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ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN INDONESIA

-- 2013 --

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This report is submitted by Indonesia to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 17-18 December 2014.

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KPPU ANNUAL REPORT 2013

1. Changes regarding competition laws and policies - Outline of new regulations in competition laws and related legislations

1.1 *Amendment of Indonesian Competition Law*

1. Indonesian business competition law has turned to be a teenager. The age of 14 for an institution can be said as mature in creating products that have high value for stakeholders. The implementation of business competition law also shows the same thing. We can feel how competitive a sector that is capable of changing the pattern of having a certain behavior within the community. Communications and transportation become easy and affordable. Goods can be obtained in a timely manner and at an affordable price as well as pursuant to the quality preference desired.

2. However, competition law has yet to be implemented in an optimum manner. If we compare this with a car, we at the moment are still at the second gear. Limited authorities, articles in the laws that create multi-interpretation, resources not yet sustainable, and limited internalization have created a separate challenge that needs to be resolved. Amendment becomes a main pillar for the acceleration of the engine of KPPU. For such purpose, in the second half of 2013, KPPU began to pursue an amendment to Law No. 5 Year 1999 so as to become a legislation priority program at the House of Representatives. This process will face a tough challenge since such amendment should be discussed at the House of Representatives prior to the end of the House of Representative session period in 2014. Various advocacy, dissemination, and limited discussion efforts become a special weapon of KPPU in attempting such process. Amendment will also be focused on some specific issues such as institution and more authorities for law enforcement. It is hoped that year 2014 can become a year that makes a strict and positive line for the development of the implementation of business competition law in Indonesia.

1.2 *New Authorities in Supervising Partnership*

3. In 2008, KPPU had been mandated with a new authority through Law No. 20 Year 2008 regarding Micro, Small, and Medium Enterprises (MSMEs). Such authority includes supervision of partnership between MSMEs and large business actors. With such authority, KPPU may inspect business contracts between the two business actors to avoid abuse of market dominance by large business actors. Such authority could first be exercised since the issuance of Government Regulation No. 17 Year 2013 as the implementing regulation of Law No. 20 Year 2008.

4. With such authority, every business contract may be put forward to KPPU to ask for consideration. If there is a clause that harms MSMEs, then KPPU may conduct an inspection process and impose sanction on large business actors. The amount of sanction and procedures for inspection are provided by such government regulation, consequently, inevitably, KPPU in a near future must issue procedures for handling special cases with regard to the partnership between MSMEs and large business actors. Other than legal instrument, the next challenge with regard to this authority will be the preparation of resources both human resources and financial ones to carry out this function. By referring to the experiences of other countries in similar authorities in Asia (especially Taiwan and Japan), it is very likely that competition authority will be inundated with thousands of contracts to be analyzed every year.

1.3 *Restructuring of KPPU Secretariat*

5. The organization of KPPU at the moment is considered quite “fat”, since now KPPU has more than 30 (thirty) divisions with separate functions. The main problem that frequently happens in a big

organization is overlap of functions; a function can be implemented by another function. In line with the intent of KPPU to create a thin and dynamic organization and at the same time improve consistency and sustainability of findings, KPPU has decided that in a near future it will streamline the number of structural officials and will focus on priority sectors as reflected in the organizational structure.

6. The biggest challenge of this quite significant change is sustainability of the existing information. There is no doubt that various adjustments during this transitional period both in the aspect of substance and that of resources (financial and human) may not be avoided. For the duration of the amendment period and new authority as mentioned above, it is very likely that KPPU may undergo a rather long transitional period.

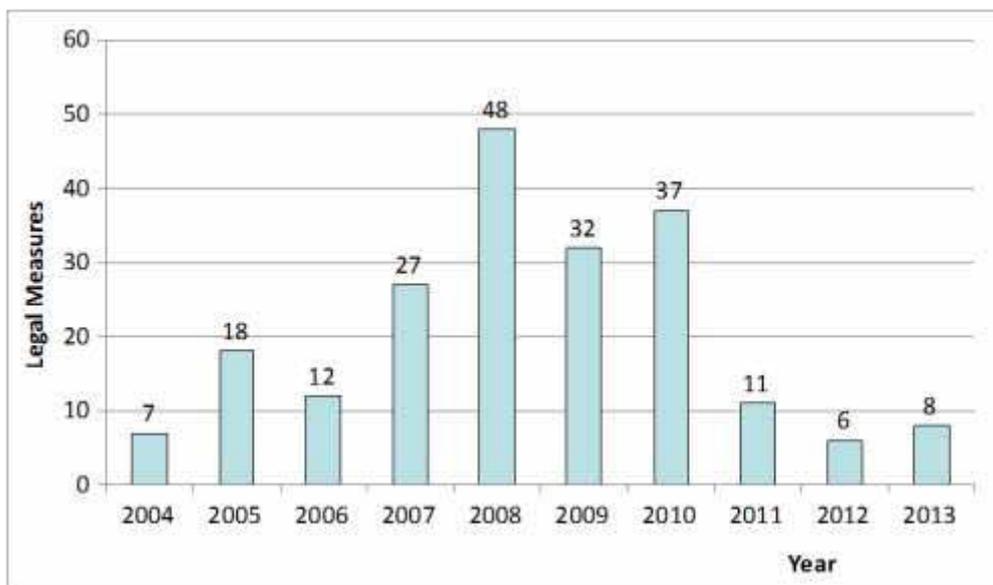
7. The challenges as mentioned above constitute a home work that must be finished in 2014. If all the challenges can be overcome, it is likely that KPPU will run very fast in the incoming years and it is for sure that KPPU will be able to be the main pillar in safeguarding business competition process in the aftermath of the ASEAN economy integration that will be effective after December 31, 2015.

2. Enforcement of competition laws and policies

8. The newest vision of KPPU asserts the strengthening of prevention efforts in internalizing fair competition values. This does not leave the duties and authorities of KPPU to implement law enforcement although at a not different level. Law enforcement constitutes the performance of duties and authorities of KPPU as provided for in article 35 jo article 36 of Law Number 5 Year 1999 including the following fields: acceptance of reports, supervision, pre-investigation, filing system, case examination, decision, and ligation.

2.1 Legal measures against violations

9. Statistic regarding to legal measures:



2.2 *Surcharge payment*

10. Until October 2014, KPPU imposed sanctions to pay such amount of fines to the violator of competition law, the total amount of fines are IDR 239.633.119.457, and total paid amount of fines are IDR 193.021.239.686. It left IDR 45.621.879.771 more as a homework for KPPU.

3. **Summary of main cases**

11. The performance of KPPU in law enforcement in 2013 was quite satisfactory. In terms of the reports handled, KPPU handled up to 191 reports and in total reached 2,078 reports for the last thirteen years.

12. Out of the said reports, 150 reports (78.5%) were tender reports and the rest of 41 reports (21.5%) were non-tender reports. This percentage increased as compared to the previous year of 77% for reports relating to procurement of goods and services. Most of the value of the procurement (83%) questioned/reported was worth below Rp.10 billion. Only 2% reports submitted on the basis of alleged tender conspiracy was worth above Rp.50 billion.

3.1 *Bid Rigging: Collusion in CT - SCAN Procurement Causing Three Billion Loss to State's Budget*

13. KPPU declared four medical equipment's business actors guilty for collusion with the Procurement Committee of CT-SCAN (Computerized Tomography) for Pirngadi Hospital, Medan. Those business actors were CV Duta Mulya Pratama, PT Menara Fazira, PT Graha Insani Mandiri, dan CV Rifki Abadi, located in Medan, North Sumatera.

14. This decision was read in 23rd April 2014 by the Commissioners Council, namely Dr. Sukarmi, Kamser Lumbanradja, M.B.A dan Dr. Drs. Chandra Setiawan. In the investigation process, KPPU found some evidences on collusion between business actors and the Procurement Committee such as, similarity in document errors, metadata, Internet Protocol, upload timing, and certain exclusivity from the Procurement Committee to those business actors.

15. KPPU also found that the price offered by CV Duta Mulya Pratama, the winner of this procurement, was excessive (compared with the price of distributors). Therefore, it has created inefficiency and causing State's Budget Loss about IDR 3 Billion. According to those evidences, the Commissioners Council imposed fines to the business actors amounted to:

- CV Duta Mulya Pratama (IDR 528.556.700),
- PT Menara Fazira (IDR 264.278.350),
- PT Graha Insani Mandiri (IDR 158.567.010), and
- CV Rifki Abadi (IDR 52.855.670)

16. Moreover, the Commissioners Council also prohibit those four business actors to participate in any medical equipment procurement of Republic of Indonesia for 2 (two) consecutive years.

3.2 *Price cartels, etc. (excluding bid rigging): Cartel in Belawan Port, North Sumatera*

17. Fifteen companies and associations (CV Belawan Indah, PT Mitra Jaya Bahari, CV Jaya Abadi Trans, PT Benua Samudera Logistik, PT Transporindo Agung Sejahtera, CV Wahana Multi Karsa, PT

Samudera Perdana, Koperasi Pegawai Republik Indonesia “Baruna Barat” Belawan, PT Berkat Nugraha Sinar Lestari, PT Tunas Jaya Utama, Fa. Multatuli Bhakti, PT Lintas Samudera Jaya, Head of Cargo Transportation Organization of Belawan Port, The Council of Forwarders, Logistic Transportation and Expedition of Indonesia (GAFEKSI)) has been proven in violating Article 5 on price fixing in Cargo’s Transportation Tariff in Belawan Port, North Sumatera. This price fixing agreement effectively implemented in the year of 2011 until 2012, and the case itself was initiated by KPPU.

18. In the KPPU’s Decision, the Commissioners Council which membered by Munrokhim Misanam, Kurnia Sya’ranie and Tresna P. Soemardi, stated that this agreement has eliminated price competition and price option for consumers, therefore has led to consumer loss.

19. As a penalty on this action, the Commissioners Council imposed fines on each Reported Party starting from IDR 22 billion to IDR 463 billion. The Commissioners Council also recommended that the Land Transportation Organization of North Sumatera (ORGANDA) formulating a provision criteria for their member council.

3.3 *Unfair competition practices: KPPU’s Decision on the Case of Garlic’s Importation*

20. KPPU declared nineteen companies (CV Bintang, CV Karya Pratama, CV Mahkota Baru, CV Mekar Jaya, PT Dakai Impex, PT Dwi Tunggal Buana, PT Global Sarana Perkasa, PT Lika Dayatama, PT Mulya Agung Dirgantara, PT Sumber Alam Jaya Perkasa, PT Sumber Roso Agromakmur, PT Tritunggal Sukses, PT Tunas Sumber Rezeki, CV Agro Nusa Permai, CV Kuda Mas, CV Mulia Agro Lestari, PT Lintas Buana Unggul, PT Prima Nusa Lentera Agung, PT Tunas Utama Sari Perkasa) to breach Article 19 (c) and Article 24.

21. KPPU also declared the Directorate General of Foreign Trade, Ministry of Trade and Minister of Trade to breach Article 24 on quota limitation in garlic importation through issuing Ministry of Trade’s Regulation, Number 60/Permentan/OT.140/2013 and through colluding with business actors in the issuing and extending process of Import Approval Letter, even though there was no legal standing on Import Approval Letter. This irresponsible action has led to the imbalance of garlic’s supply and price in domestic market.

22. KPPU imposed fines from IDR 20 billion to IDR 921 billion to those companies and the government official. The decision was made today by Commissioners Council, namely Dr. Sukarmi, Munrokhim Misanam, Ph.D, Dr. Muhammad Syarkawi Rauf, R. Kurnia Sya’ranie, S.H., M.H, and Saidah Sakwan, M.A.

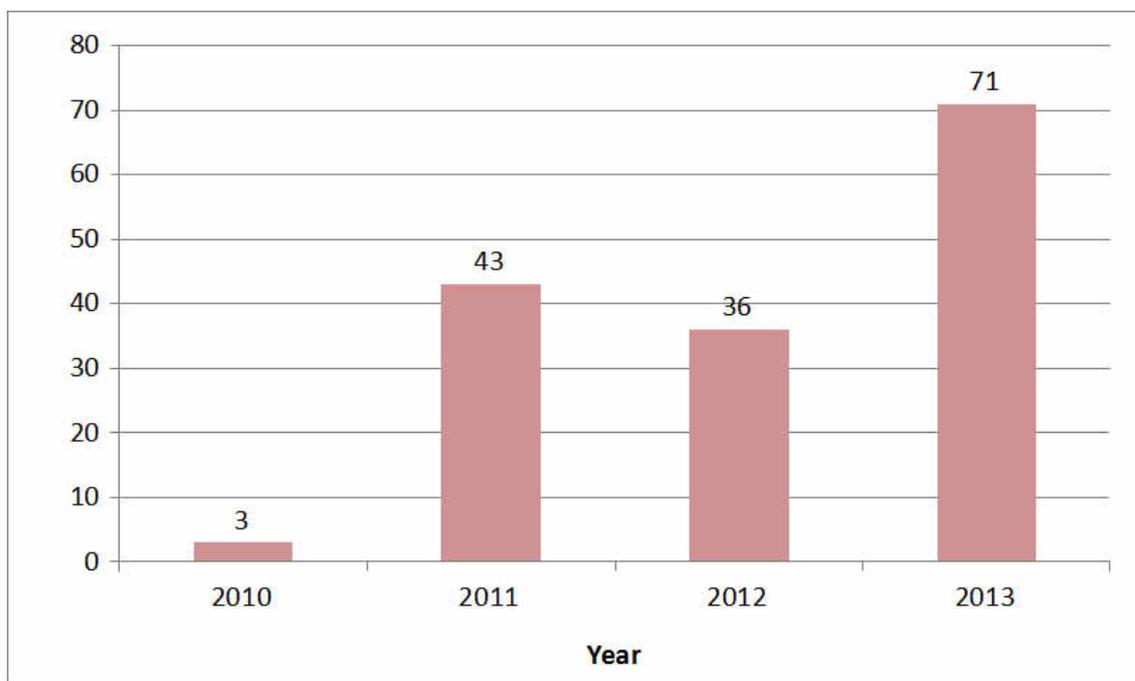
23. This case was initiated by KPPU, and the Commissioners Council also recommended that the Ministry of Agriculture and Ministry of Trade should be aware of the principal of fair competition in formulating their regulation, and that each regulation on importation especially importation with quota limitation should be well-coordinated with related institutions.

3.4 *Litigation: Lawsuits seeking to overturn a KPPU decision*

24. In terms of litigation, up to the year 2013, out of KPPU decisions, objection had been lodged to 106 decisions of KPPU through the District Court and 92 (ninety-two) decisions had been brought to cassation at the Supreme Court. The percentage of the win of KPPU at such level was various. The District Court still defeated approximately 42 decisions of KPPU. However, positive sentiment was obtained at cassation level wherein the percentage of the win of KPPU was 70%. In total, 59 decisions of KPPU had been confirmed by the Supreme Court.

3.5 *Mergers and acquisitions*

25. Statistics relating to mergers and acquisitions:



26. Main Mergers and Acquisitions Cases

3.5.1 *KPPU Clears Share Acquisition By PT. Alam Tri Abadi*

27. KPPU clears the acquisition of three companies (PT. Laskar Semesta Alam, PT. Paramitha Cipta Sarana, and PT. Semesta Centramas) by PT. Alam Tri Abadi by declaring that the share acquisition is not lead to monopolistic practices and unfair competition.

28. PT. Alam Tri Abadi (ATA) is a Jakarta based company which serves trade and industry, construction, agriculture, land transportation, and garage. It's directly owned by PT. Adaro Energy, Tbk with a 99.9% ownership. In addition, ATA also has several subsidiaries like PT. Adaro Indonesia, PT. Mustika Indah Permai, and PT. Bukit Enim.

29. The acquired company, PT. Laskar Semesta Alam (LSA) is a Jakarta based company which serves services, construction, land transportation, garage, printing, trade and industry, mine, and agriculture. PT. Semesta Centramas (Semesta) is a Jakarta based company which serves trade and industry, contrcution, agriculture, service, mine, garage, printing, and land transportation.

30. As explained in the Opinion dated on 17th October 2013, the concerned market is coals sector. The assessment conducted showed that market concentration in coals reserve and production is still below 1,800, even-though after the acquisition took place. There is an insignificant change of market structure due to the acquisition.

3.5.2 *MNC Energi Acquired Nuansacipta Coal Investment*

31. KPPU had concluded that the acquisition of PT. Nuansacipta Coal Investment (NCI) by PT. MNC Energi did not show the existence of potential monopolistic practices and or unfair business competition. This was stated through KPPU Opinion No. 19/KPPU/PDPT/VII/2013 in 16 July 2013.

32. As notified, PT. MNC Energi, a company under MNC Group (one of leading groups in financial and services sectors), has acquired all stock of PT. Nuansacipta Coal Investment (NCI). The combined asset resulted from this merger is IDR 27.2 trillion, while the combined sales was identified for IDR 9.8 trillion. These were calculated through the consolidated assets by PT. Bhakti Investama, Tbk as the holding company.

33. It was identified that, MNC Energi is a corporation focused its business activity on mining, trade, service, and transportation. MNC Energi is also a sub-holding of PT. Bhakti Investama, Tbk (a media company). Previously, MNC Energi was involved with energy and mining sectors. They were expanding to oil and gas sector by acquiring several projects in oil and gas. One of which is a project in Papua (Semai III Cluster), which entering its exploration phase. MNC Energi itself did not have a business in coals. Meanwhile, Nuansacipta is one of the coal miners. This acquisition was their effort to start their business in coal sector. Under this information, it was foreseen that both companies were not in the same market and the acquisition will not lead to the creation of monopoly or future competition problems. The acquisition was in fact, a conglomerate merger without any affect to the change of existing market structure and potential unfair business competition.

3.5.3 *Medco's Acquisition Is Justified*

34. KPPU through its Opinion No. A10313 (26 July 2013) justified the share acquisition of PT Pembangkitan Pusaka Parahiangan by PT Medco Power Indonesia by declaring the non-existence of threat to monopolistic practices and unfair business competition as the result of such merger.

35. PT Medco Power Indonesia is a limited liability company whose scope of business activities are operating within the fields of power generator and sales of electric power, network and transmission, distribution, EPC services, fabrication, construction and operation of the gas pipeline. While the acquired company, PT Pembangkitan Pusaka Parahiangan conduct business activities in the field of electricity, construction, and trade.

36. The assessment started by notification of PT Medco Power Indonesia who acquired the entire stock of PT Pembangkitan Pusaka Parahiangan. Later in the Opinion signed by Chairperson of KPPU on the 10th of June 2013, it was concluded that the both companies did not have similar relevant market and will not lead to a more concentrated market place, specifically on the power generator.

3.5.4 *Agung Podomoro's Acquisition Is Approved*

37. Acquisition of PT Bali Perkasasukses and PT Sumber Air Mas Pratama by PT Agung Podomoro Land was approved and did not lead to monopoly's practices or unfair business competition. The official opinion (No. A13012) was signed on the 22th May 2013.

38. PT Agung Podomoro Land, Tbk. is established on July 30, 2004, as PT Tiara Metropolitan Jaya by name, and later changed its name to PT Agung Podomoro Land, Tbk on August 9, 2010. Agung Podomoro's businesses mainly involve construction and development, investment, trade, industry, service, and transportation. The acquired enterprise, PT Bali Perkasasukses works in hotel sector and PT Sumber Air Mas Pratama deals with trade, development, and industry.

39. The combined asset value of Agung Podomoro and Bali Perkasasukses was IDR 10.9 trillion, while the combined asset value of Agung Podomoro and Sumber Air Mas Pratama was IDR 10.8 trillion. Both acquisitions passed the threshold for notification as stipulated by Government Regulation No. 57/2010 and thus, must be reviewed by KPPU.

40. The assessment was started by the fact that Agung Podomoro acquired 51% shares owned by Bali Perkasasukses by purchasing 15,300 stocks owned by Bugle Press Corporation with the transaction involving IDR 15.3 million. Meanwhile, Agung Podomoro also acquired 55% shares of Sumber Air Mas Pratama by purchasing 1,375 stocks owned by Tommy Kartawinata for IDR 13.7 billion.

41. During the assessment, KPPU reviewed the relevant market and market concentration to measure market power caused by the acquisition. KPPU identified two markets in this acquisition, which are (i) the market for 5 stars and 4 stars hotel in Bandung, for the acquisition of Bali Perkasasukses; and (ii) market for the ownership of industrial area in Karawang Region for the acquisition of Sumber Air Mas Prama. The assessment resulted a conclusion that the acquisitions did not prove to lead to monopoly's practices and unfair business competition. The conclusion was made only limited to the acquisition. Should there will be a violation during the implementation, it will not waive the enforcement mechanism which take place.

3.5.5 *Merger of Mitsui and TAS Express is Approved*

42. Indonesia's competition commission, Komisi Pengawas Persaingan Usaha (KPPU) declared the in-existence of potential monopolistic practices and unfair business competition as the result of merger between Mitsui-Soko Air Cargo, Inc. and TAS Express Co., Ltd. The statement was made through KPPU's Opinion on 15 April 2013. During the date, both companies have formed one company named, Mitsui-Soko Express Co. Ltd.

43. Mitsui-Soko Air Cargo, Inc. was a company established under Japan's law where the deed/certificate was notarized on 20 October 1997. Mitsui-Soko Air Cargo Inc. has number of business activities, including agent for international and domestic air cargo which dedicated to international and domestic flights, international and domestic shipping, warehouse services, trucking, travel agent, and non-life insurance for export and import. The overall share of Mitsui-Soko Air cargo Inc. was owned by Mitsui-Soko Co., Ltd. and with subsidiary, PT. Mitsui-Soko Indonesia. Meanwhile, TAS Express Co. Ltd. was a company established under Japan's law with several business activities, including ship freight and international flight forwarding services and related custom services; domestic land expedition and related custom services; air expedition and related custom services; sea freight expedition and related custom services; and contractual logistic services. TAS Express Co. Ltd. entered cooperation with PT. Puninar Jaya to form a joint venture in Indonesia, calls PT. TAS Puninar Express Indonesia.

44. The merged sales value between Mitsui-Soko Air Cargo Inc and TAS Express Co. Ltd has met the threshold rules by Article 5(2) of Government Regulation No. 57/2010, conducted not between the affiliated companies, and thus must be notified to the KPPU. The notification was made on the 13th August 2012, while the merger assessment started on the 1st July 2012.

45. Calculation of market share for the consumer of international air and sea cargo expedition in Indonesia is required the volume of transport (tonase) or complete sales value of Mitsui-Soko Air cargo Inc, TAS Express Co. Ltd, PT. Mitsui-Soko Indonesia, and PT. TAS Puninar Express Indonesia, and the competitors. The data was not available, and thus halt the KPPU's attempt in calculating the market share. Therefore, neither market concentration through Hirschman Herfindahl Index (HHI) nor Concentration Ratio (CR) can be established.

46. To obtain clearer picture on the impact of merger to the market competition in air and sea cargo expedition, the KPPU conducted the assessment based on the available data and information obtained during clarification. It has resulted to market share of air and sea cargo expedition by Mitsui-Soko Air cargo Inc and TAS Express Co. Ltd. Concentration's changes (delta HHI) was 6 (six) for air cargo expedition services, and 2 (two) for sea cargo expedition services. Therefore, since the threshold for the changes in concentration is 150 (one hundred and fifty), the KPPU concluded that there is no potential infringement to monopolistic practices and unfair business competition and significant impact to the market resulting from the merger.

47. Still, the KPPU stated that their Opinion is based on the share consolidation of Mitsui-Soko Air Cargo Inc and TAS Express Co. Ltd. Should there will be an unfair business competition by the merged parties, it will not be exempted from the application of competition law.

4. The role of a competition authority in the formulation and implementation of other policies

4.1 Coordination between the Antimonopoly Act and other economic laws and ordinances

4.1.1 Support on implementation of competition assessment

48. KPPU in 2008 had been mandated with a new authority through Law No. 20 Year 2008 regarding Micro, Small, and Medium Enterprises (MSMEs). Such authority includes supervision of partnership between MSMEs and large business actors. With such authority, KPPU may inspect business contracts between the two business actors to avoid abuse of market dominance by large business actors. Such authority could first be exercised since the issuance of Government Regulation No. 17 Year 2013 as the implementing regulation of Law No. 20 Year 2008.

49. With such authority, every business contract may be put forward to KPPU to ask for consideration. If there is a clause that harms MSMEs, then KPPU may conduct an inspection process and impose sanction on large business actors. The amount of sanction and procedures for inspection are provided for by such government regulation, consequently, inevitably, KPPU in a near future must issue procedures for handling special cases with regard to the partnership between MSMEs and large business actors. Other than legal instrument, the next challenge with regard to this authority will be the preparation of resources both human resources and financial ones to carry out this function. By referring to the experiences of other countries in similar authorities in Asia (especially Taiwan and Japan), it is very likely that competition authority will be inundated with thousands of contracts to be analyzed every year.

4.2 Resources

4.2.1 Budget

50. In conducting its task and duties, KPPU is funded by state budget. In the other hand, KPPU also received donors from institutional and international organization pertaining to training, technical support, joining seminars/workshop, etc. For the year of 2013, KPPU receives state budget with the total amount of IDR 119.834.500.000.

4.2.2 Number of officials

51. In implementing Law Number 5 year 1999, KPPU is led by Chairman who helped by 8 Commissioners. It also has secretariat who act as investigators, auditors, and others supporting officials. Recently, total number of official in KPPU are as follows:

- Commissioner Member : 9 people
- Secretariat : 349 people

4.3 *Public relation activities*

4.3.1 *Public relation activities*

52. For the purpose of enforcing business competition law, KPPU cooperates with the media to disseminate business competition law through various social media such as Facebook, Twitter, YouTube, and the like.

53. To date, both the mass media and social media have quite good communications reach with the general public. Even some cases coming to KPPU derived from public report through the said social media facilities. Currently, it has been recorded that the twitter account of KPPU (@KPPU) is capable of reaching the public up to 161 thousand accounts, while the Facebook account (Komisi Pengawas Persaingan Usaha) is capable of reaching up to 2,100 users.

54. In line with the enforcement of Law Number 5 Year 1999 regarding Prohibition of Monopolistic Practices and Unfair Business Competition, several classic issues still take place at central and regional level, especially with regard to the performance of KPPU not yet broadly known by the public. Several big cases such as cooking oil cartel, cellular phone rate monopoly, fuel surcharge including the entry barrier case of airport taxi have yet to be properly understood by the public. Low public understanding of Law No. 5 Year 1999 and the existence of KPPU become a big challenge in preparing an accurate public relations strategy.

4.3.2 *Policy evaluation*

55. The putting forward of suggestions and considerations of KPPU constitutes the performance of duties as provided for in Article 35 sub-article f of Law Number 5 Year 1999. Since 2011, suggestions and consideration have been put forward not only through the putting forward in the form of mail, but also through Policy Advocacy activities relating to government regulations/policies that overlap business competition. The assessment of effectiveness of policy suggestions since 2013 in accordance with the implementation target set trilaterally (25%) was calculated 2 years as from the putting forward of suggestions and considerations.

56. To date, monitoring is still conducted to know to what extent mails of suggestions and considerations are implemented and to what extent Government policies are synergizing with business competition policies in the relevant sector as well as in regulated sectors. We need to confirm that the absence of written responses to mails of policy suggestions does not mean that the addressees automatically reject to implement them. Very often without giving written responses, the addressees have made adjustment. For that purpose, monitoring of the implementation of suggestions and considerations is needed to identify the number of policy suggestions that has been followed up both in the form of amendment to policy/regulation adjusted to the suggestions of KPPU and identification of policy suggestions that have not been responded or followed up yet.

57. This condition becomes a particular challenge for KPPU. KPPU has to be capable of proving to the public that any suggestion put forward is a choice that must be made by the Government if wanting better sector management. Any consideration suggestion put forward has to have a strong basis through a background paper that may explain strategic value of a suggestion so that the Government realizes the importance of the implementation of suggestions to boost the creation of efficient sector management leading up to public welfare. In order to achieve a maximum result with regard to this competition policy harmonization activity, KPPU has conducted several activity focuses especially policy analysis.

58. Policy analyses conducted in 2013 are among other things regarding State Gas Company (PGN), beef, insurance, electricity, sugar, rice, mining special roads, and Broadcasting Draft Law. Other than

observing its policy aspect, KPPU has also observed the condition of industry in each sector by providing consideration suggestions regarding policy needed to keep and engender fair competition in those sectors. Some industries chosen were (i) Shipping; (ii) Ports; (iii) Hospitals; (iv) Banking; (v) Toll Roads.

59. With the 2 (two) perspectives, regulation and industry condition, it is expected that KPPU may rapidly and accurately update the development of policy/policy plan issued by the Government and safeguard the development in the industry sectors. The difference of the two perspectives is at the objects analyzed, if policy analysis is an analysis to evaluate existing policies, then policy analysis constitutes competition regulation need analysis in the industry sectors monitored. The division of the sectors is needed considering that each sector has a unique industry characteristic and is in need of a specific policy.

60. Other than focusing on policy analysis, KPPU co-identifies policy issues having a potential of violating Law Number 5 Year 1999 as well as the behavior of certain industry that requires regulating in the government policy. The result of this identification then can be used as one of the sources of further policy analysis conducted by the Human Resources of KPPU in addition to potential competition policy issues generated internally by KPPU. Activity for the identification of profile of interaction of business actors and the government is aimed at assisting KPPU as well in updating competition issues in sectors relating to the necessities of life of many people, concentrated markets, markets with sensitive price, as well as infrastructure and public services. Sectors that become the priority of KPPU in 2013 are (1) Food; (2) Energy; (3) Infrastructure; (4) Finance; (5) Health Services; (6) Natural Monopoly.

5. International efforts to strengthen the cooperation and coordination of competition law and competition policy

61. Competition policy and law is an evolving issues in many trade negotiations. The objective is mainly to promote competition to support economic relation between countries. Many aspects are addressed in an individual chapter on competition, including transparency, exchange of information, and notification. These are international agreement between Indonesia and other countries with specific chapter on competition which fall into the responsibility of the KPPU.

5.1 *Bilateral approach*

62. At bilateral level, this year was the first time for KPPU to ratify cooperation with similar competition institution overseas. Such bilateral cooperation was established with Korea Fair Trade Commission (KFTC). This cooperation constitutes a follow-up to the bilateral meeting between the two leaders of the two institutions in Jakarta in May 2009. Although cooperation between KPPU and KFTC has been intensively established since 2004, process for the preparation and ratification of this cooperation took a long time. The cooperation in a broad outline includes the aspect of exchange of information in law enforcement and that of capacity building of the two institutions. The two aspects are carried out in the form of notification, consultation, routine meeting, joint study, and technical assistance.

5.2 *Economic partnership agreement*

5.2.1 *Indonesia – Korea Comprehensive Economic Partnership Agreement*

63. With regard to bilateral relations, Indonesia has finalized a chapter relating to competition policy in the context of the Indonesia-Korea Comprehensive Economic Cooperation. When the agreement is ratified, it will provide initiative and commitment for the two Countries to create competitive business and investment environs by giving priority to the aspect of transparency and fairness and that of equal treatment. In the same context, Indonesia still continues its consultation for business competition chapter in the Indonesia-EFTA Comprehensive Economic Partnership. The consultation is still trying to reach common understanding of the main principle of the article, namely trade aspect in a competition policy and

measures needed. It is expected that in the coming negotiation, the two parties may compromise the solution for such different viewpoints.

5.2.2 *Indonesia-Japan Economic Partnership Agreement/IJEPA*

64. KPPU also involve comprehensively in Indonesia-Japan Economic Partnership Agreement (IJEPA). KPPU get advantages under IJEPA, due to this institution has got technical assistance by JICA and JFTC. The agreement in competition between Indonesia and Japan involves commitment that each Party shall, in accordance with its laws and regulations, promote competition by addressing anti competitive activities, in order to facilitate the efficient functioning of its market. The Party shall in accordance with their respective laws and regulations, cooperate on the promotion of competition by addressing anti-competitive activities, and on the capacity building for strengthening competition policy and implementation of competition laws and regulations, subject to their respective available resources.

5.2.3 *ASEAN-Australia-New Zealand Free Trade Agreement/AANZFTA*

65. The agreement in competition between ASEAN countries and Australia and New Zealand involves commitment that each Parties recognise the importance of co-operation in the promotion of competition, economic efficiency, consumer welfare and the curtailment of anti-competitive practices.

66. On-going discussion on bilateral agreements which includes specific competition chapter: (i) Indonesia-EFTA Comprehensive Economic Partnership Agreement (IECEPA); (ii) Indonesia-Korea Comprehensive Economic Partnership Agreement (IKCEPA); (iii) Indonesia-Australia Comprehensive Economic Partnership Agreement; (iv) Indonesia-European Union Comprehensive Economic Partnership Agreement; and (v) Regional Comprehensive Economic Partnership (RCEP).

5.2.4 *Multilateral approach*

67. Technical assistance received by KPPU is dedicated to assist the commission to improve them self through international best practices and participation to many international activities. Currently, KPPU obtains its technical assistance from the following international organization, namely:

- ASEAN - German International Cooperation (GIZ)
- United Nations Conference on Trade and Development (UNCTAD)
- AANZ Free Trade Area Agreement (AANZFTA)

5.3 *Main surveys related to competition policy*

68. In 2013, KPPU conduct surveys regarding Policy Analysis in several sector, such as State Gas Company (PGN), beef, insurance, electricity, sugar, rice, mining special roads, and Broadcasting Draft Law. Other than observing its policy aspect, KPPU has also observed the condition of industry in each sector by providing consideration suggestions regarding policy needed to keep and engender fair competition in those sectors. Some industries chosen were (i) Shipping; (ii) Ports; (iii) Hospitals; (iv) Banking; (v) Toll Roads.