



ANNUAL REPORT 2011

OF THE COMMISSION
FOR THE SUPERVISION OF BUSINESS COMPETITION





COMMISSION FOR THE SUPERVISION OF BUSINESS COMPETITION REPUBLIC OF INDONESIA

KPPU Building, Jalan Ir. H. Juanda No. 36
Jakarta 10120 - INDONESIA
Tel : +62-21-3519144 - 3507015 - 3507043
Fax.: +62-21-3507008
e-mail: infokom@kppu.go.id

KPPU REPRESENTATIVE OFFICE :

■ SURABAYA

Bumi Mandiri Building, 7 floor
Jl. Basuki Rahmat No. 129 Surabaya 60271 - EAST JAVA
Tel : +62-31-54540146, Fax : +62-31-5454146
e-mail: kpd_surabaya@kppu.go.id

■ BALIKPAPAN

BRI Building, 8 floor
Jl. Sudirman No. 37 Balikpapan 76112 - EAST KALIMANTAN
Tel : +62-542-730373, Fax : +62-542-415939
e-mail: kpd_balikpapan@kppu.go.id

■ BATAM

Graha Pena Building, 3A floor
Jl. Raya Batam Center Teluk Teriring
Nongsa - Batam 29461 - KEPULAUAN RIAU
Tel : +62-778-469337, Fax : +62-778-469433
e-mail: kpd_batam@kppu.go.id

■ MEDAN

Jl. Ir. H. Juanda No. 9A
Medan - NORTH SUMATERA
Tel : +62-61-4558133, Fax : +62-61-4148603
e-mail: kpd_medan@kppu.go.id

■ MAKASSAR

Makassar Tower, first floor
Jl. Nusantara No. 1 Makassar - SOUTH SULAWESI
Tel : +62-411-3610733, Fax : +62-411-3610733
e-mail: kpd_makassar@kppu.go.id

■ MANADO

North Sulawesi Government Office
Jl. 17 Agustus No. 69 Manado - NORTH SULAWESI
Telp.: +62-431-845559, Fax : +62-431-845559
e-mail : kpd_manado@kppu.go.id

www.kppu.go.id



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Chapter I *INTRODUCTION*

As a State Commission which was established in 2000 and committed to build the business competition laws and policies, in 2011 the Commission for the Supervision of Business Competition (the Commission) took its best efforts to realize the purpose of the establishment of Law Number 5 Year 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition, i.e. to improve national economic efficiency in order to achieve the people's welfare, to create a conducive business climate through the stipulation of fair business competition, to prevent monopolistic practices and or unfair business competition and to create the effectiveness and efficiency in business activities.

One-year (2010 - 2011) period of leadership by led M. Nawir Messi, M.Sc., (the Commission's Chairperson) and DR. Sukarmi, SH, MH (the Commission's Vice Chairperson) was a period that maintained the previous leadership's commitment in implementing the Commission's plans and strategies in achieving the purposes of the law. Under the framework of this commitment, the Commission's Chairperson and Vice-Chairperson of the 2011 period set up 4 (four) monitoring priorities on:

- a. strategic sectors related to the livelihood of majority of the population;
- b. (industrial) business sectors with high concentrations;
- c. price sensitive markets;
- d. public infrastructures and services.



Institutionally, these monitoring priorities are performed by optimizing internal and external coordination. The internal coordination emphasizes on the strengthening of the secretariat's roles in supporting the implementation of the Commissioner's tasks through several systematic activities, namely: (1) law enforcement, (2) delivery of policy advice to government, (3) industrial assessment, (4) socialization and advocacy, (5) institutional strengthening, and (6) cooperation and coordination among domestic and overseas agencies.

Some outputs of the internal coordination among institutions are, among others, as follows:

1. Enactment of some guidelines on merger notification to complete the procedural laws on consultation and notification as regulated in Law Number 5 of 1999 and Government Regulation Number 57 of 2010 so that this will give business actors more legal certainty;
2. Achievement of Unqualified Opinion (WTP) Predicate as part of opinions of institutional audits undertaken by the Supreme Audit Agency of the Republic of Indonesia (BPK-RI);
3. Absorption of the Commission's budget up to 81% (eighty-one percent).

Meanwhile, the outputs of external coordination in the context of relationships among domestic institutions are, among others, as follows:

- 1.1. Formulation of the Standard Operating Procedure (SOP) on technical case-handling procedures with the Indonesian National Police (POLRI) in which technical agreements have been reached in relation to the development, operations, information exchange procedures related to alleged criminal acts and unfair business competition, and evaluation and coordination at the central and regional levels. It constitutes a follow-up act of the MoU signed in 2010;
2. Improvement of the cooperation with the Supreme Court (MA) in holding 2 (two) workshops to enhance the equal understanding in the competition law between the Commission and law courts;



3. Implementation of agreements on cooperation with the Supreme Audit Agency (BPK) in the development and management of information systems for data access.

These outputs of the external coordination also appear in the Commission's relationships with international business competition organizations or institutions. Some of those outputs show that:

1. The Commission acts as the contact point in the negotiation of international agreements related to competition policy chapter;
2. The Commission has contributed to the delivery of 16 (sixteen) written contributions in various international organizations, especially APEC, WTO, ICN, OECD, UNCTAD and AEGC;
3. The Commission acts as an institution that initiates and hosts the Asean Competition Forum as a meeting forum for all business competition stakeholders in ASEAN. This forum is part of the accelerated implementation of business competition law prior to the enactment of the ASEAN Economic Community 2015;
4. The Commission chaired the AEGC (ASEAN Expert Group on Competition) in 2011 and the Working Group on Regional Competence on Competition (RCC) as the ASEAN working group that prepares the map of competency development of competition authorities within the ASEAN;
5. The Commission also becomes the initiator of AHLMC (ASEAN High Level Meeting on Competition) forum. This forum is a meeting of the chairpersons of competition authorities or competition regulated body in ASEAN region to discuss several issues on regional and global business competition.

Extensive attention in the ASEAN level is a consequence of Indonesia's key role in regional economic development in which the Commission has an interest to support the policy. Of course, as one of the competition authorities established and as the business competition law earliest among ASEAN countries, the Commission endeavors to play important roles in



promoting the principles of fair business competition which are greatly needed to support the integration of the 2015 ASEAN common market.

In addition, quite significant participation of the Commission at regional level does not mean that the attention to the domestic regime of economic law is reduced. Precisely at this level, the Commission is aware that, as the new regime of economic law in Indonesian legal system, the business competition law must be constantly internalized in the sphere of public awareness, particularly business actors and must be socialized by the government in the business competition policy.

This is because the Commission considers that the climate of fair business competition among business actors and the implementation of fair business competition policies as set forth in the purposes of Law Number 5 of 1999, are basically the outcomes that can only be actualized through the Commission's organizational system and the consistent outputs or achievements by involving the roles of the Secretariat under the guidance of the Commissioners' policies and leadership under previously established strategic plans. Therefore, positive achievements in 2011 should be viewed as the Commission's efforts in its commitment to the achieve a fair business competition climate. □



Chapter II

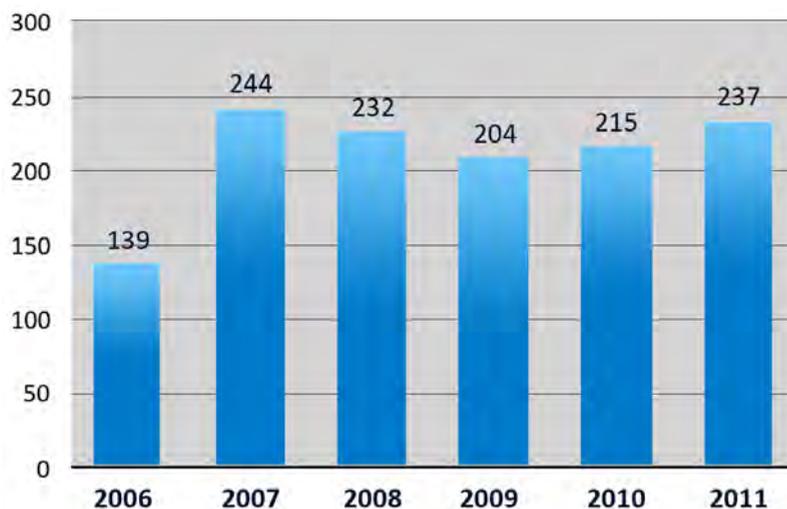
PERFORMANCE IN 2011

The following are the enumerations of the Commission's performance during 2011 which are divided in several areas;

1. LAW ENFORCEMENT

In the 2006-2011 period, the Commission carried out its tasks and authorities as the supervising agency for the implementation of Law Number 5 of 1999. During that period, the Commission received 1,271 reports on alleged violations against Law Number 5 of 1999 in which, in 2011 the Commission received 237 reports. The following are details of the case handling by the Commission during the last 5 years:

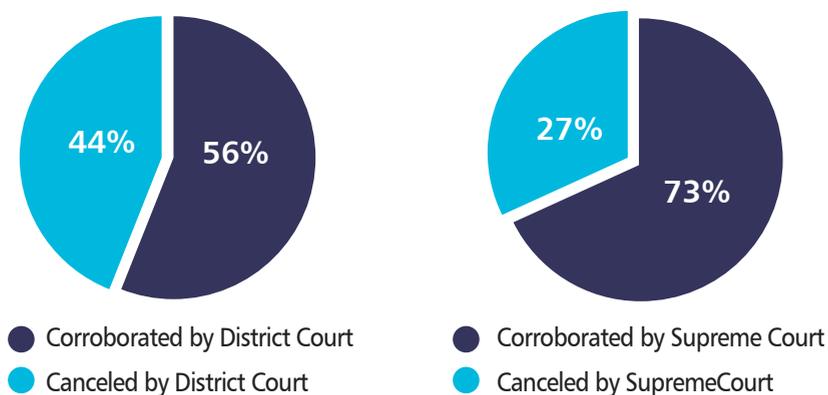
Number of Reports



As of 2011, 86 decisions issued by the Commission were filed for objection to the District Court (PN), and 58 decisions appealed to the Supreme Court. In the District Court (PN) level, 56% or 48 out of 86 Commission's decisions were corroborated and 38 were canceled. At the Supreme Court (MA), there were 58 appeals against decisions of the District Court (PN), and thus 76% or 44 Commission's decisions were corroborated and the rest were canceled by the Supreme Court (MA).

It indicates that the District Courts (PN) and the Supreme Court (MA) have the same opinions as the Commission's regarding the truth of the evidence, the examination processes that comply with due process of law, and the dictums of decisions made by the Commission.

The percentages of both the handlings of objections in the District Courts (PN) and the handlings of appeals in the Supreme Court (MA) are presented in the following pie chart:



In addition, although the imposition of sanction in case-handling is not the main goal, in accordance with the implementation of law-enforcement during 2011, it was recorded that the Commission received a Non-Tax State Revenue/PNBP from the penalty for violation against business competition amounting to IDR.150,806,211,700. While the total recorded account receivables from Non-Tax State Revenue (PNBP) until December 2011 had been at IDR. 45,920,761,920).

2. MONITORING AND SUPERVISION OF BUSINESS ACTORS

In addition to receiving reports from the public, the Commission also conducts supervision and research. A reported case derives from the public written information, meanwhile the initiative case originates from the research and monitoring process.

The Commission Regulation Number 1 of 2010 regulates 2 (two) monitoring activities of the business actors, namely (i) research which is aimed at gaining early evidence of an alleged violation committed by a business actor in conjunction with an initiative case, and (ii) supervision which is aimed at supervising a dominant business actor's behavior for the sake of prevention. In line with this, the Commission Regulation Number 4 of 2010 stipulates that monitoring activities shall be carried out by 2 (two) sections, namely supervision monitoring section focusing on the supervision and initiative case section focusing on the research.

The purpose of the research and supervision over these sectors is to map the business structure and behavior patterns arising out of the competition among those business actors.

Business sectors that become the objects of the research and supervision are those that meet the criteria set out in the Commission's Regulation Number 1 of 2010 on Case-Handling Procedures as follows:

- Economic sectors related to the livelihood of the majority of population;
- Sectors with high concentrations of industry. The concentration of industry meant here are the business fields controlled by two or three large business actors;
- Industrial fields or activities with price-sensitive markets;
- Economic fields or activities related to public services and infrastructures.

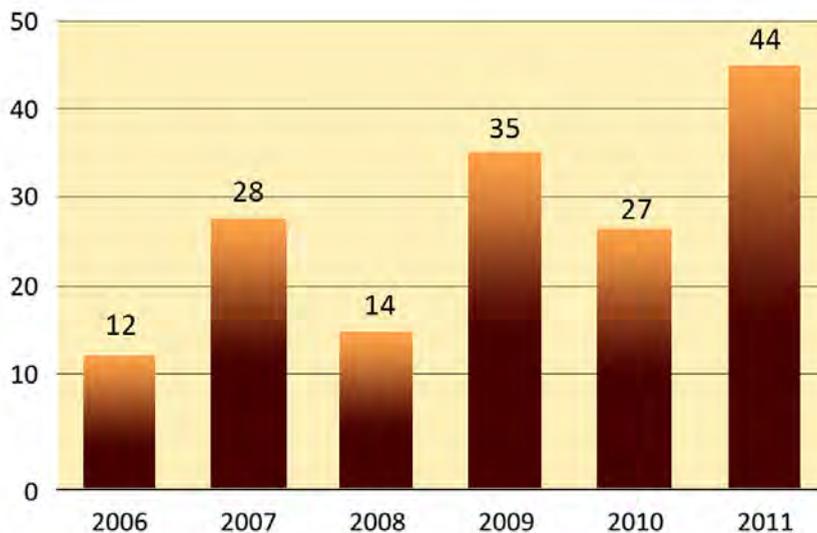
While the methods applied might be in form of research and hearings by involving the public, particularly business actors in order to obtain accurate and comprehensive information from stakeholders in an industry/sector which is currently under the research or supervision.



Throughout the 2006 – 2011 period, the Commission implemented a total of 155 monitoring activities (research and supervision) which were conducted by both the Commission’s Headquarters and the Commission’s Regional Representative Offices. The scopes and the types of business that became the objects for monitoring were consistent with the priorities of the Commission’s supervision that mostly pay attention to the improvement of public services and the livelihood of the majority of the population, the price-sensitive business sectors and the infrastructure development so that this concentrated focus makes the monitoring outputs can be optimum and intense even if its quantity is different from that in the previous year.

In general, the number of monitoring activities of the business actors that the Commission has carried out over the last 5 years may be found in the following chart:

Number of Monitoring



For 2011, the Commission held 29 monitoring and supervising activities, consisting of 20 monitoring and supervision activities conducted by the Commission's Headquarters, and 9 monitoring and supervising activities undertaken by the Commission's Regional Representative Offices (KPD-KPPU).

The monitoring and supervising activities conducted by the Commission's Headquarters cover several sectors, namely:

- Capital market sector (implementation of initial stocks sales by one of State of Enterprises/BUMN);
- Financial and banking sector (including credit card and banking industry);
- Manufacturing sectors (including industries of textiles and textile products, steel industry, automotive industry, glass industry, paper industry, and lubricant industry);
- Food and agricultural sector (including wheat flour industry, some basic commodities and fertilizer industries);
- Telecommunications service sector;
- Transportation service sector;
- Health sector (including procurement of medical devices and distribution of health products);
- Fuel industry;
- Industries with high level of market concentration.

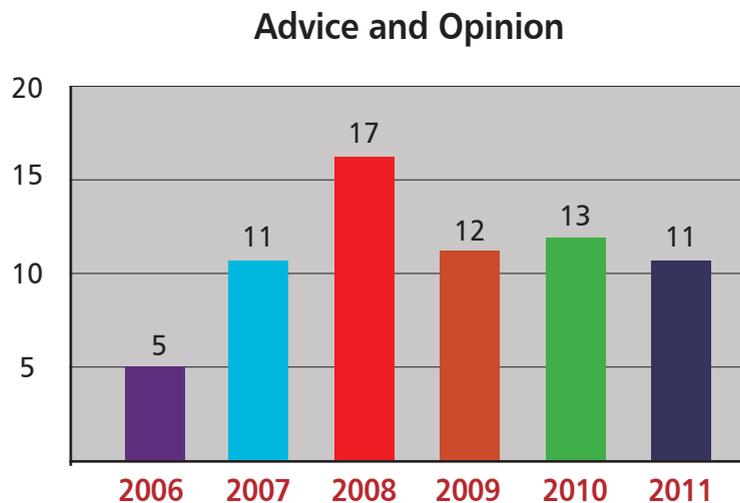
In the meanwhile, monitoring and supervising activities undertaken by the Commission's Representative Regional Offices (KPD-KPPU) cover several sectors/industries as plantation industry, sugar industry, gondorukem industry, sorbitol industry, fuel distribution, container management service, clean-water management and distribution services, and partnership of local contractors in infrastructure development.



3. EVALUATION OF GOVERNMENT POLICIES

To encourage fair competition among business actors, from 2006 to the end of 2011, the Commission submitted 69 advices and opinions to the Government. Some of those advices and opinions were: (1) The Commission's advice and opinion related to the procurement of Batik Uniform Clothes for Indonesian Haji Pilgrims, (2) advice and opinion related to the Draft of Law on Procurement of Goods and Services, and (3) Advice and opinion related to the Role of Association in the Indonesian Cement Association. Meanwhile, for the protection and empowerment of small and medium enterprises (UKM), the Commission delivered advice and opinion to encourage the Simple Patent Right for Rice-Harvesting Equipment.

The number of advice and opinion submitted by the Commission to the Government from 2006 to 2011 is shown in the following pie-chart:



Based on the delivered advices, there were some positive responses from the Government in terms of (1) formulation of policies in accordance the advice, (2) suspending the policy implementation, and (3) revoking any policy that, according to the Commission, does not comply with the

principles of fair business competition under Law Number 5 of 1999. The data indicate that, as of the end of 2011, there were 75% or 27 out of 36 advice that the government responded positively in which this had met the strategic planning target by 25% until 2011.

In addition, within the framework of harmonized regulations, the Commission is actively involved in inter-ministrial discussions to discuss the Bill on the Procurement of Goods and Services (RUU-PBJ), the development of the ASEAN competition policy, and the Draft of Government Regulation for Supervision of Partnership Agreement (RPP Kemitraan).

Within this framework, the Commission also won the trusts of the government and of the legislative body in which it was given new duties and authorities besides business competition supervision as regulated in Law Number 5 of 1999. These duties and authorities are stipulated in Law Number 20 of 2008 on Micro-, Small- and Medium-Scale Enterprises in relation with the supervision of execution of partnership agreement.

Besides that, the Commission was also involved in preparing laws and regulations. The Commission was included, among others, in the preparation team for Bill of Procurement of Goods and Services (RUU-PBJ) and Government Policy on Partnership Agreement. In addition, the Commission actively acts as the leading institution in the implementation of international commitments regarding Competition Policy Chapter and becomes a resource speaker in several national and international forums, namely:

- a. Being a speaker at the OECD Regulatory Reform Review of Indonesia, First Working Group Meeting (2011);
- b. Holding discussions (FGD) with Ministries and related agencies to discuss policies on:
 - pharmaceutical sector;
 - Indonesian National Standards (SNI) of water meter;
 - procurement of goods/services at state-owned enterprises/BUMN;
 - community-managed animal husbandry.



- c. Becoming a *Leading institution* in its commitment to *competition policy* on:
 - *AEC Blueprint*;
 - IAP APEC.
- d. Becoming a national team member in the Indonesian-Korean Joint Study Group (JSG);
- e. Leading the Regional Review Meeting on Aid for Trade;
- f. FGD on Patent Law with subject on Patent Law and Access to Medicines, Patent Law and Technology Transfer and Patent Law and Competition.

4. MERGER, CONSOLIDATION AND ACQUISITION

As a further implementation of the mandates of Articles 28 and 29 of Law Number 5 of 1999, on July 20, 2010 the Government issued Government Regulation Number 57 of 2010 regarding Merger or Consolidation of Business Entities and Acquisition of Company Share that May Result in Monopolistic Practices and Unfair Business Competition, hereinafter referred to Merger and Acquisition.

In general, the essential nature of the Government Regulation Number 57 of 2010 regulates 4 (four) things, namely the assessment method of mergers and acquisitions that may lead to monopolistic practices and unfair competition, notification of value limit, notification procedures and consultation.

For the Commission, the issuance of this Government Regulation has supplemented the legal tools required to execute its authorities and perform an assessment on the merger or consolidation of business entities and share acquisition which may result in monopolistic practices and unfair business competition.



To complete the technical regulatory requirements of the Government Regulation Number 57 of 2010, the Commission issued several implementation regulations as follows:

- a. The Commission Regulation Number 10 of 2010 on Notification Forms;
- b. The Commission Regulation Number 11 of 2010 on Consultation;
- c. The Commission Regulation Number 10 of 2011 on Amendment of the Regulation of the Commission for Supervision of Business Competition Number 13 of 2010 on Guidelines on the Implementation of Merger or Consolidation and Acquisition of Company Share which May Result in Monopolistic Practices and Unfair Business Competition.

The business actors' responses associated with the enforcement of Government Regulation Number 57 of 2010 were quite good as seen from the increasing number of business actors who made consultations before merger, consolidation and acquisition of company shares and/or proposed a Notification after merger, consolidation and acquisition of corporate shares.

The following table presents the Progress of a Number of Consultation and Notification of Merger for the 2009-2011 period:

MERGER	YEAR		
	2009	2010	2011
Consultation	0	1	3
Notification	1	3	44

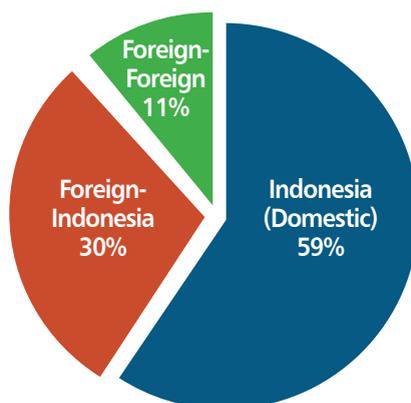
In 2011, based on the category of the business actors who undertook mergers and made consultations and notifications, the transactional value of foreign mergers was more dominant than of the merger even though the quantity of the domestic mergers was more getting higher. Foreign merger is a merger or consolidation of business entities and the acquisition of company whole accumulated amounting to IDR. 2.5

trillion. The assets are carried out outside the jurisdiction of the Republic of Indonesia with qualifications as follows: (1) both companies have business affiliates in Indonesia, or (2) one company has an affiliate or affiliates in Indonesia while the other company's products are sold in Indonesia, and (3) the acquisition impacts directly on the Indonesian market (the Commission's Regulation Number 10 of 2011). The data aforesaid are as follows:

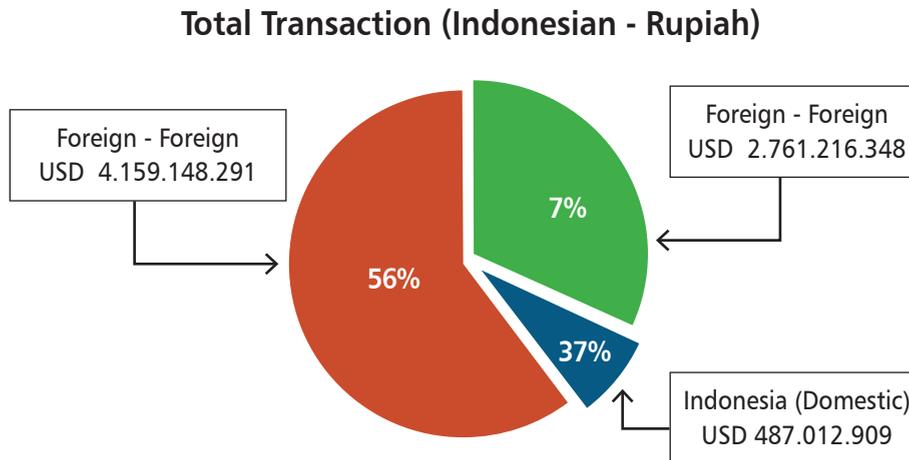
Merger	Total Transaction (Rupiah)	Percentage of Transaction Value (%)	Number of Merger 2011	Percentage of Number of Merger (%)
Indonesia (Domestic)	IDR 4.626.622.628.600	6,57	16	59,26
Foreign - Indonesia	IDR 26.231.555.305.000	37,28	8	29,63
Foreign - Foreign	IDR 39.511.908.761.835	56,15	3	11,12
Total	IDR 70.370.086.695.435	100	27	100

In the form of pie chart, the percentage of mergers in 2011 is shown as follows:

Percentage of Number Merger



Meanwhile, the percentages of the ratio of total transaction value (Indonesian Rupiah) of mergers in 2011 are as follows:



The pie chart shows that, even if the number of domestic mergers is the highest among all (16), its total transaction value is the lowest (7%). This is contrast with the mergers of foreign companies, which is only 3 mergers, but its transactions reached 56% of the total transactions.

5. FORMULATION OF GUIDELINES TO ARTICLES

Article 35 Paragraph f of Law Number 5 of 1999 assigns the Commission to prepare guidelines and/or publications related to Law No.5 of 1999. This is necessary to do in order to create legal certainty and common interpretations on the elements of Articles contained in Law Number 5 of 1999. In 2011, the Commission has completed 9 guidelines for the implementation of Law Number 5 of 1999, namely:

- a. Guidelines for Article 19 paragraph d regarding Discriminative Practices;
- b. Guidelines for Article 5 regarding Price Fixing;
- c. Guidelines for Article 15 regarding Closed Agreement;



- d. Guidelines for Article 20 regarding Predatory Pricing;
- e. Guidelines for Article 27 regarding Share Ownership;
- f. Guidelines for Article 8 regarding Fixing of Reselling Price;
- g. The Commission's Regulation Number 9 of 2011 on Guidelines for Article 50 paragraph;
- h. Guidelines for Implementation of Merger or Consolidation of Business Entity and Acquisition of Company Share which May Result in Unfair Monopolistic Practices of Business Competition;
- i. Guidelines for Article 17 regarding Monopolistic Practices.

During 2011, the Commission also issued 10 (ten) Commission's Regulations, namely:

- a. The Commission's Regulation Number 2 of 2011 on Procedures of Imposition of Penalty for Delayed Submission of Notification on Merger or Consolidation of Business Entities and Acquisition of Company Share;
- b. The Commission's Regulation Number 3 of 2011 on Guidelines for Article 19 paragraph d (Discriminative Practice);
- c. The Commission's Regulation Number 4 of 2011 on Guidelines for Article 5 (Price Fixing);
- d. The Commission's Regulation Number 5 of 2011 on Guidelines for Article 15 (Closed Agreement);
- e. The Commission's Regulation Number 6 of 2011 on Guidelines for Article 20 (Predatory Pricing);
- f. The Commission's Regulation Number 7 of 2011 on Guidelines for Article 27 (Share Ownership);
- g. The Commission's Regulation No.8 of 2011 on Guidelines for Article 8 (Fixing of Reselling Prices);
- h. The Commission's Regulation No.9 of 2011 on Guidelines for paragraph h of Article 50;
- i. The Commission's Regulation No.10 of 2011 on Amendments to the Commission's Regulation No.13 of 2010 on Guidelines for Merger or Consolidation of Business Entities and Corporate Share

Acquisition which may result in Monopolistic Practices and Unfair Business Competition;

- j. The Commission's Regulation No.11 of 2011 on Guidelines for Article 17 (Monopolistic Practises).

6. INDUSTRIAL AND TRADING ASSESSMENTS

During 2011, by conducting industrial and trading assessments, the Commission's Assessment Bureau implemented a business competition assessment program. The program has four sub-activities, namely Assessment on Business Competition in Industry and Trade, Analysis on Business Actors' Strategies in the Perspective of Competition, Collecting and Processing Information Data, and Evaluation and Documentation of Decisions.

In setting the themes for assessment, the Commission has always considered the urgency of intended sector and sectors which are considered strategic and vital for the economic performance and public welfare. Some sectors that have been assessed by the Commission included, among others, finance and banking, strategic industries such as steel and its derivative products, and agricultural commodities such as rice, its distribution channels and retail sectors. Infrastructure sector is also included in the scope of the Commission's assessment, such as the management of seaports, airports, electricity and telecommunications. Besides sectoral assessments, the Commission also conducted assessments with common analyses such as FTA impact on competition climate with simulations in some certain sectors, and assessments on competition impacts on Indonesia's macroeconomic parameters such as economic growth, inflation and people's welfare.

Several follow-ups of the assessment results include, among others, monitoring activities of aviation and telecommunications industries as well as law enforcement actions that lead to investigation of cartel cases, such as those in pharmaceuticals and telecommunications. In addition,



some assessment results also become as an input for the delivery of advice and opinion, especially for some sectors such as telecommunications, transportation and retail.

The following are details of industrial and trading assessment activities conducted during 2011:

- a. Preparation and development of competition index application included in the competition policy harmonization program. The target to be attained from this program is eight (8) assessment/analysis reports. The output obtained from all these industrial and commercial assessment activities is to give in assistance of law enforcement and in provision of recommendations and considerations to the government.
- b. Other activities related to the industrial and commercial assessment in which two assessments already agreed in the Commission's meeting were the assessment on distribution line of basic commodities and assessment on the mapping of competition in fast-moving consumer goods. The assessment on distribution line of basic commodities will focus on the mapping the distribution lines of basic food commodities and, at the same time considering closely to the phenomenon of price-fixing in each level of distribution lines. Meanwhile, the assessment of the fast-moving consumer goods (FMCG) will focus on the mapping of relationship between the fast-moving consumer goods (FMCG) and modern retailers, including their impacts on performance of the related sector.
- c. Collaboration with research institutions from State Universities, namely LPPM-UNHAS (Hasanuddin University) and LP3E-UNPAD (Padjadjaran University). Until the end of the first semester of 2011, assessment activities had reached the stage of preparation of early reports including the drafting of research methodology. From the end of November to early December 2011, the assessment stage reached final analysis. The Commission, together with a team of researchers from LPPM-UNHAS and LP3E-UNPAD, had been finishing the data-processing stage and analysis, particularly in the formulation



of points for recommendations. These points would be presented at the Commission's meeting which would be further processed. The final output to be gained from this activity is the issuance of the Commission's advice and opinion.

- d. Another activity in the assessment was the analysis of business actors' strategies in the perspective of business competition. This action is a routine activity that has been held since 2008. In 2011, an assessment package of the similar activity was carried out on "two-sided market" in retail industry. This activity described the two-sided market theory and its implementation in the retail sector. The purpose of this study was to understand and to map the various problems that arised out of the abuse of market power on both sides from the viewpoint of Law Number 5 of 1999.
- e. Methodology preparation for information processing. This action aimed at building a network of cooperation for data provision among various data-providing agencies. Until the first semester, several discussions had been held among the Commission, Indonesian Statistics Agency (BPS) and other data-providing agencies to design concepts and blueprints of network development from such data-providing agencies. Besides with BPS, the Commission had also undertaken an initiative to collect price data of a number of strategic products through coordination with 6 (six) Commission's Regional Representative Offices (KPD-KPPU). Until the middle of November, the collection and processing data of prices from the Commission's Regional Representative Offices/KPD had been still underway. It was expected that such collecting of prices and data could be an embryo for database of product prices developed by the Commission in cooperation with other relevant agencies.
- f. Evaluation and documentation of decisions. This activity was aimed at providing the Commission with internal advice in analyzing article by article related to the preparation of decision. The activity was performed with self-management by involving several potential persons and contining FGD processes. Until the end of first semester,



the team had completed and reported the interim analysis on the Commission's decision related to Article 22 on bid-rigging. Currently, team is preparing a second analysis on the Commission's decision related to Article 19d, and specifically decision for Carrefour's case in 2010 that already has permanent legal effect at the Supreme Court (MA) level. Meanwhile, for the application and preparation of competition index, through the first semester, the progress of activities has been in survey for collecting and processing data. In the mid-November, the team prepared recapitulation of the processed results of survey data to be analyzed and made the final report in mid-December 2011.

7. INSTITUTIONAL COOPERATION

During 2011, the Commission's institutional development started to function fairly well. Some collaborations with other agencies have begun, such as, among others, the Indonesian National Police (PolRI), the Supreme Audit Agency of the Republic of Indonesia (BPK-RI), and academic institutions with concentrations on business competition law.

Throughout 2011, the institutional cooperative activities conducted by the Commission domestically and internationally were as follows:

A. Domestic Cooperation

To support the functions of business competition law enforcement, the Commission holds cooperation with governmental and non-governmental institutions, as well as with academic educational institutions. Several agencies that have been in cooperation with the Commission are, among others, the Indonesian National Police (PolRI), the Supreme Audit Agency of the Republic of Indonesia (BPK-RI) and Nahdlatul Ulama (NU).

Academic institutions are prioritized in institutional co-operation since they have concentrations that are in line with business competition



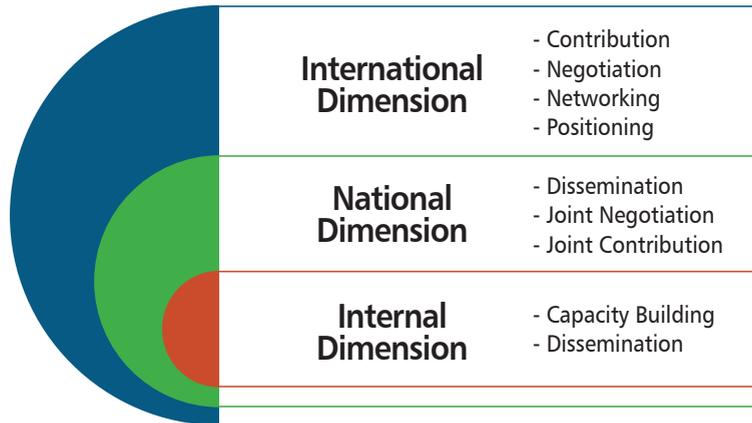
law. In addition, each of academic institutions is expected to have a research center supporting cutting-edge ideas concerning business competition law or research-based university.

In another occasion, on Thursday (20/10), the Commission also held a Rectors Forum attended by 23 universities from all over Indonesia. Through this event, it was expected that an MoU would be established and would be a guideline to education on business competition among students and academicians.

B. International Cooperation

In general, international cooperation function includes 3 (three) dimensions: international, national, and internal. At the international dimension, the Commission's International Cooperation Section (BKS-LN) performs such various functions as, among others, submission of contributions, being active in negotiations, strengthening international networks, and creating international opinions on position of the agency through a variety of methods such as consultation, dissemination, and so forth. At the national dimension, International Cooperation Section (BKS-LN) performs dissemination function of international best practice to the government or other agencies. BKS – LN is also actively involved as part of Indonesian negotiating team in various international agreements. Together with the government, BKS – LN is jointly engaged in contributing to Indonesia on various topics related to the commitment of Indonesia overseas. The internal dimension, International Cooperation Section takes a great effort on the development of institutional capacity, especially human resources by searching donors, implementation of donor aids, evaluation of activities by the donor, and institutional strengthening through dissemination of international best practice to the institution.





The performance of International Cooperation Section (BKS-LN) can be seen from various indicators, such as (i) how far the international views or opinions have been talked about the Commission, (ii) how far the Commission has been asked to represent Indonesia in contributing to various overseas activities, (iii) how many capacity-building activities are facilitated, (iv) how many consultations have been held for foreign parties, (v) how interested are foreign audience at the agency, and (vi) how many international activities are there in Indonesia which are facilitated by the Commission.

Foreign institutions' opinions on the Commission are valuable inputs and outcomes for the commission to measure to what extent its overseas involvement has been reached. So far, the United Nations has acknowledged that the Indonesian Commission for the Supervision of Business Competition is the most advanced competition agency in the Southeast Asia and become a model on how a young competition agency implements competition law and policies. It is explicitly stated by the United Nations Conference on Trade and Development (UNCTAD) at a peer review session on the implementation of competition law and policies in Geneva in July 2009. Furthermore, the Korea Fair Trade Commission (KFTC), in one session at an international conference commemorating the Commission's 10th



Anniversary (the Indonesian Conference on Competition Law and Policy), stated that the Indonesian Commission for the Supervision of Business Competition is the most dynamic business competition agency in the world. At the level of the Organization for Economic Cooperation and Development (OECD), the Commission has been designated 3 (three) times as a regular observer (in 2008-2009; 2010-2011, and 2012-2013) at the OECD Competition Committee. This status is the highest membership status for non-OECD countries.

Furthermore, the international community is also increasingly interested in the development of the implementation of competition law and policy in Indonesia. This is indicated by the increasing number of contributions of the Commission as a speaker at various regional and international activities. Statistics collected show that, despite their gradual increases, the number of the Commission's contributions as a speaker at various international and regional forums increases.

	2007	2008	2009	2010	2011
CATEGORY OF PARTISIPATION					
Number of Participation	25	25	35	38	46
Contribution as a speaker	20	20	24	25	31
Contribution as an active participant	43	43	62	73	26
CATEGORY OF DELEGATION					
Number of Delegates	63	63	86	98	57
Leaders	16	16	35	24	11
Senior	42	42	44	35	28
Junior	5	5	7	39	18

Further, just as 6 (six) outcome indicators, the performance of International Cooperation Section (BKS-LN) may also be represented at a number of consultations, hearings, international events in Indonesia, involvements in representing the government of Indonesia, and written contributions.



Consultation is one of the media for the Commission in delivering the development of competition law and policy in Indonesia and, at the same time, in knowing how competition law and policy in Indonesia draw international attentions. With a high level of consultation, this indicates two important things in which the Commission has been recognized to have good performance and dissemination with good quality. In 2011, the Commission's International Cooperation Section (BKS-LN) facilitated 11 (eleven) consultations from foreign parties, particularly from the business competition agencies of Uzbekistan, Thailand, United Kingdom, Switzerland, Papua New Guinea, the International Competition Network, and the United Nations Conference on Trade and Development (UNCTAD). The Section also facilitated consultations of academics from the University of Wollongong - Australia, Global Competition Review London, National University of Singapore, and Drew&Napier - Singapore.

Hearings by foreign parties with the Commission are one of the indicators showing that the Commission is a competition agency that is significantly influential at regional and international levels. Through hearings, co-operation between international institutions may be improved to further benefit for both parties. In 2011, the Commission's International Cooperation Section (BKS-LN) facilitated 11 (eleven) hearings/visits from various parties, particularly the Organisation for Economic Cooperation and Development (OECD), Economic Research Institute for ASEAN and East Asia (ERIA), United Nations Conference on Trade and Development (UNCTAD), French Competition Authority, Morgan Stanley Research, and Ernst and Young.

Conferences, workshops, and seminars that involves international parties and held in Indonesia are Indonesia's commitment to maintain good relationships and develop networks with foreign parties, as well as to foster international recognition on Indonesia and on the Commission in particular. Such international activities are also earmarked for KPPU's institutional strengthening and for relevant stakeholders. In 2011, International Cooperation Section



(BKS-LN) facilitated the implementation of 13 (thirteen) conferences and workshops in Indonesia, including the ASEAN Competition Conference, the ASEAN High Level Meeting on Competition, the AEGC Post Briefing Workshop, the 7th AEGC Meeting, the 8th AEGC Meeting, 2 (two) AEGC-related Capacity Building Workshops, 5 (five) JICA-related Capacity Building Workshops, and UNCTAD Cartel Manual Validation Workshop.

Furthermore, as part of international competition agencies and in order to augment international recognition over Indonesia and its business competition agency, its written contributions to various agencies and international organizations (such as APEC, ICN, AEGC, OECD, and UNCTAD) are the main thing. The Commission's contributions on various chances at international forums may be in the forms of survey, questionnaire, and ideas related to the understanding of competition law and policy. In 2011, the commission's contributions have increased very significantly along with the increasing international demands for Indonesia and the Commission. The written contributions delivered this year reached 63 (sixty three), which increased sharply from the contributions in the previous year.

National aspects related to Indonesian roles in various international commitments also become the attention of International Cooperation Section (BKS-LN). in 2011, the Section had been actively involved in 4 (four) commitments of Indonesia to foreign parties which include the negotiation process of EFTA-Indonesia Comprehensive Economic Partnership Agreement (IE-CEPA), preparation for negotiation (Joint Study Group, JSG) between Indonesia and Korea, implementation of OECD Regulatory Reform Review for Indonesia, and contribution for the interest of Indonesian Chairmanship in ASEAN.

To perceive the performance of the International Cooperation Section (BKS-LN), the following is a comparison chart of the section/division's achievement from the previous perio (in years):



NO.	INDICATOR	YEAR	
		2010	2011
1.	Consultation	8	11
2.	Hearing	8	11
3.	Conference/Workshop in Indonesia	12	13
4.	Involvement in the Government of Indonesia's Commitment	1	4
5.	Written Contribution	16	63

The table above shows that the achievements of International Cooperation Section (BKS-LN) in 2011 increased significantly. There is a sharp increase in written contributions submitted related to the Commission's international functions. Generally, each year the Commission actively contributes to various international activities, particularly APEC, WTO, ICN, OECD, UNCTAD, and AEGC. This increase might be due to the Commission's Chairmanship in leading business competition agencies in ASEAN in 2011 that required many activities and contributions of the Commission overseas.

It is recognized that, at the ASEAN level, the Commission has positioned itself as a competition agency that needs to lead the business competition in ASEAN and has begun to assist business competition agencies of other ASEAN countries in developing competition law and policies. With such great commitment, the Commission is encouraged to accept the trust from ASEAN countries to chair AEGC in 2011 and lead several working groups in AEGC, namely the Working Group on Capacity Building (CB) to develop capacity of competition institutions in ASEAN and the Working Group on Regional Core Competencies (RCC) to provide manuals for member countries in preparing and developing their business competition agencies.

In 2011, as the AEGC Chairman, the Commission had initiated a big forum of multi-stakeholders, namely the ASEAN Competition



Conference as an official and regular forum to extensively discuss business competition issues with stakeholders. Furthermore, in order to enhance roles of competition policy in regional policy-making level, in the same year the Commission also initiated the establishment of ASEAN High Level Meeting on Competition (AHLMC) as the official forum of leaders of business competition agencies in ASEAN in addressing various strategic policies and in providing recommendations of competition policy to the ASEAN Ministerial Meeting.

In supporting the capacity of ASEAN countries in introducing and developing competition policy and law, the Commission led the working group for capacity development in providing inputs on preparation and implementation of workshops on business competition in ASEAN, and in prioritizing consultation efforts on business competition for business competition agencies in ASEAN. Until now, the Commission has facilitated internship at the Commission for two Malaysian academics, speakers at two events at Malaysian Competition Commission, and written consultations with counterparts in Malaysia, Singapore, and Thailand on various specific issues related to cases, rule of law, and institution.

Various achievements above indicates that the Commission has been in the right direction in communicating its achievements and position in the world. This certainly can not be separated from law enforcement and intensive policy advocacy in implementing Law Number 5 of 1999, and the Commission's active involvement in the world.

The high level of employment in International Cooperation (KLN) Division indicates that the Commission is one of the internationally recognized competition agencies and has positioned itself as one of the best business competition agencies in Asia. In the ASEAN region, the Commission has positioned itself as the best agency among those agencies from five other countries with business competition law. The coming year is crucial for the Commission's international functions in



which the Commission holds the main control for the development of business competition policy in the Southeast Asia. Commitment and roles of inter-institutional relations will surely be the focal points in creating the influences of the Commission and Indonesia in the world.

8. INSTITUTIONAL DEVELOPMENT

The Commission's Institutional Development in 2011 was blocked with the same problem from year to year, namely institutional status. If this is not resolved soon, the institutional status of this Commission will continue to be a stumbling block to the Secretariat in optimizing its tasks and functions as mandated by Law No.5 of 1999.

Related to a letter number 268/K/XII/2010 to President which contains institutional arrangements of the Commission's Secretariat, the revision of Law Number 5 of 1999 is not an easy matter and this takes a lot of risks. One way likely to be a priority is revision of Presidential Decree Number 75 of 1999 on KPPU (the Commission) in which paragraph 2 of Article 12 reading that the requirements on organization, duties and functions of the secretariat shall be further regulated through the Commission's Decree with the approval of the State Minister of State Empowerment Apparatus and Bureaucratic Reform.

The above various barriers faced up by the Commission do not weaken it; instead, the Commission's performance throughout 2011 got better. For example, for 10 (ten) years, the Commission, in its decisions, imposed fines amounting to nearly Rp.950 billion and compensations amounting to IDR. 920 billion. The in-kracht amounted around IDR.182 billion and the amount paid to the State Treasury as Non-Tax State Revenue/PNBP amounted to nearly IDR.11 billion.

Such outstanding performance could not be separated from the restructuring of the Commission's Secretariat; thereby, the Commission presently consists of 9 bureaus, namely : Investigation Bureau, Legal



Action Bureau, Merger Bureau, Policy Evaluation Bureau, Assessment Bureau, Legal and Public Relations Bureau, Financial Planning Bureau, Administration Bureau, and Internal Supervision Bureau. In addition, currently the Commission also has a Regional Representative Office (KPD) in Manado. The working areas of the Commission's Regional Representative Office (KPD) of Manado cover five provinces: North Sulawesi, Gorontalo, North Maluku, Papua and West Papua.

Another fairly good achievement within the Secretariat of the Commission is the award of Unqualified Opinion (WTP) from the Supreme Audit Agency of the Republic of Indonesia (BPK-RI) stating that the Commission has a sound and accountable financial management. This proves that the Commission supports credible, accelerative and professional reforms of bureaucracy.

To support the Commission's overall performance, within one-year period, at least several decisions and regulations have been issued related to subjects on staffing regulations, namely:

- a. Strengthening of Institutional Status of the Commission's Secretariat through Promulgation in compliance with the Commission's Decision Number 29/KPPU/Kep/II/2011
- b. Re-inventory and Revision of SOP through Promulgation in compliance with the Commission's Decision Number 30/KPPU/Kep/II/2011
- c. Review of the Commission's Organizational Structure through Promulgation by the Commission's Decision Number 31/KPPU/Kep/II/2011.

To enhance the secretariat's performance, in 2011 there were 3 (three) activities and their budgets coordinated by the Organizational Section, namely:

- a. Strengthening of the Institutional Status for the the Commission's Secretariat;
- b. Inventory and review of the SOP;
- c. Review of organizational structure.

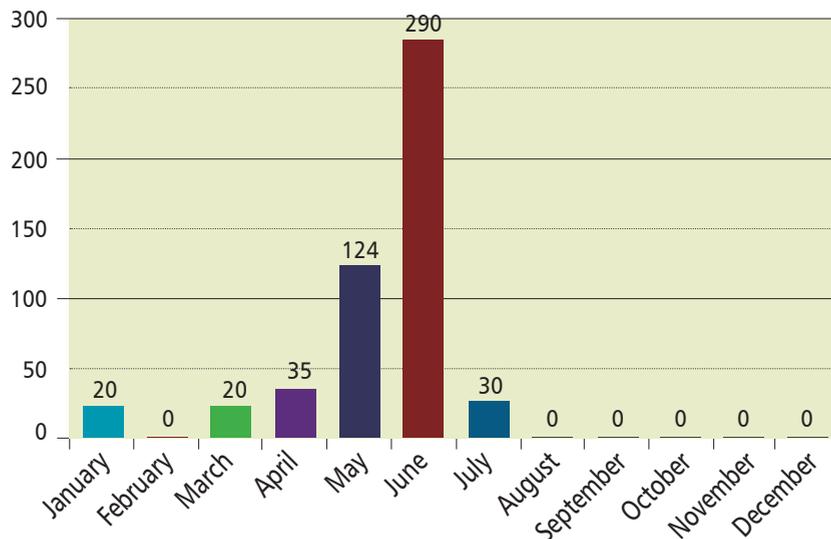


9. SOCIALIZATION AND ADVOCACY

In order to enhance understandings as a part of government, business actors, academics, journalists, legal practitioners, and the general public, the Commission held various events on socialization and advocacy. Throughout 2011, there were 29 listed events, in the form of socialization including development of mass media networks (journalists forum), socialization along with public institutions, socialization along with parliament and government, development of national business competition forum, socialization along with judges, socialization along with related institutions, and socialization along with academics. The number of socialization and advocacy events in 2011 was less than that of the previous year, considering the limited budget.

Out of all socialization and advocacy events, there were 519 registered participants who took part and contributed their ideas and suggestions for the Commission. The participants included journalists, academics, business actors, government officials, parliamentarians, judges, and the public community.

Number of Participant in Socialization and Journalist Forum in 2011



Roughly, the Commission's socialization and advocacy activities are divided into several types, namely:

a. Consultations dan Hearings

Efforts to raise public awareness for the creation of fair business competition were not only undertaken through socialization activities in provinces and districts. But also can be enhanced through assistance in going information for the public in terms of consultations and hearings for the stakeholders and public. The consultations and hearings conducted were initiatives of the stakeholders concerned with business competition. These stakeholders were from business actors, academics, lawyers, government, and the public community.

Besides consultations, the Commission also received a number of requests for holding hearings. It was recorded that, during 2011, the Commission received 27 (twenty seven) hearings in which the majority of it came from academicians. And also, the Commission received 14 (fourteen) requests for internship and 37 (thirty seven) competition law-related researches. This indicates that the understanding on business competition law is greatly needed and applied since students start attending colleges in order to give competition policy and law a birth to generation of individuals who are aware of fair business competition.

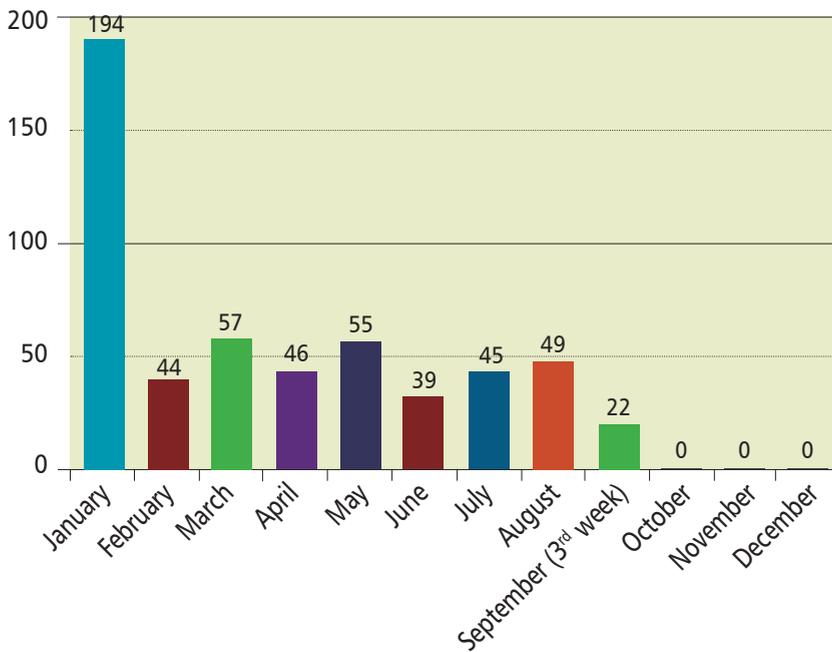
Other efforts in enforcing competition law in the community were carried out by delivering information to in a business competition forum initiated by stakeholders in which the Commission participated in it. It was recorded that 17 (seventeen) invitations for acting as a source person were received by the Commission. This suggests that the increased awareness by the public in understanding the business competition is not absolutely the Commission's task. However, the effort to create understanding of business competition becomes also the community's initiative in creating a fair business competition environment for the creation of a better economy for a country.



b. Intensity of Media Coverage

To enforce competition law, the Commission worked with media to disseminate the business competition law and the Commission's existence as an institution undertaking the law enforcement.

Various activities held by the Commission had won attention of both printed and electronic mass media (radio, television, and internet). Publications on the Commission –and activities that it performs– through the printed media in central and regional levels show that the Commission gets sufficient attention from the media. This helps the Commission to undertake its mission to internalize business competition values the public.

Intensity of Media Coverage in 2011

10. HARMONIZATION OF POLICIES AND REGULATIONS

The Division of Harmonization and Synchronization of Policy and Regulation implements very crucial function for the Commission. By always undertaking good cooperation with government agencies and regulatory agencies in a proper framework, this will ease one of the Commission's tasks as stipulated in Law No.5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition, paragraph e of Article 35 which reads: "the Commission has a task to provide advice and opinion concerning Government policies related to monopolistic practices and or unfair business competition".

The established cooperation with several government agencies which are authorized to issue policies in the economic sector is also very important for the Commission because by is through this cooperation the internalizing of competition values can be easily performed. The Government employees' deep understanding on Law Number 5 of 1999 will cause some sets of government policy to be in harmony with the competition values. In the long term, the Commission is expected to reach an ideal mechanism in doing cooperation with the Government in which the Commission becomes an agency of which its insights on the Government's draft policy in the perspective of business competition are requested.

Even if any request of insights is unbinding advice in nature, considering that the Commission is impossible to be directly involved in the preparation of a government policy, since the government policy is a matter that the Commission shall supervise in connection with the business competition. In this Division, there are two major activities performed, namely:

- a. Harmonization and Synchronization of Business Competition Policy
- b. Assessment of the Law and Regulations

During January to July 2011, the Policy Harmonization Section conducted several meetings with the government to internalize the competition values in each of government policy. In addition, the



Commission was involved in the preparation of the law and regulations and made an analysis of government policies which are inconsistent with the fair business competition principles. The number of activities which were already carried out was 15. One of the major activities that had been sufficiently monitored in the media and provided good economic values in the community was supervision of the fixing rates charged for freight inspection service by air transportation. In this case, the Commission issued 5 (five) recommendations to the Ministry of Transportation to reconsider the government's plan to fix quotas and allocations of x-ray application on a regulated agent because it was doubted that cartel practices and abuse of dominant position might be committed.

Concerning the law and legislations, the Commission also conducted assessments. These assessments were undertaken to identify the law and regulations at both national and regional scales, and how these related to the fair business competition principles.

The Commission's assessments are crucial since the law and regulations as stipulated in Law Number 5 of 1999 shall not be in conflict with other laws and regulations. However, in practice, often certain activities or actions are prohibited in Law Number 5 of 1999 but are permitted by other laws and regulations. Therefore, the implementation of regulations for such activities and actions shall consider not only the laws and regulations but also the standpoints of business competition, even if such activities are the implementation of a provision of the law and regulation.

To date, the Commission has been focusing on the assessment on laws and regulations in three economic sectors: medical devices and equipment, oil and gas, and transportation. The Commission also collects varied regulations related to these three sectors and further will analyze their relationships with business competition law.



11. PROFESSIONALISM, INTEGRITY AND COMPETENCE OF HUMAN RESOURCES

Since its early establishment, the Commission has always been trying to be a competition law enforcement agency that applies the principles of professionalism, integrity and competency for its personnel. The professional principles applied by the Commission implies that all works are undertaken and completed by human resources with proper skills so that the results will be more optimal.

Various policy strategies for the personnel's competency improvement have been applied. Among these are the analysis of the preparation of human resources needs, employee recruitment tailored to organizational needs, enforcement of personnel's code of conduct code, and technical education & training for personnel. The following are details of activities undertaken in 2011:

A. Education and Training

In order to obtain qualified Human Resources (HR), the Commission (KPPU) conducts development of its human resources; one of the ways of the human resource development is to provide education and training. The steps taken in the provision of education and training not only to improve the qualities of employees in just one area but also to broaden their horizons of main duties and functions in other work units where they may be employed. The provision of education and training by the Commission consists of:

1. Long-term Education and Training

This kind of education and training is education in a university or universities. Currently, the Commission cooperates with the University of Indonesia (UI), especially Postgraduate Program of the Faculty of Law and Magisters Program of Public Planning and Policy of the Faculty of Economics (MPKP). The Commission is now seeking to explore the possibility of cooperation with departments of other faculties that can help enhance employees' competency. Any employee who receives a scholarship shall



meet the specified requirements, namely he/she has worked for 3 years, loyal to the institution where he/she works, and passes an admission test. For 2011 period, the Commission provides postgraduate scholarships to 3 (three) persons in the departments of law and economics.

2. Short-term Education and Training

The Short-term Education and Training was held to provide the Commission's employees with skills or mastery of knowledge in specific fields so that they would be able to carry out duties and responsibilities to their best.

NO.	TRAINING	DATE
1.	Training for Investigator	2 - 4 March 2011
2.	Training on Planning and Budgeting of Technical Guidance to Budget Management	15 - 18 March 2011
3.	Training on Quantitative Research Method	13 - 17 June 2011
4.	Training on Qualitative Research Method	20 - 24 Juni 2011
5.	Training on Procurement of Goods and Services	21 - 23 September 2011
6.	Training for KPPU's Investigators	19 - 20 October 2011

In addition to the short-term training, the Division of Development and Education & Training of Human Resources also sent employees to attend education & trainings organized by Education & Training Organizers.

NO.	TRAINING	DATE
1.	Education & Training on Job Description Analysis, Development and Design	13 - 14 June 2011
2.	Education & Training on Technical Guidance for Disciplining Civil Servant (PNS) Government Regulation (PP) No. 53 of 2010 and National Service Agency (BKN) Head Regulation Number 21 of 2010	13 - 15 July 2011
3.	Training and Validation of Manual for Cartel Investigation in cooperation with UNCTAD	19 - 20 October 2011

B. Development of Education and Training System

Just as the goal to foster professional staff in their fields, the Commission considers that the needs for education and training shall have to be met. However, as time goes by, changes continue to happen to anticipate the demands for the Commission's development so that the curricula of education & training prepared in the previous years should be redesigned. Based on the above background and in order to contribute ideas to improvements of education and training curricula, it is necessary to undertake education and training system development in fiscal year 2010.

The aim of the Development of Education and Training System is the existence of a comprehensive concept that can be put down in education & training programs so as to provide every employee with opportunities to develop their skills and enhance their competence in performing their duties and functions and in supporting the Commission's tasks and objectives optimally.

C. Working Papers of Staff and the Commission

The activities of working papers are intended to develop the insights of human resources, especially in the science of business competition. The science of business competition is still quite new in Indonesia and will continue to develop in line with time passing and business dynamics. Such developments can be followed by developing insights



of the related human resources, through both training procurement and provision of facilities to put down their thoughts through the media. The development of insights of the science of business competition will enhance the quality of human resources.

The Preparation of Working Paper is believed to be one of the ways to improve the qualities of human resources, and this is a capable way to develop the science of business competition in Indonesia. For Members of the Commission, the preparation of a working paper is a way to sharpen skills in dealing with business competition cases and in analyzing policies. Such experience is very valuable to be put down in the working paper and to develop acquired knowledge and sciences in accordance with social, political, economic and legal developments in Indonesia and overseas. Each of the Commission's members has an opportunity write down his/her idealism and thoughts in terms of composition/article/scientific paper regarding business competition with all of its problems, particularly with regard to case handling and policy assessment. The thoughts are expected to be developed further so that these may function as:

1. Materials for developing the knowledge of staff within the Commission's Secretariat;
2. Materials for public dissemination;
3. Materials for preparation of guidelines for the Commission to analyze an issue or case that it faces, and
4. Materials for input to the improvement of business competition law in Indonesia.

Furthermore, the preparation of working papers will provide an employee with an opportunity to develop his/her experience and knowledge into work environment so that it is expected that his/her capabilities and performance may increase and provide maximum capacity for the successful implementation of duties and functions of the Commission as the business competition agency in Indonesia. □



Chapter III

OUTLOOK AND CHALLENGES IN 2011

When year 2012 drew near, some agenda that should be prioritized by the elected Chairperson and Vice-Chairperson were, among others, as follows:

1. SETTLEMENT OF THE COMMISSION'S INSTITUTIONAL ISSUES

Law Number 5 of 1999 is not a separate part of legal and social realities of a country. Therefore, the Commission established under the mandate of Law Number 5 of 1999 as an agency to supervise the implementation of Law Number 5 of 1999 and it should move in synergy with social realities. However, as a relatively new agency, the Commission faces the social realities in which one of them is internal institutionalization. This is stated since the Commission is an agency that takes on state tasks, particularly in business competition supervision, however, its presence and position is not explicitly mentioned in a form of law and regulation that the Commission is a state institution.

It is stipulated in Law Number 5 of 1999 that the Commission is an independent agency and it is not asserted that the Commission is a state



institution, even if the Commission's tasks and authorities reflect the state tasks, and there has not been any agency/institution of another country that assumes such tasks and authorities.

Such a Commission's unclear status in connection with constitutional institutionalization often causes different perceptions, particularly related to the development of the secretariat as a section supporting the Commission. Therefore, it is necessary to affirm that the Commission is a *state agency* that performs duties and authorities independently and free from influences and powers of the Government and other parties.

Paragraph 2 of Article 34 of Law Number 5 of 1999 reads "*for the uninterrupted implementation of its duties, the Commission shall be assisted by a Secretariat*", while in Article 8 of Presidential Decree Number 75 of 1999 regarding the Commission for the Supervision of Business Competition, it is expressly stated that the Commission's organizational structure consists of the Commission's Members and the Secretariat.

Considering that the Commission's Members appointed by the President of the Republic of Indonesia upon the approval of the House of Representatives to carry out the Commission's duties and authorities, the Secretariat of the Commission becomes a main supporting element for the Commission to do its in compliance with the mandate of Law No.5 of 1999. The main task of the Commission's secretariat is to provide the Commission with technical, operational and administrative supports in carrying out its duties and authorities as stipulated in Law No.5 of 1999.

Considering its importance, the institutional development of the Commission's secretariat has been one point of attention of the Commission's activities. The institutional development is aimed at building a strong institutionalization so that it will be able to perform its tasks and activities effectively and efficiently.

However, to date, the institutionalization of the Commission's



Secretariat has been still hindered by a classic problem, namely that the Commission's Secretariat's institutional status has not been recognized yet. In many ways, the problem of the institutional status will continue to be a stumbling block for the leadership and the Secretariat in optimizing the main tasks and functions as mandated by Law Number 5 of 1999.

The problem of the Commission's Secretariat's institutional status greatly affects the existence of the Commission's Secretariat, inhibiting the development of organization, human resources, budget, work facilities, and systems. This gives a rise to the impacts on the provision of supports to the Commission. Additionally, this is also due to unclarity and uncertainty of employment status, provision of salaries/honorariums and remunerations, and continuity of sustainable funding that becomes a disincentive for the careers of the Commission's Secretariat's staff.

As an independent agency, the Commission believes that, in order to execute the mandates of Law, the Commission's Secretariat is also absolutely free from any party's influence, including that of the government. There arises a dilemma since the government perceives that, in the acts and regulations that regulate the staffing and financing for employees by the State with a permanent system, the only option available for each of the Commission's Secretariat staff is to have the Status as a Civil Servant.

In its development, the above is not resolved because of required amendments to the Law especially related to the Articles on the Secretariat even if legislation process is not included in the Commission's authority. Therefore, the Commission proposes revision of Presidential Decree No.75 of 1999 in which paragraph (2) of Article 12 which originally reads "*Provisions concerning organizational structure, duties and functions of the secretariat shall be further regulated by the Commission's Decision*" that is changed to "*Provisions concerning organization, duties and functions of the secretariat shall be further regulated by the Commission's Decision with an approval of the Minister of State Apparatus Empowerment and Bureaucratic Reform*".



2. HANDLING OF CASE ON BUSINESS COMPETITION

The priorities of case-handling in 2012 will be focused on such antitrust cases as cartels, abuse of dominant position, price fixing, and others. The handling of cases on vertical bidding may be delegated to investigators so that the Commission's limited resources are allocated to handle and analyze any antitrust case.

3. EFFECTIVENESS OF HARMONIZATION OF THE GOVERNMENT'S POLICIES THROUGH INSTITUTIONAL COOPERATION

When the recommendations and considerations issued by the Commission are overlooked by the government, it would be certainly detrimental to the government.

4. EFFECTIVENESS OF EXECUTION OF A DECISION

Until December, the imposition of fines and compensations for Commission's decision with legally fixed effectiveness, amounting to IDR.150,806,211,700 (USD 15,874,338) was obtained and deposited in the State Treasury as a Non-Tax State Revenue. This needed a mutual concern associated with the efforts to perform even though the execution of decision is not the Commission's authority. Nevertheless, it is litigation Division that shall be more pro-active in facilitating, in its competence, a district court (PN) to execute the decision as soon as possible if a reported business actor violates or fails to perform his/her obligation.

5. INFORMATION TECHNOLOGY DEVELOPMENT IN CASE-HANDLING PROCESS

In today's era of transparency, the application of information technology in the case-handling process needs to be developed. It is intended to provide convenience to all parties having any interests with the Commission, particularly a litigant or the public who wish to obtain information clearly.



6. SUPREME AUDIT AGENCY'S UNQUALIFIED OPINION

The Commission as an agency using the State Budget has an obligation to submit financial statements annually. This challenge is getting more and more strict since the Commission already has its own Budget Section separated from the Ministry of Trade of the Republic Indonesia. One of the working successes worthy of thankfulness is that the Supreme Audit Agency (BPK) as an agency that audits the financial statements of government bodies awarded an Unqualified Opinion in 2011 to the Commission since the Commission has been in compliance with Government Accounting Standards. This achievement was a reflection of hard works by all Bureaus at the Commission.

7. STRENGTHENING OF INVESTIGATOR'S CAPACITY AND COMPETENCE

Law enforcement is the Commission's major task which relies on the capacity of each investigators to assess data and to probe information related to any alleged violation of Law Number 5 of 1999.

As the time goes by, an investigator is required to have knowledge on investigative techniques, court trial techniques, a registrar's tasks and functions, and capability for preparing decisions delivered by the speakers of Indonesian National Police, Public Prosecutor of the Republic of Indonesia, and District Courts of the Republic of Indonesia. □



Chapter IV

CLOSING

One year is a short period in carrying out immense and heavy institutional duties. However, the Commission's duties and authorities during the 2011 period were implemented with full passions, responsibilities and high integrity. The attainments of work targets already made may be known from, among others, how many reports were received and ultimately were addressed and resolved in accordance with previous fixed processes of case-handling.

Problems, challenges and obstacles faced by the Commission in carrying out its duties and authorities motivated and triggered the Commission to be capable to give the best of performance. It can be recognized from the case-handling results that gave rise to some important decisions quite beneficial to the community, the raising of business actors' awareness to do fair business, and other related things.

Achievements of work results already done were certainly uneasy, needed to be performed with hard work, full passions and responsibilities, and were inseparable from the support and assistance from various parties. Supports from the Government, the House of Representatives (DPR), and the Supreme Court (MA) had strengthened the Commission in carrying out the mandate of Law Number 5 of 1999. Supports from the Commission's stakeholders (including any business actor who, with their awareness,



understands and complies with Law Number 5 of 1999) greatly facilitated the Commission's tasks.

Similarly, technical, operational and administrative supports from all personnel of the Commission's Secretariat have contributed to all aspects perceived by all Commission's Members. In the absence of the Commission's Secretariat, the smooth implementation of the Commission's tasks and authorities would not be properly and optimally done.

Therefore, the presence and the status of the Commission's Secretariat and existing resources shall be strengthened to support the smooth implementation of the Commission's duties and authorities in the future more intensely. Consequently, the attainments of the Commission's visions to become an effective and credible business competition agency for the improvement of the people's welfare will be realized.

May this 2011 Year End Report provide complete descriptions of the Commission's achievements, challenges, and obstacles in their implementations, as well as recommendations for implementation of the Commission's tasks in the coming periods in the hope that the Commission's performance can increase more and more significantly and the people's welfare level will be getting better and better. □



