits.

Regarding Legal Structure, repressive protection is hindered by fragmented authority and forum dualism. The competition commission handles investigations but can only issue administrative sanctions; it lacks the statutory authority to order direct financial compensation to affected consumers. Consumers must win at the commission, then file a separate civil suit in District Courts to claim damages [23]. Oversight is fragmented between the Ministry of Energy, the Ministry of State Enterprises, and the competition commission.

Regarding Legal Culture, consumer legal awareness remains a barrier. Individual civil lawsuits are highly inefficient because the nominal financial loss per individual consumer is negligible compared to litigation costs. While class actions are moderately viable for mass grievances, the technical difficulty of coordinating massive classes and meeting heavy burdens of proof against corporate data confidentiality creates a passive legal culture. The summary of these implementation barriers is presented in Table 1.

Table 1. Implementation Barriers

Legal Mechanism	Statutory Basis	Implementation Barriers
Individual Civil Lawsuit	Article 46 Consumer Protection Law	Highly inefficient. The financial loss per individual is negligible compared to litigation costs and time consumption.
Class Action	Supreme Court Regulation Number 1 of 2002	Moderately viable but technically complex to coordinate massive consumer classes and meet heavy proof burdens against corporate data.
Competition Commission Reporting	Law Number 5 of 1999	Severely flawed by forum dualism. The commission lacks statutory authority to order direct financial compensation to affected consumers.

4. CONCLUSION

The principal conclusion of this study is that while macroeconomic fuel price adjustments for unsubsidized fuels generally follow international market mechanisms and cannot automatically be classified as an abuse of dominant position under prevailing competition law, the implementation architecture of these pricing policies structurally challenges fundamental consumer rights. Specifically, the absolute absence of preventive legal protections, such as mandatory price transparency and institutionalized public consultation, severely deprives consumers of their statutory right to accurate information and their democratic right to be heard. While the core macroeconomic pricing mechanism is exceptionally difficult to prosecute as an antitrust violation due to global market integration [25], broader operational examples, such as investigation findings of alleged fuel blending and discriminatory procurement practices currently under administrative review, highlight the profound vulnerabilities within a highly concentrated and underregulated market.

The repressive legal protections formally available to consumers, including individual civil lawsuits, class actions, and administrative reporting to the competition commission, are severely hindered by substantive regulatory gaps regarding state enterprise exemptions, structural forum dualism preventing direct restitution, and cultural barriers regarding the insurmountable burden of proof.

This study provides the following targeted recommendations to fortify the consumer protection ecosystem. First, addressing preventive protection, the government must mandate a structured open-book pricing policy for unsubsidized fuels [26], [27]. The firm legal basis for this is the consumer right to information under the Consumer Protection Law. This disclosure should entail publishing basic acquisition costs and distribution margins, carefully calibrated to protect legitimate corporate trade secrets while ensuring absolute public accountability. Second, addressing repressive protection, as a *de lege ferenda* proposal for future legislative reform, the parliament should consider amending the Antimonopoly Law to explicitly empower the competition commission to order direct financial restitution to consumers upon finding a severe competition violation, thereby eliminating the exhaustive dualism of forums between administrative bodies and civil courts.

Limitation and Future Research: This study is inherently limited by its normative methodology, relying heavily on statutory interpretation, legal doctrines, and secondary document analysis. Future research could significantly enrich this analysis by combining normative frameworks with empirical methodologies. This could include conducting in-depth interviews with regulatory officials from the competition commission and energy ministries, deploying extensive consumer surveys to measure actual legal awareness at the grassroots level, and performing rigorous competition-economic analysis utilizing empirical, longitudinal fuel price data to measure exact consumer surplus loss.

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