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KPPU Support the Implementation of Zoning and Trading Term Policy

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What's New?

Benny Pasaribu and Didik Akhmadi: the New Chairman and Vice Chairman of KPPU (for period of 2009-2010)

Entering year 2009, the Commission for the Supervision of Business Competition (KPPU) was ready to carry out several programs and work agendas as compiled in its planned activities. Various government policies to be implemented in 2009 will continually be inspected by KPPU, so that they will always be in line with the competition law's principles stated in the Law No. 5 Year 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition.

In line with the work plan, KPPU also held a leadership succession in the early of January 2009. Since December 30 2008, there was a replacement for the KPPU Chairman position along with the election of Syamsul Maarif (Chairman KPPU at that time) as one of the supreme judges in the Indonesian Supreme Court . Respectively, Vice Chairman Trena P Soemardi was act as the Chairman of KPPU until the new Chairman was being selected.

On January 14 2009, through a democratic election process, eleven KPPU commissioners had chose Benny Pasaribu as the new Chairman of KPPU and Didik Akhmadi as the Vice Chairman of KPPU for period 2009-2010. The implementation of the task and authority for the new Chairman and Vice Chairman has to kept in line with the principle of independency and neutralism. In order to achieve that, position as the Chairman and Vice Chairman might not influence them during the case handling process or the other constitutional task.



Benny Pasaribu, Ph.D.
Chairman

Benny started his career as technocrat in Department of Cooperative and Small Medium Enterprises since 1981. His last position was Head of Planning Beaureau on 1998. On 1999-2000, Benny served as Deputy Minister in State Ministry of State Own Enterprises, with specialization on Telecommunication, Mining, and Energy. Afterward, since 2000, Benny becoming Parliament member. Benny hold his Bachelor Degree on Agricultural Economic from Bogor Institute of Technology on 1980, Master of Economic from Williams College, Massachusetts, USA (1989), and Doctor of Economic from Ottawa University (1995). Benny's major while taking doctoral course was Industrial Organization and International Trade. His disertation title is "Industrial and Trade Policies: A Multisectoral Model With Increasing Returns to Scale and Impersect Competition". Benny actively participated in several organizations and also spend his time for teaching in University of Indonesia as well as actively published articles on competition policy and monopoly, also many economic issues.

Didik Akhmadi
Vice Chairman



Didik is an expert in budget and accounting due to his experience in Budgeting Committee of the Parliament and his career in accounting as an auditor in Board of Financial and Development Supervision for East Java area (1983-1987). Didik experienced in auditing government institutions, SOEs, and special investigation. As a lecturer, Didik was teaching in School of State Accounting (STAN) and in University of Indonesia. Didik achieved his bachelor degree form STAN and Master Degree from Wollongong University, New South Wales.

Bid Rigging in Procurement of Television, DVD and Antennae in the Education Agency of North Sumatra Region

The Commission Council of KPPU had carried out the inspection and investigation on the allegation of Law No. 5 Year 1999 Article 22 violation in the procurement process of Television, DVD and Antennae in Education Agency of North Sumatra Region. The violation was indicated had been done by the Bid Committee, Pelita Jaya Mandiri, Corp., Hari Maju, Corp., Gradita Utama, Corp. and Mr. Abdul Wahid Soenge. Based on the inspection result, 3 reported parties are convincingly to breach the law, namely the Bid Committee, Pelita Corp., and Mr. Soenge.

The investigation process was begins with the conspiracy allegation which had been done by all reported parties in order to make Pelita Corp. a tender winner. During the inspection process, the Commission Council gathered several incriminating proofs, such as the fact that the company address of Pelita Corp., and Hari Corp. were not in accordance with the address stated in their Company's Official Document, as well as the existence of post bidding that was carried out by the Bid Committee together with Pelita Corp. and Mr. Soenge. Moreover, Pelita Corp. incooperation with Mr. Soenge also proven guilty in misuse other company's name and set up the bargain price. From this price arrangement, Pelita Corp. was proven gain an excess profit.

In the inspection process, the Commission Council considered several facts that incriminated the Bid Committee. Firstly, the Committee was considered guilty in facilitating Pelita Corp. as the tender winner by continually passing Pelita Corp. in each evaluation process although it did not fulfill the required documents. The committee also did a non-cooperative manner during the investigation process. Moreover, the Chairman of the bid committee had been sentenced guilty by KPPU in 2006 on the case of Bid Rigging on the Television Procurement.

Considering all above matters, the Commission Council recommends the Head of North Sumatra Education Agency to impose an administrative sanction for the Bid Committee. The Commission also recommends the North Sumatra Governor to continually monitor the tender process in his Region in order to ascertain the implementation of fair competition principles. The last recommendation was given to the Attorney General's Office, the Financial Supervisory Board and Regional Supervisory Board in order to carry out further inspection of this procurement project.

Article 22:

Business actors shall be prohibited from entering into conspiracies with other parties in order to determine awardees of tenders which may result in unfair business competition.

Law Enforcement

Bid Rigging in the Procurement of Medical Equipments in Duren Sawit Hospital, Jakarta

On January 13 2009, KPPU had determined that tender for the medical equipment procurement of polysomnograph (PSG) in the Duren Sawit Hospital was convincingly breached the article 22 Law Number 5 Year 1999. This cases entangled the Bid Committee and several supplier's companies of medical equipment, namely Tiara Kencana Corp., Bhakti Wira Husada Corp., Ilong Prayatna Corp., and Kamara Idola, Corp.

The conspiracy that happened during the bid process involving four business actors. Based from the KPPU investigation, it was foreknown that Tiara Kencana Corp. arranged a conspiracy scenario with the three other business actors in order to make Bhakti Wira Husada Corp. as the bid winner. In this conspiracy, Ilong Corp. and Kamara Corp. intentionally handed over the tender document that was not in accordance with the required specification, while Tiara Corp. Intentionally gave an expensive price quotation.

Based on the investigation results, the Commission Council decides to impose administrative sanction for the four business actors that range from 22 million Rupiah to 144 million Rupiah, while the tender committee was stated as not guilty because it didn't directly being involved in the conspiracy. However, the Commission Council considered that the tender committee was being careless because they had determined the equipment specification that pointed toward specific brand. Thus, the Commission Council recommends the Director of the Duren Sawit Hospital to paid more attention to the bid process in order to ascertain that any medical equipment brand could compete fairly. The Commission Council also recommends the Health Office of Jakarta Region to increased the administrative capacity of its work units in order to support the tender implementation that are accordance with the fair competition principles.

Bid Rigging in the Procurement of the Audio-Visual Aid of Reference Books and Multimedia in Madiun City

Tender conspiracy had happened again in the government's agency. At this time KPPU traced the allegation of Article 22 violation from Law No. 5 Year 1999 in the procurement tender of the audio-visual aid of the reference book and multimedia in the Education Office of Madiun City. This case entangled the tender committee and 3 business actors as reported parties, namely Damata Sentra Niaga Corp., Fajar Jaya Corp. and Eka Jaya Corp.

Based on the investigation results, KPPU considered that the Bid Committee intentionally had approved Damata Corp. in each Tender evaluation process and determined it as the tender winner, although Damata Corp. Competence was not suitable with the requirements required by the Bid Committee. KPPU also found the proof that the three reported parties made a conspiracy to create a mien competition in the Tender process. This conspiracy occurred because of the three companies had the same ownership relations. The conspiracy that was carried out by the three companies together with the bid committee has resulted in the monopoly practice, it made the other business actors were not be able to compete in the Tender fairly.

During the investigation process, one of the reported party filled a civil lawsuit for action opposed the law to KPPU in District Court, Jakarta with the register number 332/Pdt.G/2008/PN.JKT.PST. Concerning to the lawsuit, the other reported parties then refused to give anymore information for KPPU on further investigation. Furthermore, the Commission Council determined that all reported parties was convincingly to breached Article 22 Law No. 5 Year 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition, as well as forbade them to enter any tender in Madiun City for 2 (two) year since commencing from the affirmation of the decision.

Article 22:

Business actors shall be prohibited from entering into conspiracies with other parties in order to determine awardees of tenders which may result in unfair business competition.

Bid Rigging in the Procurement of the Road Construction in East Kalimantan Region

The allegation of the competition law violation was occurred during the Tender procurement of the road construction in Muara Komam subdistrict area, in Labour and Transmigration Office, East Kalimantan Region. In the Decision Assembly on January 13 2009, the Commission Council determined that the Bid Committee and three business actors, namely Madya Sejahtera Corp., Multipuri Sejahtera Corp. and Al Fajar Sejahtera Corp. were convincingly to breached article 22 Law No. 5 Year 1999. The Commission Council imposed the administrative sanction for Madya Sejahtera Corp. in amount of 936 million Rupiah and amount of 117 million Rupiah for the other two business actors. As for the Bid Committee, the Commission Council recommends the Governor of East Kalimantan Region to give sanctions in accordance with the administrative provisions for the Bid Committee and the Head of Labour and Transmigration Office in East Kalimantan Region.

Based on the investigation results, the Commission Council considered that there was a conspiracy occurred to win Madya Sejahtera Corp. in the tender of road construction. This case began when the Bid Committee and the Head of Labour and Transmigration Office held a repeated tender in time extension five days after the first tender was carried out. In this repeated tender, the three business actors put a higher price quotation compared to their quotation in the first Tender. KPPU found that this act was factious, considering that the withdrawal period of the tender was only in five days. In the further investigation afterwards KPPU found out that the three companies had the same ownership relations. KPPU decided that there was a monopoly practice and an unfair conspiracy during the Tender process of this road construction project, which made the tender only could be entered by the three reported parties and it was hampered other business actors to compete fairly.

Article 22:

Business actors shall be prohibited from entering into conspiracies with other parties in order to determine awardees of tenders which may result in unfair business competition.

Bid Rigging in the Procurement of the Construction Product and Service in Kepahiang Regency, Bengkulu Province

The Commission Council of KPPU decided that tender for the procurement of the construction product and service in the Public Work Agency of Kepahiang Regency, Bengkulu was convincingly to breached Article 22 Law No. 5 Year 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition. As reported parties in this case were the Bid Committee and 13 business actors. In its decision, the Commission Council determined that 13 of reported parties were guilty, while 1 reported party was not.

Based on the investigation results, the Commission Council considered that there was a horizontal and vertical conspiracy occurred in the tender for the development package of 6 (six) agency offices in Kepahiang Regency. The KPPU's investigator found the fact that the Bid Committee did not announce the Tender implementation in the media, as being required in Presidential Decree No. 80 Year 2003 and Presidential Regulation No 8 Year 2006 concerning the Implementation Guide of the Government Procurement. This action led by the Bid Committee had resulted in the decreased amount of Tender participants and it was considered to be the restrictive action to limit the Tender participants into some specific business actors. The KPPU's investigation team also found the similarity between the 6 reported parties documents that evidently was made by same person. While other 3 reported parties were intentionally did not completed their documents in order to win one Tender participant. The Commission Council also believes that the Bid Committee was carried out discrimination in the administration evaluation process in order to facilitate Saribina Jasa Kontrindo Corp. as the Tender winner.

For the law violation that had been conducted by the reported parties, the Commission Council gave recommendation to the Regent of Kepahiang Regency to give administrative sanctions to the Bid Committee in accordance with the legislation regulation, as well as to all the government agencies in the Bengkulu province to carry out the Tender process in accordance with the legislation regulation and fair competition principles. The Commission Council also recommends the Agency of Public Procurement Policy to supervise the implementation of all tender in Indonesia so as the occurrence of conspiracy could be prevented. Whereas to 12 business actors

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that became reported parties, the Commission Council imposed sanction with the range of 77 million Rupiah to 450 million Rupiah. All reported parties also was forbid to enter any tender held in Bengkulu province territory for 1 (one) year commencing from the affirmation of the decision.

KPPU Support the Implementation of Zoning and Trading Term Policy

Retail industry today has become one of a strategic industry beside the agricultural industry that attracted many business actors to make an investment. It means that the development in retail industry significantly will have a direct impact on Indonesia economics growth. Along with the fast development, several problems concerning on business competition also occurred in the retail industry. The Commission for Supervision of Business Competition (KPPU) pay a close attention to it and considered that basically there were two main problems in Indonesia retail industry, namely the problem between big (modern) retail versus small (traditional) retail, and the problem between supplier versus modern retailer.

Based on the result of KPPU studies, it showed that the core problem was the bigness of market power owned by big (modern) retail. The first problem occurred due to the stagnant development of small (traditional) retail in several last year, while the development of big (modern) retail had increased continuously. As for the second, the main problem laid on the implementation of trading terms by the modern retailer, that considered to incriminating supplier. Problems in retail industry mainly were disproportionate competition rather than business competition as defined in Law No. 5 Year 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition.

KPPU already recommends Government as a regulator to make an arrangement in order to create an equal playing field for those two retail problems. Considering that that the main problem laid on the market power of modern retail, the policy solution should be aimed at restriction efforts on the potential abuse of market power.

Up to this time, the Government had ratified two policies to regulate the retail industry, namely Presidential Decree No. 112 Year 2007 and Trading Minister

Decree No. 53 Year 2008 concerning Guidance on Arrangement and Management of Traditional Market, Shopping Centre, and Modern Retail. Both policies contained provisions in retail industry that should be conducted through: the restriction of modern retail movement (through zoning determination, place capacious restriction, open hour restriction, tightened permission), the restriction on number and quantity of trading term, as well as the requirement to establish a partnership with SME's.

KPPU analysis studies indicated that there were two policies which have very important position to resolve problems in retail industry, namely zoning policy and the restriction on number and quantity of trading term. The zoning policy was part of retail industry blueprint that already considered the analysis of social and culture impact as a result of modern retail.

Basically, zoning system was a system that limited location for modern retail to open their business. The location restriction also means the restriction on the amount of modern retail's counters. Through this zoning system, the small (traditional) retail would had the business opportunity that relatively protected from head to head competition with modern retail. Further more, with the definite amount of counters, the modern retail won't have an influential bargaining position with the supplier. It means that supplier still have an opportunity to market their product to other potential retailer.



If the zoning policy was carried out seriously, it could be the key solution to resolve the main problem in retail industry. The principal condition of the policy was the mapping of potential zones that could be entered by modern retailer. In accordance with the zoning system, due to the supplier exploitation by the modern retailer, the other effort that that should

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be conducted was limited the the number and quantity of applied trading term. However, should be considered that Indonesia was not a liberal free market country. It means that the doctrine still had to consider other doctrine that every agreement have to think over on regulations, public interest and civilization. In other word, the Government could make any intervention if they appraised that the market mechanism become undirected and might harm the community.

In France, trading term was restricted into 20% maximize of product selling price (Dutrel Law). This kind of model would made the efficiency produced by the producer would be enjoyed by the customer, while the retailer could only enjoy the upper limit of trading term quantity. As for the hypothesis which said that price will raise significantly if the restriction of trading term quantity being applied, that hypothesis would refutable with the fact that all supplier have to compete to each other and have to apply the price strategy (including the cheaper price strategy). The restriction policy could get the retail concept back into its earlier concept.

KPPU supports Government regulation which aimed to urged a better harmonization on Indonesia retail industry as stated in Presidential Decree No. 112 Year 2007 and Trading Minister Decree No. 53 Year 2008. Concerning the strategic values of retail industry, KPPU will keep up its duty to supervise business competition in retail industry, including the role to take action against every allegation of violation in those decrees if its potentially breach the Law No. 5 Year 1999.

Challenges in Liquid Petroleum Gas (LPG) Distribution

The business competition in several industries produced various perceptions and opinion that was appropriate to be studied further. The government in this case, indicated the Commission for Supervision of Business Competition (KPPU) as a legal authority that played a role in supervising business competition in Indonesia. In business sector, the efficiency and effectiveness factor held important role in increasing their level of competitiveness in the fair competition.

At the end of 2007, the government determined the policy for conversion of kerosene to Liquid Petroleum

Gas (LPG) which gave various impacts in the community. In relation to this policy, the government gave the ease for the society by giving 1 set of the tube and the stove altogether with the introduction on the use of gas stove. At this moment, LPG tube circulated in the community could be divided into two namely a public service obligation (PSO)'s LPG and non public service obligation (non-PSO)'s LPG Non PSO. A PSO's LPG was the LPG inside a 3 kg tube which still subsidized by the government. Whereas, a non-PSO's LPG was the LPG inside a 12kg and 50kg tube which exclude the government subsidy. The existence of this policy was altered the main role of kerosene in each line with the community life. LPG in this case was not refutable requirement. The perpetrators in informal sector as the meatball vendor or soup must need LPG to 'maintain' the circulation of their business. In spite of that also with the household that needed LPG to cook their everyday meals.

The emergence of gas scarcity occurs during 2008 gave a significant impact to the community life. KPPU as a legal authority had the important role in supervising and highlighting on the distribution of this gas. KPPU identified several important rumors in the distribution of LPG, such as the scarcity, the price fixing, and the entry barrier to enter this sector for the other business actor. Based on KPPU analysis, the scarcity aroused towards LPG availability in the market was followed with the high price of non-PSO's LPG at consumer level. The scarcity rumors emerged after Pertamina carried out the correction to boost up the non-PSO's LPG price (12Kg) in the mid 2008. On the other hand, the price fixing take place due to regulation which stipulated the price of non-PSO's LPG is determined by Pertamina (Indonesian SOE) while the price of PSO's LPG is determined by the government. In principle, the business opportunity for the non PSO's LPG industry still really was open for any business actors. This is supported by the Article 51 of the Government Regulation No. 36/2004 concerning the Downstream Activity for Oil and Natural Gas, which stipulates:

1. Companies holding Commercial License carried out LPG trade obliged to own and control facilities, storage, and LPG bottling plant.
2. Companies owned Commercial License stipulates in Article (1) must had and used a certain trademark.
3. Companies owned Commercial License responsible on the standard and quality of the gas and its tube.

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However, LPG industry became not interested to the investor because they considered that LPG selling price was still below its economic price. In order to assess the potential impact rise from government policies in LPG industry, KPPU paid close attention to three government policies for the PSO's LPG. These three industrial policies were:

1. **Presidential Decree No. 104 Year 2007 concerning the supplying, distribution and determining of LPG PSO selling price.** There were some articles that being examined, which were:

Article 9 : The Government assigned the company as the supplier and distributor for LPG PSO, the assignment conducted through direct appointment (if there was only one company) and/or through public procurement.

Article 11 : The supplier and distributor company of LPG PSO will supervise the LPG PSO's selling and distributing process.

Article 15 : The minister will supervise the LPG PSO's selling and distributing activities process.

However, KPPU considered that the supervision conducted by the related Minister was obscure. The obscurity was seen on the current condition with the dearth of LPG supplies in the market.

2. **Decree of Energy and Mineral Resources Minister No. 21 Year 2007 concerning the Implementation of LPG PSO Supplying and Distribution.** On article 5 chapter 2 stated the provisions of assignment requirement in supplying and distributing LPG PSO as follows:

- have a public business commerce permit of LPG to supply and distribute the LPG PSO
- have a domestic refinery mill asset of fuel oil and LPG including its development schedule in long range of time.
- guarantee of supply availability
- have a capacity in providing network and infrastructure for supplying and distributing LPG PSO throughout Indonesia.

3. **Decree of Energy and Mineral Resources Minister No. 1661 Year 2008 concerning the Standard Selling Price of LPG PSO** which regulate the LPG PSO standard selling price, which were:

- the standard price was determined based on Contract Price (CP) of Aramco in average, on the relevant month period added with distribution cost (including handling) and profit margin.
- the standard price of LPG PSO was determined in the amount of 141,21% from CP Aramco plus 390,10 Rupiah per kg, that will be used as a base to calculate the price for every kg of LPG PSO.

On this industrial study, KPPU not only analyzed the policy, but also the industry's structure and development. Result from KPPU analysis showed that LPG was still a concentrated industry where Pertamina was the only business actor with upstream and downstream access. Whereas in line with the energy conversion project, LPG became one of the strategic commodities that was needed by the public community as the kerosene replacement. Afterwards, after the implementation of the conversion policy there were several problems that occurred.

The scarcity of LPG was the main problem. The scarcity was triggered by the supervision mechanism on distribution aspect that was inadequate, the limited infrastructure and the limited LPG supplies. In principle, LPG Industry was an open industry for any business actors. But the application of several policies in this industry had resulted some difficulties for business actors to enter the industry, both for LPG PSO industry and LPG Non PSO industry.



<http://www.themotorreport.com.au/5304/the-insider-not-saving-the-world-part-2/>

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The price of LPG Non PSO that was still subsidized by the Government created an entry barrier for the private business actors. On the other hand, Pertamina wished to achieve its economic price by increasing the price of LPG PSO in order to open the market for any business actors. But at the same time, the Government intervened by postponing the price ascension. This situation showed that LPG already became the commodity that was fully arranged and ruled by the Government and it could not be handed over to the market so the status quo against entry barrier was exist.

As for LPG PSO, there was a policy that required ownership of the fuel oil and LPG refinery as well as the long term development plan that created entry barrier to some business actors. It happened as a result of the application of several obligation requirement and this application will cause difficulties to private business actors who wished to become provider and distributor of LPG PSO. Present time, the domestic supplies of LPG could not fulfilled the public necessity and Indonesia still depended on import supplies, it makes public questioning the LPG conversion project. In addition, the Government should choose another commodity by considering the availability of domestic supplies.

Based on evaluation toward to impact of the regulation, KPPU gave several recommendation concerned with LPG industry so that the industry could adopted fair competition values, which were:

1. The needed of an accurate grand strategy planning by the Government concerned with energy conversion program and the consequences. In this case, both LPG PSO and LPG Non PSO were not commodities that could move freely in market. With the Government restrain the price rate for LPG Non PSO, the Government had to be ready to subsidized Pertamina as business actor. If government took the role to determinate the price, then the Government should ascertain that there won't be a new competition occurred in LPG industry.
2. The needed of close custody in LPG distribution until consumer level. Thereby, the Government have to guarantee that the distribution process could done well in order to guarantee the LPG supply for consumer in normal price.
3. The needed of LPG selling price determination as did for LPG PSO commodity. The price formula will made the price determination process became transparent. The formula determination will also protect consumer if there was a pro-

ducer exploitation in established excessive pricing. The formula supposed to be applied in products that concern to public interest so that every price ascension will be accountable and transparent.

4. The Government should considered another type of energy conversion that could be conducted. In present, related to the import data that tended to increased from time to time, the Government should considered another model of conversion that could supply the consumer needs from domestic sources. If the Government assumed that LPG was the best alternative energy, then the Government needs to established some steps to resolved the import dependency and to repaired infrastructure to guarantee the LPG supply. Or, the Government could considered another energy conversion alternative, such as city gas that would be supported by copious domestic natural gas supply.
5. The needed of harmonization relationship with the minister of Energy and Mineral Resources Department concerned with policies that could caused entry barrier for business actors in LPG industry.
6. The needed of monitoring to anti competition behaviour from Pertamina as the main business actors in LPG industry.
7. This recommendations should be conducted in order to minimize the LPG scarcity in distribution level.

KPPU chief to fix image, nail big retailers

Newly elected chairman of the anti monopoly watchdog Business Competition Supervisory Commission (KPPU) Benny Pasaribu faces a daunting task to improve the agency's tarnished image following the arrest of KPPU member Muhammad Iqbal by the Corruption Eradication Commission (KPK) for allegedly receiving bribes from Lippo Group top representative Billy Sindoro.

The *Jakarta Post's* Alfian recently interviewed Benny on his strategies to recover the trust of the business community for the agency. Here are the excerpts from the interview:

Question: *How will you recover the image of KPPU following the Iqbal case?*

Answer: We've learnt a very good lesson from this. I am sure we will have better cooperation with the KPK in the future. However, the KPPU should not be in a traumatic condition just because of the actions of one person. We must see Iqbal's case as a personal case which could happen just as well in any other institution. Similar with other cases involving lawmakers, Cabinet members, and central bank officials.

Does this case impact upon the public's trust of the KPPU?

No, there's no impact. We still receive a lot of reports from the public. Even if we do not receive reports, we initiate collecting information.

After Iqbal was arrested by the KPK, how do you see the KPPU's verdict on the English League Premiere case?

KPPU ruled the verdict professionally and independently, without any intervention. The process complied with existing regulations. Therefore, when there was a party challenging our verdict at the Central Jakarta District Court, the Court reinforced our ruling.

What will be in your priority list for improvement?

The KPPU's main responsibilities, as stipulated by the law, are to enforce the law and to give recommendations to the government. We will keep focusing on these, but we plan to make some more improvements.

I think a one-year period for KPPU to issue verdicts is just too long. We need to make this shorter. Moreover, I think KPPU needs more authority to make raids (on recalcitrant companies) otherwise it will be very difficult for us to collect essential information, such as financial reports, company pricing policies, cost structures and other administrative details. We need to cooperate with other law enforcement agencies.

What about priorities for businesses?

We will focus on our right of initiative to probe recent allegations of price abuse and to bring about intended supply shortages. Previously, price fixing has been found in respect of short message service (SMS) arrangements, and telephone tariffs.

But, now there are also allegations of price fixing in the transportation sector, especially in airlines, and in manufactured goods using oil-based fuel. Now fuel prices have been declining, why are these industries still reluctant to lower their prices? Another example is the cooking oil industry. Why is the price still high despite a plunge in the price of palm oil?

If these industries have somehow made a deal not to lower their prices, then they have committed a cartel practice, which is harmful to the public. Actually abnormal prices, especially when they are accompanied by supply shortages, are an obvious indication of unhealthy business practices.

The KPPU will approach these industries by persuasion to stop such practices. But, if they defy our recommendations then we will take legal action against them. The most obvious example of unfair business competition is currently related with giant retailers against traditional vendors.

What will KPPU do about this?

I agree that both big retailers and traditional vendors need to be regulated, otherwise fair business competition will not exist. It's just like in a boxing match, in which we cannot initiate a match between a heavyweight and a featherweight. Thus, there is a need for clear regulations within which retailers are able to compete.

The Trade Ministry has issued a regulation separating operational zones for traditional and big retailers. I think this is fair for both of them, and the KPPU will supervise the implementation of this regulation.

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The KPPU will determine its stance on a case by case basis. We have punished many retailers for violating the maximum trading term regulation.

In one case, we penalized Carrefour in the amount of, if I am not mistaken, Rp 1.5 billion (US\$136,000). They paid the fine.

What are the biggest obstacles here to building healthy business competition?

Our market structure makes it impossible for us to adopt liberalism or free market mechanisms because that system requires perfect information distribution, which we don't have it here.

In Indonesia, information asymmetry frequently exists, making the market unable to stand any competition. Under such conditions, government intervention is needed to encourage healthy competition.

Source URL: <http://www.thejakartapost.com/news/2009/01/19/kppu-chief-fix-image-nail-bigretailers.html>

kompetisia wish to congratulate

Benny Pasaribu, Ph.D and Didik Akhmadi

**as the new Chairman and Vice Chairman
for period of 2009-2010**



KOMPETISIA Team:

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Deswin Nur
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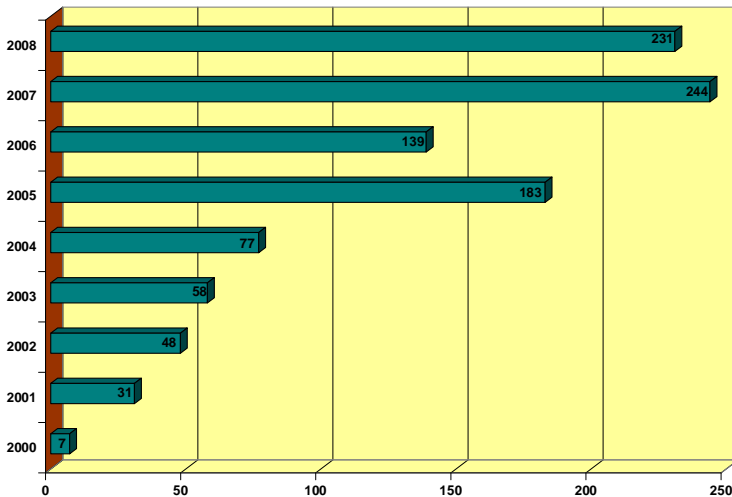
KPPU Building
Jl. Ir. H. Juanda No. 36
Jakarta 10120
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<http://www.kppu.go.id>

Statistics

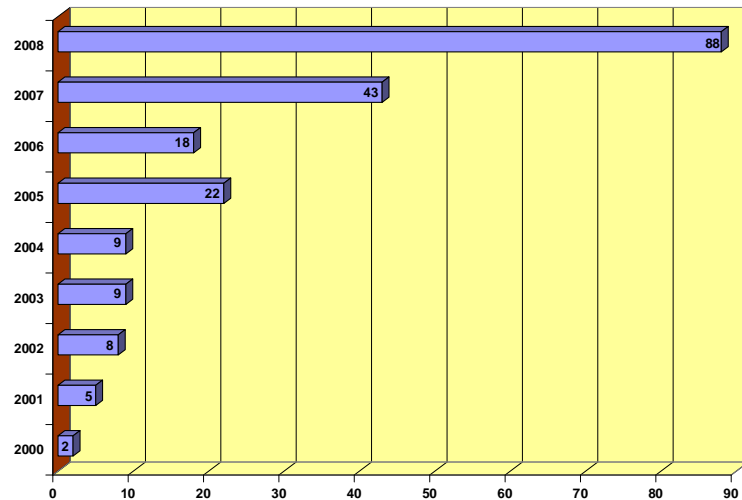
Number of Reports (Complaints) Year 2000-2008

Number of reports from public tends to increase every years. Total number of reports handled by KPPU for eight years is accounted for 1,018 reports. This large number of report in one side showed increased business actor awareness on fair competition. In the other hand, this will create challenges in increasing the quality for analysis, considering low number of staffs that involved in report handling.



Number of Case Handled Year 2000-2008

Total cases handled for eight years accounted for 204 cases. Most of cases involved bid rigging by certain business actor and not mentioned, the bid committee itself. Low number of investigator sometime create challenges in case handling, in which record showed that each investigator might handled at least 3 cases simultaneously. This may create potential disturbance, where quantity be sometime above the quality of a case or decision. However, KPPU always tries to increase the quantity as well as quality of its law enforcer for a better outcome.



Number of Decisions and Appeals Year 2000-2008

Statistic showed that there is a trend that around 40% of KPPU's decision is being appeal to the District Court. This can be defines as two condition. First, transparency of competition law enforcement in Indonesia is increased, thus will create law certainty for alleged business actors. Second, the quality of KPPU's decision need to be evaluated. Eventhough, KPPU always treat an appeal as a process to provide better feedback on our institutional development.

