

Harmonization of Competition Law and the 2026 Indonesian Standard Industrial Classification (KBLI) Regulation in Supporting the Investment Climate

Martono Anggusti

Universitas HKBP Nommensen Medan

*Corresponding Author: martono.anggusti@uhn.ac.id

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ABSTRACT

This article examines the normative and institutional disharmony between Indonesia's competition law, Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, and the 2026 Indonesian Standard Industrial Classification (KBLI) as the primary regulatory taxonomy for business licensing and investment. The 2026 KBLI introduces new industrial codes reflecting digitalization, the green economy, and service-based business models, yet its interface with competition law remains fragmented. Employing a qualitative normative legal method with statutory, conceptual, comparative, and case approaches, this study analyzes primary legal materials, KBLI 2026 documentation, KPPU decisions, and investment regulations. The findings reveal three layers of disharmony: definitional misalignment between KBLI economic activities and competition law market definitions; procedural disconnection between OSS-based licensing and merger or conduct oversight; and institutional overlap among the Ministry of Investment/BKPM, line ministries, and the KPPU. The article proposes a harmonization framework comprising a competition-sensitivity index for KBLI codes, a joint regulatory guideline between BKPM and KPPU, integrated digital notification protocols, and ex ante regulatory impact assessment for new KBLI classifications. Harmonization is argued not only to enhance legal certainty but also to reduce compliance costs, foster fair market entry, and strengthen Indonesia's investment climate in an increasingly competitive ASEAN economic landscape.

Keywords: Competition Law, KBLI 2026, Regulatory Harmonization, Investment Climate, KPPU

INTRODUCTION

Indonesia's economic regulatory architecture has undergone substantial transformation over the past two decades, driven by the twin imperatives of attracting foreign and domestic investment and ensuring competitive market structures in the telecommunications sector. Central to this architecture is the Indonesian Standard Industrial Classification (Klasifikasi Baku Lapangan Usaha Indonesia, hereinafter KBLI), a statistical and administrative taxonomy that classifies all economic activities into structured codes. The KBLI is used by the Online Single Submission (OSS) system, the Ministry of Investment/Investment Coordinating Board (BKPM), line ministries, local governments, and statistical agencies as the primary reference for business licensing, investment eligibility, fiscal incentives, and sectoral supervision. The most recent iteration, KBLI 2026, represents a significant revision intended to accommodate emerging sectors, such as platform-based services, renewable energy, circular economy activities, and digital financial services. Simultaneously, Indonesia's competition law regime, anchored in Law Number 5 of 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition (hereinafter Law 5/1999), establishes substantive and procedural rules to prevent anti-competitive agreements, abusive dominance, and harmful mergers. The Business Competition Supervisory Commission (Komisi Pengawas Persaingan Usaha, KPPU) is the primary enforcement agency with the authority to investigate, adjudicate, and impose administrative sanctions. Both

KBLI and competition law aim to foster a healthy business environment; however, they operate through different logics: KBLI is a classification instrument oriented toward administrative order and licensing, whereas competition law is a behavioral and structural control mechanism oriented toward market fairness and efficiency (Amnur et al., 2025).

The interaction between these two regulatory domains is not merely technical but is deeply consequential for the investment climate. The investment climate is generally understood as a set of policy, legal, institutional, and regulatory conditions that affect the expected returns and risks of investment. A well-functioning investment climate requires not only ease of entry but also predictable competition rules, transparency in market definitions, coherence between sectoral regulation and antitrust enforcement, and low compliance costs. When KBLI classifications and competition law categories are misaligned, investors may face uncertainty regarding which economic activities require merger notification, what constitutes a relevant market for a newly classified digital service, whether certain cooperative or exclusive arrangements fall under competition exemptions, and how sectoral regulators and the KPPU share oversight. Such uncertainty can deter investment, particularly in innovative sectors where business models do not fit neatly into traditional industrial codes (Iriansyah & Yalid, 2026).

Empirically, the Indonesian government has continuously promoted investment through deregulation packages, the Omnibus Law on Job Creation (Law Number 11 of 2020), and its implementing regulations, particularly Government Regulation Number 5 of 2021 on Risk-Based Business Licensing. These reforms increasingly rely on the KBLI as the backbone of risk-based licensing. Under the risk-based approach, every business activity is mapped to a KBLI code and assigned a risk level—low, medium-low, medium-high, or high—that determines the licensing requirements. However, competition risk is not explicitly integrated into risk mapping. For instance, a business activity classified under a certain KBLI code may be low-risk from a safety or environmental perspective but may raise significant competition concerns because of network effects, data concentration, or vertical integration. The failure to incorporate competition considerations into KBLI-based risk assessments creates a blind spot in the regulatory framework. This blind spot is particularly evident in the digital economy, where platform-based business models are often spread across multiple KBLI, such as information technology services, advertising, logistics, and financial intermediation, —making it difficult for the KPPU to delineate relevant markets and for investors to predict antitrust exposure (Ariyoga et al., 2023).

Moreover, the 2026 KBLI revision introduces new classifications that may overlap or conflict with existing sectoral regulations and competition exemption. Law 5/1999 contains specific exemptions, most notably Article 50, which excludes agreements and activities related to small-scale enterprises, and Article 51, which excludes certain state-owned enterprises and monopolies mandated by law. The interpretation of these exemptions often depends on the classification of economic activity. For example, if a state-owned logistics company expands into a newly classified digital freight-matching service, the question arises as to whether the statutory monopoly exemption applies to the digital segment or only to the traditional postal or rail transport activity. Without harmonized definitions, the KPPU and sectoral regulators may adopt divergent positions, generating legal uncertainty for both state-owned enterprises and private competitors (Napitupulu, 2025).

Another layer of disharmony lies in the merger control. Following the issuance of Government Regulation Number 57 of 2010 on Mergers, Consolidations, and Acquisitions and its subsequent amendments, the KPPU requires post-merger notifications for transactions exceeding certain asset or turnover thresholds. The notification form requires parties to specify the relevant market, often by referring to KBLI codes or sectoral descriptions. If KBLI 2026 reclassifies or splits economic activities, the definition of the relevant market may shift, potentially altering whether a transaction triggers notification or whether a merger is considered to substantially reduce competition. For instance, the separation of “online retail platform” from “general retail trade” in KBLI 2026 may lead to different competitive assessments depending on whether online and offline retail are treated as separate markets or as a single integrated market. Without harmonized guidance, KPPU’s practice may become inconsistent, and investors may struggle to conduct pre-transaction risk assessments (Kigwiru, 2026).

This problem is further compounded by institutional fragmentation. The OSS system, managed by BKPM, is the gateway for business licensing, while KPPU operates independently with its own notification and enforcement mechanisms. Line ministries, such as the Ministry of Communication and Digital Affairs, the

Ministry of Energy and Mineral Resources, and the Financial Services Authority (OJK), also hold sectoral regulatory powers that may intersect with competition policy issues. Currently, there is no formal mechanism requiring the exchange of information between OSS and KPPU regarding business licensing data, merger notifications, or market concentration. As a result, the KPPU may lack timely access to data on newly licensed businesses in concentrated markets, while the BKPM may grant licenses without considering the competitive implications of market entry or consolidation. This institutional disconnect undermines the coherence of Indonesia's investment climate and reduces the effectiveness of both competition enforcement and investment facilitation (Anggraini et al., 2026).

This study addresses the following research questions. First, how does the 2026 KBLI regulation interact with Law 5/1999 regarding definitions, exemptions, and market classification? Second, what forms of regulatory disharmony arise between the licensing system based on the KBLI and the competition enforcement system? Third, what harmonization model can be developed to align the KBLI 2026 with competition law to support Indonesia's investment climate? The objectives of this study are threefold: to map the normative and institutional interface between KBLI 2026 and competition law; to identify concrete disharmony points that create legal uncertainty for investors and enforcement agencies; and to propose a harmonization framework that integrates competition considerations into the KBLI-based licensing and regulatory system (Della Restu Fujiyarti & Amanda Ketrina, 2024).

The significance of this study lies in its interdisciplinary approach, which bridges competition, administrative, and investment law. Existing scholarship has largely treated the KBLI as a technical statistical instrument and competition law as a self-contained legal regime. This article argues that harmonization is essential for achieving the broader goal of a predictable, fair, and competitive investment climate. This study is particularly timely given the Indonesian government's commitment to increasing foreign direct investment, the rapid growth of the digital economy, and the ongoing reforms to KPPU's institutional status under the proposed amendments to Law 5/1999. By providing a systematic analysis of the KBLI–competition law interface, this study offers practical recommendations for policymakers, regulators, and investors (Pratama, 2023).

The remainder of this paper is structured as follows. Section 2 reviews the relevant literature on regulatory harmonization, competition law, the KBLI, and the investment climate. Section 3 explains the qualitative normative research methods. Section 4 presents the results, including data tables and figures mapping disharmony points and harmonization indicators. Section 5 discusses the findings and develops a harmonization framework for them. Finally, Section 6 concludes with policy recommendations.

METHOD

This study employs a qualitative normative legal research method that is appropriate for examining the harmonization of legal instruments and institutional mandates. Normative legal research focuses on the analysis of legal norms, principles, and doctrines as found in legislation, regulations, court decisions, and authoritative commentaries (Marzuki, 2017). The qualitative dimension allows for an interpretive and critical assessment of the relationship between KBLI 2026 and Law 5/1999 rather than a purely descriptive account. This method is well suited to the research questions because the phenomenon under investigation—regulatory disharmony—is normative and institutional in nature and cannot be adequately captured through quantitative methods alone. This study was designed as a comprehensive analysis that integrates multiple approaches within the normative paradigm: statutory, conceptual, comparative, and case approaches (Creswell, J. W., & Poth, 2018).

The statutory approach involves a systematic examination of relevant legal instruments. The primary legal materials analyzed include Law Number 5 of 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition; Law Number 11 of 2020 on Job Creation; Government Regulation Number 5 of 2021 on Risk-Based Business Licensing; Government Regulation Number 57 of 2010 on Mergers, Consolidations, and Acquisitions as amended by Government Regulation Number 80 of 2019; the 2026 Indonesian Standard Industrial Classification (KBLI 2026) issued by the Central Bureau of Statistics; and related ministerial, BPS, and KPPU regulations. Secondary legal materials include academic books, journal articles, policy reports from the OECD, World Bank, ASEAN, and KPPU annual reports, and comparative materials from the European

Union and the United States. Tertiary materials, such as legal dictionaries and encyclopedias, were used to clarify concepts.

A conceptual approach is employed to clarify the theoretical foundations of regulatory harmonization, competition law, market definition, and investment climate. This approach involves analyzing key concepts such as “harmonization,” “regulatory coherence,” “relevant market,” “competition-sensitive sector,” and “risk-based licensing.” By developing a clear conceptual framework, this study ensures that the analysis is not merely descriptive but also prescriptive, offering a normative model for harmonization.

A comparative approach is used to draw lessons from other jurisdictions, particularly the European Union and the United States, regarding the relationship between industrial classification systems and competition law. The European Union’s use of NACE codes in merger notifications and the United States’ use of NAICS codes in the Hart-Scott-Rodino process provide valuable benchmarks for this study. Comparative analysis is not intended to transplant foreign models wholesale but to identify principles and practices that can be adapted to the Indonesian legal context. For example, the distinction between statistical classification as an administrative aid and market definition as an economic analysis is a key comparative insight that can inform Indonesia’s harmonization framework in the HS.

The case approach involves examining selected KPPU decisions and court rulings that illustrate the interface between the KBLI and competition law. Cases are selected based on their relevance to market definition, exemptions, or sectoral overlap. For instance, KPPU decisions involving digital platforms, telecommunications, logistics, and state-owned enterprises were analyzed to identify how KBLI codes were used or omitted in the competition analysis. The case approach provides concrete evidence of disharmony and helps ground theoretical analysis in practical enforcement problems. It also allows the study to assess whether the KPPU’s decision-making practice is consistent with the legal framework and whether KBLI-based licensing decisions have influenced market definitions.

Data were collected through document studies, which is the primary technique in normative legal research. The documents include all primary, secondary, and tertiary legal materials. The document study was supplemented by informal consultations with legal practitioners, competition law experts, and government officials to clarify the practical operation of the OSS system and the KBLI 2026 revision. These consultations are not treated as primary data in the sense of empirical research, but they serve to validate the interpretation of legal materials and identify implementation issues that may not be apparent from the text alone. To enhance reliability, this study employs triangulation by cross-checking findings across different sources, including legal texts, KPPU decisions, policy reports, and comparative materials.

The analysis was conducted through a systematic content analysis of legal materials. The first step involves identifying all provisions in KBLI 2026 that have potential competition implications, such as new classifications for digital platforms, changes to sectoral boundaries, and activities that may fall under the exemptions of Articles 50 and 51 of Law 5/1999. The second step involves mapping these provisions against the substantive and procedural requirements of Law 5/1999 and its implementing regulations, particularly with respect to prohibited agreements, prohibited activities, dominant positions, and merger notifications. The third step involves identifying disharmony points at substantive, procedural, and institutional levels. The fourth step involves developing a harmonization framework based on the principles of regulatory coherence, proportionality, and institutional coordination. The fifth step involves evaluating the potential impact of the harmonization framework on Indonesia’s investment climate using investment climate indicators such as legal certainty, compliance costs, market entry barriers, and competitive neutrality.

This study has several limitations. First, as a normative legal study, it does not employ quantitative empirical methods to measure the disharmony’s actual impact on investment flows. However, qualitative analysis is sufficient to identify the legal and institutional mechanisms through which disharmony may affect investment. Second, the KBLI 2026 may still be subject to revision or interpretation by the Central Bureau of Statistics and other agencies, and the study relies on the available official drafts and related regulations. Third, the study focuses on the national level and does not examine subnational regulatory variations, although local governments also use the KBLI codes for licensing. Despite these limitations, this study provides a comprehensive and rigorous analysis that can inform policy reforms and further empirical research.

RESULT & DISCUSSION

This section presents the findings of the qualitative normative analysis. The results are organized into four parts: (1) an overview of the KBLI 2026 structure and its competition-relevant features; (2) a mapping of disharmony points between KBLI 2026 and Law 5/1999; (3) an institutional analysis of the OSS–KPPU interface; and (4) a synthesis of harmonization indicators. Each table and figure is described in detail to provide a clear and empirical foundation for the discussion.

KBLI 2026 is the latest revision of Indonesia’s industrial classification, issued by the Central Bureau of Statistics (BPS) to replace KBLI 2020. The classification is structured hierarchically into categories (AU), divisions (2-digit codes), groups (3-digit), classes (4-digit), and subclasses (5-digit). The KBLI 2026 introduces significant changes to accommodate new economic activities, including the separation of platform-based services from traditional trade, addition of renewable energy subclasses, expansion of digital financial services, and recognition of circular economy activities. The classification is designed to be compatible with the ASEAN Comprehensive Investment Agreement and international standards such as the International Standard Industrial Classification (ISIC) Revision 5. However, it also contains Indonesia-specific codes to reflect local economic structures.

Table 1 presents the selected KBLI 2026 categories that are directly relevant to competition law. The table is not exhaustive but highlights the most significant additions and changes made. The data in Table 1 were compiled from the official KBLI 2026 document and the author’s normative analysis of competition sensitivity. A competition-sensitive sector is defined as a sector in which the characteristics of economic activity—such as network effects, economies of scale, natural monopoly elements, data intensity, or vertical integration—create a high likelihood of market concentration or anti-competitive conduct.

Table 1. Selected KBLI 2026 Categories with Competition-Relevant Features

KBLI Code	Description	Competition-Relevant Feature
A01	Agriculture and food crops	Exemption for small-scale farmers under Art. 50; potential cartels in seed and fertilizer distribution
B05	Coal and lignite mining	Oligopolistic market structure; licensing overlap with energy regulation
C11	Manufacture of beverages	Brand dominance and distribution agreements; exclusive dealing concerns
D35	Electricity, gas, steam, and air conditioning supply	Natural monopoly elements; state-owned enterprise dominance; Art. 51 exemption
E38	Waste collection, treatment, and disposal activities; materials recovery	Circular economy incentives may create regional monopolies
F41	Construction of buildings	Bid-rigging cartels; public procurement interface
G47	Retail trade, except of motor vehicles and motorcycles	Shift from traditional to modern retail; buyer power concerns

KBLI Code	Description	Competition-Relevant Feature
H49	Land transport and transport via pipelines	Platform-based ride-hailing and logistics classification; network effects
I55	Accommodation	Platform-based short-term rental integration; vertical restraints
J58	Publishing activities	Digital platform content distribution; intellectual property and market power
J61	Telecommunications	Highly concentrated; spectrum licensing and network sharing; oligopoly
J62	Computer programming, consultancy, and related activities	Digital platform development; data concentration; startup acquisition
J63	Information service activities	Data processing, hosting, and related activities; cloud services market power
K64	Financial service activities, except insurance and pension funding	Digital banking; payment systems; fintech market concentration
K66	Activities auxiliary to financial service and insurance activities	Payment gateways and e-wallet; network effects
L68	Real estate activities	Vertical integration with construction; land banking concerns
M69	Legal and accounting activities	Professional services; potential price fixing
M70	Activities of head offices; management consultancy activities	Cross-border data flows; market definition challenges
N79	Travel agency, tour operator, and other reservation services	Platform concentration in online travel agency; most-favored-nation clauses
P85	Education	Edtech platforms; data-driven

KBLI Code	Description	Competition-Relevant Feature
		personalization; market power
Q86	Human health activities	Healthtech platforms; telemedicine; insurance network effects
R90	Creative, arts, and entertainment activities	Digital content distribution; platform dependence
S94	Activities of membership organizations	Trade associations; potential forums for cartel coordination
T98	Undifferentiated goods- and services-producing activities of private households for own use	Not applicable for market competition
U99	Activities of extraterritorial organizations and bodies	Not applicable for domestic competition

As shown in Table 1, competition-relevant features vary widely across categories, ranging from classic cartel risks in construction and agriculture to platform concentration risks in telecommunications, information services, and financial services. The 2026 revision’s emphasis on digital and service-based activities increases the number of categories in which traditional market definition tools may be insufficient. For example, the separation of “computer programming” (J62) and “information service activities” (J63) reflects the growing importance of data processing and cloud services, but it also creates boundary ambiguities that can affect market definitions in abuse of dominance cases.

The analysis identified three main types of disharmony: definitional, exemption-related and procedural. Definitional disharmony occurs when the economic activity described in a KBLI code does not correspond to the legal concept of a relevant market or a prohibited agreement under Law 5/1999. Exemption-related disharmony arises when KBLI classifications affect the applicability of articles 50 and 51. Procedural disharmony concerns the lack of integration between KBLI-based licensing and competition law notification and enforcement processes.

Table 2. Classification of Disharmony Types and Examples

Disharmony Type	Description	Concrete Example from KBLI 2026
Definitional	KBLI code boundaries do not align with economic substitutability or relevant market	Online retail platform classified under G47 but functionally operates as J62, creating ambiguity in whether online and offline retail are one market
Exemption-	KBLI classification determines	State-owned logistics

Disharmony Type	Description	Concrete Example from KBLI 2026
related	whether an activity falls under Art. 50 small-scale exemption or Art. 51 state monopoly	company's digital freight service under H49 may be interpreted as part of statutory postal monopoly, excluding private platform competitors
Procedural	KBLI-based licensing data not connected to KPPU merger or conduct oversight	OSS issues NIB for a new data center under J63 without notification to KPPU; later merger escapes review because market not clearly defined

Table 2 summarizes the three disharmony types with concrete examples drawn from the KBLI 2026 and KPPU case law. Definitional disharmony is the most pervasive because KBLI is inherently a statistical classification based on production units, while the competition law market definition is based on demand and supply substitutability. For instance, a business actor operating an e-commerce marketplace may select KBLI code G47 (retail trade) or J62 (computer programming) depending on the primary activity, but KPPU may define the relevant market as the online platform services market, which cuts across both codes. This mismatch creates uncertainty for investors when conducting merger risk assessments.

Exemption-related disharmony is particularly significant because Articles 50 and 51 of Law 5/1999 create legally protected spaces where competition law does not apply to. Article 50 exempts agreements and activities of small-scale enterprises, but the definition of “small-scale” is not tied to a specific KBLI code. If a business activity is split into multiple KBLI subclasses, a firm may be classified as small-scale in one subclass but not in another, leading to inconsistent exemption applications. Article 51 exempts state-owned enterprises operating under a statutory monopoly. However, when such an enterprise expands into a newly classified digital service, the scope of the monopoly exemption becomes unclear. The KBLI 2026 revision does not provide guidance on how these exemptions should be mapped, leaving the enforcement discretion largely unguided.

Procedural disharmony is evident in the design of the OSS system. OSS uses the KBLI as the sole basis for determining licensing requirements, but it does not include competition risk indicators. A business actor seeking a license for a merger or acquisition does not receive any signal from the OSS regarding potential competition law obligations. Conversely, the KPPU does not automatically receive data on newly licensed businesses in concentrated markets, limiting its ability to proactively monitor the market. The absence of a data-sharing protocol between the BKPM and KPPU is a critical procedural gap.

The institutional relationship between the investment licensing and competition enforcement systems is characterized by fragmentation rather than coordination. Table 3 summarizes the mandates, instruments, and data flows of key institutions involved.

Table 3. Institutional Mandates and Data Flows in the KBLI–Competition Law Interface

Institution	Primary Mandate	Key Instruments	Data Flow to KPPU	Coordination Mechanism
BKPM / Ministry of Investment	Investment licensing via OSS; risk-based licensing	NIB, business licenses, risk mapping	None systematic	No formal mechanism
Central Bureau of Statistics (BPS)	KBLI issuance and maintenance	KBLI 2026	KBLI updates publicly available	No formal mechanism
Line ministries (e.g., Communications, Energy, Trade)	Sectoral licensing and supervision	Ministerial regulations, sectoral permits	Limited, on ad hoc basis	Sectoral MoUs with KPPU
KPPU	Competition law enforcement	Decisions, guidelines, merger notifications	Not applicable	Occasional MoUs, no binding data sharing
OJK	Financial services regulation	Banking, fintech, insurance regulations	Limited	MoU with KPPU on banking competition

Table 3 shows that while some institutions have memorandum of understanding (MoU) arrangements with the KPPU, these are not standardized and do not cover the full lifecycle of KBLI-based licensing. The OSS system operated by BKPM is the most significant gap because it is the primary entry point for all business actors, yet it lacks a direct link to the KPPU. This fragmentation means that an investor may complete all licensing requirements through OSS without ever being informed of competition law obligations, while the KPPU may discover a problematic merger only after it has been consummated and the market structure has changed. The institutional analysis supports the finding that disharmony is not merely a matter of legal text but also of administrative practice and information systems.

To develop a harmonization framework, this study identified five indicators that reflect the degree of alignment between the KBLI and competition law. These indicators are: (1) clarity of market definition guidance, (2) integration of exemption mapping, (3) data-sharing protocol, (4) regulatory impact assessment for new KBLI codes, and (5) institutional coordination mechanism. Each indicator was qualitatively assessed based on the current regulatory framework.

Table 4. Harmonization Indicators and Current Status

Indicator	Current Status	Key Weakness
Market definition guidance	No formal guideline linking KBLI to market definition	KPPU decisions inconsistent; investors face uncertainty
Exemption mapping	No explicit mapping of Art. 50 and Art. 51 to KBLI codes	Exemption scope ambiguous, especially for state-owned digital services
Data-sharing protocol	No systematic data flow from OSS to KPPU	Proactive competition monitoring impossible
Regulatory impact assessment	RIA mandated by Omnibus Law but not applied to KBLI revisions	Competition impacts not assessed
Institutional coordination	MoUs exist but fragmented and non-binding	No central coordinating body for KBLI–competition issues

Table 4 indicates that all five indicators are currently weak, underscoring the need for a comprehensive harmonization framework. The results also reveal that the absence of these indicators is not due to a lack of legal authority but rather to the absence of a deliberate policy design that integrates competition considerations into the KBLI-based licensing system.

Discussion

The definitional disharmony between the KBLI and competition law is rooted in the different purposes of the two instruments. The KBLI is designed to classify economic activities for statistical and administrative purposes, using criteria such as the nature of the product, the production process, and the primary activity of the business unit. In contrast, competition law is concerned with the economic relationships among market participants, particularly the substitutability of products and the boundaries of competitive constraints. Consequently, a KBLI code may group together activities that are not economically substitutable or split activities that are part of a single relevant market. For example, KBLI 2026 classifies online retail platforms under G47 (retail trade) but also recognizes separate codes for computer programming (J62) and information-service activities (J63). A platform that provides both marketplace and logistics services may hold multiple KBLI codes, but from a competition law perspective, it operates in a single, multi-sided market. This mismatch means that KPPU's market definition cannot rely solely on KBLI codes; however, no formal guidance exists to clarify how KBLI should be used. The result is legal uncertainty for investors, who cannot accurately predict how their business activities will be treated in merger reviews or abuse of dominance investigations (Amalia, 2024).

Exemption-related disharmony is particularly concerning because it affects the scope of competition law. Article 50 of Law 5/1999 exempts the agreements and activities of small-scale enterprises, while Article 51 exempts certain state-owned enterprises and monopolies mandated by law. The KBLI 2026 revision creates new classifications that may blur the boundaries of these exempted activities. For instance, a state-owned postal company that expands into digital logistics and e-commerce fulfillment under a new KBLI code may argue that the entire activity falls under the statutory postal monopoly, whereas private competitors argue that only the traditional letter delivery service is exempt. The KPPU has historically taken a narrow view of Article 51, but the lack of a clear mapping between statutory monopoly and KBLI codes leaves room for divergent interpretations. This ambiguity is costly for both state-owned enterprises, which need to know the

limits of their exemption, and private investors, who need to assess the competitive landscape before entering the market. A harmonized exemption mapping would specify which KBLI codes correspond to exempt activities and which correspond to competitive markets, thereby reducing the scope for legal disputes (Abdul Kamid et al., 2025).

Procedural disharmony is the most tangible factor for investors because it directly affects the administrative burden of doing business in Indonesia. The OSS system is designed to provide a single window for all business licensing using KBLI as the primary reference. However, the OSS does not inform business actors about competition law obligations, such as merger notification thresholds or the prohibition of cartel agreements. This omission creates a compliance gap: an investor may complete all licensing requirements through OSS and believe they are fully compliant, only to later face a KPPU investigation for a merger that was not notified to the KPPU. The lack of integration between OSS and KPPU also means that KPPU cannot use OSS data to monitor market concentration in real time. A data-sharing protocol would enable the KPPU to receive information on newly licensed businesses in concentrated markets, allowing it to conduct proactive market studies and identify potential competition problems before they harm consumers. Such a protocol is technically feasible, given that OSS is already a digital system, and it could be implemented through a joint regulation between BKPM and KPPU (Prasetio & Al-Farisi, 2024).

The investment climate is shaped by the regulatory environment's predictability and coherence. When the KBLI and competition law are misaligned, investors face increased legal risks, higher compliance costs, and reduced market-entry incentives. Legal risk arises because investors cannot accurately assess whether their proposed business activities will be treated as a single or multiple markets, whether they fall under an exemption, or whether a planned merger will trigger notification. This uncertainty is particularly acute in the digital economy, where business models evolve rapidly and do not fit neatly into traditional industrial classifications or tax categories. A technology company considering the acquisition of a small data analytics firm may not know whether the transaction falls under the merger notification thresholds because the relevant market could be defined as the broad information technology market or the narrow data analytics market. If the definition is uncertain, the company may either over-comply by notifying every transaction or under-comply by failing to notify a transaction that the KPPU later deems notifiable. Both outcomes are inefficient and deter investments.

Compliance costs are another significant consequence of disharmony. Investors operating in multiple KBLI categories may need to obtain multiple licenses, each with different sectoral requirements, while navigating separate competition law obligations. The lack of harmonized guidance means that investors may need to hire specialized legal counsel to interpret the interaction between the KBLI and competition law, adding to the cost of doing business. For small and medium-sized enterprises, these costs can be prohibitive, effectively raising barriers to market entry. A harmonized framework that provides clear and accessible guidance would reduce these costs and make Indonesia a more attractive investment destination (Ritonga et al., 2026).

Market-entry incentives are also affected by uncertainty surrounding competition law enforcement. If a potential entrant believes that incumbent firms enjoy an implicit or explicit exemption because of ambiguous KBLI classifications, they may be reluctant to enter the market. Conversely, if an entrant faces the risk of being targeted by the KPPU for an unclear market definition, they may choose to invest in a jurisdiction with more predictable competition rules. The harmonization of the KBLI and competition law can level the playing field by ensuring that exemptions are narrowly defined, markets are clearly delineated, and enforcement is predictable. This is particularly important in sectors such as logistics, digital platforms, and financial services, where Indonesia seeks to attract foreign investments.

The results also have implications for competitive neutrality between state-owned enterprises and private firms. [insert here] this exemption-related disharmony creates a risk that state-owned enterprises may exploit ambiguous KBLI classifications to expand into competitive markets without facing the same competition law constraints as private firms. This undermines the principle of competitive neutrality, which is increasingly recognized as a cornerstone of a healthy investment climate. Harmonized exemption mapping would clarify the boundaries of state-owned enterprise exemptions and ensure that they do not distort competition in adjacent markets (Prasetio & Al-Farisi, 2024).

Based on these findings, this study proposes a harmonization framework consisting of five components:

(1) a competition-sensitivity index for KBLI codes, (2) joint regulatory guidance between BKPM and KPPU, (3) integrated digital notification protocols, (4) ex ante regulatory impact assessment for KBLI revisions, and (5) an institutional coordination mechanism.

Competition sensitivity index for KBLI codes. The first component involves developing a competition sensitivity index that classifies each KBLI code according to the likelihood of competition concerns. The index is based on factors such as market concentration, network effects, economies of scale, natural monopoly elements, data intensity, and vertical integration. KBLI codes with high competition sensitivity would be flagged in the OSS system, triggering additional information requirements or automatic notifications to the KPPU. For example, a business actor applying for a license under a high-sensitivity KBLI code would be required to submit information on market share, ownership structure, and planned mergers or exclusive agreements. This information is then transmitted to the KPPU for review. The index would be developed jointly by the BPS, BKPM, and KPPU and updated periodically to reflect market developments (M. Yusuf et al., 2025).

Joint regulatory guidance: The second component involves the issuance of joint regulatory guidance between the BKPM and KPPU that clarifies the relationship between KBLI codes and competition law concepts. The guidance explains how KBLI codes should be used in market definition, how Article 50 and Article 51 exemptions should be mapped to specific KBLI codes, and how merger notification thresholds apply to multi-code business activities. The guidance should be published as a binding regulation or, at minimum, an officially recognized interpretive document. It would be updated whenever the KBLI is revised or when competition law amendments are enacted. The guidance also includes illustrative examples and case studies to help investors and legal practitioners understand the interface.

Integrated digital notification protocols were also established. The third component involves integrating the KPPU merger notification system with the OSS platform. Under this component, when a business actor obtains a license through OSS for an activity that may involve a merger or acquisition, the system would automatically check whether the transaction meets the notification thresholds and, if so, generate a notification obligation. Business actors would be able to submit notifications directly through OSS, and the data would be transmitted to KPPU in real time. This integration would reduce the risk of non-compliance due to ignorance and enable the KPPU to monitor merger activity more effectively. It would also create a single digital interface for all investment-related regulatory obligations, consistent with the government's digital transformation agenda.

Ex ante regulatory impact assessment. The fourth component involves the application of regulatory impact assessment (RIA) to all future KBLI, with specific attention to competition impacts. The RIA would require BPS, in consultation with KPPU and BKPM, to assess how proposed changes to KBLI codes may affect market definitions, exemptions, and competitive structures. The RIA will be published for public consultation, allowing investors, industry associations, and legal experts to provide input. This ex ante approach would prevent disharmony from arising in the first place, rather than requiring costly corrective measures later.

Institutional coordination mechanisms. The fifth component involves establishing a formal institutional coordination mechanism, such as a joint task force or standing committee, with representatives from the BPS, BKPM, KPPU, line ministries, and OJK. The mechanism is responsible for overseeing the implementation of the harmonization framework, resolving disputes over KBLI interpretation, and conducting periodic reviews of the KBLI–competition law interface. The coordination mechanism would also facilitate data sharing and joint market monitoring in the future. To ensure accountability, the mechanism would be established by presidential or joint ministerial regulation, giving it a clear legal mandate.

These five components are mutually reinforcing. The competition-sensitivity index and joint regulatory guidance address substantive and definitional disharmony; integrated digital notification protocols address procedural disharmony; ex ante RIA addresses the root causes of disharmony; and institutional coordination mechanisms ensure sustained implementation. Together, they create a coherent regulatory environment that supports a predictable and competitive investment climate for foreign investors.

The proposed framework is consistent with the international best practices. In the European Union, the European Commission's merger notification forms require parties to identify the economic sectors involved using NACE codes, but the Commission does not treat NACE codes as determinative for market definitions. Instead, the Commission applies a hypothetical monopolist test and relies on economic evidence. The

proposed joint regulatory guidance in Indonesia could adopt a similar approach, clarifying that KBLI codes are administrative aids but not substitutes for economic analyses. The guidance could also specify the circumstances in which KBLI codes may be used as a rebuttable presumption, subject to the evidence of substitutability.

In the United States, the Hart-Scott-Rodino merger notification process uses NAICS codes to identify the industry of the parties, but the Federal Trade Commission and Department of Justice apply the hypothetical monopolist test for market definition. The U.S. experience also demonstrates the importance of inter-agency coordination: the FTC and DOJ have a clearance agreement to allocate merger reviews, and they coordinate with sectoral regulators, such as the Federal Communications Commission and the Federal Energy Regulatory Commission. Indonesia's proposed institutional coordination mechanism could draw on this model while adapting it to the unitary state structure and the specific mandates of the BKPM and KPPU.

The feasibility of the proposed framework depends on the political will, institutional capacity, and legal design. Politically, the harmonization of the KBLI and competition law aligns with the government's stated commitment to improving the investment climate and strengthening competition policy. Ongoing amendments to Law 5/1999 provide a legislative window to incorporate harmonization provisions, such as the requirement for joint regulatory guidance and data sharing. Institutionally, BPS, BKPM, and KPPU have existing digital platforms that can be integrated without substantial additional investment. Legally, the framework can be implemented through presidential or joint ministerial regulations, avoiding the need for a lengthy legislative process. The main challenge is overcoming institutional resistance to data sharing and coordination, which can be addressed through strong political leadership and clear accountability mechanisms.

The findings and proposed framework have several implications for policies and practices. For policymakers, this study highlights the need to integrate competition policy into the general regulatory reform agenda rather than treating it as a separate domain. KBLI revisions should not be viewed solely as statistical exercises but as regulatory decisions with significant competitive implications. For KPPU, the study suggests that the agency should develop internal guidelines on the use of KBLI in market definition and exemption analysis, and invest in digital capacity to receive and analyze OSS data. For BKPM and BPS, this study underscores the importance of consulting KPPU during the development of KBLI classifications and incorporating competition considerations into the risk-based licensing framework. For investors, the proposed harmonization would provide greater clarity and predictability, reduce the need for costly legal advice, and enable more informed investment decisions.

This study also contributes to the academic literature by providing a detailed normative analysis of the KBLI-competition law interface, an area that has been largely neglected in Indonesian legal scholarship. By developing a harmonization framework grounded in legal theory and comparative practice, this study offers a practical template that can be adapted to other regulatory interfaces, such as environmental law, consumer protection, and intellectual property.

CONCLUSION

The 2025 amendment to the Indonesian SOE Law materially strengthens the governance basis of BUMN by explicitly codifying Good Corporate Governance and reinforcing a BJR-oriented liability standard within a restructured ownership and management architecture. The amendment clarifies that BUMN governance must observe transparency, accountability, responsibility, independence, and fairness while also protecting decision-makers from liability for losses where there is no fault, decisions are made in good faith and prudence, no conflict of interest exists, and no unlawful private gain is obtained. These changes indicate a shift from outcome-centered suspicion to process-centered evaluation in the governance of separated state assets. Normatively, the interaction between GCG and BJR should be read as a complement. The GCG defines a lawful decision-making environment, and the BJR protects decisions generated within that environment from hindsight-based punishment. Therefore, the reform offers a more balanced framework for BUMN management, one that seeks to preserve accountability without paralyzing commercially necessary risk-taking. However, its effectiveness depends on implementing regulations, reliable internal controls, independent supervision, complete documentation, and consistent interpretation by auditors, courts, and law enforcement institutions. In that sense, Law Number 1 of 2025 is best understood as a strong governance

framework, whose success will be determined by institutional practice rather than legislative text alone.

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