

# The Effect of Work Creation Law on the Five Forces of Competition Related to the Formulation of Competitive Strategies According to Michael E. Porter

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## ABSTRACT

The Law on Job Creation is an Omnibus Law that has been ratified by the House of Representatives of the Republic of Indonesia. This is closely related to the interests of workers and employers. After the reform era, there was a change in the issues faced by the workers because they had to deal with the market intervention that was getting stronger due to neoliberalism. By using any point of view, the purpose of the entrepreneur (company) in running his business is to make a profit by winning the competition. To understand the forces that exist and become part of the competition in the industry, it can be done by using the five forces that affect industry competition as proposed by Michael E. Porter. This research is descriptive-analytical research describing research data. The research data was qualitative using secondary data. The results of this study were; The Omnibus Law on Job Creation can affect competition in the industry through competition among companies and can be used by companies to select generic competitive strategies, according to Michael E. Porter. This was caused by the Omnibus Law on Job Creation that was created to help provide certainty and convenience to entrepreneurs in running their business.

**Keywords:** Job Creation, Competition, Industry, and Strategy.

## 1. INTRODUCTION

The Law on Job Creation, an Omnibus Law, was ratified by the House of Representatives of the Republic of Indonesia (DPR RI) in a plenary session held on Monday, October 5, 2020. This omnibus law concept resulted in a universal sweeping law in which the norms contained in one law can change or replace the norms contained in several laws and regulations [1] to be one of the efforts to refresh or harmonize several laws and regulations [2].

At the time of writing this article (October 9, 2020), researchers have not been able to find the draft of the law that the DPR RI has ratified; researchers can only find the Draft Law on Job Creation (draft for February 2020) [3]. The ratification of the work copyright law was responded to by labor demonstrations for three consecutive days from Tuesday to Thursday (6-8 October 2020) in various cities in Indonesia. "The government sees the need for this Job Creation Bill

because of the high unemployment rate in Indonesia, which reaches 7 million people, so it is hoped that this bill will be able to open up new job opportunities [4].

The ratification of the omnibus law is closely related to the interests of workers and employers. After the reform era, there was a change in the issues faced by the workers because they had to deal with the market intervention that was getting stronger due to neoliberalism. Workers face international market pressures through the Multi-National Corporation (MNC), the World Trade Organization (WTO), and the World Bank. In this case, the market becomes the real enemy of the workers, while the government is increasingly confused because it has to mediate between the interests of workers and entrepreneurs [5].

In this case, in general, workers can be said to express their rejection or objection to the ratification of the work copyright law, while the attitude of employers regarding the ratification of the work copyright law is

generally difficult to know because of the mass media do not explore it. By using the analogy that the interests of workers and the interests of employers are mutually exclusive, it can be assumed that with the enactment of the work copyright law, the interests of employers are more advantageous. Apart from the differences between workers and entrepreneurs, however, entrepreneurs make a positive contribution to development through [6]; (1) its role in the production, distribution, and consumption processes, as well as creating jobs and increasing people's incomes, and (2) improving the country's economy and reducing the country's dependence on products from other countries.

By using any point of view, the purpose of the entrepreneur (company) in running his business is to make a profit by winning the competition. Very tight industrial competition [7] requires companies to develop various unique and valuable strategies [8] to improve their performance achievements in order to win the competition [9] or excel in the competition. Competitive advantage is when a company dominates a business competition [10]. In contrast, strategy can be defined as "the main pattern of actions chosen to realize the company's vision, through the mission" [11]. An effective strategy is a strategy that helps achieve company goals [12]. In the long term, companies need different strategies to be used as guidelines for each company level [13].

There are three types of government policies that contradict the principle of competition in the industry, namely [14]; (1) restrictions on the number of business actors (e.g., exclusion rights, permits, restrictions on the supply of raw materials, etc.), (2) restrictions on the company's ability to compete fairly (e.g., price controls, restrictions on promotions, etc.), and (3) reduce the company's incentives to compete (e.g., the existence of organizations of business actors that apply internal regulations related to the disclosure of price information, sales levels, production levels, and others). Thus, it is essential to do a competitive analysis to determine its position in the industry [15].

"Competition is a continuous effort made between companies to achieve a comparative advantage in resources that will result in a competitive advantage position in the market and most importantly achieve super financial performance" [16]. Competition in the industry basically occurs in the market. "Market is an economic institution where buyers and sellers can either directly or indirectly carry out trade transactions in goods and or services" [17]. Goodin [18] states that according to the rules of the market, anyone who depends on the other will be effortless to exploit. There are four market structures, namely [19]; (1) perfect competition market, (2) monopolistic competition market, (3) oligopoly market (oligopoly), and (4) monopoly market. "Market structure determines

behavior such as corporate strategy, research, and development. The behavior will ultimately determine performance such as profit or efficiency" [20]. Market structure is a collection of various factors that affect the level of competition in the market [21], or "the environmental conditions in which companies carry out their activities as producers" [22].

To understand the forces that exist and become part of the competition in the industry, it can be done by using the five forces that affect industry competition as proposed by Michael E. Porter, and those are; (1) competitors in the industry that create competition between firms in the industry, (2) potential new entrants that pose a threat of new entrants, (3) buyers who have bargaining power, (4) substitute products that can pose a threat, and (5) suppliers who have bargaining power. After the forces in the industry competition can be identified, Porter then offers three generic strategies to overcome them, namely to win the competition in the industry. The three generic strategies are; (1) overall cost advantage / low cost, (2) differentiation, and (3) focus. Porter recognizes other forces outside the industry that significantly affect competition in the industry, one of these forces is the power of law. However, Porter does not place the law as a force in industrial competition because the power of law is relative; it equally affects all companies competing in the industry [23]. This study proposed that Porter's thinking needs to be criticized because the existence of a statutory regulation can, in fact, significantly affect competition in the industry.

Based on the description of Figure 1 above, the identification of the research problems are: (1) How does the Omnibus law affect competition in the industry that allows companies to win the competition? (2) How can the Omnibus law influence Porter's selection of a generic competitive strategy by companies to win the competition in the industry?



Figure 1. Porter's Five Forces [24]

## 2. METHODS

This research was descriptive-analytical research describing research data. The research data were qualitative, in the form of words that do not use numbers. This study used secondary data, that is, data

that already exists for a particular interest. The unit of analysis used is the prevailing laws and regulations in Indonesia.

### 3. RESULTS AND DISCUSSION

The job creation law is referred to as omnibus law, which is one law that can change or replace several laws at once. For some academics or legal practitioners in Indonesia, the term omnibus law is a new term, because omnibus law is commonly used in countries that adhere to the Anglo Saxon legal tradition (common law), such as; the United States of America [25], while Indonesia is a country that adheres to the legal tradition of continental Europe (civil law) such as; Netherlands. The word Omnibus comes from the Latin word meaning for all. According to Bryan A. Garner's Black Law Dictionary Ninth Edition, the omnibus is: "relating to or dealing with numerous objects or items at once; including many things or having various purposes", namely "related to or dealing with various objects or items at once; include many things or have multiple purposes" [26].

The objectives of the creation of the job creation law are [27]:

1. Creating the broadest possible employment opportunities.
2. Even distribution of employment.
3. Fulfill the right to a decent living.
4. Ease and protection of MSEs and cooperatives.
5. Improvement of the investment ecosystem.
6. Ease of doing business.
7. Increased protection and welfare of workers.
8. Central government investment and acceleration of national strategic projects.

Meanwhile, the ten scopes of the job creation law include [28]:

1. Improving the investment ecosystem and business activities.
2. Employment.
3. Ease, protection, and empowerment, MSEs, and cooperatives.
4. Ease of doing business.
5. Research and innovation support.
6. Land acquisition.
7. Economic zone.
8. Central government investment and acceleration of national strategic projects.

9. Implementation of government administration.

10. Imposition of sanctions.

Based on the scope of the job creation law, which is directly related to the five competitive forces according to Porter are; (1) improvement of the investment ecosystem and business activities, (2) employment, (3) ease of doing business, (4) land acquisition, and (5) economic zone. These five things become part of the competitive power that comes from competitors in the industry, creating competition among companies in the industry. Thus, it can be seen that the existence of the copyright law affects competition according to the five competitive forces as referred to by Porter through only one competitive force [29], namely the competitive power of industry competitors.

How job creation laws affect competition in the industry can be described as follows:

1. Improving the investment ecosystem and business activities [30]. With the job creation law, entrepreneurs or companies that invest and carry out business activities will be convenient. The convenience referred to is carried out by eliminating the obstacles that have been faced by entrepreneurs (companies) in making investments and business activities in general.

2. Employment [31]. With the existence of the work copyright law, various forms of company expenses related to employment, which are part of the company's routine expenses (overhead), can be reduced in various ways, for example; no UMR/UMK, reduction in severance pay, ease of doing layoffs (Termination of Employment), expansion of company outsourcing, and others.

3. Ease of doing business [32]. With the job creation law, various permits, considered one of the inhibiting factors in doing business by entrepreneurs (companies), can be reduced or even eliminated.

4. Land acquisition [33]. All forms of business require a place (land). What distinguishes it is that there are businesses that require a large area of land, but there are also businesses that require a small area of land. The problem of land acquisition, both broad and not comprehensive, still exists and can potentially disrupt business activities. With this job creation law, various forms of problems related to land acquisition can be overcome as much as possible.

5. Economic zone [34]. The economic zone consists of [35]; special economic zones, free trade areas, and free ports. In essence, the job creation law is intended to provide convenience in the formation of economic zones for business purposes.

The direct impact of the implementation of the five scopes of the copyright law as described above in

influencing industrial competition can be described as follows:

1. With the ease of investment and business activities, it is easier for companies to change the size and resources of their companies. This will affect the balance of competition in the industry where large companies can become market leaders and carry out a coordinating role in the industry, for example, in terms of leading prices. The selling price of small companies' products will tend to follow the selling prices of large companies' products for the same products. Large companies with the resources under their control can sell products at relatively lower prices because they are influenced by relatively larger production volumes than small companies.

2. Labor-related costs are part of the company's fixed costs. The high fixed costs of the company directly suppress the company's profit when the selling price of the product cannot be increased anymore. This can happen to companies, not in a price leader position (not big companies in the industry). With this law, the company's fixed costs derived from labor-related costs can be reduced. This will directly affect the increase in the duration or can be used to lower the selling price of the product to change the company's position in industrial competition. This will significantly affect industries that absorb a lot of labor (labor-intensive industries).

3. The ease of managing various business licenses directly gives rise to the ease of doing business, namely; (a) the ease of resizing the company (becoming bigger), or (b) the ease of the company is expanding its business, both in the same type of business or in different types. The ease of doing business, in essence, also provides wider opportunities for companies to enter or leave the industry. The industry's competitive position will quickly change if the company has the flexibility and ability to enter or leave an industry. If many companies enter the industry, the competition in the industry will increase. Meanwhile, if many companies leave the industry, the competition in the industry will decrease. The reduced competition in the industry will not automatically increase the company's profit if the industrial product is a commodity that is difficult to develop again, both in terms of price and in terms of the amount of production.

4. Land acquisition for new companies in the industry or for companies that will expand their business activities is an activity that requires enormous costs and contains a high difficulty factor because if it is not carried out properly, it can potentially lead to disputes (legal problems). The convenience provided by the work copyright law related to land acquisition can directly encourage companies to resize or expand the company. Resizing or expanding the company directly

changes the balance of industry competition, especially in company leadership in the industry.

5. Economic zones whose arrangements are contained in the work copyright law are part of the company's external factors that directly affect competition in the industry by providing privileges in the form of various facilities to companies located in the economic zone compared to similar companies located outside the economic zone. Companies located in economic zones have competitive advantages in taxation, production processes, or supply of raw materials. The competitive advantages of these companies increase company efficiency, which can increase company value. The increase in the company's value is the cause of the increase in the company's position in industrial competition.

Based on the description above, it can be understood that job creation law affects one of Porter's five competitive forces. Because the five competitive forces are the basis for selecting Porters' three generic competitive strategies, the implementation of the job creation law influences the selection of generic competitive strategies by companies to win the competition in the industry. This can be explained as follows [36]:

1. A comprehensive cost advantage strategy requires managerial attention to control costs in various aspects of its operational activities so that they are lower than competing companies. The implementation of the job creation law allows companies to use this comprehensive cost advantage strategy when the company in question can optimize competitive advantages in terms of low costs in various aspects related to employment, and the location of the company in an economic area that allows the company in question to obtain various facilities from the government, such as tax incentives. Overall, the cost leadership strategy can generally be used by companies where the product is a commodity (customer goods).

2. The generic differentiation strategy places the company's product as a new or unique product compared to other similar products made by competing companies. The novelty and uniqueness of the product allow it to be sold above the average price of similar products to increase the value of the company, which in turn can increase the company's profit. The creation of new products that have uniqueness can be carried out by making changes to the production process, where these changes require additional costs in the form of investment. Production process engineering to produce new and unique products, apart from requiring investment, also requires new production sites (new factories) to be built on new land. Based on this, land acquisition becomes an important matter. The operation of new production sites and new production processes requires the company to have new licenses. Thus, the

ease of licensing is one of the requirements for companies to create new and unique products. The implementation of the work copyright law in terms of ease of investment, ease of licensing, and ease of land acquisition can be why companies can use a generic strategy of differentiation to win the competition in the industry.

3. The generic focus strategy can be implemented in various ways, adapted to the conditions and products of the company. This generic strategy focus can be aimed at producing only a particular type of goods or services; it can also be aimed at a specific area used as a marketing center for the company's products. The generic focus strategy can also be used against specific target markets by gender or age of the consumer and other foci. By using a focused generic strategy, it is expected that the company can maximize its competitive advantage compared to other companies in the industry to win the competition, as evidenced by the increase in company value. In simple terms, this can be known by using indicators of increasing company profits.

Based on the description above, it can be seen that the implementation of the copyright law gives companies the ability to choose Porter's three generic strategies in order to win the competition in the industry. About what the company then chooses a generic strategy to win the competition in the industry, it is influenced by various environmental factors that are external and internal to the company. Thus the company must define the company's external and internal environmental factors that are decisive as the basis for selecting Porter's generic strategy to win the competition in the industry.

Porter indeed formulated three generic competitive strategies for three different firm conditions. However, in reality, the company's condition is complex, and the conditions of competition in the industry are complex. Thus the researcher argues that companies to win the competition in the industry can use more than one generic competitive strategy together. Decisions related to this must be based on various considerations, one of which is the consideration related to the company's external and internal environmental analysis results.

#### 4. CONCLUSIONS

Based on the above discussion associated with the identification of research problems, it can be concluded as follows:

1. Omnibus law on job creation can affect competition in industry through competition among companies in the industry. Thus, from Porter's five competitive forces, only one competitive force was directly affected by the implementation of the job creation law.

2. The omnibus law on job creation can be used by companies to select Porter's generic competitive strategies because the substance of job creation laws that affect competition in the industry through competition between companies in the industry can be used as a basis for selecting one or more competitive strategies

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