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ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN INDONESIA

-- 2014 --

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This report is submitted by Indonesia to the Competition Committee FOR DISCUSSION at its forthcoming meeting to be held on 27-28 October 2015

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1. Changes Regarding Competition Laws and Policies

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.

1.2 Amendment of Indonesian Competition Law

2. Indonesian 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.

1.3 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.

1.4 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 to article 36 of Law Number 5 Year 1999 including the following fields: acceptance of reports, supervision, pre-investigation, filing system, case examination, decision, and litigation.

2.1 Legal measures against violations

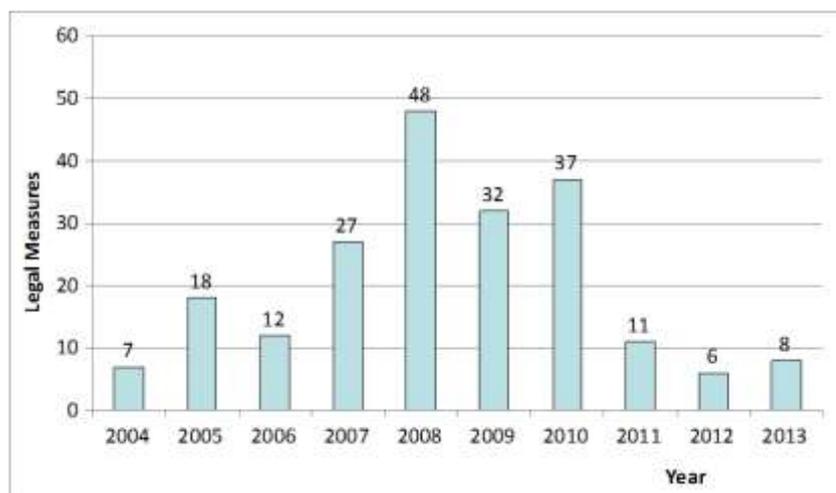


Figure 1: Number of Decisions

9. KPPU published 8 (eight) decision in 2014, with 109 complaints. Out of the said reports, about 80% were estimated as bid-rigging, and the rest 20% were non bid-rigging. There was 32 investigations took place in 2014, with 56% of which are bid-rigging cases. The percentage was decreased from 68% in 2013.

2.2 *Summary of main cases*

– Bid Rigging

“CT - SCAN Procurement at Pirngadi Hospital Case”

10. 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. 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. 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).

11. 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). 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.

– Price cartels, etc. (excluding bid rigging)

“Garlic’s Importation Case”

12. 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. 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.

13. 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.

14. 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.

“Domestic Tire Production Case”

15. Six tire manufacturers were proved to enter cartel and price fixing agreements in the production and marketing of tire in Indonesia. The six enterprises, PT Bridgestone Tire Indonesia, PT Sumi Rubber Indonesia, PT Gajah Tunggal Tbk, PT Goodyear Indonesia Tbk, PT Elang Perdana Tyre Industry and PT Industri Karet Deli, were individually imposed with administrative fine of IDR 25 billion, a highest fine that can be imposed by the competition law. This decision was announced yesterday evening (Jan 7) in KPPU head office in Jakarta.

16. KPPU Commissioner Council led by Kamser Lumbanradja stated in the decision that their conclusions were made on the evidence from minutes of presidential meeting of the Association of Indonesian Tire Producer (APBI) conducted from 2009 to 2012. The minutes found to discuss about their agreements to uphold their production and maintain the prices. Furthermore, in the Sales Director Meeting of APBI on December 2008, which the result should be submitted to the presidential meeting on 21 January 2009, they were clearly highlighted that “APBI members must not enter to a price war practice”. This statement once declared by the Chair of APBI and undisputedly agreed by all members.

17. Meanwhile, in the presidential meeting of 26 January 2010 at the Hotel Nikko (one of the five stars hotel in Jakarta business district), they also highlighted that “to all members of APBI, once again, to uphold their self and continue to control their distribution and maintain a conducive market condition according to their demand”. At the following presidential meeting in 25 February 2010 at the same hotel, they announced the minutes of Sales Director meeting contained agreed prevention mechanism by each enterprises to guard their market stability. On 10 April 2010, at the similar meeting, they declared that “market monitoring by APBI will be reactivated from May 2010, and all members must control their tire distribution to sustain this condition”.

18. In addition to the evidences, KPPU also used the Harrington Model to measure the existence of cartel agreement. This model is the combination of methods in foreseeing cartel in many perspectives. It uses the error correlation analysis or residual regression using panel data between companies. In the econometric analysis, error or residual regression often uses as the basis for cartel behavior. Experts use this model to analyze behavioral pattern in the dedicated time frame and between samples. Harrington Model deems to be a valid method to prove the existence of cartel, said Kamser in his explanation. Following the decision, KPPU also will recommend the Minister of Industry to advice APBI to have them comply with the fair competition principles rules by the Law No. 5/1999.

- Unfair competition practices

“Exclusive Dealing by Bank Rakyat Indonesia”

19. KPPU announed its decision in November 11, 2014 with regard to alleged case of tying agreement and barriers to entry by Bank Rakyat Indonesia (BRI) and insurance consortium (PT. Asuransi Jiwa Bringin Jiwa Sejahtera (BRINGIN) and PT. Heksa Eka Life Insurance (HEKSA)). In a decision which read out for nearly 3 hours, KPPU orders the cancellation of agreement containing obligation of Housing Loans Debtors to use only life insurance from consortium BRINGIN and HEKSA. Furthermore, KPPU also orders BRI to stop the activities of hampering other life insurance companies in conducting the same business activities.

20. Other than order to eliminate the barriers to entry, the Commissioners Council also sanctioned BRI to pay fines with the amounts of IDR 25 billion, BRINGIN with the amounts of IDR 19 billion, and HEKSA with the amounts of IDR 13 billion. This three companies has been proven in violating article 15 (2) with regard to tying-in and article 19 (a) with regard to entry barrier. KPPU also recommends the

Financial Service Authority (OJK) to immediately impose sanction to the banks violating the implementation of Circular Letter of Bank Indonesia No. 12/35/DPNP dated December 23, 2010 regarding the Application of Risk Management to Banks Conducting Marketing Cooperation Activities with Insurance Companies. KPPU also gives recommendation to OJK so that banks are regulated/supervised by the principles of fair business competition.

21. The case itself was started with the initiative of KPPU when finding the requirements of BRI housing loans. In such process, customers did not able to choose their preferred life insurance other than those determined by BRI. Customers did not have any choice since they were obligated to purchase life insurance products for the approval of their housing loans. With due observance of such phenomena, KPPU took the initiative to conduct further inquiry.

22. By regulation, customers are provided with freedom to choose their obligatory insurance products. This has been proven by Circular Letter of Bank Indonesia (SEBI) No. 12/35/DPNP dated December 23, 2010 stating that in establishing cooperation between banks and insurance companies in the context of Bank products, banks must offer relevant insurance products from at least 3 (three) bank partner insurance companies, 1 (one) of which can constitute banks' related party. This underlines that there have to be choices for customers. This fact is something that was not implemented by BRI. BRI only established one consortium, namely BRINGIN and HEKSA. Even in the implementation thereof, they jointly covered life insurance for housing loans debtors of BRI by dividing up a risk share of 60% for BRINGIN and 40% for HEKSA. Consequently, BRINGIN acted as Chairman of the Consortium and HEKSA acted as Member of the Consortium. BRI determined terms and conditions for consumers or customers which limiting their option and created entry barrier for other business actors to conduct the same business activities in such market. With this decision, there is a light of hope that consumers will have more choices in insurance products.

3. Litigation Proceedings

3.1 Lawsuits seeking to overturn a KPPU decision

23. In terms of litigation, from 2012 to 2014, KPPU recorded more than 120 objections were made the reported parties. From such number, 114 objection results were announced. Most of them (around 59% objection) was in favor of KPPU. Specifically in 2014, we noted 17 decisions of KPPU decision were lodged to the District Court, and 26 decisions had been brought to the Supreme Court (18 cassation and 8 judicial review).

4. Mergers and acquisitions

24. Merger and acquisition (M&A) has been a most favor corporate action in Indonesia, and ASEAN, especially in meeting the upcoming market integration. M&A values as a easy way to put our hand in specific sector in other countries. This trend was showed by high number of notifications and consultations in this action below.

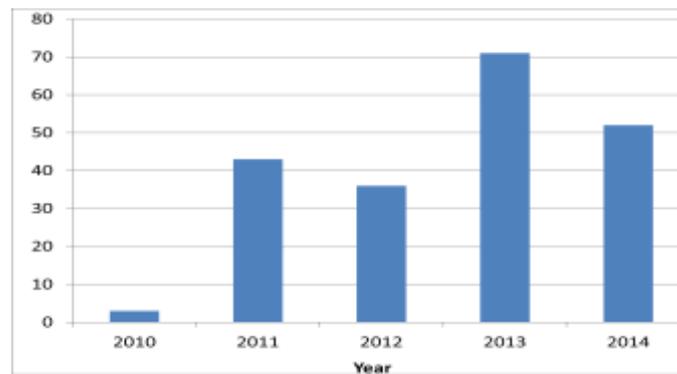


Figure 2: Number of Merger Notifications

“Delay-in-Notification in the Acquisition of PT HD Finance Tbk”

25. The Commissioners Council whom chaired by R. Kurnia Sya’ranie decided the Case Number 07/KPPU-M/2014 on the Violation Allegation of Article 29 Law Number 5 Year 1999 juncto Article 5 Government Regulation Number 57 Year 2010. The Commissioners Council found PT Tiara Marga Trakindo, Tbk guilty on 41 days overdue for their Post-Notification in the acquisition of PT HD Finance.

26. Based on the Investigation facts and findings, the Commissioners Council concluded that there has been a transfer of control in PT HD Finance, from Wealth Paradise Holdings Limited and HD Corpora to PT Tiara Marga Trakindo as the new controller. PT Tiara Marga Trakindo’s business fields are trading, printing, construction, manufacturing, technical project, services, landed housing, agriculture, and PT HD Finance’s business field is financing. The asset value of PT Tiara Marga Trakindo and PT HD Finance after the acquisition was IDR 30.891.691.813.936, while the sales value of PT Tiara Marga Trakindo and PT HD Finance after the acquisition was IDR 24.518.222.804.928. From this number, the Commission noticed that the asset value has exceeded the threshold of IDR 2.5 trillion and the sales value has exceeded the threshold of IDR 5 trillion. Therefore, according to Article 29 Law Number 5 Year 1999 juncto Article 5 Government Regulation Number 57 Year 2010, the business actors should notify the acquisition to KPPU after the first Information Disclosure until 30 days after, at the latest.

27. The first Information Disclosure was made by PT Tiara Marga Trakindo when they delivered the acquisition notification to the Financial Services Authority (OJK / Otoritas Jasa Keuangan). Thus the overdue post notification was counted after that first Information Disclosure plus 30 days. Weighed on those facts, KPPU decided that PT Tiara Marga Trakindo has been proven guilty in violation of Article 29 Law Number 5 Year 1999 juncto Article 5 Government Regulation Number 57 Year 2010. Nevertheless, PT Tiara Marga Trakindo has indicated their good will by consulting the acquisition process to KPPU before the acquisition took place, and KPPU has issued a Non-Objection Letter for that acquisition. The main reminder in this decision was that a Non-Objection Letter from KPPU would not remove the mandatory Post-Notification. Finally, in the decision, the Commissioners Council punished PT Tiara Marga Trakindo to pay fines with the amounts of IDR 1 Billion to the Government of Republic of Indonesia.

“Acquisition of PT Axis Telekom Indonesia (AXIS) by PT XL Axiata Tbk (XL)”

28. KPPU concludes that acquisition of PT. Axis Telekom Indonesia (AXIS) by PT. XL Axiata, Tbk (XL) is not lead to monopolistic practices and unfair business competition. Nevertheless, KPPU give some note to the acquisition. First Note from KPPU, considering the market share of three businesses actors in the telecommunications services (Telkom, Indosat, dan XL) were reaching 89,05%, KPPU requires XL to

provide report on market development, product, and charge every 3 (three) months in 3 (three) years. The opinion's given after considering XL's commitment to remain as a market pioneer in competitive rate of mobile telecommunications services, so the commitment will be an integral part of the KPPU's opinion. Furthermore, the opinions are restricted to the acquisition of AXIS' shares by XL, therefore, if there is anti-competitive behavior by the parties nor its subsidiaries in the future, that behavior will not be excluded from the competition law.

29. The official opinion of KPPU set forth in 18 February 2014 as a comment of submitted consultation by XL on 1st August 2013. The consultation itself was carried out simultaneously with XL's plan on purchasing 95% of AXIS's share, which issued to Teleglobal Investment BV and BV Althem. The acquisition will increase the assets of XL (based on data in 2012) about IDR 45.27 trillion and the value of combined sales around IDR 23.38 trillion.

30. Increasing market concentration index also occurred in the tower leasing services market in the province of D.I.Yogyakarta. However, since there are some business actors in the tower leasing services in D.I.Yogyakarta, and the policy of using the tower jointly, the antimonopoly effect could be suppressed. Furthermore, as a prevention act in the market domination of cellular telecommunication, KPPU will conduct an intensive monitoring of that market.

“Acquisition of KUFPEC by Saka Energi Indonesia”

31. KPPU concluded that there are no allegation of monopolistic practices or unfair competition in the acquisition of KUFPEG Indonesia (Pangkah) BV (KUFPEC) by PT. Saka Energi Indonesia. The conclusion was stipulated on May 9th 2014 through KPPU's Opinion Number 14/KPPU/PDPT/V/2014. The assessment started by a notification from PT. Saka Energi Indonesia on July 10th 2013 to KPPU and the Deed of Transfer of Shares in KUFPEC Indonesia (Pangkah) BV completed on June 21st 2013.

32. The acquisition was carried out by a subsidiary company of PT. Gas Negara (Persero) Tbk, who took 100% shares of Kuwait Foreign Petroleum Exploration Company KSC (Closed) by the purchasing of 18,000 shares placed in KUFPEC. KUFPEC itself is the shareholder of 25% Participating Interest of Block Pangkah in the northwest island of Madura (50 km from Surabaya). PT. Saka Energi Indonesia, the acquirer, is a company engaged in the exploration and exploitation of oil and gas. The company already has two oil and gas blocks, namely Ketapang Block in East Java and Bangkanai Block in Central Kalimantan. Both of these blocks are still in the exploration stage and have not produced oil and gas yet. At this time, Blok Pangkah has production capacity of 8,000 barrels oil per day.

33. From this acquisition, the Saka Energi gained 25% KUFPEC's right of this block, which is about 2,000 barrels oil per day. The other owners of Pangkah Block is Hess (Indonesia-Pangkah) Ltd with 65% shares (operator) and Hess Pangkah LLC with 10% shares.

5. The Role of a Competition Authority in the Formulation and Implementation of other Policies

5.1 Support on implementation of competition assessment

34. 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.

35. 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.

6. Resources

36. In conducting its task and duties, KPPU is funded by the 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 2014, KPPU receives state budget with the total amount of IDR 119.834.500.000.

37. Total number of officials at the Commission is 358 people, which consist of nine Commissioners and officials at the Secretariat that consist of managements, investigators, auditors, and others supporting officials.

7. Public relation activities

38. 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. 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.

39. In 2014, KPPU increased their engagement with social media through Facebook and Twitter. Currently, it has been recorded that the twitter account of KPPU (@KPPU) is capable of reaching the public up to 161 thousand accounts, with Twitter @KPPU follower of 2.749 followers. Meanwhile, the Facebook account (user: Komisi Pengawas Persaingan Usaha) accessed regularly by 30.137 friends. This number will continuously increased from time to time with the increase interest by the society to obtain precise and swift information on competition

7.1. The First Competition Corner at the University

40. Classic issues still take place at central and regional level, especially with regard to the performance of KPPU that broadly unknown by the public. Several big cases 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. Therefore in 2014, KPPU officially establish their first Competition Corner in Padjajaran University, Bandung. A similar Unit was established by the Japan Fair Trade Commission (JFTC) under the name of Competition Policy Research Centre (CPRC) in JFTC Building. However, KPPU choose a more local approach and build this Unit in local University.

41. Competition Corner itself is aimed to strengthen the dissemination of competition policy and law through local research. The dissemination is implemented in the forms of consultation, seminar, discussion and research activities. The establishment of Competition Corner was started with the signing of MoU between KPPU and Padjajaran University, and nowadays, it is built inside the Mochtar Kusumaatmadja Law Library of Padjajaran University.

42. At the opening ceremony, Nawir Messi, the Chairman of KPPU explained that the establishment of Competition Corner was based on two main reasons. Firstly, West Java is one of the province in Indonesia which has rapid economic development. Thus, it is necessary that the local government mainstreams competition policy in their local government's policy. In this case, University is expected to be the leader and the bridge to fulfill that mission. Secondly, is the need of competition experts to take important role in the region. These experts are expected to help the development of competition law and policy in ASEAN. "Recalling all of that reasons, establishing a Competition Corner in this year is a right choice", Nawir Messi stated. Moreover, Nawir stated his expectation that this medium-sized Competition Corner could be the assembly hall for dissemination of competition law and policy, and of course, the mainstreaming of competition policy into local development plan.

7.2. Policy evaluation

43. 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.

44. 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.

43. 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.

45. 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.

46. 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.

45. 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.

7.3. Main surveys related to competition policy

7.3.1 Policy Analysis

47. 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.

7.3.2 KPPU Public Awareness Survey 2014

48. KPPU has concluded its report on public awareness survey on competition by the end of 2014. The survey was made to assess the effectiveness of KPPU's communication or outreach's works for the last five years period. The first survey was made on 2009, with specific focus on business perspectives. Last year, the survey was made to assess not only business perspective, but also public at large.

49. The public awareness survey was conducted by involving 340 respondents (228 respondents from public and 112 respondents from business) in major cities in Indonesia like Medan, Batam, Jakarta, Surabaya, Balikpapan, and Makassar. Respondents were selected using clustered random sampling method, with specific ratio for specific type of respondent in each city. A questionnaire was provided to all respondent, while the collection was done using face-to-face interview.

50. Based on the survey, KPPU found that in general the businesses and even the public value the improving business opportunity for the past years (since KPPU is established). In detail, the study shows that most of respondent from businesses know about KPPU (64% of the samples), while lower number was indicated by the public (55%). In regional area, number of business knowing about KPPU is much higher (71%), eventhough most of them (95%) did not know about who leads the Commission. Luckily, almost half of them (45%) know where to put complaint to KPPU regional offices.

51. More that half of people from the public (56%) understand the tasks of KPPU, but the businesses values it even higher (76%). At the implementation level, the businesses observation on KPPU doing their job is lower than what the public thought. Even-thought most of them concluded that KPPU was able to prevent anti-competitive practices in Indonesia.

52. Visiting KPPU head office or regional office is not a favorite think to do by the businessness, compare to the public. Only 55% of businesses had visited the office, while 80% of respondent from the public has. Most of them came to the office with the purpose of consultation or hearing (24%), and then to put complaint (28%). Almost all of the respondent from the businesses were distatisfied with the service

provided by KPPU at their office (only 6.96% respondent was satisfied). Thus, most information (48%) was obtained by the public and businesses through the internet (KPPU website). Printed materials were difficult to obtain by the businesses, compare to what the public thought. This certainly will become a great concern by the Commission in the future.

53. In the end, to put an index to KPPU performance for the past years, the survey valued the index of 6.71 of the scale of 7. This is a great and positive judgement by the public to KPPU. Some issues do need some repairs, but KPPU is optimistic to bring more satisfaction to their services and benefit to the society at large.

8. International Efforts

54. 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.

8.1 Bilateral

55. 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.

8.2 Economic partnership agreement

“Indonesia – Korea Comprehensive Economic Partnership Agreement”

56. 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.

“Indonesia-Japan Economic Partnership Agreement/IJEPA”

57. 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.

“ASEAN-Australia-New Zealand Free Trade Agreement/AANZFTA”

58. 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. Ongoing 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 Partnership (RCEP).

8.4 Multilateral approach

59. 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); and AANZ Free Trade Area Agreement (AANZFTA)¹.

¹ The summary annual report is a brief version of KPPU Annual Report 2014 provided by KPPU with reference on the OECD template on annual report. This is an official translation.