

kompetisia

Newsletter on Indonesian competition law and policy



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KOMPETISIA
Newsletter on Indonesian
competition law and policy

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Foreword

After being awaited sufficiently long period, finally KPPU in this month has authenticated two guidelines of Law No. 5/1999, which are concerning administrative measures and exemption from the Law with regard to its association to law and regulation. The two guidelines bring additional wealth of KPPU's infrastructure after guideline of prohibition of collusion in tender to increase public awareness to competition policy in Indonesia. In addition in competition law enforcement, KPPU have also finalized case suspected of violation on monopoly of Barclays Premiere League and some discrimination cases and tender collusion. From policy side, KPPU have also given an airing to the government on competition in downstream oil and gas industry and in management of warehouse in airport. Enjoys!

Vertical Collusion on Road Expansion in Batam



Putera Nusa Perkasa, a local construction company, and bid committee are decided to conduct a vertical collusion in road expansion project in Batam. The case that involved a value of Rp. 1.848 billion and based on report, at beginning

was involving five alleged parties in bid process, namely Putera Nusa Perkasa, Kurnia Djaja Makmur Abadi, Mitra Graha Indonusa Indah, Sumber Alam Sejahtera, and the Bid Committee. At early indications, it was founded that there were several indications of collusion between all participants, such as formulation of bid documents by one person that lead to similarity in format and typing mistakes, absent of complaint for appointment of Putera Nusa Perkasa, and small margin of owner estimate (0,99%). Vertical collusion was found by an indication by the bid committee to pass Putera Nusa Perkasa which did not met administrative and technical evaluation, and absentia in clarification of bid offer document to bid winner candidates.

In its decision on 1 August 2008, KPPU's Commission Council evaluated several considerations. Firstly was that the similarity in bid document will not be sufficient to proved cooperation in formulating bid offer document. Secondly was that eventhough the Bid Committee did not agreed upon post bidding, thus KPPU's Commission Council argued that the Bid Committee has initiated post bidding process due to circumstance that entire bid documents are kept by the Bid Committee. Thirdly was that the Bid Committee has facilitated Putera Nusa Perkasa to pass them as the bid winner, notwithstanding that there were no legalized letter of intent which shall declares a company is not under supervision of the court, bancroupcy, and or suspended.

Based on aforementioned facts, Commission Council of KPPU decided that Putera Nusa Perkasa and the bid committee are convincingly breach Article 22 of the Law, hence obliged to pay fine with amount of Rp 100 million. Other alleged parties are not found guilty in this bid process.

...several indications of collusion between all participants, such as formulation of bid documents by one person that lead to similarity in format and typing mistakes...

Collusive behavior in the construction of official house in North Sumatera

This collusive behavior is proved due to the existence of formulation of bid offer document by a bid participant that will be submitted to win the procurement.

Seven alleged parties was stipulated had breach article 22 of the Law No. 5/1999 on conspiracy in tender and being obligated to pay fine with total amount of Rp 292 million in the case of construction for regent's and vice regent's official house in Humbang Hasundutan, North Sumatera. The seven alleged parties are Mutiara Lautan Indah, Karya Bukit Nusantara, Dipa Panalasa, Kartika Indah Jaya, Linggahara Pratama, Toruan Nciho Corporation, and Erkarya Jaya.

Karya Bukit Nusantara, dan Dipa Panalasa in determining Mutiara Lautan Indah as the bid winner, and an agreement between Kartika Indah Jaya, Linggahara Pratama, Toruan Nciho Corporation, dan Erkarya Jaya in determining Kartika Indah Jaya to win the bid for vice regent's house. This collusive behavior is proved due to the existence of formulation of bid offer document by a bid participant that will be submitted to win the procurement.

The bid process which involved government's fund of Rp 1,496,250,000 for the regent's house and Rp 996,800,000 for the vice regent's house, was begun with report on an agreement by Mutiara Lautan Indah,

Discriminatory Practice in Appointing of Subsidize Fertilizer's Distributor

Subsidize fertilizer is classified as highly regulated industry in Indonesia, due to its supply and distribution which supervised directly by the Government to ensure farmers for a cheap and affordable price to support the agriculture sector.

Indonesian major fertilizer company (Petrokimia Gresik) was not proven to breach the Law No. 5/1999 in its stroke in appointing Mahkota Tani Cooperative to solely distribute subsidize fertilizer in Sragen regency, Central Java.

Subsidize fertilizer is classified as highly regulated industry in Indonesia, due to its supply and distribution which supervised directly by the Government to ensure farmers for a cheap and affordable price to support the agriculture sector. Production, distribution, and profit margin on this transaction is also regulated by several government regulations, such as Decree of the President, Decree of Minister of Trade, and Decree of Minister of Agriculture, and Government Regulation. It was also occur that through Regulation of Minister of Trade No. 03/M-DAG/PER/2/2006 on Supply and Distribution of Subsidize Fertilizer for Agriculture, the Government gave exclusive right to Petrokimia Gresik to produced ZA, SP-36, and NPK fertilizer with its own authority to assign its distributor. Mahkota Tani Cooperative was assign as the distributor for Sragen in replacing Murni Sri Jaya Corp.

The relevant market to this case was the distribution of subsidized fertilizer in Sragen regency. This was supported by the Regulation of Minister of Trade No. 03/M-DAG/PER/2/2006. In one side, this assignment is not inline with fair competition due to its restriction for a potential distributor. But in the other hand, KPPU's Commission Council did not found any negative effect or scarcity whilst Mahkota Tani Cooperative running the show.

Based on the examinations, KPPU's Commission Council recommended the Commission to provide advice and recommendation to Minister of Trade to revise the existing regulation and issued new regulation that regulated process for assignment of distributor through competitive process to provide equal opportunity on other business actors. The Commission was also deemed necessary to provide advice and recommendation to Petrokimia Gresik Corp. to adjoin new distributor in Sragen regency and considering the area of distribution and allocation. Also, to endorsed fair competition mechanism in assigning its distributors.

Discriminatory practices in advertising management's right on outdoor places of Surabaya International Airport

A state-owned enterprises (Angkasa Pura I) was proved to performed discriminatory practices in advertising management's right on outdoor places of Surabaya International Airport, hence being advised to renegotiated their agreements.

Through this case, KPPU's Commission Council is considering several findings. Firstly was the fact that Angkasa Pura I has outsourced its right on management of advertisement in tollgate area and it surrounding (1,414.23 square meter) to Sido Maju Industri Estat without formal bidding process. However, notwithstanding that other outdoors' locations were designated through beauty con-

Thirdly was the fact that Angkasa Pura's action in fixing floor price for rent of advertising space in tollgate area which lower than floor price of other outdoor location was one of the types of discriminatory practice. Fourthly was the fact that Angkasa Pura's action to fixed the different floor price in tollgate area (and its surrounding) which lower than the floor price in other outdoor location, and by not providing information on the availability of advertising space in tollgate area (and its surrounding) during the beauty contest process have caused disparity of price rent as follows:

	Tollgate and its surrounding	Parking area	Entry access to airport
Wide	1.414,23 m2	325 m2	607 m2
Management	Sido Maju Industri Estat	Team Work	Advertising Indonesia
Floor price (m2/ month)	Rp. 50.000,-	Rp. 150.000,-	Rp. 150.000,-
Rent price (m2/ bulan)	Rp. 85.000,-	Rp. 509.000,-	Rp. 155.000,-

test, it was not type of discriminatory practices, because Angkasa Pura I has outsourced its right as a compensation for tollgate's construction according to the stipulation by its Board of Director. Secondly was the fact that Angkasa Pura's action in not providing information on formation of advertising space in tollgate area and its surrounding during the beauty contest was not type of discriminatory practice.

Based on these findings, KPPU (in 19 August 2008) stipulated in its decision that Angkasa Pura I has engaged discriminatory practices in advertising right in outdoor location of Surabaya International Airport which impede competition between advertising management companies. Therefore it was deemed necessary to issue an order to Angkasa Pura I to renegotiate their rent agreement for advertising space in tollgate area (and its surrounding) with Sido Maju Industri Estat.

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Procurement of contraception medicine was tend to restrict competition

The only concern was the bid committee inquired the contraception medicine in one package which consists of tablet, injection, and implant. This packaging was incorrect due to their impact in restricting business actors.

Despite of providing cheap medicine to support government initiative to birth control, a procurement of contraception medicine by National Planned Family Coordination Agency (BKKBN) in Central Java was attempted to bind the competition. This report based case was involving five alleged parties, where one of them was the bid committee, while other are Usahatama Sentosa Mas Corp (USM), Djaja Bima Agung Corp (DBA), Pamitra Nitya Kencana Corp (PNK), and Triyasa Nagamas Farma (TNF).

KPPU's Commission Council found information as follows. Firstly was the fact that there were a cross ownership between USM, DBA, PNK, and TNF. Even if this was not banned by the regulation, this will lead to a shame competition between bid participants.

Secondly was the fact that bid offer price for the medicine submitted by USM, DBA, and PNK (Rp 191,158/set) was based on owner estimate formulated by the bid committee which considering prices regulated by Ministry of Health. The price differentiation between government intervention and price submitted by TNF was Rp 81,158/set. However, there are not enough evidences to stipulated price arrangement between USM, DBA, and PNK.

Thirdly was the fact that requirement on copy of valuation of local content (minimum of 40%) by Ministry of Industry on every

contraception was inline with the Regulation of Minister of Industry No. 11/2006. Based on this requirement, only TNF was the only local producer that meets the requirement. The only concern was the bid committee inquired the contraception medicine in one package which consists of tablet, injection, and implant. This packaging was incorrect due to their impact in restricting business actors.

Considering the facts, KPPU's Commission Council recommended the Commission to provide advice and recommendation to the Government as follows:

- Recommendation to the Minister of Industry to socialized the Regulation of Minister of Industry No. 11/2006 on local content requirement to have a precise implementation of the regulation.
- Recommendation to the BKKBN to not combined contraception medicine and tool in one package.
- Recommendation to the Minister of Health to re-evaluate their reference price, which deemed as overvalued.
- Recommendation to the Indonesian National Development Planning Agency to formulate regulation in public procurement that banned cross-ownership in a bid process.

Anti competitive behaviors in Broadcast Right for Barclays Premier League 2007

ESPN Star Sports Corp. (ESS) and All Asia Multimedia Network Corp. (AAMN) were proved to breach Article 16 of the Law No. 5/1999 on anti competitive agreement with foreign parties. Meanwhile, Direct Vision Corp. (DV) and Astro All Asia Network Plc. (AAN) were not proved to breach Article 16 and Article 19 (letter "a" on entry barrier and "c" on limitation of sales/distribution) of the Law No. 5/1999.

At the beginning, Premier League was broadcasted through Free to Air TV and paid TV since 1991 until season of 2004-2007. However, for season of 2007-2010, the league was exclusively broadcast by a paid TV (namely Astro) provided by DV. As the result, other paid TVs (namely Indovision, Telkomvision, and IndosatM2) and several group of societies reported this case to KPPU.

Violation of Article 16 of the Law No. 5/1999

KPPU's Commission Council highlighted that an exclusive agreement itself was not breach competition law. However, KPPU's Commission Council judged that agreement between ESS and AAMN was categorized as an anti competitive behavior due to their impact on monopolistic practice and unfair business competition in Indonesia' paid TV industry. KPPU's examinations were showed that Barclays League is one of the important content for paid TV industry, notwithstanding that the exclusive agreement was not occurs by a competitive process. This agreement will brought impact on competition of paid TV in the short run. However, KPPU also considering the last update which informs transfer of Barclays League's broadcast right to Aora, a new paid TV company in Indonesia.

Violation of Article 19 (letter "a" and "c") of the Law No. 5/1999

Indications which AAN, AAMN, and PTDV used their monopolistic power in Malaysia to squeeze ESS in giving broadcast rights for Barclays League in Indonesia to AAMN was not legally proved. This shown by lack of evidences that showed monopolistic practices by Astro Group, either during negotiation process between Astro Group and ESS, nor the differentiation of buying value of Barclays League's right for Malaysia and

Indonesia. By which therefore, KPPU's Commission Council decided there were no violation on Article 19 (letter "a" and "c" of Indonesian competition law).

Based on series of examinations by KPPU, the Commission Council deemed necessary to implement fair competition value in achieving and exploiting premium content broadcasted by Indonesian television operator. The Council was valued that to promote competition in this case, it can be done with cancellation or revising the agreement between ESS and AAMN. Under Article 47 of Indonesian competition law, KPPU can impose administrative fine on AAMN, but considering that Indonesian pay-TV industry still in its early development, then KPPU though that it will not imposed any fines in this case.


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Furthermore, KPPU valued consumer right to enjoy broadcasting by AAMN and Astro Group as an economic entity.

Therefore based on these findings, the Commission Council recommended KPPU to provide advice and recommendation to the Government and relevant parties which consisted several ideas as follows:

- to formulate general information on standard and qualification of premium content in broadcasting industry;
- to formulate regulation that encourage transfer of right for premium content through a competitive and transparent process to be broadcasted by Indonesian television operator;
- to formulate regulation on content which can not be broadcasted exclusively by pay-TV operator.



Based on evidences, facts, as well as conclusion of the examination, KPPU's Commission Council on 29 August 2008 decided as follows:

- that ESPN Star Sport and All Asia Multimedia Networks have convincingly breached Article 16 of the Law No. 5/1999;
- that Direct Vision, Corp, and Astro All Asia Network, Plc were not breached Article 16 of the Law No. 5/1999;
- that Direct Vision, Corp, Astro All Asia Network, Plc, and All Asia Multimedia Networks were not breached Article 19 (letter "a" and "c") of the Law No. 5/1999;
- that All Asia Multimedia Networks was not proved to breached Article 19 (letter "a" and "c") of the Law No. 5/1999;
- to cancelled agreement between ESPN Star Sports and All Asia Multimedia Network on control and placement of broadcasting right for Barclays Premiere League 2007-2010, and shall conduct a competitive process to determine it.
- order All Asia Multimedia Network to maintain and protect Indonesian consumer by maintaining business relation with Direct Vision Corp, and not to terminate entire services to the costumer until legal certainty on ownership of Direct Vision, Corp.

Two guidelines are published

Aiming to increase its credibility in handling competition cases, KPPU recently has finished and published guideline on Article 47 on administrative measures and Article 50 letter "a" on exemption for application of certain regulation. These guidelines are expected to provide clear and definite understanding on how KPPU's work in imposing administrative sanction and providing an exemption to the Law No. 5/1999 (Indonesian competition law).

Guideline on Article 47 (administrative measures) regulate framework on administrative measures as stipulated by Article 47 (point 1 and 2) of the Law No. 5/1999. This guideline also provides methodology in determining value of the sanction, which will be included calculation of sales value and adjustment of sanction provided. Positive consideration and firm's ability are also considered in determining value for the administrative sanction.

Exemption provides in Article of the Law No. 5/1999, letter "a" – "i", which regulates several independent exemptions. One of which is the exemption on application of certain regulation (letter "a"). This exemption gives

to avoid conflict between government's policies which aims to develop national economic. As explained in the guideline, application of government policies that can be exemption from Indonesian competition law are government (and local government) regulations that related to national interest as its soul was stipulated by Article 33 of Indonesian Constitution 1945 and implemented nor stipulated in certain law.

In the end, the guideline is expected to give law certainty to the business community and enhance rationality of business actor not to conduct monopolistic practices as well as an unfair business competition.

KPPU recently has finished and published guideline on Article 47 on administrative measures and Article 50 letter "a" on exemption for application of certain regulation.

The Development of Indonesia's Oil and Gas Sector from Competition Point of View

Competition is not a new term in the development of Oil and Gas sector. This sector even had a close relation with competition term especially with the emergence of the competition law. It was begun since the formation of Standard Oil Company in 1870 by John D Rockefeller that united all oil and gas shareholder in the form of "trust" and became the biggest company through a big economics scale. The existence of this monopoly triggered another formation of "trust" that also carried out monopoly practices. This "trust" became a forum that abolished competition amongst business actors. This form afterwards pushed the implementation of the Anti Trust Law which called Sherman Antitrust Act (1890) as competition law that banned various anti competition practices.

During its development, the Standard Oil Trust had to face various prosecutions. Later on, the trust was being separated into many new companies, each company focused on specific industry which separated to one another. This development had impact on various changes of oil and gas structure in many countries, including Indonesia.

Competition Policy for Indonesian Oil and Gas Industry

Competition policy in Indonesia was marked by the ratification of Law No.22 Year 2001 about Oil and Natural Gas which replaced Law No.8 Year 1971. Through this law, a fundamental change happened since private companies were allowed to participate in the industry. It changed the role of PT Pertamina which once known as the one and only business actor in Oil and Gas sector. This transformation was not only triggered by some efficiency reasons, but also as an efforts to maximize oil and gas management that could give maximize prosperity for the community.

Competition policy direction in the Oil and Gas Upstream had opened bigger opportunity for business actors. It was caused by characteristics of upstream industry which its high technology and high capital. Moreover, production of national oil and gas continued to descend each and every year, thus new investments on the oil and gas upstream industry were really needed. Like-

wise on the oil and gas downstream industry, the opening of downstream market was designed to give various choices and quality improvement which was pointed into efficiency progress on the downstream industry.

However, this new paradigm of transformation was not accepted at moment's notice. It was proven by some efforts to revise Law No. 22 Year 2001. This law was being considered to be too liberal and did not take sides on the country's interests. This different opinion ended with the Decision of the Constitution Court against the law of Oil and Gas by pulling out the article that became the foundation of the implementation for business competition mechanism.

Indirectly, this withdrawal had refracted competition policy direction in the oil and gas sector, where on one hand the government had made the decision to open the market, but on the other hand the government also took over the price control function which made the competition did not happen in this sector. Nevertheless, even though the government was quite entitled to determine the policy direction to protect its people, the assurances in business climate have to be guaranteed in order to open opportunity for potential business actors or investors.

Result of Competition Policy in Oil and Gas

The changing direction of Oil and Gas competition policy had impact on the oil and gas upstream and downstream business climate. On the upstream level, changes oil and gas policy contained in the Law No. 22 Year 2001 was not to maximize added value for national oil and gas industry nor for national income. The Law No. 22 Year 2001 concerning Oil and Gas still could not create an attractive business climate in upstream sector due to the bureaucratic investment process, the existence of the tax loading although the production process was not yet begun, and the conflict situation with the Production Sharing Contract (KPS) principle.

On oil and gas downstream, the policy changes direction had increased number of business actors in downstream industry. This phenomenon gave a greater choice, created a more competitive price, and better service

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for the consumer. As an illustration, the competition in the distribution of Non Subsidize Fuel area takes place in July 2006. The competing companies were Pertamina, Shell, and Petronas in relation to their competitive price.

The competition not only occurred in the price area, it also occurred in the service quality area. Petronas and Shell gave some additional services, such as car cleaning service, minimarket, and gas station environment which comfortable and transparent. Later on, Pertamina also applied this concept as its competition efforts.

This condition didn't occur in Subsidize Fuel. It was caused by the difference size of Subsidize Fuel price and Non Subsidize Fuel price as a result of world oil's increasing price. It was also caused by the Non Subsidize Fuel market that was considered less attractive, since almost 70% of Indonesia's Fuel consumption was the subsidized Fuel.

tion in supplying LPG processing result into the market. Moreover, subsidy rumors by PT. Pertamina for LPG 12 Kg also caused the objection from another business actor to enter the market.

The government policy for LPG was thought inefficient to be applied in the long term. It was because in the beginning of LPG policy application, LPG market was segmented for upper class consumer due to the definite of LPG resources. However, the policy implementation that forced energy conversion into LPG had caused the dependence of energy from import. Therefore, no surprised LPG import tended to increase nowadays.

Rumors of the Price Fixing by the Business Actor

Based on the Constitution Court decision as beforehand, there was an opinion stated that the price of all fuel and its descendants must be determined by the Government. But

in fact, the Government only determined the fuel price that was categorized as Subsidize Fuel. This fuel was aimed for non-industry consumer (ex. Premium, Solar and Kerosene). As for Non Subsidize Fuel (ex. aircraft fuel, industrial diesel fuel, and high octane BBM), its pricing was handed over to the market

mechanism. As for the LPG product, their price was carried out by Pertamina.

At this point, we can see the Government inconsistency to regulate oil and natural gas price fixing. Referred to Law No. 22 Year 2001, the definition of fuel oil was the fuel which came and/or processed from Petroleum. While the definition of natural gas was a natural process result of hydrocarbons in the pressure condition and the atmosphere temperature as a fasa gas which was formed from the mining process of Oil and Natural Gas. Based on these two definitions and based on Constitution Court decision which handed over the pricing policy to the Government, then all the price of Fuel and Natural Gas ought to be appointed by the Government.

An interesting phenomenon also occurred in the LPG (Liquid Petroleum Gas) sub sector since there was no new business actor entered the LPG market.



An interesting phenomenon also occurred in the LPG (Liquid Petroleum Gas) sub sector since there was no new business actor entered the LPG market. As formerly known before, LPG was gas that produced by oil refinery or gas refinery. Its main components were diluted propane gas (C₃H₈) and butane (C₄H₁₀). In LPG production industry, there were two big groups which dominate the LPG manufacture market. First company was KPS oil and gas refinery (KPS = production sharing contract or PSC) which responsible for LPG processing result for export distribution. Second company was PT Pertamina which fully handled the domestic market for LPG which came from import, country's own production, and several KPS product. As a result of this condition, there was no compe-

Conclusion

The changing policy in oil and gas industry which headed for competition side had drove business actors to be more efficient and to make an improvement both in operational and marketing side. Principally, the competition played a role to urge the business actors to make an improvement in order to increase the achievement of the oil and gas industry.

KPPU personally supported each step that was compiled by the government in oil and gas industry, although the factual condition

showed that the implemented policy still did not have a significant competition impact on business climate in oil and gas sector. Based on this condition, KPPU encouraged the government to make a real step concerning the development stage of the oil and gas industry, but it still have to consider business competition as an instrument in guaranteeing the business opportunity for each business actors and generally to create market efficiency. The harmonization between every agency which was involved in the oil and gas industry policy still needed in order to create a better policy and enhance people welfare.

APEC Senior Official Meeting III



Mr. Ahmad Junaidi, Director of Communication. Together with Mr. Farid Nasution represented KPPU to the third APEC Senior Official Meeting in Peru.

KPPU takes major role in the third APEC Senior Official Meeting held in Peru on 11-23 August 2008. To this beneficial meeting, KPPU was represented by Mr. Ahmad Junaidi (Director of Communication) and Mr. Farid Nasution (Head of Filing Division). First role was involving the Competition Policy and Law Group (CPLG), where KPPU have to report on the result of APEC Seminar for Sharing Experiences in APEC Economies on Relations between Competition Authorities and Regulator Bodies held by KPPU on 11-13 June 2008 in Bali, Indonesia. The second role was involving KPPU's presentation on Sharing Experiences for Member with Newly Establishes Competition Agencies. On the presentation, developed competition agen-

KPPU's development, especially in handling cases and disseminate their competition policy to the Government, which valued as best practices for newly developing competition agencies. KPPU also reported to the member economies on its preparation for the upcoming APEC training course which will be held in November 5-7, 2008. This training course will discuss two major issues, (1) Challenges for Cartel Cases in Domestic/ International Markets and (2) Interrelation between Competition Policy and Industrial Policy. Subsequent to the CPLG meeting, KPPU also takes an active part as Indonesian delegation to the Plenary Meeting of Economic Committee (EC).

cies (USA, Australia, and New Zealand) gave credit on KPPU's performance for over eight years of its establishment. Generally, they were following

...developed competition agencies (USA, Australia, and New Zealand) gave credit on KPPU's performance for over eight years of its establishment...

Upcoming international events

The 4th APEC Training Course on Competition Policy, **November 5-7, 2008**, Sanur Paradise Plaza Hotel & Suites, Bali, Indonesia

Competition Advocacy on Airport Warehouse Management

...the availability of substitution service from warehouse rent also relatively does not exist considering special character of airport management...

Pursuant to Article 35 letters "e" of the Law No. 5 The year 1999, KPPU has duty to give advice and recommendation to policy of the Government relates to the prohibition of monopolistic practices and unfair business competition. In this August, Commission for the Supervision of Business Competition (KPPU) has submitted advice and recommendation to the President of Republic of Indonesia on the management of warehouse in airport. From KPPU's observation, classification of airport warehouse service categorized as aviation supporting activity which is part of classification for airport supporting activity. Access to the airport warehouse entered in limited access category where only related officer can have the access.

Furthermore, the availability of substitution service from warehouse rent also relatively does not exist considering special character of airport management. KPPU also finds that airport warehouse operator stands as the concessionaire, but there are some policies which may not be figured in or overflowed fully to other related operator due to standard quality of service and tariff or price fixed to consumer.

The policy must constantly within the regulator hand. This will cause impact for consumer or airport warehouse service user, especially on unequal quality over price paid.

But because limitation of number of feeders and substitution available in airport warehouse, hence consumer does not have space to switch to alternative service feeder that can offer same service with competitive price. From the aforementioned condition hence KPPU submits advice and recommendation to the President that government shall do some revisions on its regulation, some of which are arrangement of tariff and standard quality of service. The Government must able to formulate formula tariff and its component in warehousing service, where the determination is executed based on comprehensive study capable to indicate

component tariff truthfully. The government intervention is also important to avoid appearance of exploitative price, especially for service feeder having high bargaining position to airport facility consumer, nor warehouse feeder.

Hereinafter, if management of tariff done by one business actor (in this case airport operator), hence government as regulator must can take over the management. But if it is done by private sector, hence audition is done through mechanism of competition for the market, where cheap price will be one of audition criterion for warehouse operator. While for quality standard, all important is arrangement of minimum quality, because at minimum level, all business process can be enforce carefully. The main orientation shall for the shake of consumer satisfaction, such as speed of service time, inexistence of damage goods, security and safety and clear responsibility if there is collision to minimum standard of services. It was expected that this will become screening sphere for appearance of business actor in service provider in airport.



Competition Advocacy on Anti Dumping Policy of Sodium Tripolyphosphate

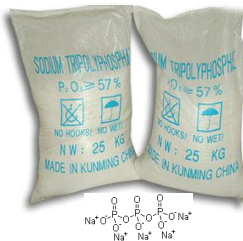
As a proprietor of commendation in upholding Indonesian competition law, KPPU precedes to finds that observation to Sodium Tripolyphosphate (STPP) and detergent industries, especially on imposition of policy plan for Anti Dumping Import Cost (BMAD) for STPP which is coming from China. Determination policy of BMAD ought to be government authority, which in its process considering matters including national interest. But in reality, the determination of BMAD was creating potency for distortion of competition in STTP domestic market, which may result on expensive price for downstream product of STTP, especially detergent.

KPPU also finds China as the only importer for STTP as well as the main competitor for Petrocentral, Corp., the only producer in Indonesia. The existence of import will take care of competition in market while at the same time will lessen market power of Petrocentral, Corp. Thus, Petrocentral, Corp. would always pays attention to import price of STTP as its substitution. That way, there will be increased of material cost at imposition of anti dumping cost of STTP, which will takes affect on price increase of the downstream product of STTP, especially detergent.

Moreover, the impact caused by anti dumping cost of STTP is that the detergent will not be efficient to produce in Indonesia due the profitability of imported detergent. Especially most of producers for detergent in Indonesia are multinational companies. This considered will lead to reallocation of domestic detergent industrial resources and alteration of orientation from production oriented becomes import oriented. Thus in the end will cause downdraft of domestic detergent industry and local producer of detergent would be threatened due to their reluctance to survive from importer.

Hereinafter KPPU have also concluded that there was an extinction of clear blueprint for STTP, in neither the upstream level nor the downstream level in Indonesia. This was believed to cause argument on prioritized sector, is STTP or detergent. Seen from potential impact which will be generated, hence KPPU suggested the Government to releases blueprint or road map on STTP sector, especially when there will be inefficiency if the application of anti dumping cost of STTP did not reflect on its potency for market distortion.

KPPU also finds China as the only importer for STTP as well as the main competitor for Petrocentral, Corp., the only producer in Indonesia.



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