



COMMISSION FOR THE SUPERVISION OF BUSINESS COMPETITION
REPUBLIC OF INDONESIA

ANNUAL REPORT OF 2010







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10th KPPU
a ten-year endeavor to fair competition

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Introduction

DURING 2010, the Commission for The Supervision of Business Competition (KPPU) worked hard to realize a vision in improving the people's welfare, generate a conducive business climate, prevent monopolistic practices and unfair competition, and create effectiveness and efficiency in business activities as mandated in Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition. The one-year (2010 – 2011) leadership of Prof. Dr. Tresna P. Soemardi and Dr. Anna Maria Tri Anggraini, respectively the KPPU's Chairperson and Vice Chairperson, may be too short if compared to the Commission's main task in stimulating national economy so as to be free from monopolistic practices and unfair business competition. But we shall be thankful that in a one-year period, many *progresses* were achieved. One of them was the government support through the issuance of Government Regulation (PP) Number 57 of 2010 on Corporate Merger or Dissolution and Share Acquisition that may Result in Monopolistic Practices and or Unfair Business Competition. The issuance of the Government Regulation that had been awaited for approximately ten years had completed the implementation of Articles 28 and 29 of Law Number 5 of 1999.

In order to achieve the Commission's vision to be an effective and credible institutions in order to improve the welfare of the people, the Chairperson and Vice Chairperson of the Commission for the 2010 - 2011 period launched 3 (three) strategic missions as the spirit of implementation of the Commission's main tasks, namely:

1. *Excellent* law enforcement;
2. *Excellent* policy advocacy;
3. Sustainable development of the credible institution and organization of the Commission (KPPU).


Excellent law enforcement in 2010 was supported with initial implementation of the Commission's Regulation (*PerKom*) Number 1 of 2010 on Procedures of Case

Handling. The Regulation that completed the Commission's Regulation Number 1 of 2006 (*PerKom 1 of 2006*) was effectively implemented on 5th April 2010. The issuance of this Commission's Regulation Number 1 of 2010 reinforces *good governance* principles in case handling, especially in transparency and authority sharing aspects.

In addition to carrying out routine checkings, decisions, and assessments to provide the Government with recommendations and considerations, during 2010 the Commission (KPPU) conducted various actions that supported the development and strengthening of organizational capacity and the growth of fair competition-conscious cultures. Those activities included the restructuring of the Commission's organization into 9 bureaus, the launching of the Regional Representative Office (KPD) in Manado, the signing of cooperation agreement (MoU) with the Center for Financial Transaction Reports and Analyses (PPATK), the Indonesian National Police (POLRI) and a Social Organization, namely the Central Board of Nahdlatul Ulama (PBNU), and active participation in advocacy of fair business competition, both in domestic and international levels.

The data of *monthly reports* released by the Norton Rose Hong Kong appreciated the performance of the Commission (KPPU) from the number of handled cases compared to the similar competition authorities at the regional level. According to the Norton's records, the Commission produced the highest number of decisions, namely 29. This number was far above those of Japan and Korea, which numbered only 11 and 10 decisions respectively. The amounts of penalties and numbers of decisions by business competition authorities at the regional level are more clearly seen in the following table:

FINES BY JURISDICTION (2010)



Country	Decisions	US\$ Million
Japan	11	417.3
Korea	10	212.8
Indonesia	29	125.8
Singapore	2	0.9
Taiwan	8	0.8
China*	1	0.3
Vietnam	1	0.1

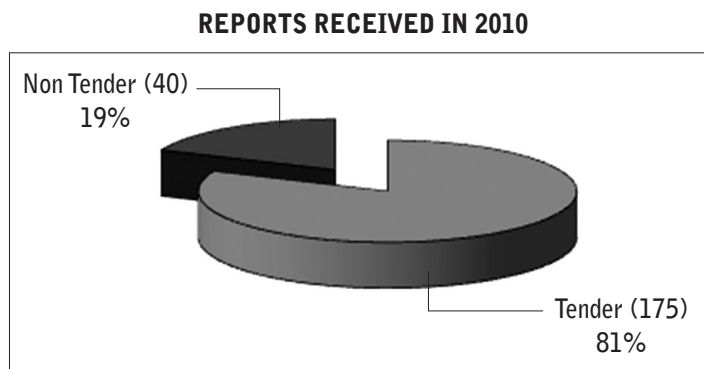
Source: Monthly Report Norton Rose Hongkong

Performance During 2010

The descriptions of the Commission's performance throughout 2010 are divided into several areas, namely:

LAW ENFORCEMENT

In 2010, the Commission received 215 official reports which consisted of 175 tender reports and 40 of non-tender reports. The percentages of tender reports and non-tender reports may be seen at the following pie chart:



In addition to receiving reports from the community, there were initiative cases as the results of previously performed supervisions and studies. The case initiated from the Commission's study and not from a public report is referred to as an initiative case. The number of initiative cases handled by the Commission during 2010 was 4.

In terms of case handling, during the period of June 2000 to January 2011, the Commission handled 249 cases, and out of such a number of cases, 198 decisions (*putusan*) and 51 verdicts (*penetapan*) were generated. The number of decisions

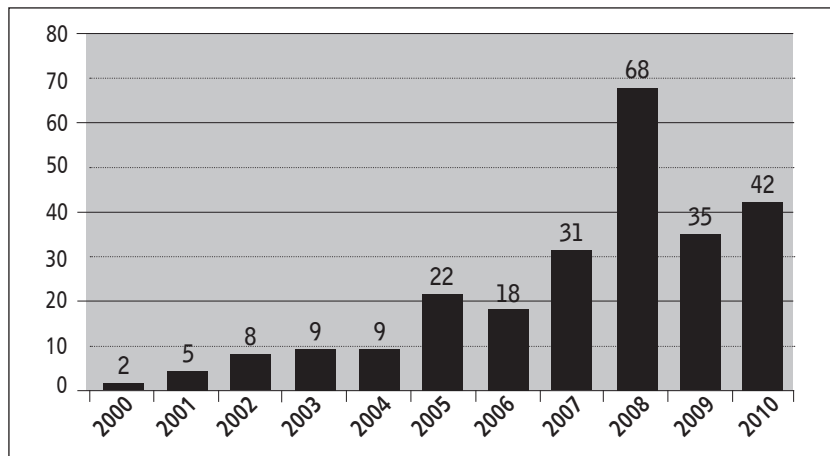
that declared to be guilty was 165, and the number of decisions that declared to be not guilty was 25, and the remaining recommendations and considerations numbered 5 decisions. Out of 51 verdicts (*penetapan*) produced, there were 41 verdicts (*penetapan*) indicated to have not violated Law Number 5 of 1999, and 10 verdicts (*penetapan*) indicated to have had behavioral changes. The recapitulation of case handlings was shown in details in the following table:

RECAPITULATION OF CASE HANDLINGS
THE COMMISSION FOR THE SUPERVISION OF BUSINESS COMPETITION
JUNE 2000 - JANUARY 2011

		Reported Cases										Initiative Cases										Total Cases		
Year		00	01	02	03	04	05	06	07	08	09	10	00	01	02	03	04	05	06	07	08		09	10
Verdicts Decisions	No Indications	0	1	4	2	1	4	2	1	16	3	4	0	0	0	0	1	0	0	0	1	0	1	41
	Behavioral Changes	0	0	0	0	0	0	1	2	3	0	0	0	0	0	0	0	0	3	1	0	0	0	10
	Guilty	1	0	1	2	6	11	6	24	41	25	27	0	1	1	4	1	4	0	1	1	5	3	165
	Not Guilty	0	2	0	1	0	3	6	1	6	3	1	0	0	1	0	0	0	0	1	0	0	0	25
	Recommendations and Considerations	0	1	0	0	0	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0	0	0	3
Ongoing Cases		0	0	0	0	0	0	0	0	0	5	0	0	0	0	0	0	0	0	0	0	0	5	
Total		1	4	5	5	7	18	15	28	66	30	38	1	1	3	4	2	4	3	3	2	5	4	249
		217										32												

In 2010, the Commission handled 42 cases. This number increased compared to that of 2009 numbering 35 cases. More clearly, the number of cases handled by the Commission during from 2000 to 2010 may be referred to in the following table:

NUMBER OF CASES HANDLED BY KPPU 2000 - 2010



Source: Assembly Hearing Section of Legal Measures Bureau

Out of 198 Commission's Decisions, 78 decisions were appealed for objections by parties to the District Court (PN), and 59 appeal decisions (*Putusan Kasasi*) were summoned to the Supreme Court (MA). At the District Court (PN) level, 43.6% or 34 decisions out of 78 Commission's decisions were reconfirmed, and 37% or 29 cases were canceled by the District Courts (PN), and the remaining 15 decisions or 19.4% were still in the process of appeals at the District Courts. At the Supreme Court (MA), there were 59 appeals against the District Courts' decisions, and the results were that 53% or 31 of the Commission's verdicts were reconfirmed, 20% or 12 cases cancelled by the Supreme Court and the remaining 16 decisions or 27% still in legal processes.

During a 10-year period, the Commission in its decision imposed a fine amounting to Rp.949,542,844,090 (nine hundred and forty-nine billion, five hundred and forty-two million, eight hundred and forty four thousand and ninety Rupiah) and a compensation amounting to Rp.919,691,129,987 (nine hundred and nineteen billion, six hundred ninety one million, one hundred and twenty-nine thousand, and nine hundred eighty-seven Rupiah) with a total of Rp.1,869,233,974,077 (one trillion, eight hundred and sixty-nine billion, two hundred thirty three million, nine hundred seventy-four thousand and seventy-seven Rupiah). The amount that has a permanent legal force (*inkracht*) over the imposition of fines and compensation is Rp.182,349,030,287 (one hundred and eighty-two billion, three hundred forty nine million, thirty thousand and two hundred eighty seven Rupiah) and the amount that has been already paid by the parties to the State Treasury (Kas Negara) as Non-Tax State Revenues (*Pendapatan Negara Bukan Pajak/PNBP*) is Rp.10,587,146,667 (ten billion, five hundred eighty seven million, one hundred forty six thousand, six hundred and sixty-seven Rupiah).

In big cases handled by the Commission in 2010, that is to say Case No.17/KPPU-I/2010 regarding Alleged Violation in Pharmaceutical Industry, the Commission in its decision included the analyses of impacts of loss on the part of the community/consumers owing to an excessive price behavior. The total estimated consumers' loss is Rp. 690,736,173,467.95 (six hundred and ninety billion, seven hundred and thirty-six million, one hundred seventy-three thousand, four hundred and sixty-seven point ninety-five cent Rupiah).

MONITORING OF BUSINESS ACTOR

The total number of monitoring over business actors conducted by the Commission since its establishment has been 162. Especially in 2010, the number of monitoring activities conducted numbered 27, consisting of 15 monitoring activities conducted by the KPPU's Central Office and 12 monitoring activities conducted by regional representative offices (*KPD*).

The monitoring and supervision activities carried out by the Commission's Central Office were as follows:

Monitoring of Alleged Monopolistic Practices in Insurance Implementation for Public Transportation

One of tariff components in public transportation services is insurance fee charged on consumers pursuant to government-issued regulations. But it is suspected that, in addition to compulsory insurances, consumers (namely passengers) are also subject to additional insurance with no clear legal bases for such charging. This charging of additional insurances is alleged to have been unfavorable towards consumers.

Monitoring of Alleged Monopolistic Practices in Procurement of Gas Tubes

In the procurement of gas tanks/containers, Pertamina granted licenses to certain parties to procure gas tanks/containers in which the procurement could be carried out without going through bids. This caused any business actor not selected by such a particular party to have no opportunity producing gas tanks/containers.

Monitoring of Alleged Monopolistic Practices in Goods/Services Procurement in the State-owned Enterprises of Plantation (*BUMN Perkebunan*)

There were alleged bid riggings in the procurement of fertilizers within State-owned Plantations. It was known that in some periods there were certain business actors that won bids consecutively.

Monitoring of Alleged Monopolistic Practices in Oil and Gas Block Tenders in the Waters of Papua

In the procurement to determine the operator of Oil and Gas Block in the waters of Papua, one of the important oil and gas fields in the Asia-Pacific region, it was alleged that frauds were committed in the assessment of participants in procurement.

Monitoring of Alleged Monopolistic Practices by Pay-Television Company

One of pay-television companies in Indonesia was alleged to have committed abuse of its dominant position by unilaterally changing a service package without informing the consumers.

Monitoring of Alleged Monopolistic Practices in Bid for Construction of an Integrated Port in Kalimantan

It was alleged that bid riggings occurred horizontally and vertically committed by the committee and bid participants in the construction of an integrated port in Kalimantan.

Monitoring of Alleged Monopolistic Practices in Bid for Procurement of the Indonesian Pavilion for the International Exhibition/Expo in PR China

It was alleged that a bid rigging occurred vertically in the Procurement of the Indonesian Pavilion for the International Exhibition/Expo in People's Republic

of China in which the committee was alleged to have caused a certain business actor in the tender to win the bid.

Monitoring of Alleged Monopolistic Practices in Meat and Bone Meal Industry

It was alleged that there had been a market control in the production of Meat and Bone Meals which are the raw materials for animal food by certain parties.

Monitoring of Alleged Monopolistic Practices in Wheat Flour Industry

This monitoring was undertaken pursuant to allegations of cross-ownerships among business actors, parallel pricing and dominant position abuses in wheat flour industry in Indonesia.

Monitoring of Alleged Monopolistic Practices in Chlorine Industry in Indonesia

It was alleged that there had been marketing arrangements of chlorine as a disinfectant, committed in the sub-distributor level by distributors of the product.

Monitoring of Alleged Cartel In Poultry Breeding Industry (Day Old Chick/DOC)

There were indications that a cartel of Day Old Chick (DOC) prices was committed by DOC breeding companies.

Monitoring of Alleged Monopolistic Practices in Networked Bookstore Business In Indonesia

It is known that the number of business actors in networked bookstore business in Indonesia is quite limited. In such an industry, it was alleged that there was one business actor who dominated and carried out practices that inhibit business competition.

Monitoring of Alleged Monopolistic Practices in THC (Terminal Handling Charge) Service and CHC (Container Handling Charge) Service in Five Major Seaports in Indonesia

There were alleged cartels committed by international shipping companies in connection with the tariff amounts of THC (Terminal-Handling Charge) and CHC (Container-Handling Charge) which were charged on the goods owners who undertook exports and imports.

Monitoring of Alleged Monopolistic Practices in Drug Industry

There were alleged monopolistic practices in terms of coordinations of sales and supplies of drug products and their prices within the country owing to mergers carried out by overseas pharmaceutical companies.

Monitoring of Tender-Disclaiming Letters received by the Commission/KPPU

This monitoring was undertaken in order to follow up Tender-Disclaiming Letters received by the Commission/KPPU.

In the meanwhile, 12 activities for monitoring and observation conducted by the Regional Representative Offices (*KPD*) are as follows:

1. RPO (*KPD*) - Balikpapan

- Monitoring of Alleged Monopolistic Practices in Avtur Trading within Sepinggan Airport, East Kalimantan
- Monitoring of Alleged Monopolistic Practices in Palm Oil Trading within Paser District, East Kalimantan
- Monitoring of Alleged Monopolistic Practices in Coal Supply within Kalimantan

2. RPO (*KPD*) - Batam

- Monitoring of Alleged Monopolistic Practices in Trading of Copperslag-type Hazardous Toxic Waste (*Bahan Berbahaya Beracun/B3*) within Batam Island
- Monitoring of Alleged Monopolistic Practices in Sugar Imports within Batam, Bintan and Karimun

3. RPO (*KPD*) - Makassar

- Monitoring of Alleged Monopolistic Practices in Distribution of Government-Subsidized Fertilizer within Eastern Part of Indonesia
- Monitoring of Alleged Monopolistic Practices in Loading and Unloading Services within Soekarno-Hatta Seaport, Makassar

4. RPO (*KPD*) - Medan

- Monitoring of Alleged Monopolistic Practices In Sugar Distribution within the KPPU - RPO (*KPD*) Medan Working Area.
- Monitoring of Alleged Monopolistic Practices In LPG Distribution Due to Use Conversion from Kerosene to LPG within the KPPU - RPO (*KPD*) Medan Working Area.
- Monitoring of Alleged Monopolistic Practices in Distribution of Government-Subsidized Fertilizer within the KPPU - RPO (*KPD*) Medan Working Area.

5. RPO (*KPD*) - Surabaya

- Monitoring of Alleged Monopolistic Practices in Cargo Transportation for Denpasar - Taipei Route
- Monitoring of Alleged Monopolistic Practices in Loading and Unloading Services in Tanjung Perak Seaport, Surabaya

Meanwhile, the RPO (*KPD*) - Manado has not carried out yet monitoring activities since it was newly established in 2010.

MERGERS, CONSOLIDATIONS, AND ACQUISITIONS

On 20 July 2010, the Government issued the Government Regulation Number 57 of 2010 regarding Corporate Mergers or Consolidations and Share Acquisitions that may Result in Monopolistic Practices and Unfair Business Competition. This Regulation was a mandate of Articles 28 and 29 of Law Number 5 of 1999. The outline of contents of the Government Regulation Number 57 of 2010 deals with four things: (1) the methods for merger and acquisition assessment that lead to monopolistic practices and unfair business competition, (2) limits of notification values, (3) notification procedures, and (4) consultation.

For the Commission/KPPU, the issuance of this Government Regulation (PP) complements legal instruments necessary for exercising authorities in carrying out merger, dissolution and acquisition of a business entity. In this Government Regulation (PP), the Commission is mandated to issue several regulations for implementation. The Commission's Three Regulations (PP) already issued this year and related to this Government Regulation (PP) are:

1. The Commission Regulation (*PerKom*) Number 10 of 2010 concerning Form of Notice.
2. The Commission Regulation (*PerKom*) Number 11 of 2010 concerning Consultation.
3. The Commission Regulation (*PerKom*) Number 13 of 2010 concerning Guidelines for Implementation of Corporate Mergers or Consolidations and Share Acquisitions that may Result in Monopolistic Practices and Unfair Business Competition.

Until recently, the Commission has received seven reports on merger pre-notification. The companies that undertook the merger pre-notification included:

1. PT. Komatsu Indonesia acquired PT. Pandu Dayatama Patria;
2. Meadow Asia Company Limited acquired PT. Matahari Department Store Tbk.;
3. Prudential PLC acquired AIA Group Limited;
4. Univeler Indonesia Holding acquired BV Sara Lee Body Care Tbk.;
5. PT. Tuah Turangga Agung acquired PT. Agung Bara Prima;
6. PT. Bank Rakyat Indonesia (Persero) Tbk. acquired PT. Bank Agroniaga Tbk.
7. PT. Astra International Tbk. acquired PT. General Electric Services.

Out of the 7 (seven) reports above, 5 (five) reports were from Multi-National Companies. This indicated that an International Company was used to performing a *pre-notification* for arranging a merger and an acquisition. The assessments of the 7 companies above were already carried out by the Commission. For 6 (six) companies, the *No-Objection Letters* had been issued. It means that the mergers and acquisitions did not impact on monopolistic practices and or unfair business competition. While, the acquisition of PT Astra Internasional Tbk is still under assessment.

A number of groups of concerned people assessed that the presence of the Government Regulation (PP) Number 57 of 2010 will influence the interests for investment in Indonesia. This is understandable considering that the Government Regulation (PP) is still relatively new. Therefore, in addition to its obligation to enhance socialization among

business actors, the Commission shall also be required to be capable of creating fast and efficient bureaucracies which insure law certainty for business actors.

EVALUATION OF GOVERNMENT POLICIES

In addition to competition law enforcement functions, the Commission/KPPU harmonized policies related to business competition issues. The harmonization of policies could be undertaken before or when a regulation is made or after the regulation is set (commonly called policy evaluation). The results from the study of government policy will concentrate on the presence or absence of things that are contrary to the fair business competition principle as stipulated in Law Number 5 of 1999. If there was a contradiction, the Commission could provide the government with recommendations and considerations.

In 2010, through a Coordination Meeting, the Commission/KPPU established 16 evaluations of government policies in various sectors as follows:

1. Sugar Distribution and Trade
2. Rattan Trading Systems/Procedures
3. Iron and Steel Imports
4. Production of Gas, Methane, and Coal
5. Bill on Trading
6. Policies on Telecommunications Services Promotion
7. Convergence of Broadcasting, Telecommunications and Information Technology
8. Bali Taxi (Taksi Bali)
9. Iron and Steel Manufacturers
10. Authorities of the Construction Services Association (*Asosiasi Jasa Konstruksi*) to provide Certification
11. Cooperation between Government and Private Agencies in Toll Road Management
12. Cooperation between Government and Private Agencies in Water Management
13. Organization of Unloading and Loading Workers
14. Management of Sea Lanes
15. Electricity
16. Anti-Dumping Policies on Wheat Flour

Furthermore, in accordance with the mandate of Article 35 paragraph (e) of Law Number 5 of 1999, the Commission continues to internalize fair competition values through providing the Government with recommendations and consideration. Since its establishment, the Commission/KPPU has submitted 91 letters containing recommendations and considerations addressed to related institutions.

For 2010, the Commission gave 13 recommendations and considerations, consisting of 12 reports containing recommendations and considerations from the Evaluation and Assessment of Business Competition Impacts in 2009 and 2010 and 1 report containing recommendations and considerations from the Commission's decision with details as follows:

No.	Letter Number/ Date/Intention	Source, Policy Matter and Business Competition Issue	Content of Recommendations and Considerations	Remarks
1.	Letter Number 02/K/ I/2010 regarding Jakarta Fair (Pekan Raya Jakarta/PRJ)	The Organization of Jakarta Fair (PRJ) is based on Regional Regulation (PerDa) Number 12 of 1991 regarding the Organization of Jakarta Fair (PRJ). In the regulation, PRJ implementation and management are assigned to an Organizing Agency as a Legal Body with a sole license and it is appointed through a Governor's Decree. The Organizing Agency is P.T. Jakarta International Trade Fair Corporation, a joint venture company whose shares are indirectly owned by the Fair and Jakarta Fair Organizing Foundation (YPP dan PRJ). The organizer and sole license holder of the Jakarta Fair are contrary to fair business competition principles since its appointment was not through a fair competition. The regulation resulted in monopolistic practices by P.T. Jakarta International Expo.	The Commission/KPPU recommends that Regional Regulation (PerDa) Number 12 of 1991 on the Organization of the Jakarta Fair be revoked and that regulations be made, containing a provision that the selection of the Jakarta Fair organizer shall be conducted in accordance with fair business competition principles.	Currently, the DKI Jakarta provincial government manages to hold an auction for the Jakarta Fair organization.
2.	Letter Number 11/K/ I/2010 concerning Policy on Mandatory Traffic Accident Insurance Industry (Asuransi Wajib Kecelakaan Lalu Lintas/ AWKL) in Indonesia	<ol style="list-style-type: none"> 1. Organization of Mandatory Traffic Accident Insurance in Indonesia <ol style="list-style-type: none"> a. Pursuant to Law No.33 of 1964, Mandatory Traffic Accident Insurance in Indonesia (AWKL) is provided by P.T. Jasa Raharja b. The amounts of insurance premium and compensation are fixed through Minister of Finance's Regulation (PerMenKeu) Number 36 and Number 37 of 2008. 2. Application of additional insurance <ol style="list-style-type: none"> a. The Commission found the practice of granting additional insurances other than the obligatory traffic 	<p>The Commission recommends the government to:</p> <ol style="list-style-type: none"> 1. keep enhancing control over the quality of mandatory traffic accident insurance services by PT Jasa Raharja 2. suspend the practise of additional insurance without any legal basis which is monopolized by a certain business actor, as found in passengers of public vehicle modes in DIY as wezll as those of train. 3. suspend the DIY Governor's Decision Number 050 of 1995 regarding the Implementation of 	<p>This has received an official response from the government, viz. the State Secretariat, stating that the government will follow up the Commission's letters on recommendations and considerations addressed to related institutions.</p> <p>The policy in Yogya was repealed and replaced with a policy consistent with fair business competition principles.</p>

No.	Letter Number/ Date/Intention	Source, Policy Matter and Business Competition Issue	Content of Recommendations and Considerations	Remarks
		<p>accident insurance by PT Jasa Raharja for passengers of PT Kereta Api (State-owned Train Enterprise) and of public transportation vehicles in the Special Area Yogyakarta (DIY). Both types of insurance are managed by PT Jasa Raharja Putra.</p> <p>b. Both types of insurance are compulsory and charged on passenger tickets</p> <p>c. For public transportation passengers in the Special Area of Yogyakarta (DIY), the policy is regulated in DIY Governor's Decree Number 050 of 1995, in which DIY Transportation Regional Office states that the policy set out in the Regional Regulation is not implemented even if the regulation is still applicable.</p> <p>The Commission's analysis related to such an additional insurance stated that the practice of additional insurance for a traffic accident but that a passenger is obliged to have it is against insurance regulations in Indonesia. The practice also eliminates a consumer's choice to choose an insurance provider according to his/her preference and burdens a passenger with an additional fee. If an additional insurance shall be applied, all business actors as providers must be given opportunities to become organizers. If the number of bidders is limited, the bidding process must be undertaken.</p>	<p>Passenger Transportation Using Commercial Motor Vehicle in the DIY Province.</p>	
3.	Letter Number 19/K/ II/2010 on Roles of Associations in Capture Fisheries Policy	<p>Fisheries is one of the strategic sectors considering that Indonesia is an archipelagic state.</p> <p>Pursuant to the Regulation of Directorate General of Capture Fisheries, Ministry of Marine</p>	<p>The Commission is of opinion that the fisheries associations may play roles in becoming government partners, but these roles cannot replace the government's</p>	

No.	Letter Number/ Date/Intention	Source, Policy Matter and Business Competition Issue	Content of Recommendations and Considerations	Remarks
		<p>Affairs and Fisheries (DJPT-DKP) No.5364 of 2008 on the Provision of Recommendation from an association or organization in capture fisheries as a licensing condition for Capture Fisheries, provided recommendations of the requirements from local fisheries association or organization listed in DJPT-DKP as one of the requirements for applying and extending SIPI/SIUP of an organization in the local fisheries as registered in DJPT as one of the conditions for application and extension of SIPI/SIUP.</p> <p>In the implementation of the regulation, the Commission recognized that the regulation would potentially create distortions on business competition in fisheries sector which may cause unfair competitions and inefficiencies due to the onset of high-cost economy. The Commission is of opinion that the policy which requires recommendation and/ or obligation to become a member of the association may extend bureaucracy chains in the fisheries sector.</p>	<p>role as the provider of the recommendation being the regulator's task. Pursuant to the above, the Commission suggested that:</p> <ol style="list-style-type: none"> 1. the Government revoke the policy which required the association to provide recommendations as a prerequisite for granting a license. The assessment process of a business actor's competence and existence should be fully under the regulator's authority to prevent unfair business competition. The Government as the regulator shall protect all business actors without exception, both those joining and not joining the association. 2. the government provide an opportunity for the onset of a new association in the fishing industry which aims at developing the fishing industry through the empowerment of its members. The Government shall guide each association so that it will not become a means of high-cost economy. The association is not allowed to have any authority belonging to the government, such as that related to the provision of a recommendation as a condition of licensing. The presence of more than one association will provide an option for a business actor to select an association that gives an added value to his/ her business progress. 	

No.	Letter Number/ Date/Intention	Source, Policy Matter and Business Competition Issue	Content of Recommendations and Considerations	Remarks
4.	Letter Number 43/ K/III/2010 dated 31 March 2010 concerning Retail Industry Policy	<p>The retail industry have been dominated by 2 main problems: (1) the incomparable competition between modern retail business actors and traditional retail business actors and (2) the imbalance of bargaining position between the modern retail business actors and the suppliers. After the Commission conducted an analysis on the implementation of Presidential Regulation (PerPres) Number 112/2007 and the Minister of Trade's Regulation Number 53/2008, it may be concluded that the ineffectiveness of the two rules derived from:</p> <ol style="list-style-type: none"> 1. The absence of firm and uncompromising sanctions against each business actor who violates both of the regulations; 2. Obscure law enforcement for violators of both of the regulations; 3. Deficiencies exist in these regulations, thereby there still being open opportunities for exploitative acts committed by the modern retail business actors. 	<p>The Commission/KPPU recommended the Government to immediately prepare a Law regulating the retail industry as an umbrella for provisions of implementation and supervision over restrictions of trading terms that the legal basis for the regulation of this industry is very strong and create an optimal welfare for the community. The Law to be passed should also accommodate the suggestions contained in the Commission's Case Number 09/ KPPU-L/2009. Meanwhile, related to law enforcement agencies of the Law that accommodates such an arrangement, on the basis of best practices in several countries, mainly in Asia and especially Japan and South Korea, it is suggested that the Commission become the law enforcement agency for such a regulation.</p>	
5.	Letter Number 47/K/ III/2010 dated 6 April 2010 concerning Catch Fisheries Cluster Policy	<p>The Commission found a fact that some arrangements in Ministerial Regulation (PerMen) No.5 of 2009 concerning Catch Fisheries Business have potentialities to conflict with the fair business competition principles which are, among others, as follows:</p> <ol style="list-style-type: none"> 1. potentiality to cause market foreclosure 2. giving rise to dominant positions for business actors or certain group of business actors 3. handover of the functions of supervision, enhancing and selection for business actors in the industrial sector by any receiver of monopoly/ exclusive rights that should remain the 	<p>The Commission/KPPU advised the government to:</p> <ol style="list-style-type: none"> 1. Clarify and reinforce the definition and purpose of the application of cluster fisheries policy which directs cluster policy to porterian cluster, with a focus on creation of integrity among related industries to increase added values and efficiency in each line of industry. Thereby, it is obvious that the intended cluster is not the cluster in the sense of "division" of marine areas managed by business actors exclusively. 	

No.	Letter Number/ Date/Intention	Source, Policy Matter and Business Competition Issue	Content of Recommendations and Considerations	Remarks
		<p>Government's authority.</p> <p>4. potentiality to be exploited by any business actor for profits through license transfer or the exclusive right selling.</p> <p>5. provision/granting of monopoly rights to one or several business actors as justifications to cope with overfishing problems and maintain the sustainability of fisheries resources by reducing the number of business actors and fishing gears (effort). However, if it needs to be done, in carrying out this, the government shall apply the principle of competition for the market.</p>	<p>2. Produce strict regulations on fisheries policies to avoid buying and selling of licenses among the business actors. Principally, a management permit received by a business actor is merely given by the Government and not obtained from another business actor.</p>	
6.	<p>Letter Number 96/K/VI/2010 dated 3rd June 2010 regarding Policy on Poultry Distribution (<i>Peredaran Unggas</i>) in Jakarta Special Capital Area (<i>DKI Jakarta</i>)</p>	<p>In a Regional Regulation (PerDa) of Jakarta Special Capital Area (DKI Jakarta) Number 4 of 2007 on Control of Poultry Rearing and Distribution (<i>Pengendalian, Pemeliharaan dan Peredaran Unggas</i>), particularly Article 6 that reads that all kinds of poultry for food entering DKI Jakarta area shall be put first in safe places. In practice, the government only indicated 5 RPA points for the entire Jakarta area. This provision of RPA restriction created barriers to poultry collecting and slaughter houses not accommodated in those 5 RPAs. The restriction of number of RPAs also showed a barrier for potential RPA business actors to build RPAs in Jakarta.</p>	<p>The Commission recommended that DKI Jakarta Government improve regulations on control of poultry distribution by:</p> <ol style="list-style-type: none"> 1. preparing required infrastructures for RPAs that they may accommodate all business actors who had been running poultry collection and slaughter houses in Jakarta. 2. determining RPA arrangements not limited in number, but emphasize on quality aspects based on SNI 01-6160-1999 on Poultry Slaughter House (<i>Rumah Potong Unggas/RPU</i>) and exert legal actions against any RPA business actor who commits a violation. Thereby, the regulations will provide wide business opportunities and places for competition in modern RPA industry. 3. applying the principle of competition for the market in determining RPA operators in DKI Jakarta so that any discriminatory policy may be avoided and the business actors in RPA 	<p>The Jakarta Provincial Government put forth responses on the Commission's suggestions in the <i>Jurnal Nasional</i> daily. The Jakarta Provincial Government expressed that currently it allows any business actor to set up an RPA in Jakarta area, not limited at 5 RPAs only. These 5 RPAs were built to protect citizens from avian flu-causing viruses, and not to restrict business actors' undertakings.</p>

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			<p>industry in Jakarta possess high competence.</p> <p>4. maintaining consistency in the implementation of rules by continually maintaining compliance of the purposes for regulating, viz. to keep the public community healthy. Thus, there will be not any RPA built near a communal settlement, like the Pulogadung RPA, as required under SNI 01-6160-1999 regarding Poultry Slaughter House (RPU).</p>	
7.	Letter Number 203/K/ IX/2010 regarding Policy in Sugar Industry	The sugar prices have increased significantly from 2009 to date. The government's current policies also incite the sugar prices to get higher.	<p>1. Encourage the betterment of a sugar trading system policy by fixing prices rigidly at each distribution level, including the fixing of the highest retail price (HET) at consumer's level. This is to eliminate the trading systems by oligopolistic industry structures with price increases, considering distribution roles that only distribute sugar from producing areas with previously limited volumes that shall not exceed demands. Through this policy, cane farmers are kept being protected by the basic sugar price (HDG) concept and the sugar consumers are protected from the highest sugar retail price (HET).</p> <p>2. Encourage the Government to prepare a road map of national sugar industry in order to produce competitive sugar industry, thereby capable of sugar production at competitive prices that may compete in any markets.</p> <p>3. Review bailout policy as long as the Government is capable of insuring that the farmers'</p>	

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			sugar prices are always above the basic sugar price (HDG). Collaterals can be carried out through the sugar trading system policies that strictly regulate supplies.	
8.	Letter Number 258/K/ XII/2010 regarding the KPPU's recommendations and considerations in connection with Tariff Fixing by PDAM (Regional Fresh Water Enterprise) Balikpapan	1. The Balikpapan Municipal Regulation (Perda) Number 3 of 2008 regarding PDAM (Regional Fresh Water Enterprise) of Balikpapan Municipality established a policy to increase fresh water tariff by 10% periodically once in every the beginning of year since 2009. Even if such a policy aims at improving service coverage, but the policy: a. Tariff fixing policy should not have been part of the institutional regional regulating policy. b. The Regional Regulation (PerDa) does not refer to Regulation of Minister of Home Affairs (PerMendagri) Number 23 of 2006 regarding Technical Guidelines and Procedures for Fresh Water Tariff Setting in PDAM (Regional Fresh Water Enterprise).	The Contents of the KPPU's/ Commission's recommendations are: 1. Improving regional regulation (PerDa) by eliminating Article 4 paragraphs 4 and 5 which potentially cause any abuse of dominant position by PDAM 2. Issuing a Mayor's Decree (SK Walikota) on PDAM tariff policy that complies with to Decision of Minister of Home Affairs (PerMendagri) Number 23 of 2006 regarding Technical Guidelines and Procedures for Fresh Water Tariff Setting in PDAM 3. Issuing a Mayor's Decree (SK Walikota) as elaborated in Number 2 reflecting the fair competition principles.	
9.	Letter Number 260/K/ XII/2010 regarding Recommendations and Considerations in connection with Pharmaceutical Industry	The Commission has dealt with and come to a decision on Case Number 17/KPPU-I/2010 regarding Business Practices of 6 Business Actors in Pharmaceutical Industry of Amlodipine Therapy class. In the analyses of the case, the Commission found Business Actors' marketing practices by encouraging doctors to prescribe certain drugs. Thereby, drug prices increased.	Towards those findings, the Commission provides recommendations as follows: 1. Impose regulations that govern the upper limit price of any branded generic drugs with a maximum of 3 times the average price of generic drugs in therapeutic class based on the same active substance. 2. Impose regulations that restrict prescribed drug promotional and/or selling activities undertaken by pharmaceutical companies in general.	

No.	Letter Number/Date/Intention	Source, Policy Matter and Business Competition Issue	Content of Recommendations and Considerations	Remarks
10.	Letter Number 261/K/ XII/2010 regarding Recommendations and Considerations in connection with Policy on development and arrangement of shared telecommunication towers in North Sumatra Province	<p>In the perspective of telecommunications industry management, the policy of shared telecommunication towers is an effort to encourage the efficiency of telecommunications sector through the uses of shared facilities, thus the costs of facility uses may be reduced as low as possible. In this case, one of the measuring tools for success of shared telecommunication tower use policy is the emergence of various facilities in building telecommunications networks that leads to lower costs spent by an operator instead of erecting its own tower.</p> <p>Progressively, the policy on using a shared telecommunication tower in an area causes the tower network to act as an essential facility, since such a facility shall be used by the operator if it wishes the region to be part of its coverage area (the operator's coverage area). Owing to this condition, monopoly or management by one business actor in a particular area is inevitable. In this case, the application of the fair business competition principles is a must in the shared telecommunication tower use policy concept so that such a policy functions to the maximum.</p>	<p>The Commission/KPPU recommends the Government of North Sumatra Province prepare a regulation that deals with shared telecommunication tower uses and that contains such regulatory substances as:</p> <p>The obligation to carry out mapping for tower location for a telecommunication tower.</p> <p>Provide the owner of an existing tower with chances to continue holding the work as a tower operator in order to avoid inefficiency due to disuse of an existing tower.</p> <p>It is required that, for a site through mapping where there is not yet any tower, the tower construction is undertaken through competition for the market.</p> <p>The regulations for avoiding the abuse of monopoly/ oligopoly power, considering that the municipal government (PemKot) as a regulator shall intervene to protect consumers (telecommunications operators) from the presence of abuse of monopoly/ oligopoly power from a tower operator. Interventions may be done for the following:</p> <p>a. Tariff</p> <p>If there is only one business actor who provides shared telecommunications tower, the tariff should be fixed by the Government. But if there are more than one business actors, the Government intervention is only limited to the upper limit of tariff fixing. This is</p>	

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			<p>performed in order to avoid exploitation over consumers by the tower provider.</p> <p>b. Service Quality The government shall set minimum standards of service quality in this industry to avoid the abuse of monopoly/oligopoly power committed by a tower provider.</p> <p>c. Terms of Agreement The Government shall examine the process and substances of the agreement between the tower operator and the telecommunications operator in order to avoid (a) discriminative processes, (b) creation of barriers to entry and (c) any other requirement reflecting the abuse of monopoly/oligopoly power.</p> <p>The provisions governing that if a required minimum performance standard is not achieved, the Municipality Government (<i>PemKot</i>) may revoke the license in undertaking tower management, and then undertake a re-bidding process for such a license in order to get a business actor with more capabilities in tower management.</p>	
11.	Letter Number 263/K/ XII/2010 regarding Recommendations and Considerations in connection with Policy of Rattan Export	There is a provision that potentially impedes business competition in Rattan Industry since a number of obstacles arise from Trade Minister's Decree (<i>PerMendag</i>) Number 36/2009 regarding Rattan Export. Some impacts of fair business competition that arise include:	The Commission's recommendations: <ol style="list-style-type: none"> 1. Determine rattan export quotas which complies with sustainable rattan potentials 2. Set a production limit for a region so that it may be categorized as a rattan- 	

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		a. The limitation of rattan export potentially eliminates potential economic values b. authority for granting a license (proof of supply) by a business actor is potential for inciting an abuse of dominant position c. the Minister of Trade's Decree (PerMendag) has not yet elaborated the minimum production limitation of a rattan-producing area. d. Still less information on rattan is absorbed domestically	producing area. 3. Deliver the authority for issuing any evidence of rattan supply to the Government 4. Increase socialization of rattan export opportunities of rattan not absorbed domestically.	
12.	Letter Number 263/K/ XII/2010 regarding Recommendations and Considerations on Bill of Telematics Convergency	The Commission/KPPU was asked to provide inputs on Bill of Telematics Convergence. Hereby, such a policy increases competition in telecommunications, broadcasting and informatics. In essence, those principles are: 1. Open 2. Fair 3. Transparent 4. Non-discriminative Separation of Bookkeeping	The Commission/KPPU submitted the following: 1. Technological developments lead to the integration of voice communications services, data, images, and video into a multimedia service. A network will be capable of providing a variety of telecommunications, broadcasting and informatics services. The Bill on Convergence only regulates the provision of telecommunications and informatics services. While broadcasting shall be regulated within a broadcasting law using an integrated network structure. The matter in which the broadcasting is not regulated in the Bill on Convergence causes the meaning of digital convergence to get narrow by eliminating the broadcasting sector in its scope. 2. Number and frequency are limited resources. Therefore, the selection of operator who uses such a number and frequency	

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			<p>shall be done through competition for the market, namely a tender/selection through transparent and accountable processes. This is to ensure that the selected tower operator is the operator who technically has the most superior capabilities so it can develop telecommunications sector, broadcasting and informatics with cheap rates for customers. Additionally, it is necessary to be regulated that the number and frequency are not only controlled by a certain company so that not any company has a dominant position due to dominance over the number and the frequency.</p> <p>3. Interconnection, Number, and Frequency are essential inputs/ facilities for telecommunications, information and broadcasting companies. The domination of those things by a certain company may disrupt competition in telecommunications, broadcasting and informatics. Therefore, it is necessary to put the words open, fair, transparent and non-discriminative in the related setting.</p> <p>The presence of companies integrated in telecommunications, broadcasting and informatics fields may cause an abuse of dominant position in terms of refusal to supply, cross-subsidy, price squeeze, and so forth. To overcome such a thing, the separating of accounting needs to be arranged strictly inn the integrated companies.</p>	

No.	Letter Number/Date/Intention	Source, Policy Matter and Business Competition Issue	Content of Recommendations and Considerations	Remarks
13.	Letter Number 266/K/ XII/2010 regarding Recommendations and Considerations on Policy of Insurance for Indonesian Migrant Workers (<i>Penyelenggaraan Asuransi TKI</i>)	The Commission/KPPU through Regional EKP carried out an evaluation and assessment of business competition impacts associated with the policy of worker insurance provision, namely policy Number 07/MEN/2010 regarding Indonesian Migrant Worker Insurance (<i>Asuransi Tenaga Kerja Indonesia/ATKI</i>) and Minister of Manpower's Decision Letter (SK) o Number 209/MEN/IX/2009 regarding Selection of Indonesian Migrant Worker Insurance Consortium (<i>Penetapan Konsorsium Asuransi Tenaga Kerja Indonesia</i>) under the name of Indonesian Migrant Worker Protection (<i>Proteksi TKI</i>). Henceforth, through this Decision Letter, the government grants a right for implementation of manpower insurance to a migrant worker insurance consortium, namely <i>Konsorsium Proteksi TKI (TKI Protection Consortium)</i> .	<p>The Commission submitted a few things that essentially are as follows:</p> <ol style="list-style-type: none"> 1. Prepare a policy that focuses on improving relations between Indonesian Migrant Workers (TKI) and PPTKIS, and between TKI and job providers, so that TKIs have sufficiently balanced bargaining power and are avoided from exploitations and get appropriate protection. 2. Revoke an Indonesian Migrant Workers (TKI) insurance policy that currently applies. 3. Redesign the insurance policy that provides more tangible benefits and protections to the workers or their relatives in Indonesia. Among the things worth considering in redesigning the policy are: <ul style="list-style-type: none"> • Carefully identify risks that can be guaranteed by an insurance product and/or social security in line with insurance laws. Thus, there is a clear division of protections that shall be provided by the Government for its citizens with additional protections obtained from insurance. • Not transfer the state's obligation to the private sector in protecting its citizens living in the country and overseas. • oSuch a regulator's involvement is required in determining the credibility criteria of the 	

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			<p>business actor who may get involved.</p> <ul style="list-style-type: none"> • Setting the minimum quality standards appropriately provided by the business actors involved. Those standards shall include easy measures for a claim made by a migrant worker, so as to be balanced between the paid premium value and actual benefits obtained by a migrant worker/TKI. • Provide opportunities for consumers to choose among various insurance services and providers that there are still some spaces for fair competition mechanisms that may correct unfair behaviors of the business actor who provides insurance service/social security. <p>4. Pay attention to the fair business competition principles in selection process of business actors that may take part in insuring the migrant workers' welfare. Then, the selection process may give rise to any business actor who has sufficient and credible capability in ensuring risks faced by migrant workers.</p>	

Out of the abovementioned 13 (thirteen) letters of recommendations and considerations, 4 (four) letters or 30.7% had been replied by relevant agencies. This has fulfilled the target of 2012 strategic plan (Renstra 2012) that fixes a 25% *effective rate*.

INDUSTRIAL AND COMMERCIAL ASSESSMENTS

There were 5 (five) industrial and commercial assessments already carried out in 2010, namely:

Industrial and Commercial Assessment for Air Transportation

The purpose of this assessment is to perform mapping and analysis for competitive climate of air travel service sector in Indonesia, particularly in Eastern Part of Indonesia. To obtain descriptions of such business competition conditions, the SCP approach will be used in airline industry where the assessment will focus on several aspects as follows:

1. Identification of strategic routes (based on data of flight traffic) in Eastern Part of Indonesia;
2. Analysis on market structure and performance in strategic routes within Eastern Part of Indonesia;
3. Analysis on business process of air transportation services along with identification of business competition issues related to behaviors in certain route points in Eastern Part of Indonesia;
4. Estimated impacts of enforcement and adjustments of the upper limit of airline fare/tariff;

Pursuant to the assessment, it was revealed that the most strategic airports for Eastern Part of Indonesia in 2008 are Ngurah Rai - Bali, Sultan Hasanuddin - Makassar, and Wamena. In terms of performance, it was revealed that the highest load factor belonged to P.T. Lion Air. This was owing to the successful low cost strategy application, the number of airplanes, and the frequency of flights. Meanwhile, the behavior that potentially violates the fair business competition principle is that a travel agency often has a consumer directly purchase a ticket of a particular airline without firstly asking the consumer's preference. Another noteworthy thing is related to flying the mechanism for allocating flight hour slot, considering that this allocation is the authority of airport management; thereby it is vulnerable to *abuse of dominant position*.

Industrial and Commercial Assessment for Banking Sector

The objectives of assessment for Banking Sector are:

1. Carry out industrial mapping associated with market credit card structure based on turnover, number of cards/customers, and number of *merchandises* (outlets).
2. Identify and analyze competition patterns in credit card business which includes (i) relationship between an issuing bank and a network manager (cooperative scheme), (ii) network tariff fixing pattern, (iii) credit card interest rate structure,

and (iv) relations or schemes of cooperation between the issuing bank and a store/merchant.

The assessment results show that the credit card business in Indonesia has been among the monopolistic and oligopolistic competition structures in which characteristically there are many business actors but only a few are dominant, and there exists *product differentiation*. The tendency is towards oligopolistic not accompanied by cooperation among big business actors. The market remains open for new business actors to enter, but the requirements from Visa and Master can be *barrier to entry (safety regulation, capital investment)*.

The competition tends not to be head-to-head and is marked with a large *potential market* and rules of *multiple card holders* and *unique segment/targeting*. In terms of *targeting*, business actors use such strategies as discounts, *reliability of services, acceptance and fees (annual fees, late charges, etc.)*. For little business actors, there are several strategies from big business actors considered to be *predatory competition strategic, viz. extremely and continuously high discount and exclusive interlock merchant issuer*.

The bank that issues credit cards has a minimum limit that shall meet the *economies of scale*. Such a minimum number of cards is 150.000 to 200.000 cards. This very value will make the credit card market structure become an oligopoly. If, among the banks that issue credit cards, there is any bank that does not meet the *economies of scale*, it's very likely that the bank will be *bleeding*.

Assessment on Roles of Business Competition in Perspective of Consumer's Welfare, Inflation, and Economic Growth

This assessment aims at: (1) identifying the relationship between business competition and economy, particularly related to consumer's welfare, inflation and economic growth, (2) developing a model that can be used to estimate the quantitative value among intended variables; (3) conducting empirical studies on the relationship, especially on 10 selected industries relevant to the Commission's activities.

The 10 selected manufacturing industries in this assessment were cooking palm oil industry, dairy industry, wheat flour industry, fine sugar industry, single artificial fertilizer industry, mixed and compound artificial fertilizer industry, pharmaceutical industry, outer tire and inner tube industry, cement industry, and industry of automobile with 4 or more wheels. The roles of the 10 selected manufacturing industries were relatively large in Indonesian economy. This is reflected by a relatively large share of the 10 selected manufacturing industries, considering output value, labor absorption level and number of business units. The market structure of each of the selected industries in general takes a form of oligopoly, and only two industries have a market structure of monopolistic competition, viz. fine sugar industry and pharmaceutical industry.

During 1998-2007, the CR4 average growth being 3.2% showed an increased trend of industrial concentration. The market structure with an oligopolistic form indicated a relatively low competition level in those 10 industries. This was due to the fact that the competition occurred only among a few companies. The low level of competition occurring in those 10 industries was also indicated by low values of competition indices.

This assessment made use of the consumer's welfare models, namely *Compensating Variation (CV)* and *Equivalent Variation (EV)* to recognize the impacts of price decrease or increase on the consumers' welfare. Out of the simulation results, the welfare impacts of price decreases of 10% and 30% for each industry showed that in general the price decreases on outer tire and inner tube industry and industry of automobile with 4 or more wheels impacted on greater welfare than on other industries.

Assessment on Business Competition Impacts in connection with FTA Implementation Bilaterally and Regionally

This assessment aims at conducting academic elaboration of market launching through ACFTA by the government in terms of policy, implementation, positive and negative consequences, and mapping the competitiveness of local industries related to and directly affected by the impact of launching of ACFTA by the government especially for textile industry, footwear industry, electronic industry, and iron and steel industry.

The analysis results of this assessment indicated the competitiveness positions of the four industries (textile, iron and steel, footwear and electronics) of Indonesia against those of China. All RTA values of the 4 industries were negative, or their competitiveness positions were to the left of RTA line. This showed that the competitiveness positions of the 4 Indonesian industries were still lower than those of China. However, the competitiveness positions of Footwear Industry and Iron-Steel Industry in Indonesia had improved in 2009 compared to those in 2007. Meanwhile, the competitiveness positions of electronics industry and textile industry weakened from 2007 to 2009. To anticipate the ACFTA, a number of government policies are required to support these industries based on the characteristics of each industry.

Assessment on Steel Industry and Trading

The objective of the assessment on steel industry was to map business actors and analyze the upstream-to-downstream structure of steel industry, including the business actors' ownerships and conducts in both of these activities. In addition, impact analysis was also conducted from the competition policy perspective to influence the business actors' structures and behaviors.

Building upon the results of conducted assessment, it appeared that in principle the business actors in both upstream and downstream sectors were oligopolies with concentrated markets, particularly on the upstream sector. This was owing to the need for huge investments to develop the upstream sector and minimize raw material

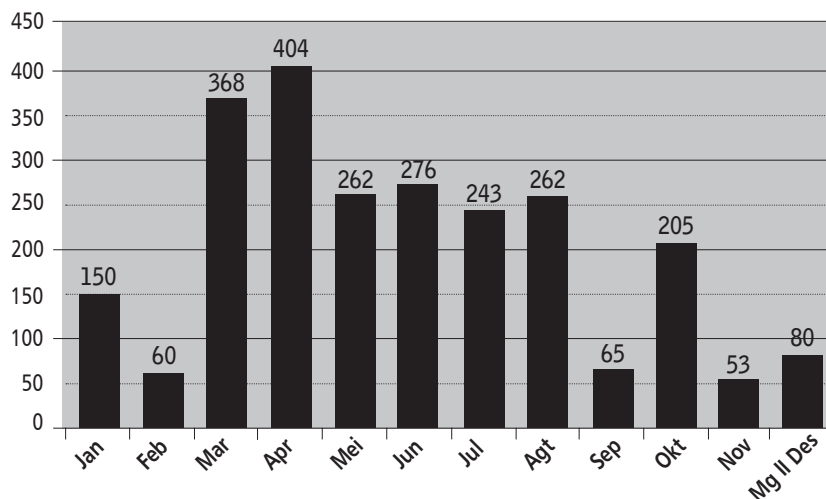
supply issue; thereby mergers and acquisitions were often undertaken. Additionally, It was also found that efficiency was not caused by the application of vertical integration by upstream and downstream companies. This application tended to be abused by closing the access for other business actors to get it and to discriminate certain actors. In terms of the government policy, now it seems that government policy enforced in steel-producing industry is intended to protect domestic producers; but in its implementation, the policy was not carried out consistently yet and tended to favor a particular business actor's position; for instance, the Indonesian national standard (SNI) policy and the import duty policy (*bea masuk*). For this reason, the Commission/KPPU shall formulate recommendations related to the circumstances of steel-producing industry from the business competition perspective.

SOCIALIZATION AND ADVOCACY

During 2010, the Commission held 51 socialization activities which include: development of mass media network (journalists forum), joint socialization with public institutions, intensive socialization in the media, socialization with parliament/representatives and the government, development of a national competition forum, seminars in KPD regions, training on business competition with the Supreme Court (MA) for judges in East Java and North Sumatra, joint socialization with relevant institutions, and discussion forums held in Regional Representative Offices (KPD).

The total number of participants taking part in a series of socialization activities this year was 2,428 persons from journalists, academicians, business actors, the government, the House of Representatives, judges (in East Java and North Sumatra Provinces), and the community. The following graph illustrates the number of participants in socialization activities each month.

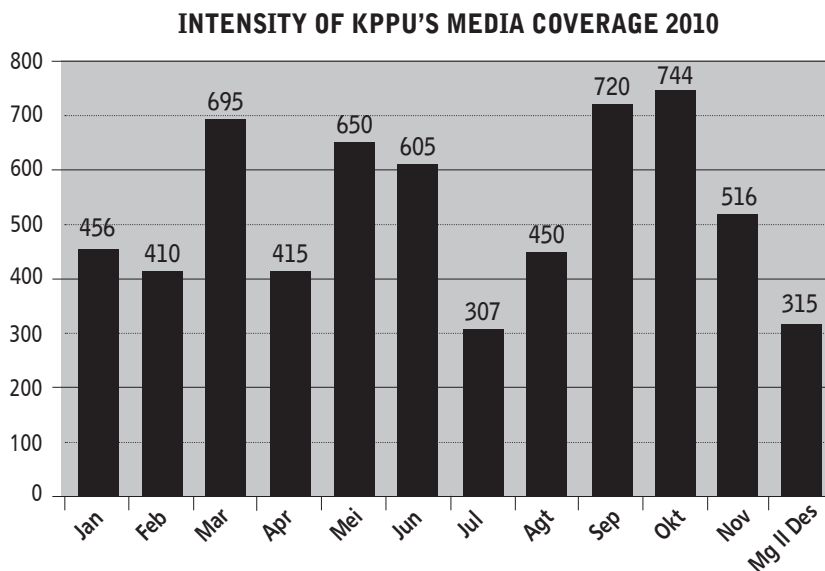
NUMBER OF PARTICIPANTS IN SOCIALIZATION ACTIVITIES AND JOURNALISTS FORUM 2010



The efforts for manifesting a fair competition-conscious culture were not merely performed through socialization activities regionally. Public awareness can also be enhanced through information assistance to the public in terms of consultations and hearings. Especially for hearings, it was recorded that during 2010, the Commission held 11 (eleven) hearings in which the majority of participants was from academicians.

Intensity of Media Coverage

One of public awareness indicators for the Commission/KPPU may be seen from the intensity of media coverage. In 2010, the average intensity of the Commission's media coverages reached 519 pieces of news per month. This really helped the Commission build a positive image before the public.



Paragraph (f) of Article 35 in Law Number 5 of 1999 gives the Commission a task to prepare guidelines and or publications related to Law Number 5 of 1999. This is needed for realization of legal certainty and equal interpretations of the elements of articles in Law Number 5 of 1999. In 2010, the Commission completed five guidelines for the implementation of Law Number 5 of 1999, namely:

1. Guidelines for Article 11 concerning Cartel;
2. Guidelines for Article 14 concerning Vertical Integration;
3. Guidelines for Article 25 concerning Dominant Position;
4. Guidelines for Article 50 paragraph (d) concerning on Agency-Related Exception; and
5. Guidelines for Article 28 and Article 29 concerning Merger, Consolidations, and Acquisition.

In addition, 7 draft guidelines are still under preparation, where 2 draft guidelines are currently being uploaded on the KPPU's website in order to get feedbacks and inputs from the public. The draft guidelines include the draft guideline for share ownership and fixing of resale price that we expect to be enacted in the early of next year. Meanwhile, five other draft guidelines under completion are monopolistic practice, exclusions related to Small and Medium Enterprises, price fixing, Exclusive Dealing, and discriminative practice. In addition to the guidelines, in 2010 there were two events for legal review with themes: *abuse of dominant bargaining position* and subcontracting.

Throughout 2010, the Commission issued 14 (fourteen) Commission Regulations, namely:

1. Perkom (*KPPU Regulation*) Number 01 of 2010 concerning Case Handling Procedures;
2. Perkom (*KPPU Regulation*) Number 02 of 2010 concerning Guidelines for Article 22 of Law Number 5 of 1999 concerning Prohibition of Bid Rigging;
3. Perkom (*KPPU Regulation*) Number 03 of 2010 concerning Guidelines for Implementation of provision of Article 51 of Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition;
4. Perkom (*KPPU Regulation*) Number 04 of 2010 on Guidelines for Implementation of Article 11 concerning Cartel pursuant to Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition;
5. Perkom (*KPPU Regulation*) Number 05 of 2010 on Guidelines for the Implementation of Article 14 concerning Vertical Integration pursuant to Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition;
6. Perkom (*KPPU Regulation*) Number 06 of 2010 concerning Guidelines for Implementation of Article 25 concerning Abuse of Dominant Position pursuant to Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition;
7. Perkom (*KPPU Regulation*) Number 07 of 2010 concerning Guidelines for Implementation of Article 50 paragraph (d) concerning Exclusion from Provision of Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition Agency in the framework of the Agreement;
8. Perkom (*KPPU Regulation*) Number 08 of 2010 on the Promotion and Mutation;
9. Perkom (*KPPU Regulation*) Number 09 of 2010 concerning Expert Staff of the Commission for Supervision of Business Competition;
10. Perkom (*KPPU Regulation*) Number 10 of 2010 concerning Form of Notice for Merger, Business Company Consolidations, and Corporate Share Acquisition;
11. Perkom (*KPPU Regulation*) Number 11 of 2010 concerning Consultation on Corporate Merger or Consolidations and Corporate Share Acquisition;
12. Perkom (*KPPU Regulation*) Number 12 of 2010 concerning Pension for the KPPU's Employee;

13. Perkom (*KPPU Regulation*) Number 13 of 2010 on Guidelines for Implementation of Merger, Business Company Consolidations, and Corporate Share Acquisition;
14. Perkom (*KPPU Regulation*) Number 14 of 2010 concerning Guidance for Protocols.

Assessment on Amendment of Law Number 5 of 2010

From the time Law Number 5 of 1999 was enacted effectively in 2000, constraints began to appear in the enforcement of the Law (*UU*) in which some constraints were derived from Law Number 5 of 1999 itself. These constraints were owing to the formulation of legal norms contained in Law Number 5 of 1999 that are difficult to carry out, so this acts as one of the obstacles for law-enforcing agencies, both the Commission and other institutions, in order to enforce the law properly.

The assessment on the need for amendment of Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition has been long undertaken by the Commission since 2003. The basis of this assessment is the emergence of urgency for improvement on some settings in the hope that the business competition law enforcing process and internalization of business competition values in each government policy take place better.

The assessment was performed by involving a number of academicians, universities, experts in economics and competition law, some concerned State Agencies, some related government bodies, business actors to whom Law Number 5 of 1999 was addressed and all other *stakeholders*. In addition, the Commission also conducted literary studies and best practices from countries that had already applied competition laws, especially in some developed countries with business competition institutions such as US FTC (the United States of America), ACCC (Australia), KFTC (Korea), JFTC (Japanese), Bundeskartellamt (Germany), TFTC (Taiwan) and the *best practices* of such relevant world institutions as OECD, UNCTAD and so forth.

By conducting an in-depth study and discussion on existing provisions, the team finally could prepare a *draft* amendment of Law Number 5 of 1999 with some important notes in it. Based on the assessment results, it can generally be informed that the assessment focused more intensely on improving arrangements for articles on substantial economy in the hope that it would be better to meet the Commission's current and future demands, improve the KPPU's institutional status with its strengthening as a state institution and strengthened authorities to streamline the enforcement process of business competition law, and lastly improve case-handling process by giving priority on any arrangement that gives more space to a process which supports *due process of law* and strengthens the Commission's roles in it.

In terms of principles, improvements were implemented by intensifying the principle that the business competition in the Commission shall always consider the balance

between business actors' interests and public interests. Related to the purpose of the law, the draft amendment kept retaining the *multi-objective* purpose of Law Number 5 of 1999, with a consideration that such a *multi-objective* purpose was in accordance with Indonesia's economic arrangements as stipulated in Article 33 of the 1945 Constitution, not only based on consideration of efficiency as in developed countries but also emphasized its *ultimate goal*, viz. the community's welfare.

In the assessment of this amendment, as a whole there were 13 (thirteen) fixed articles and 40 (forty) articles of which their contents were edited and 4 (four) additional articles. In the arrangement of articles on economic substance, the improvements were made by rationalizing the articles containing the same settings that they seem overlapped and strengthened the things not yet regulated in Law Number 5 of 1999, even if there were practically some acts of monopolistic practice and unfair business competition.

If in Law Number 5 of 1999 the arrangement of economic substance included 26 Articles (Article 4 to Article 29), in the draft made, only 16 Articles (Article 4 to Article 19). The Articles rationalized were, among others, those Articles on Cartel; in Law Number 5 of 1999 it was ubiquitously found in several Articles which are, among others, Articles 5, 7, 9 and 11. These Articles were made to be one Article, namely Article 5 regarding Prohibition on Cartel. Additional Articles made are, among other things, those on arrangements expected to monitor behaviors that lately have been showing, but could not be trapped through the Articles of Law Number 5 of 1999. For example, in the draft, it was shown that Article 6 on Prohibition on Purchase and Supply Arrangements was intended to encompass the processes of supply and purchasing that may lead to monopolistic practices and unfair competition which have been long difficult to be trapped with existing provisions, one of which has appeared in the relationship between modern retailers and their suppliers.

In the meantime, in the institutional arrangements the Commission's institutional status improvement was regulated by providing an assertion that the Commission is a state institution. The fact that the Commission is a state institution legally impacts on the change of status of each Commission Member into a State Official with rights and a position equal to those of another State Official. The KPPU's Chairmanship and Vice Chairmanship are elected by the Members of the Commission/KPPU for a 5-year term. This internally may facilitate coordination within the Commission/KPPU itself that the implementation of work program may function well. The minimum age of a Member of the Commission was raised to 40 (forty) years on the consideration of vast wisdom and wide experience. The cessation of membership in the Commission was also added if a defendant commits a crime with an imprisonment sentence of more than 4 (four) years.

The Secretariat assists the Commission's tasks; its institutional status is also strengthened through the leadership of a Secretary General appointed and dismissed by President. The provisions concerning the Secretariat should also be regulated by the Government Regulation. The fact that the Secretariat is the Secretary General impacts on increased authority of the Secretariat in terms of business competition

law enforcement, particularly in terms of case handling. In its effort to get evidence from the business actors, the Secretariat may apply forceful efforts as a Criminal Investigators, such as ransacking. The addition of this authority is very helpful to relieve the proof, especially for cartel case, bid rigging, and other cases requiring intricate proofs.

Meanwhile, in terms of case handling procedures, the crucial thing is addition of the Secretariat's authority in making its forceful effort in ransacking/search and seizure of authority held by PPNS investigators / Indonesian Police investigators. The addition of authority in such forced efforts is obtained due to the institutional status of the Secretariat of the Commission that has been led by the Secretary-General who in fact is the head of a state agency of which its employees are Civil Servants (PNS).

The procedures for case-handling in the Commission/KPPU were proposed to be strengthened by its being regulated in draft changes of Law Number 5 of 1999. The consideration is that case-handling procedures shall be treated like other judicial procedural law provisions, such as Criminal Procedure Code (*Hukum Acara Pidana*), so that the Commission was not accused of going beyond its authority as stipulated in Law Number 5 of 1999 which formed its own procedural law. Considering the current legal progress, there were lawsuits in terms of judicial review to the Supreme Court from stakeholders who felt that the Commission had exceeded its authority in interpreting the provisions of Law Number 5 of 1999 for being alleged to make its own rules on procedures for case-handling in the Commission/KPPU.

In response to a business actor's non-compliance in meeting the Commission's request and also the requirement for submission of evidence, the Commission has an authority to exert a forceful search, in terms of ransacking. In relation with evidence made use by the Commission in proving, it was suggested to add evidence in terms of information uttered, sent, received or stored in electronical devices or ways using optical tools or similar ones, and economic evidence all of which are articulations from indirect evidence owned by other competition agencies/institutions in some countries. However, indirect evidence can not stand alone, but shall be supported also by other evidence such as business actor's information, expert witness' testimony, and others.

The duration of case handling in the Commission has been an obstacle for the Commission to carry out evidencing since its period is very short so that the Commission is often not optimal in obtaining evidence. Hence, in a proposal for amendment of Law Number 5 of 1999, it was decided to extend the examination period in each phase by adding 30 (thirty) working days in each phase.

The submission of an objection was proposed in revisions of Law Number 5 of 1999 to submit its petition to the High Court (*Pengadilan Tinggi*) considering that the Commission's Decision was treated in the same way as the District Court's Decision (*Putusan Pengadilan Negeri*), and also consider the competence of Judges in the High Court that certainly has broader policies and knowledge.

With regard to administrative penalties and taking into account legal and economic advances, it was proposed to abolish the minimum lower limit of administrative

penalty and increase the maximum upper limit of administrative fine of Rp 10,000,000,000,000, - (ten trillion Rupiah). The philosophical foundations of the revision for penalty sanction are fairness for business world and creation of deterrent effects due to violation against the provisions of the law.

INTER-INSTITUTIONAL COOPERATION AND COORDINATION

During 2010, the activities of both domestic and international inter-institutional cooperations and coordinations already performed by the Commission were as follows:

Domestic Cooperations

In order to support competition law enforcement function, the Commission cooperated with other law enforcement agencies, governments and other institutions. Several agencies that already formed partnerships with the Commission/KPPU were the State Financial Auditing Agency (*BPK*), Policy Institute for Government Goods and Services Procurement (*LKPP*), the Center for Financial Transaction Reporting and Analysis (*PPATK*), the Republic of Indonesia's Police (*POLRI*), and Universities.

On 14 April 2010, the signing of a memorandum of understanding between the Commission and the Center for Financial Transaction Reporting and Analysis (*PPATK*) was carried out. The memorandum was signed directly by the Chairperson of the Commission and the Chairman of *PPATK*, Mr. Yunus Hussein. There were several points agreed upon: information exchange, formulation of the rule of law, socialization, study or research, and education and training. For the Commission/KPPU, this Memorandum of Understanding is important that the enforcement of competition law gets more effective.

Subsequently, on 8 October 2010, the Commission and the Republic of Indonesia's Police (*PolRI*) signed a memorandum of understanding. The memorandum was signed directly by the Chairperson of the Commission and Head-in-Chief of Indonesian Police, General Bambang Hendarso Danuri. For the Commission, this memorandum of understanding is essential to assist in case handling, especially one related to human resource capacity improvement and the Commission's limited authority in evidence seizure.

In addition, on 8 December 2010, the Commission also signed a partnership with the Central Board of Nahdlatul Ulama (*PBNU*), directly attended by *PBNU* General Chairman, Said Aqil Siraj.

International Cooperation

During 2010, the Commission held 12 conferences/ workshops/ seminars on business competition. These were held both with the Commission's funding in cooperation

with overseas business competition agencies or international institutions, and through cooperations with donor agencies.

The Commission/ KPPU also took part actively in various overseas activities as a speaker to convey its views and experience on the practice of law and competition policy in Indonesia. The total number of activities and the Commission's roles on those various overseas activities may be referred to the statistics as follows.

	2007	2008	2009	2010	Total
Number of Activities	30	25	35	38	128
Number of Delegates	95	63	86	98	342
Speakers	21	20	24	25	90
Participants	74	43	62	73	252
Category of Delegate					
Leaders	41	16	35	24	116
Senior	46	42	44	35	167
Junior	8	5	7	39	59

The above statistics of activities indicates the number of activities and number of increased activities in some recent years. The number of speakers from the Commission/ KPPU also increased, though it was just a few. The interesting thing needed to be underlined is the increase in number of junior delegates (work experience of less than 4 years) significant in 2010. This was because an intensive program of increased human resources was held by a co-operation between the Commission and the Japan Fair Trade Commission (JFTC) and the Commission's membership in the ASEAN Experts Group on Competition (AEGC). The more and more requests for the Commission to act as one of the speakers at international events show that the Commission has been slowly and surely evaluated to become more and more influential in the world and this fact grows more and more interesting to be learnt.

The next indicator will involve several aspects: the number of consultations, the number of contributions, the number of trade negotiations, and the number of international activities held in Indonesia.

Consultation

Consultation is one of the media for the Commission in delivering the development of business competition laws and policies in Indonesia and in knowing how business competition laws and policies in Indonesia attract international interests. An institution with high-level consultancy may show two important things: (i) it is recognized to have best practice very attractive to be deeply comprehended, and (ii) dissemination delivered is of good quality.

In 2010, the Commission received 8 (eight) consultations from overseas colleagues (from competition agencies and private parties): Malaysia, USA, Singapore, Australia, India, Pakistan, Belgium, and UNCTAD. Those consultations comprised general rules, substance of merger rules, sanctions, and procedures for appointments of the Commission's members in Indonesia. In the same year, the Commission also assisted the research for doctoral dissertation in law for two (2) overseas colleagues, namely Aleksandra Kimich from Toulouse School of Economics, France, and Ms. Dina Waked from Harvard Law School. The interests from overseas parties/agencies had not yet included requests for the Commission's routine publications through newsletters obtained from many overseas institutions.

Hearings

Hearings held by overseas parties with the Commission are an indicator that shows that the Commission/ KPPU is a business competition agency quite influential at regional and international levels. Through a hearing, cooperation between two international agencies could be improved to be more profitable for both parties. In 2010, the Commission welcomed and conducted hearings or meetings among agencies with 8 (eight) international institutions: Korea Development Institute, Ministry of Water and Irrigation (Tanzania), United States Federal Trade Commission (USFTC), DIW Econ Berlin (Germany), Taiwan Fair Trade Commission, Japan Fair Trade Commission, Korean Fair Trade Commission, and United Nations Conference on Trade and Development (UNCTAD).

Trade Negotiations

The Commission/ KPPU, an Indonesian agency, this year is active in the discussion of 1 (one) planned cooperation under the name of *Comprehensive Indonesia-European Free Trade Association (EFTA) Economic Partnership Agreement (IE-CEPA)*. EFTA (founded in 1960) is an organization of free trade among European countries that are unwilling or cannot join the European Union (EU). Currently, the members of EFTA consist of Iceland, Norway, Switzerland, and Liechtenstein. Cooperation plan itself was approved by the leaders of both countries in July 2010.

Just as *Indonesia-Japan Economic Partnership Agreement*, the agreement is focused on, among other things, goods and services trade with a target of elimination of import tariffs among countries, investment, intellectual property rights, business competition, and government procurement. On 28-29 September 2010, an informal pre-negotiation meeting (consultation) was held in Geneva between Indonesia and EFTA to discuss preparations for agreement purposes and scopes (modalities). Such pre-negotiation meetings resulted in an agreement that, specifically for business competition, the discussion would focus on cooperation (technical assistance) and transparency.

Subsequently, for discussion, working groups for negotiation will be established, especially for general issues, goods trade, customs procedures, services, investment,

and cooperation and capacity development. In December 2010, EFTA would present the initial draft of such a planned agreement for discussion at the first negotiation meeting in Jakarta in early of February 2011.

Conference

Conferences, workshops, and seminars involving international parties and held in Indonesia are Indonesia's real commitment to maintaining good relationships and developing networks with foreign parties, and at the same time those escalate international recognitions over Indonesia and over the Commission/ KPPU in particular. The intended international events had been also dedicated to the Commission's institutional strengthening and relevant stakeholders. For 2010, we noted 13 (thirteen) conferences/workshops/seminars in Indonesia. Those events consisted of 9 (nine) activities specifically designed for the Commission internally, 2 (two) activities for the Commission's stakeholders, 1 (one) workshop for several regional competition agencies (Asia), and 1 (one) international conference attended by 17 (seventeen) countries.

In quantity, the activities facilitated by this section in 2010 had helped increase the capacity of 581 (five hundred and eighty one) individuals, consisting of 357 (three hundred and fifty seven) staff of the Commission, 72 (seventy two) representatives of business actors, 50 (fifty) government representatives, 22 (twenty two) academicians/NGOs, and 80 (eighty) overseas representatives.

Contribution

As part of international business competition agencies and in order to increase international recognition on Indonesia and Indonesia's competitive institution, the KPPU's written contributions to various agencies and international organizations (such as APEC, ICN, AEGC, OECD, and UNCTAD) have been outstanding. The contributions already made by the Commission on various occasions in these international forums can be a survey, questionnaire, and contribution of ideas related to business competition law and policy perceptions. In 2011, the KLN section delivered 16 (sixteen) written contributions for various international organizations, particularly APEC, WTO, ICN, OECD, UNCTAD, and AEGC.

The high level of the Commission's overseas achievements indicates that the Commission/ KPPU is one of the internationally recognized business competition institutions and has positioned itself to be one of the best business competition agencies in Asia. Within the ASEAN region, the Commission/ KPPU has positioned itself as the best among those of five other countries that apply business competition law. Next year is an important year for the Commission's international functions in which this agency holds the main control for the development of competition policy in Southeast Asia. Commitment and inter-institutional relation role will certainly be the main point in creating influences of the Commission and Indonesia around the world.

INSTITUTIONAL DEVELOPMENT

The Commission's or KPPU's institutional development this year was still hindered by a classical problem, namely its institutional status having not been acknowledged yet. In many aspects, the problem of KPPU's institutional status will continue to be a stumbling block for its leaders and the Secretariat in optimizing the main tasks and functions as mandated by Law Number 5 of 1999. The Commission still considers that the ongoing revision of Law Number 5 of 1999 is not a solution that can be made actual in the near future and is risky; so the Commission sent a letter to the President (Letter Number 268/K/XII/2010) and proposed that institutional arrangement of the Commission's Secretariat was not necessarily through Amendment of Law Number 5 of 1999, but through Revision of Presidential Decree Number 75 of 1999 regarding the Commission for The Supervision of Business Competition (KPPU), especially in Article 12 paragraph (2) proposed to be amended into "the provisions on the organizational structure, duties and functions of the Secretariat shall be further regulated with the Commission's decision, after obtaining an approval from the Minister of State Apparatus Empowerment and Bureaucratic Reform (Pendayagunaan Aparatur Negara dan Reformasi Birokrasi)".

Restructuring of Secretariat Organizational Structure

To support the Commission's main tasks and functions, in 2010 the Secretariat's organizational structure was extended into 9 bureaus. It was decided pursuant to KPPU's Decision Number 04/KPPU/KEP/I/2010 regarding Organization and Work Procedures of the Secretariat of the Commission for Supervision of Business Competition (KPPU) of the Republic of Indonesia. The Nine Bureaus were Investigation Bureau, Legal Measures Bureau, Mergers Bureau, Policy Evaluation Bureau, Research Bureau, Public Relations and Legal Bureau, Planning and Finance Bureau and Administration Bureau and Internal Control Bureau.

Integrated improvement of an internal regulation concerning subject matters on employment which include: planning, recruitment, employee selection and placement, employee discipline, performance management systems, remuneration systems, career buildup, promotion and transfer, and employee dismissal and retirement.

The improvement of this regulation is expected to fix the human resources management system within the Secretariat that rapidly supports the Commission's achievement to become a credible and professional agency.

Within the last year, at least several decisions and regulations were issued, concerning basic regulations on employment within KPPU, namely:

1. The Commission's Decision Letter of Decision Number 47/KPPU/KEP/I/2010 governing Group of Position, Class of Position, Name of Position (*Rumpun Jabatan, Kelas Jabatan dan Nama Jabatan*) within the Commission's Secretariat;

2. The Commission's Regulation Number 8 of 2010 governing Promotion, Rotation and Mutation (*Promosi, Rotasi dan Mutasi*) of the KPPU's Secretariat Staff;
3. The Commission's Regulation Number 12 of 2010 governing Employee Pension;

Some regulations related to the basics of personnel management in which their preparations are still under finalization are:

- a) Employee Career Patterns; and
- b) Performance Management System;

Meanwhile, other regulations that further need to be finished later are, among others:

1. Provisions or guidelines in implementing the policies of planning, recruitment, selection and employee placement;
2. Provisions regulating employee remuneration system;
3. Provisions concerning Workload Analysis and Job Position Analysis;
4. Provisions regarding programs for human resources development, education and training.

Launching of the KPPU's Regional Representative Office/ RPO (KPD) in Manado

Considering business dynamics in Manado and its surrounding regions which has been increasing more and more intensely, especially with the immediate opening of Special Economic Zone (*Kawasan Ekonomi Khusus*), on 15 July 2010, the Commission/ KPPU inaugurated the launching of the KPPU's Regional Representative Office of Manado (*KPD Manado*). The working area of RPO (KPD) Manado covers 5 provinces: North Sulawesi, Gorontalo, North Maluku, Papua and West Papua.

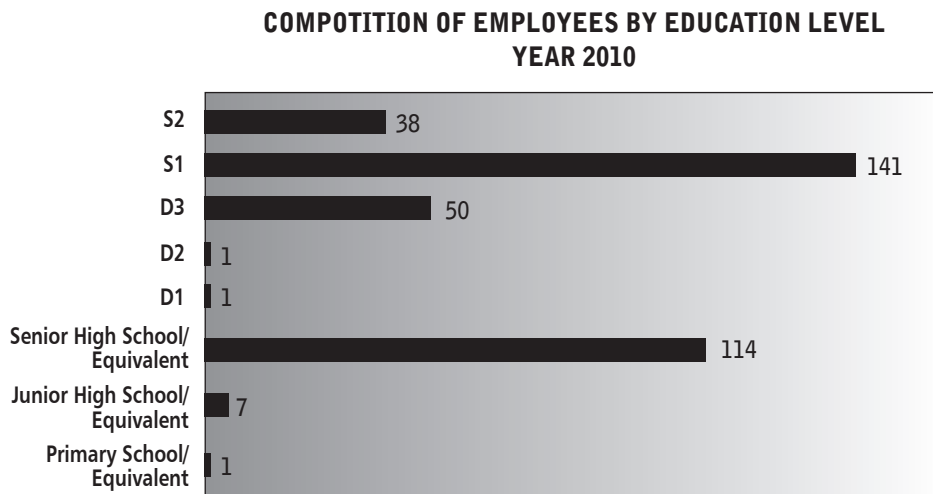
Preparations for the KPPU's Regional Representative Office/RPO (KPD) of Palembang

In 2010, the possibility for opening the KPPU's Regional Representative Office/ RPO (KPD) in Palembang was planned to be implemented by holding a joint meeting between the Government of South Sumatra Province and the KPPU's delegates on 13 December 2010.

PROFESSIONALISM, INTEGRITY, AND COMPETENCY OF HUMAN RESOURCES

Since its establishment, the Commission/ KPPU has been always managing to become a business competition law enforcing agency that applies the principles of professionalism, integrity and competence for personnel. The professional principle applied by the Commission/ KPPU implies that all works are to be carried out and completed by Human Resources (HR) with proper skills and expertise that any result to be achieved is optimal. The Commission always manages to create professional human resources who are competent and highly integrated. Various strategies for human resource development policies have been carried out, including the preparation of human resources needs analysis, staff recruitment in line with organizational needs, ethic code enforcement for employees, and technical training for employees.

In general, the 2010 composition of employees by education level may be referred to the following graph:

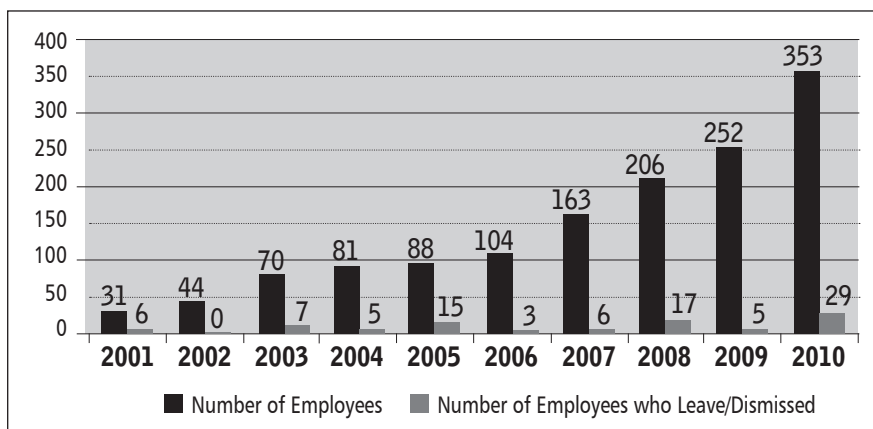


Source: Administration Bureau

The above graph shows that the number of employees with a graduate (S1) education level is the highest: 141 employees. Most of the employees of a graduate (S1) education level are positioned to perform technical functions in law-enforcing and structural positions. While, most of employees with high school education or equivalent are employed under contracts, such as office boys, cleaning service staff, security staff, and technicians.

The remarkable thing worthy of attention is the number of employees who leave or resign. The number of employees who resigned annually is shown in the following graph:

NUMBER OF EMPLOYEES RESIGNED



Source: Administration Bureau

The above graph shows that the number of employees who resigned experienced an annual increasing trend. The number of employees who resigned this year is 29. The average reason for resigning is their being accepted in other agencies, including in government agencies.

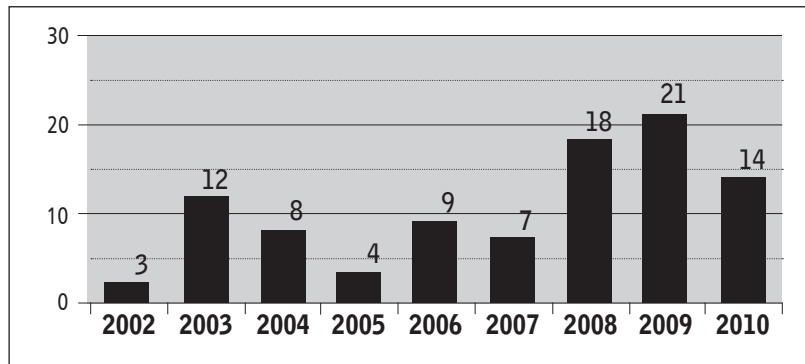
In connection with technical training, during 2010, 14 trainings were held. The purpose of these trainings was to develop the employees' competence in accordance with their respective needs. The theme and number of training participants are shown in the following table:

IMPLEMENTATION OF TRAINING (*DikLat*) IN 2010

No	TRAINING	DATE	# OF PARTICIPANTS
1.	Management of Bookkeeping for Budget Managers	27 - 29 January 2010	18 persons
2.	Archival Management	23 - 25 February 2010	30 persons
3.	Industrial Organization I	19 - 23 April 2010	29 persons
4.	Industrial Organization II	26 - 30 April 2010	29 persons
5.	Procurement of Goods and Services	3 - 7 May 2010	30 persons
6.	Protocol Management	24 - 27 August 2010	2 persons
7.	SIMAK BMN	2 - 3 September 2010	24 persons
8.	Leadership	30 Sept - 1 Okt 2010	30 persons
9.	Readiness	4 - 17 October 2010	2 persons
10.	Professional Writing	27 - 30 October 2010	2 persons
11.	Workshop on Competence Enhancement for New Auditor	10 - 11 November 2010	11 persons
12.	Discussion Forum for Young Investigators on "Merger Analysis Monopolization and Abused Practices OECD"	26 November 2010	24 persons
13.	Discussion Forum on "Merger and Cartel UNCTAD"	15 December 2010	51 persons
14.	Professional Work Ethic	22 December 2010	2 persons

In general, trends in the implementation of trainings increased from year to year along with the increased number of the Commission's staff. The number of annual trainings held from 2002 to 2010 is shown in the diagram below:

TECHNICAL EDUCATION AND TRAINING



Source: Administration Bureau

ACTUAL BUDGET

In Fiscal Year 2010, the Commission obtained an allocated budget amounting to Rp.82,313,900,000. Until the end of 2010, out of the allocated budget, the actual budget had amounted to 62,084,736,935 or 74.42% and increased compared to 67.68% absorption in 2009. In general, the actual budget was spent to support the implementation of the Commission's authorities for, such as case handling, competition law assessment and the enhancement and development of general administrative support.

Agenda and Challenges in 2011

At the very beginning of Year 2011, a number of agenda needed to be prioritized by the KPPU's elected Chairperson and Vice Chairperson, among others, are:

1. Settlement of KPPU Institutional Issues

The current position regarding the KPPU's institutional status specifically leads to the attitudes of the Ministry of State Apparatus Empowerment (*PAN*) and Bureaucratic Reform that have not changed towards the amendment of Law Number 5 of 1999. An alternative amendment certainly needs careful considerations since this belongs to the political process in the House of Representatives (*DPR*). Another effort already made at the end of 2010 was delivering a letter to the President of Indonesia on draft Presidential Regulation regarding the KPPU (Letter Number 242/K/XII/2010) as a means to revise Presidential Decree Number 75 of 1999 on the Commission for The Supervision of Business Competition, and proposed honorary fees for the Chairperson, the Vice Chairperson, and Members of the Commission/ KPPU (Letter Number 241/K/ XII/2010) as an effort to revise Presidential Decision Number 6 of 2002. The effort to revise Decree Number 6 of 2002 was strengthened by Letter of the Minister of State Apparatus Empowerment (*MenPAN*) No.B/3731/M.PAN-RB/12/2010 in Content Number 5 that instructs the Chairperson of the Commission to propose refinement of Presidential Decision Number 6 of 2002 to the President. The Commission had followed up by sending the President a letter Number 248/K/ XII/2010. To provide the Minister of State Apparatus Empowerment (*MenPAN*) with a proper perception about the Commission's institutional position in accordance with Law Number 5 of 1999, the Commission/KPPU sent a letter

to the Minister and another letter to the President concerning other ways of revising a KPPU's Institutional Regulation through revising Presidential Decree Number 75 of 1999. The follow-up responses of both letters shall be our common priority in 2011.

2. Handling of Competition Case (*Antitrust*) in Strategic Sectors

The priorities of case handling in 2011 shall focus on *antitrust* cases, such as cartel, abuse of a dominant position, price fixing, etc. The vertical handling of tender case can be delegated to the Criminal Investigators of Inquiry so that the KPPU's limited resources are allocated to handle and analyze the *antitrust* cases.

3. Effectiveness of Government Policy Harmonization through Inter-Institutional Cooperation

It is useless when the Commission's recommendations and considerations tend to be ignored by the Government. However excellent is an assessment and or evaluation of a policy already implemented, it will not produce an optimal output when the government has not yet recognized the importance of fair competition values in every policy to be taken. Therefore, it is necessary to establish a framework of more intensive cooperation with various agencies that the Commission may constantly be involved in the preparation of regulations related to business competition issues.

4. Effectiveness of Decision Execution

From the imposition of fine and compensation for the Commission's Decision with a permanent legal force with an amount of Rp.182,349,030,287, only about 5.8% or Rp 10,587,146,667 was paid to the State Treasury (*Kas Negara*) as State Non-Tax Revenues (*Pendapatan Negara Bukan Pajak/PNBP*). This needs our common concern related to what we shall do, though the execution of this Decision is not the Commission's authority. Nevertheless, the Commission/KPPU through Litigation section should be more proactive in facilitating its competence to a district court (PN) to undertake execution as soon as possible if any Reported Party's business actor does not perform its obligations.

5. Information Technology Development in Case Handling Process

In this current era of transparency, the use of information technology in case-handling process needs to be developed. This is needed in order to provide convenience to every party, either with or without a legal case, to obtain access to information.

6. **BPK's Sound-Without-Exception (*Wajar Tanpa Pengecualian/WTP*) Opinion**

The Sound-Without-Exception (WTP) Opinion is an opinion with the best predicate given by State Financial Inspection Agency (*BPK*) to an agency that becomes its object of inspection. In 2010, the Commission began to implement a budget with its own Budget Section. One of the consequences is that the Commission will be a single object of *BPK* auditing (not with the Ministry of Commerce anymore). Therefore, strong commitments are needed from leaders to support administrative implementation to match the target of Sound-Without-Exception (*WTP*) Opinion.

7. **Strengthening of Investigator's Capacity and Competency**

The enactment of the KPPU's Regulation (*Perkom*) Number 1 of 2010 provides typical dynamics in the case-handling process. One of the principles to be achieved in this *Perkom* is transparency as put forth in an open meeting, and separation of duties of the Commissioner as a judge and the Investigator as a prosecutor. Therefore, the strengthening of the investigator's capacity and competence is required that the investigator is capable to implement his/her own functions better.





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