

State-Owned Enterprises Monopoly Based on Government Assignment According to Law Number 1 of 2025 on the Third Amendment to Law Number 19 of 2003 on State-Owned Enterprises

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ABSTRACT

Special assignments to State-Owned Enterprises (SOEs), as stipulated in Article 87C of Law Number 1 of 2025 concerning the Third Amendment to Law Number 19 of 2003 concerning State-Owned Enterprises, constitute an attributive right granted by law to the President of the Republic of Indonesia. These assignments involve SOEs as entities specifically tasked with developing the national economy in specific business and industrial sectors, particularly for public benefit, research and development, and national innovation. While intended to advance national economic objectives, these special assignments carry the potential to directly impact market structures and may lead to monopolistic practices within specific industries. Although the authority to issue such assignments rests with the President, their implementation in practice necessitates the establishment of clear derivative regulations. These regulations are crucial to define precise procedures and valuation mechanisms, ensuring that the government's efforts to develop the economy are not compromised by violations of Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. This research employs a normative juridical method to analyze the legal framework of special assignments and their correlation with potential monopoly practices, aiming to identify the balance between state intervention and market competition.

Keywords: *Special Assignment, State-Owned Enterprises, Monopoly Practices*

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INTRODUCTION

With the enactment of Law Number 1 of 2025 concerning the Third Amendment to Law Number 19 of 2003 concerning State-Owned Enterprises, a new provision is enacted that allows State-Owned Enterprises and/or Subsidiaries of State-Owned Enterprises to receive a special assignment from the Government (Milhaupt & Pargendler, 2018; Musacchio & Lazzarini, 2018; Willemyns, 2016). The special assignment can be carried out by a mechanism determined by the President of the Republic of Indonesia (Darusman, 2018; Nasution, 2017; Setiadi, 2019; Syafei & Darajati, 2020; Widodo, Tinambunan, & Puspoayu, 2019).

The provisions regarding special assignments as referred to above are regulated in Article 87 C of Law Number 1 of 2025 concerning the Third Amendment to Law Number 19 of 2003 concerning State-Owned Enterprises (Du Ming & Du, 2023; McLaughlin, 2020; Papadopoulos, 2022; Pernazza & Pernazza, 2023; Zhou, 2021). Special assignments are in principle carried out for the implementation of public benefits, research and development, and national innovation (Feinson, 2016; Herstad, Bloch, Ebersberger, & Van de Velde, 2016). It was further explained that the special assignment is not a form of exception to the business activities of the State-Owned Enterprise, but a form of implementing other business activities outside the main business carried out by the assigned State-Owned Enterprise.

Based on the assignment received by a State-Owned Enterprise, business activities that are classified as the implementation of public benefits, research and development, and national innovations, are a contrario obliged to generate profits for the assigned State-Owned Enterprise (Kim, 2021; Wisuttisak & Cheong, 2018). This principle cannot be separated from the purpose of the establishment of State-Owned Enterprises, especially for State-Owned Enterprises in the

form of Limited Liability Companies, where the main purpose of the establishment of a Limited Liability Company is to carry out business activities that ultimately obtain income and profits in accordance with what is defined in Article 1 number 1 of Law Number 40 of 2007 concerning Limited Liability Companies as amended by Law Number 11 of 2020 concerning Job Creation (Backer, 2017; Lewin, Ramamurti, & Rose, 2023; Putniņš, 2015).

Previous research has extensively documented the monopolistic tendencies of SOEs in Indonesia prior to the 2025 amendment (Habir, 2021; *Reaping efficiency gains through product market reforms in China*, 2022; Wisuttisak & Cheong, 2018). Studies by Johnny Ibrahim (2021) and Mustapa Khamal Rokan (2022) highlighted how SOEs often dominated strategic sectors—such as energy, logistics, and infrastructure—under the guise of public service obligations, thereby limiting fair competition. Putu Samawati (2018) further illustrated that such dominance was frequently justified by legal exceptions under Article 51 of Law No. 5 of 1999, which permits monopolies in sectors vital to public welfare. However, these studies also pointed to the lack of clear accountability mechanisms and the risk of market distortion. The 2025 Law introduces a more structured yet potentially broader mandate for SOEs, making it imperative to re-examine the balance between state intervention and competitive markets in the new regulatory context.

With a special assignment to State-Owned Enterprises that can be carried out by the Government, where the implementation is carried out for the implementation of a special business relationship, it can give rise to a monopoly practice in the market of certain business entities where the State-Owned Enterprises are given the special assignment. Regarding the impact of monopoly practices that can arise due to the special assignment, it can be further examined with a normative approach what forms of assignment can be made by the Government to State-Owned Enterprises, and whether if a monopoly practice arises for such assignments, an exception can be given as stipulated in the provisions of Article 51 of Law Number 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition.

Regarding the explanation mentioned above, several problem formulations are determined as follows:

1. What is the concept of special assignment regulated in Article 87 C of Law Number 1 of 2025 concerning the Third Amendment to Law Number 19 of 2003 concerning State-Owned Enterprises?
2. What is the concept of Monopoly Practices regulated in Law Number 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition?

The urgency of this research lies in its academic contribution to clarifying the often-blurred boundaries between state mandates and market freedom. As SOEs are increasingly tasked with dual roles—serving public interests while remaining profitable—the potential for anti-competitive behavior grows. This study seeks to address how the new legal framework reconciles these roles without undermining the principles of fair business competition as enshrined in Law No. 5 of 1999.

This research is intended to find out and examine more deeply the correlation between the conception of special assignments from the Government to State-Owned Enterprises as stipulated in Law Number 1 of 2025 concerning the Third Amendment to Law Number 19 of

2003 concerning State-Owned Enterprises and the occurrence of monopoly practices in the business sector where the special assignment is given to State-Owned Enterprises by the Government.

In conclusion, the 2025 Law aims to enhance the role of SOEs in national development through structured special assignments. The benefits include more efficient public service delivery and accelerated innovation. However, the policy implications are significant: without careful implementation and oversight, the law could legitimize monopolistic behavior, thereby harming market competition and public interest. This research therefore aims to analyze the legal and economic implications of the new assignment mechanism, offering recommendations for ensuring that state interventions remain aligned with the goals of fair competition and sustainable development.

METHOD

In this study, the author will use doctrinal law research methods. The approach that will be used is a normative approach, where in conducting research the author will analyze the applicable laws and regulations, the principles underlying a legal theory related to the object of research, and cases related to the research qualitatively. The doctrinal law research method is carried out by interpreting cases, laws, and other legal materials in an effort to find, build, or reconstruct rules and principles. In addition, to support the research, a comparative method of implementation practices included in the research object will also be used to find an overview of practices in several other relevant countries.

RESULTS AND DISCUSSION

Conception of Special Assignment of State-Owned Enterprises

The special assignment method given by the Government to State-Owned Enterprises is not new to the knowledge through Law Number 1 of 2025 concerning the Third Amendment to Law Number 19 of 2003 concerning State-Owned Enterprises. Conceptually, a special assignment is a policy taken by the Government as the owner of a State-Owned Enterprise in order to provide tasks related to the implementation of public benefits, research and development, and national innovation which are not basically the main business of the State-Owned Enterprise.

In Law Number 1 of 2025 concerning the Third Amendment to Law Number 19 of 2003 concerning State-Owned Enterprises, precisely in Article 87C it is regulated in principle related to the criteria and how the special assignment process can be carried out by the Government. In Article 87C paragraph (1), in principle, it is regulated that assignments can be carried out by State-Owned Enterprises or Subsidiaries of State-Owned Enterprises in the implementation of public benefits, research and development, and national innovation.

In terms of the flow of the special assignment process, it can be carried out with a mechanism where first obtaining approval from the Minister who has currently transitioned to the Head of the State-Owned Enterprises Regulatory Agency, then the process continues with the submission of the determination of the special assignment to the President of the Republic of Indonesia. The legal provisions that govern this matter are in Article 87C paragraphs (2) and (3) of Law Number 1 of 2025 concerning the Third Amendment to Law Number 19 of 2003 concerning State-Owned Enterprises.

In Article 87C paragraphs (4), (5), and (6) then stipulate provisions related to the financial management of State-Owned Enterprises that are given special assignments, basically it is determined that even though there is a special assignment given by the Government to State-Owned Enterprises, the business aspects of State-Owned Enterprises are expected not to be financially disrupted. The provisions in Paragraph (4) state that the Government in granting a special assignment is obliged to pay attention to the objectives and capabilities of the State-Owned Enterprise.

Furthermore, in Paragraph (5), it is determined that in the event that State-Owned Enterprises that are given assignments require funding for the implementation of the special assignment, the Government is obliged to provide such funding. The mechanism is implicitly determined in the provisions of the Paragraph with the proof of funding feasibility associated with the feasibility of the financial profile of the State-Owned Enterprise. Then in Paragraph (6) of Article 87C it is determined regarding the mechanism for recording the financial records of the special assignment, where to ensure that the special assignment does not have a financial impact on the main business of the State-Owned Enterprise, the financial recording is carried out separately from the main business of the State-Owned Enterprise that receives the special assignment.

Examples of special assignments that are enforced within State-Owned Enterprises include the following:

Assignment Type	Example of SOEs	Sector	Forms of Government Support	Purpose
PSO (Public Service)	PLN, KAI, Pelni, Pupuk Indonesia	Energy, Transportation, Food	State Budget Subsidy / Compensation	Public services & equity
Infrastructure Assignment	Hutama Karya, Waskita Karya	Toll Roads, Energy	PMN, Guarantee, AP	Acceleration of national strategic projects
Social Assignment	Perumnas	Housing	FLPP, Subsidi	Fulfillment of basic needs of the community

Source: Processed by researcher (2025)

The assignment of several State-Owned Enterprises is carried out based on laws and regulations issued by the Government as a form of special assignment.

Another example of special assignments carried out by the Government in the last 5 (five) years is the assignment to State-Owned Enterprises engaged in the field of survey services. The special assignment is carried out for the implementation of basic geospatial information which is basically the responsibility of the Government through the Geospatial Information Agency in its implementation.

The provisions of laws and regulations governing the special assignment are stated in Presidential Regulation Number 11 of 2021 concerning Cooperation between the Central Government and State-Owned Enterprises in the Implementation of Basic Geospatial Information. The implementation of the cooperation is carried out by the mechanism of

cooperation between the Government and Business Entities, but the difference is that the Implementing Business Entity in this cooperation is a State-Owned Enterprise.

Monopoly Practices in Indonesia

The existence of business competition provisions in Indonesia is important to create a good business competition ecosystem, prevent anti-monopoly practices, and avoid activities that can harm the economy. According to Sri Redjeki Hartono, in order to foster the legal ideals of national law from the aspects of trade and economic law, it is necessary to apply one important principle: the principle of state interference in economic activities. In agreement with Sri Redjeki Hartono, in the implementation of activities that can affect the community, the participation of the government as a regulator is needed to regulate the rules for these activities, as well as to ensure the safety of shipping activities in Indonesian waters.

Law Number 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition was formed containing 11 (eleven) chapters, where the material legal aspects forming the core of the prohibition of monopoly practices and unfair business competition are outlined in Chapter III to Chapter V. In Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, the prohibited objects are divided into two: prohibited agreements and prohibited activities.

Legal bonds are defined as civilly binding agreements based on Article 1338 of the Civil Code, like general agreements formed by business actors. The difference is that if the agreement is proven to be prohibited under the Business Competition Law, the Business Competition Supervisory Commission, as the supervisor of business competition for the sake of law, can cancel the agreement because it attributively accepts authority under the Competition Laws.

Economic ties are defined as the result of an agreement that regulates certain standards of behavior between business actors that need to be followed not because of a legal requirement, but to prevent economic losses. The economic binding indirectly makes economic ties a law of habit in the environment of business actors which serves as the basis for behaving in a certain market.

The types of agreements that are prohibited as regulated in the Business Competition Law consist of:

1. Oligopoli;
2. Pricing;
3. Territorial division;
4. Boycott;
5. Cartel;
6. Trust;
7. Oligopsones;
8. Vertical integration;
9. Closed agreements;
10. Agreements with foreign countries.

The Business Competition Law regulates monopoly practices, where in summary monopoly practice is defined as a concentration of economic power by one or more business actors that results in the control of the production and/or marketing of certain goods and/or

services so as to cause unfair business competition and can be detrimental to the public interest. Furthermore, in Article 17 of Law Number 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition, several elements contained in the definition of monopoly are determined, namely:

1. The Company controls the production activities of certain products and/or marketing activities;
2. Such control activities can result in the occurrence of monopoly practices; and
3. Such control activities can result in unfair business competition practices.

The absence of competitors in the relevant market due to the occurrence of monopoly practices is divided into 2 (two) types, namely monopoly by nature and monopoly that occurs at the will of the Government through laws and regulations known as monopoly by law.

Monopoly by nature can be defined as a monopoly that occurs because there are only a few business actors in a market in question because there are obstacles for other business actors to enter the market as a result of the economic scale offered in the market does not allow other business actors to compete. The occurrence of monopoly by nature can be characterized by the following characteristics:

1. The existence of special knowledge owned by business actors that can enable production activities to be effective and efficient;
2. The ability of business actors to minimize production costs;
3. There is the ability to control the sources that are factors in the production process of monopolized goods and/or services.

As for monopoly by law, it can occur due to the existence of several legal instruments or the acquisition of rights received by business actors, with legal sources including:

1. Legal; And
2. Patents.

In Law Number 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition, market control activities are regulated in Article 19. In summary, market domination prohibited by the Business Competition Law occurs if there is a refusal and/or attempt to prevent other business actors from carrying out the same business activities; in other words, there is an attempt by a business actor or group of business actors to create a barrier to entry for other business actors, resulting in unfair business competition and/or monopoly in the relevant market.

In addition, specifically in Article 51 of Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, exceptions are regulated to the provisions on monopoly and/or concentration of activities related to the production and/or marketing of goods and/or services that control the livelihood of the people and branches of production that are important to the state, as regulated separately in separate laws and regulations, where the implementation of these activities is organized by State-Owned Enterprises and/or Agencies or Institutions formed or appointed by the Government.

Monopoly Practices Through Special Assignments to State-Owned Enterprises

The special assignment given by the Government to State-Owned Enterprises is basically something that cannot be refused by the assigned State-Owned Enterprises. This is because the special assignment is the right of the Government in carrying out business activities for the

public benefit, research and development, as well as national innovation in the form of public policy.

Based on the provisions of Article 2 of Law Number 1 of 2025 concerning the Third Amendment to Law Number 19 of 2003 concerning State-Owned Enterprises, it is explained that the establishment of State-Owned Enterprises is aimed at the purpose and purpose of:

1. Profit;
2. Contributing to the development of the national economy in general and state revenue in particular;
3. To be a pioneer of business activities that have not been able to be carried out by the private sector and cooperatives;
4. Empowering and supporting and building partnerships with micro, small, medium, cooperative, and community sectors;
5. As a Persero, provide and guarantee the availability of goods and/or services for the public benefit in order to meet the needs of the people and for strategic needs; and
6. Building strategic industries based on research, innovation, and technology that are in harmony with other countries.

In addition, in principle, activities carried out by State-Owned Enterprises must not be contrary to laws and regulations, public order, and/or morality, resulting in State-Owned Enterprises also being subject to the provisions prohibiting unfair business competition and/or monopoly regulated in the Business Competition Law.

The existence of SOEs as agents of the Government's duties is a separate character owned by SOEs in carrying out their functions for the public. Although this is not explicitly defined in the provisions of Article 1 number 1 of the (UU PMN), in several Constitutional Court Decisions it is implied that SOEs have a function for the public by referring to the type of business activities carried out by SOEs intended to be used by the wider community.

Based on the explanation mentioned above, basically State-Owned Enterprises have the same business function as the establishment of a Limited Liability Company, so that even though there is a special assignment from the Government, State-Owned Enterprises still have the task to make profits. This is certainly very contrary to the purpose of giving special assignments by the Government, where in the special assignment State-Owned Enterprises are required to carry out non-profit activities, while on the other hand State-Owned Enterprises are required to obtain profits by the Government. Against this contradiction, it is possible to have monopoly practices by State-Owned Enterprises which are intended to balance between the tasks given in special assignments by the Government and the duty to obtain profits as a Government-owned Limited Liability Company.

Basically, the implementation of provisions regarding unfair and/or monopoly business competition is an effort made by the Government to create a competitive business environment. The purpose of enforcing these provisions is to regulate all business actors, whether related to the Government or not. Based on Article 51 of Law Number 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition, the provisions regarding monopoly can basically be excluded for State-Owned Enterprises.

In Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, the provisions for exceptions to the implementation of unfair

business competition and monopolistic business by business actors are regulated due to certain reasons. In Articles 50 and 51 of Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, other provisions that contain exceptions to the implementation of provisions in the Business Competition Law include those excluded in Article 50 of the Business Competition Law, which include...:

1. Acts and/or agreements that are carried out as the implementation of applicable laws and regulations;
2. Agreements made with the scope of intellectual property rights such as licenses, patents, trademarks, copyrights, industrial product designs, integrated electronic circuits, and trade secrets, as well as franchises;
3. Agreements related to the determination of technical standards for goods and/or services products that are not exclusive or have the potential to hinder business competition;
4. Agreements related to the implementation of the agency whose content does not contain a clause to resupply goods and/or services at a price lower than the agreed price;
5. International agreements that have been ratified by the Government;
6. Agreements and/or acts that are carried out with the aim of exporting without interfering with the needs and/or supply of the domestic market;
7. Business actors who are classified as small businesses as further regulated in a provision of laws and regulations on small businesses, namely Law Number 9 of 1995 concerning Small Businesses as amended by Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises;
8. For cooperative business activities that specifically aim to provide services only to their members and not to the wider community for the procurement of basic needs, means of production that are not limited to credit and raw materials, as well as services to market and distribute members' production products that do not result in monopolistic practices and/or unfair business competition.

In addition, specifically in Article 51 of Law Number 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition, it regulates exceptions to the provisions of monopoly and/or concentration of activities related to the production and/or marketing of goods and/or services that control the livelihood of the public and branches of production that are important to the state as regulated separately in a separate law and regulation, where the implementation of these activities is organized by State-Owned Enterprises and/or Agencies or Institutions formed or appointed by the Government.

In practice, there are several assignments given by the Government to State-Owned Enterprises and/or certain Agencies or Institutions, for the implementation of the activities of an activity that makes the activity potential or causes monopoly practices and/or the practice of concentrating these activities. One example is a special assignment made by the Government through the Geospatial Information Agency to PT Biro Klasifikasi Indonesia (Persero) to become the Implementer of Government Cooperation with State-Owned Enterprises in the provision of basic geospatial information, especially for the updating of basic map data and the use of these data, for the implementation of this cooperation, the Geospatial Information Agency gives exclusive rights to PT Biro Klasifikasi Indonesia (Persero) which Basically, in practice, it can cause a monopoly in the field of providing basic maps.

Seeing the above, the monopoly carried out by PT Biro Klasifikasi Indonesia (Persero) can basically result in the loss of business competition in the market for providing basic map-based services. The granting of the special assignment is based on the Government's need to provide a credible and up-to-date basic map of Indonesia, but due to constraints regarding the need for funding in the provision of basic geospatial information from the Government, cooperation is carried out between the Government and State Municipal Business Entities. The special assignment is carried out by considering various aspects, one of which is the aspect of state data confidentiality, in this case the object provided by State-Owned Enterprises is basic geospatial information in the form of a map of Indonesia, and therefore the concept of special assignment is applied to PT Biro Klasifikasi Indonesia (Persero) as a State-Owned Enterprise that meets the provisions of Presidential Regulation Number 11 of 2021 concerning Cooperation Between Governments Center with State-Owned Enterprises in the implementation of basic geospatial information.

However, basically based on the provisions in Article 51 of Law Number 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition on the special assignment received by PT Biro Klasifikasi Indonesia (Persero), the activities carried out by PT Biro Klasifikasi Indonesia (Persero) can be excluded on the pretext of monopoly and/or market domination.

CONCLUSION

Special assignment is a form of policy carried out by the Government in fulfilling its functions to the public through State-Owned Enterprises. The scope of implementation of special assignments is for the implementation of public benefits, research and development, and national innovation. In practice, special assignments are carried out by State-Owned Enterprises simultaneously with the main business activities they run. Therefore, indirectly, special assignments can impact the course of business activities carried out by the State-Owned Enterprise. Special assignments in some cases can give rise to monopoly practices; this occurs as a form of counter-achievement given by the Government in the implementation of special assignments to State-Owned Enterprises. Conceptually, the practice of monopoly needs to be avoided because it can damage the conditions and environment of business competition in certain markets. However, in the case of special assignments to State-Owned Enterprises, exceptions can be applied on the basis that the implementation of the special assignment is carried out by State-Owned Enterprises and conducted for the implementation of public benefits, research and development, and national innovation.

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