

**THE ROLE OF ECONOMIC LAW IN MARKETING AND BRANDING REGULATION:
ANALYSIS OF BUSINESS COMPETITION REGULATION, CONSUMER PROTECTION, AND
INTELLECTUAL PROPERTY RIGHTS ON MARKET EFFICIENCY**

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Abstract

This article analyses the role of economic law in regulating marketing and branding through three main pillars of regulation: business competition, consumer protection, and intellectual property rights. Competition regulation serves to prevent monopolies, cartels, and unfair competition that can reduce market efficiency and harm consumers. Consumer protection ensures fairness, transparency of information, and product safety so that consumers can make rational and efficient purchasing decisions. Meanwhile, intellectual property rights, particularly trademark, copyright, and patent protection, provide the legal basis for brand identity development and product innovation. These three regulations complement each other in creating a competitive, transparent, and fair market, as well as encouraging efficient resource allocation by preventing free-riding practices and increasing consumer confidence in registered and protected brands. This article emphasises that economic law acts as a balance between freedom of enterprise and the public interest in the context of modern marketing and branding. **Keywords:** economic law, business competition, consumer protection, intellectual property rights, marketing, branding, market efficiency.

Introduction

The development of marketing and branding in the digital age has drastically changed the pattern of interaction between businesses and consumers. Promotional strategies are no longer limited to print and television media, but have expanded to digital platforms such as social media, marketplaces, and mobile-based applications, thereby making market reach much broader and faster (Bastos & Levy, 2012). This transformation requires a legal framework that can balance business freedom with consumer protection and fair business competition. Without adequate regulation, aggressive marketing practices have the potential to cause unfair competition, consumer exploitation, and intellectual property rights violations (Saberri & Sadeghi, 2022). Therefore, the role of economic law has become increasingly crucial in regulating marketing and branding practices to ensure they remain efficient and fair (Zakiyah et al., 2024).

Economic law, in a broad sense, is a branch of law that regulates the relationship between economic activities and public interests, including resource allocation, market structure, and welfare distribution. In the context of marketing and branding, economic law serves as an instrument to create a competitive, transparent, and fair market

(Clifton, 2009). Regulations based on economic law not only guarantee the freedom of business actors to compete, but also protect consumers from fraudulent practices, misleading advertising, and monopolies. Thus, economic law serves as a balance between the interests of business actors and the interests of the wider community (Mishra & Varshney, 2024).

Competition regulations are one of the main pillars of economic law governing marketing practices. Law No. 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition in Indonesia, for example, is designed to prevent cartels, abuse of dominant positions, and agreements that restrict competition. These practices often take the form of price-fixing agreements, territorial division, or collusion in tenders, which ultimately harm consumers through non-competitive prices and limited product choices. Thus, competition law contributes directly to market efficiency and consumer welfare (Mishra & Varshney, 2024).

On the other hand, consumer protection is also an important element in economic law governing marketing and branding. The Consumer Protection Law in Indonesia affirms consumers' rights to accurate information, product safety, and fairness in transactions (Heding et al., 2020). In marketing practice, violations of this principle often take the form of misleading advertisements, unproven health claims, or the use of confusing labels. Consumer protection regulations serve to reduce information asymmetry between businesses and consumers, enabling consumers to make more rational and efficient purchasing decisions. This, in turn, encourages businesses to compete through product and service quality rather than through information manipulation (Zakiah et al., 2024).

Intellectual property rights (IPR) also play a central role in modern branding and marketing. Trademarks, copyrights, patents, and industrial designs are intellectual assets that form the basis of a company's brand identity. IPR regulations, such as the Trademark and Geographical Indications Act, provide legal protection for brand identities and prevent imitation or misleading use. This protection encourages businesses to invest in product differentiation, quality, and brand reputation, as they are confident that their brand identity will be legally protected. Thus, IPR not only protects businesses but also promotes market efficiency through incentives for innovation and differentiation (Nasution, 2019).

The three pillars of regulation—business competition, consumer protection, and intellectual property rights—together form the economic legal framework that governs marketing and branding. Healthy business competition promotes efficiency and innovation, consumer protection ensures fairness and transparency, while intellectual property rights guarantee legal certainty over brand identity and investment incentives. The synergy between these three elements is crucial to achieving an efficient, competitive, and fair market. However, balancing these three interests is not always easy, as each has different objectives and mechanisms (Graef et al., 2018).

In Indonesia, the implementation of regulations on business competition, consumer protection, and intellectual property rights still faces various challenges, especially in the context of the digital economy. The development of e-commerce, influencer marketing, and other digital platforms often exceeds the limits of existing regulations, creating loopholes for unfair competition and consumer exploitation ((et al., 2020) . In addition, IPR violations in the form of brand counterfeiting and fake products are still rampant, especially among micro, small, and medium enterprises (MSMEs). This highlights the need for regulatory updates and harmonisation that are responsive to technological developments and modern consumption patterns(Judijanto, 2025) .

Market efficiency, as one of the main objectives of economic law, can be measured through several indicators, such as the level of competition, transparency of information, product quality, and price fairness. Business competition regulations contribute to efficiency by preventing monopolistic practices and cartels that can raise prices and lower quality. Consumer protection contributes by reducing information asymmetry and increasing consumer confidence in the market (Mahmood & Bashir, 2020) . Meanwhile, IPR contributes by providing incentives for businesses to invest in innovation and product differentiation, which ultimately increases resource allocation efficiency. Thus, these three regulations are closely related to market efficiency (Graef et al., 2018) .

However, there is potential for conflict between these three pillars of regulation. For example, exclusive protection of trademarks and patents may raise concerns about restrictions on competition and consumer access to innovation. On the other hand, overly strict enforcement of competition law may reduce incentives for businesses to invest in branding and innovation (Lee et al., 2020) . Therefore, economic law needs to balance the protection of exclusive IPRs, the need for healthy competition, and consumer interests. This balance is one of the main challenges in designing and enforcing marketing and branding regulations in the digital age (Soliman, 2025) ; (Nasution, 2019) .

Based on this background, this study aims to analyse the role of economic law in regulating marketing and branding through the perspectives of business competition regulation, consumer protection, and intellectual property rights. The analysis focuses on how these three regulations contribute to market efficiency, both individually and synergistically. This study also explores the challenges and regulatory gaps that arise in the context of the digital economy, and provides policy recommendations to strengthen the economic law framework that supports healthy, fair, and efficient marketing and branding.

Research Method

The methodology used in this study is a normative study, namely an analysis of legislation, decisions of supervisory agencies (such as the Indonesian Competition Commission (KPPU) and the Indonesian Consumer Protection Agency ()), as well as relevant legal and economic literature. The normative approach was chosen because this study focuses on regulatory aspects and legal doctrine, rather than quantitative empirical data. Thus, this study is expected to contribute to a deeper understanding of the role of economic law in regulating marketing and branding practices, as well as its implications for market efficiency (Lubbe et al., 2020); (Eliyah & Aslan, 2025).

Results and Discussion

Business Competition Regulations and Consumer Protection in Marketing and Branding

Competition law and consumer protection are two main pillars of economic law that are interrelated in regulating marketing and branding practices in modern markets. Healthy competition ensures the creation of a competitive market, while consumer protection ensures that consumers are not harmed by misleading or harmful business practices (Steenkamp, 2020). These two regulations do not stand alone but complement each other in creating a fair, transparent, and efficient market ecosystem. Therefore, in the context of marketing and branding, the interconnection between competition law and consumer protection is crucial to understand comprehensively (Maldina & Hana, 2025).

Competition law in Indonesia is essentially regulated by Law No. 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Competition (Law No. 5/1999). This law is designed to prevent monopolistic practices, cartels, abuse of dominant positions, and various forms of agreements that restrict competition in the market (Vredenburg et al., 2020). In the context of marketing, violations of this law often take the form of price-fixing agreements, market division, or collusion in tenders, which ultimately reduce consumer choice and raise prices unreasonably. The existence of Law No. 5/1999 provides a normative basis for the Business Competition Supervisory Commission (KPPU) in enforcing fair competition in the market (KPPU, 2007; Hukumonline, 2022).

On the other hand, consumer protection is regulated in Law No. 8 of 1999 concerning Consumer Protection (UUPK). This law affirms consumers' rights to accurate information, product safety, fairness in transactions, and the right to compensation in the event of loss. In marketing practices, violations of the UUPK often occur through misleading advertisements, unproven health claims, or the use of confusing labels. This regulation serves to reduce information asymmetry between businesses and consumers, enabling consumers to make more rational and efficient purchasing decisions ((& Hana, 2025)).

The link between business competition and consumer protection is increasingly clear when we consider that unfair competition has a direct and indirect impact on consumer welfare. Cartel practices, for example, can increase prices and reduce product quality, forcing consumers to pay more for inferior products. Thus, the enforcement of business competition law is not only aimed at maintaining market health, but also at protecting consumers from the negative effects of unfair competition (Ryan, 2020) . This shows that consumer protection is one of the implicit objectives of business competition law.

In the context of marketing and branding, business competition regulations also govern promotional practices that are misleading or detrimental to competitors. Law No. 5/1999 explicitly prohibits agreements that aim to prevent or hinder consumers from obtaining competing goods and/or services, both in terms of price and quality. Practices such as comparative advertising that disparages competitors without basis, or the use of false information about competitors' products, can be categorised as forms of unfair competition that are prohibited by law. Thus, competition regulations serve to maintain the integrity of healthy marketing and branding ((& Hana, 2025) .

Consumer protection in marketing is also emphasised through various derivative regulations and policies issued by supervisory agencies, such as the Food and Drug Supervisory Agency (BPOM) and the National Consumer Protection Agency (BPKN). These regulations govern product safety standards, the accuracy of information in advertisements, and consumer dispute resolution mechanisms. In the context of branding, these regulations encourage businesses to build brand identities based on quality and honesty, rather than on information manipulation. This, in turn, increases consumer trust in brands and promotes healthy competition (Mukti Fajar & Yulianto, 2014).

The synergy between competition law and consumer protection is becoming increasingly important in the digital economy era, where marketing and branding are conducted through online platforms, social media, and marketplaces. These technological developments open up new opportunities for businesses to reach a wider audience, but they also pose new challenges, such as online fraud, false advertising, and unfair competition practices that are difficult to detect. Therefore, competition law and consumer protection regulations need to be updated and strengthened to accommodate the dynamics of the digital market ((Maldina .

The KPPU and consumer protection agencies play a strategic role in enforcing business competition regulations and consumer protection. The KPPU is tasked with investigating, assessing, and imposing sanctions on businesses that engage in monopolistic practices or unfair competition, while consumer protection agencies are tasked with handling disputes between consumers and businesses and providing education to the public. Cooperation between these two agencies is important to

ensure that business competition regulations and consumer protection are enforced effectively and in a coordinated manner (Chen, 2020).

In practice, competition and consumer protection regulations also face challenges, especially in the context of protecting small and medium-sized enterprises (SMEs) (Decker, 2017). Exempting small businesses from certain aspects of competition law has the potential to lead to unfair competition practices, such as price fixing or market sharing, which ultimately harm consumers. Therefore, regulatory adjustments are needed that take into account the interests of SMEs without sacrificing the interests of consumers and the overall health of the market (Sommaliagustina & Nosi, 2025)

Business competition regulations and consumer protection also contribute to market efficiency by preventing monopolistic practices and fraud, as well as increasing information transparency. An efficient market is characterised by a high level of competition, competitive prices, and good product quality. By preventing cartel practices and misleading advertising, these regulations encourage businesses to compete on the basis of quality, innovation, and efficiency, rather than through information manipulation or competition restrictions. This, in turn, improves consumer welfare and resource allocation efficiency (Sommaliagustina & Nosi, 2025).

However, there is also the potential for conflict between the two regulations. For example, overly strict enforcement of competition law can reduce the incentive for businesses to invest in branding and innovation, while overly broad consumer protection can limit the freedom of businesses to engage in promotion. Therefore, economic law needs to balance the interests of businesses, consumers and the public. This balance is one of the main challenges in designing and enforcing marketing and branding regulations in the digital age (et al., 2025).

Overall, competition and consumer protection regulations play a central role in regulating marketing and branding practices in modern markets. The two complement each other in creating a competitive, transparent, and fair market. By preventing monopolistic practices, cartels, and misleading advertising, these regulations encourage businesses to compete through quality and innovation, while protecting consumers from losses resulting from unscrupulous business practices. Therefore, a comprehensive understanding of these two regulations is crucial for businesses, regulators, academics, and the general public (Nandavita et al., 2025).

Intellectual Property Rights as the Legal Basis for Branding and Market Efficiency

Intellectual Property Rights (IPR) play a central role in establishing the legal foundation for modern branding practices. Trademarks, copyrights, patents, industrial designs, and geographical indications are forms of IPR that constitute intangible assets with high economic value for businesses (Гой, 2024). In the context of branding, trademarks are the primary identity that distinguishes a company's products or services from its competitors, making legal protection of trademarks crucial. Without IPR

protection, significant investments in brand development can be easily wiped out through imitation or counterfeiting .

Intellectual property rights essentially grant creators or owners exclusive rights to the intellectual works they create, whether in the form of products, designs, logos, or works of art and technology. These rights serve as a legal umbrella that protects creativity and innovation from plagiarism, piracy, and unauthorised exploitation. With IPR in place, businesses feel more secure about investing in product development, design, and brand identity, as they are confident that their creative output will be protected by law (Chasser & Wolfe, 2010) .

In the context of branding, trademarks are the intellectual property rights most directly related to business identity. Trademarks are not only names or logos, but also include visual elements, slogans, and other characteristics that distinguish products or services in the market. Protecting a brand through official registration gives the owner exclusive rights to use the brand and prohibits others from using the same or similar brands that could cause confusion (Jennewein, 2005) . This encourages businesses to build a strong and consistent brand reputation.

In Indonesia, trademark protection is regulated by Law No. 20 of 2016 concerning Trademarks and Geographical Indications. This law stipulates that trademark rights are obtained after the trademark is registered, making registration a key requirement for legal protection. The registration mechanism is carried out through the Directorate General of Intellectual Property (DJKI) with a process of announcement, substantive examination, and issuance of a trademark certificate. This system provides legal certainty for trademark owners and facilitates the enforcement of rights in the event of infringement (Law No. 20/2016).

IPR also contributes to market efficiency by reducing information asymmetry between businesses and consumers. Legally registered and protected trademarks serve as markers of quality, authenticity, and reputation for producers, enabling consumers to recognise the products they purchase and make more rational purchasing decisions (Poltorak & Lerner, 2011) . Thus, IPR not only protects business actors, but also increases consumer confidence in the market and encourages more efficient resource allocation.

In addition to brands, copyrights and patents also play an important role in supporting innovation and product differentiation, which are at the core of modern branding. Copyrights protect artwork, designs, and creative content used in marketing campaigns, while patents protect technological inventions that can give a product a competitive edge. This protection encourages businesses to continue innovating, as they are confident that the results of their creativity and research will be legally protected (Frey, 2013) .

However, overly strict IPR protection can potentially conflict with business competition and consumer access interests. Exclusive rights to trademarks, patents, or copyrights can limit the ability of other businesses to compete, particularly in terms of

price competition or product differentiation (Borg, 2001) . Therefore, economic law needs to balance IPR protection and competitive market needs so that there is no monopoly or restriction of access to innovation.

This balance is becoming increasingly important in the digital economy era, where branding and marketing practices are carried out through online platforms, social media, and marketplaces. These technological developments open up new opportunities for businesses to reach a wider consumer base, but they also pose new challenges, such as brand imitation, product counterfeiting, and copyright infringement that are difficult to detect (Gupta, 2024) . Therefore, IPR regulations need to be updated and strengthened to accommodate the dynamics of the digital market.

Intellectual property rights supervisory agencies, such as DJKI, play a strategic role in enforcing trademark and geographical indication protection. DJKI is tasked with conducting substantive examinations of trademark registration applications, managing trademark databases, and providing a legal basis for the enforcement of rights in court. In addition, DJKI also educates businesses and the public on the importance of trademark registration and intellectual property rights protection in general (Davis, 2004) .

IPR also contributes to market efficiency by preventing free-riding, which is the use of brand identity or intellectual property without permission to obtain economic benefits. Free-riding can harm businesses that have invested in brand development and innovation, thereby reducing incentives to innovate. By preventing free-riding, IPR encourages businesses to compete through quality, innovation, and product differentiation, rather than through imitation or counterfeiting (Posner, 2005) .

However, the implementation of IPR in Indonesia still faces various challenges, especially in the context of MSMEs. Many micro, small, and medium-sized enterprises do not yet understand the importance of trademark registration and IPR protection, making them vulnerable to imitation and infringement. In addition, the costs of registration and the process of enforcing rights in court can be barriers for MSMEs. Therefore, there is a need for policies that support trademark registration for MSMEs, such as affordable fees and legal aid facilities (Laksmi & Danyathi, 2025) .

Overall, IPR is an important legal foundation for modern branding practices. Trademarks, copyrights, patents, and geographical indications provide legal protection for business identities and innovations, thereby encouraging businesses to invest in product differentiation and brand reputation. Thus, IPR not only protects businesses, but also promotes market efficiency by reducing information asymmetry, preventing free-riding, and increasing consumer confidence.

The balance between intellectual property rights protection, business competition, and consumer protection is a major challenge in designing and enforcing regulations in the era of digital- . Economic law needs to balance the interests of businesses, consumers, and the public so that there is no monopoly or restriction of

access to innovation. Thus, intellectual property rights can be an effective instrument in creating a competitive, transparent, and fair market.

Conclusion

The role of economic law in regulating marketing and branding lies in its ability to align the interests of businesses, consumers, and the public through three main pillars: business competition regulation, consumer protection, and intellectual property rights. Business competition regulation prevents monopolies, cartels, and unfair competition that can reduce consumer choice and raise prices unreasonably. Meanwhile, consumer protection ensures fairness, transparency of information, and product safety so that consumers can make rational and efficient purchasing decisions. These three elements together create a legal framework that promotes a competitive, transparent, and fair market.

Intellectual property rights, particularly trademark, copyright and patent protection, form the legal basis for brand identity development and product innovation. By granting exclusive rights to intellectual property owners, IPR encourages businesses to invest in product differentiation, quality and brand reputation, as they are confident that their creative output will be protected by law. IP also contributes to market efficiency by reducing information asymmetry, preventing free-riding, and increasing consumer confidence in registered and protected brands. However, overly strict IP protection can potentially conflict with business competition and consumer access interests, so economic law needs to balance the interests of businesses, consumers, and the public.

Overall, economic law acts as a balance between freedom of enterprise and public interest in the context of marketing and branding. Business competition regulations, consumer protection, and intellectual property rights complement each other in creating an efficient, competitive, and fair market. By preventing monopolistic practices, misleading advertising, and brand imitation, these regulations encourage businesses to compete through quality, innovation, and product differentiation, while protecting consumers from losses resulting from unhealthy business practices. Therefore, a comprehensive understanding of these three pillars of regulation is essential for businesses, regulators, academics, and the wider community in designing and enforcing economic legal policies that are responsive to the dynamics of modern markets.

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