

**THE DETENTION OF SUPPLY OF IMPORTED BEEF IN CARTEL  
PRACTICE**

**UNDERGRADUATE THESIS PROPOSAL**



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## **STATEMENT OF THE AUTHENTICITY OF RESEARCH**

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I hereby declare that this Legal Writing has never been submitted for a Bachelor's degree in a Higher Education, and to my knowledge there is no work or opinion ever written or published by any other person, except as expressly referred to in this text and mentioned in the list library.

Yogyakarta, Wednesday, June 7<sup>th</sup> 2017

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## ABSTRACT

According to law No. 5 of 1999 agreement in the forms of cartel was prohibited since a cartel is cooperation of several manufacturers of particular products. Commission for the supervision of business competition (KPPU) was established based on article 30 paragraph 1 of law no. 5 of 1999 on prohibition of monopolistic practices and unfair competition. There were 32 feedloter companies suspected to be the member of corporate cartel on imported beef and they have been investigated by the commission. There were two research questions (1). How does Commission for the Supervision of Business Competition (KPPU) decide the imported beef case as cartel agreement? And (2). What are the mechanism of Commission for the Supervision of Business Competition (KPPU) in resolving the cartel cases of imported beef? The research was conducted under normative empirical method and the data were collected from observation and interview. The results indicated that (1).the detention of supply of imported beef in cartel practice is prohibited from entering into an agreement, with a competing business actor, intending to influence prices by regulating the production and or marketing of goods and service (2).In resolving the cartel case of imported beef, the KPPU had done several stages; indication collection, preliminary examination, advanced examination, judgment adjudication, and execution of decision. It is recommended that businessman should pay more attention to the provisions of law in accordance with the principles of fair business competition and Commission for the Supervision of Business Competition (KPPU) should do a thorough investigation in resolving the case.

Keyword: *Cartel Practice, Commission For The Supervision Of Business Competition (KPPU), Law Number 5 Year, Unfair Business Competition, Imported Beef.*

## INTRODUCTION

### A. Background

According to law No. 5 of 1999, agreement in a corporate cartel was prohibited; generally cartel is a form of cooperation of several manufacturers of certain products. The purpose of the cartel agreements are usually for supervising a production, sales, and price of a specific product goods or services<sup>1</sup>. On the other hand, the cartel may also be interpreted as a form of association within companies where they have the same interests, and poured into a form of contract with the purpose to preventing the occurrence of competence, allocation, as well as to review the results of the research or promotes the exchange or certain products. Competition would encourage every business to review the conduct of its business as efficiently as possible in order to sell goods or services at a lower price, so that every business agent competes to reach the efficiency so in turn consumers can choose the best alternative for those goods or services for their needs

Law No. 5 of 1999 contains three categories of prohibited; the prohibited agreement, prohibited activities, and dominant position. In the category of prohibited agreement, there are 10 acts that should not be done by businesses- oligopoly, pricing, territory distribution, boycott, cartel, trust, oligopsony, vertical integration, private agreement, and agreement foreign<sup>2</sup>. The second category is an activity that is prohibited by law No. 5 of 1999 that are

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<sup>1</sup>SuyudMargono, *Hukum Anti Monopoli*, Jakarta:Sinar Grafika, 2009, p. 93.

<sup>2</sup>Hermansyah, *Pokok-pokokHukumPersaingan Usaha*, Jakarta: KencanaPrenadaMedia, 2008, p. 25.

monopoly, monopsony, market control, and conspiracy. For the category of dominant position, the forms of prohibited acts by law no. 5 of 1999 are; dominant position, dual position, the ownership of shares, merger, and consolidation and acquisition<sup>3</sup>.

Commission for the supervision of business competition (KPPU) was established based on article 30 paragraph 1 of law no. 5 of 1999 on prohibition of monopolistic practices and unfair competition. The commission can conduct a survey and make the decision if there is a violation of law no. 5 of 1999 on prohibition of monopolistic practices and unfair competition conducted by businessmen.

## **B. Statement of Problem**

Based on the background explained above, there are two problems discussed in this research:

1. How does Commission For The Supervision Of Business Competition(KPPU) decide the imported beef case as cartel agreement ?
2. What are the mechanisms made by Commission For The Supervision Of Business Competition (KPPU) in resolving the cartel cases of imported beef ?

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<sup>3</sup>*Ibid*, p. 38-46

### **C. Objectives of Research**

Objectives of the research are;

1. To know the decision methods of the commission for the supervision of business competition (KPPU) in the case of imported beef categorized as a cartel agreement.
2. To find out the mechanism undertaken by the commission for the supervision of business competition in settling cartel case of imported beef.

### **D. Benefits Research**

The benefits derived from this study are as follows:

#### 1. Theoretical Benefits

Theoretically the results of this study are expected to develop the knowledge gained during the lecture at the Faculty of Law, Muhammadiyah University of Yogyakarta. To develop writer's knowledge in commercial law and find real application classroom jurisprudence and field practice.

#### 2. Practical Benefits

The results of this study are expected to be useful for the writer herself and for all parties involved either the public, government, and law enforcement officers who deal with the issues studied.

## RESULTS AND DISCUSSIONS

### **A. The ways Commission for The Supervision of Business Competition (KPPU) decide the imported beef case as cartel agreement.**

Cartel will occur if a group of companies in an industry competes with each other, but they agree to coordinate its activities with production arrangements, territorial divisions, tender collusion and other anti-competitive activities, so that they can raise prices and rewards above competitive prices. Institutions that have the duty to oversee the business competition is Commission For The Supervision Of Business Competition(KPPU)which has the responsibility to prevent and crack down on the cartel perpetrators in Indonesia. In article 36 law number 5 year 1999 has the authority to enforce the law of the cartel case either based on Commission For TheSupervision Of Business Competition (KPPU) own basis or on the basis of community report. Being an institution entrusted with the task of overseeing the business competition, Commission For The Supervision Of Business Competition (KPPU) has the responsibility to prevent and crack down on the cartel perpetrators in Indonesia.<sup>4</sup>

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<sup>4</sup>KomisiPengawasPersaingan Usaha,” Draft PedomanKartel”, available at [http://www.kppu.go.id/docs/Pedoman/draft\\_pedoman\\_kartel.pdf](http://www.kppu.go.id/docs/Pedoman/draft_pedoman_kartel.pdf) accessed at 19<sup>th</sup> November 2016, at 15.00am



## **B. The Mechanism of Commission for The Supervision of Business Competition (KPPU) to resolve the cartel cases of imported beef.**

The mechanism of Commission for The Supervision of Business Of Competition (KPPU) in resolving the cartel case of imported beef have passed several stages, which more or less can be classified as follows<sup>5</sup>:

### **1. Indication Collection**

A case may originate from a community report (usually an aggrieved competitor) or based on KPPU's own observations. Thus, other than on the basis of the report, KPPU may initiate a case on its own initiative. Indications of violation of Law no. 5 of 1999 is set forth in the form of written reports in Indonesian language, accompanied by evidence (letters and other supporting documents).

### **2. Preliminary Examination**

Preliminary examination is conducted by the examiner team in the commission meeting. In the preliminary investigation stage, Commission for the Supervision of Business Competition ( KPPU) has been able to call the reporting party and report to be questioned. The output of this preliminary examination has two possibilities. First, it is

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<sup>5</sup>Direct Interview with Mr.Dendy R Sutrisno as Head of Legal, Public Relations and Cooperation, held in the Office of Commission For The Supervision Of Business Competition (KPPU) of Jakarta. Held on April 11<sup>th</sup> 2017, 10.00 am

stated that there is sufficient preliminary evidence so that it can be forwarded to a follow-up examination, or secondly, there is no sufficient initial evidence so the problem is considered complete. The length of the entire preliminary hearing process is 30 working days from the time the file is submitted from the Chairman to the Commission session.

### 3. Advanced Examination

Advanced examination stage lasts for 60 working days. If required, this period may be extended for a maximum of 30 working days. In this stage, the commission assembly appointed by the Chairperson of Commission for the Supervision of Business Competition (KPPU) may request the assistance of a team of investigators or an expert group. The goal is that the quality of the investigation and analysis of decisions can be more assured.

The Commission Assembly (usually 3 to 5 persons) has wide authority at this stage. They can call the reporters, witnesses, expert witnesses, and others who are considered to know the case. All identities and information during the examination are recorded in the minutes of the hearing. They may also request the submission of certain documents, which in some cases are even classified as confidential.

### 4. Judgment Adjudication

If it is found guilty, the reported party may be subject to certain administrative sanctions. Within 30 working days of receipt of the

decision notification, the reporting party shall be obligated to implement the content of the decision. The implementation of the decision is reported to Commission for the Supervision of Business Competition ( KPPU).

There are 14 days from the date of the decision to the parties to receive or file an objection. The objection lawsuit is filed through the Court of Justice's office. If the time has passed, then the verdict is declared to have a permanent legal force. In this case Commission for the Supervision of Business Competition ( KPPU) will apply for the determination of execution to the District Court. If the reporting party remains unwilling to perform the execution, Commission for the Supervision of Business Competition ( KPPU) may submit the decision of the Commission to the investigator (Police) to conduct an investigation in accordance with applicable law (criminal) provisions. As stated above, within 14 days of the notice of the decision, the reporting party shall also have the right to file an objection to the decision to the District Court. According to Article 45 of Law no. 5 of 1999, the District Court shall examine the objections of the business actor within 14 days of receipt of the objection petition. The verdict itself has to be out within 30 days from the beginning of the objection check. This fast-paced process in practice creates problems. One of them is related to the procedure of calling, especially if the parties are domiciled abroad. The civil procedure law (HIR) states such callings are made through the State Department, and this could take three months.

The objection petition is filed in the District Court of the applicant's domicile. In the event that an objection is filed by more than one business actor having different domicile, Commission for the Supervision of Business Competition ( KPPU) may submit a written application to the Supreme Court to appoint the District Court which will examine the objection. This petition of Commission for the Supervision of Business Competition ( KPPU) was also forwarded to all the courts that were delegated to the objection, so that they all had to stop the investigation of the case first until there was the appointment of the Supreme Court. There is a 14-day period for the Supreme Court to determine which one District Court is in charge of examining the case.

For a non-designated District Court, within 7 days he /she shall submit his / her case files to the designated District Court, including the remaining costs of the case that have already been paid. The designated District Court subsequently proceeds to review this appeal within 30 days of receiving the file.

##### 5. Execution of decision.

After the District Court handed down its verdict, there was still one more legal remedy for those who objected (did not receive), namely the appeal to the Supreme Court. The understanding of the parties who object to this can be Commission for the Supervision of Business Competition ( KPPU) and business actor. The cassation appeal is granted within 14 days

(interpreted since the parties received the verdict) and the Supreme Court has 30 days to present the decision since the appeal is received. The procedure for submitting a cassation memory is subject to the applicable provisions as is the case in general.<sup>6</sup>

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<sup>6</sup>Direct Interview with Mr.Dendy R Sutrisno as Head of Legal, Public Relations and Cooperation, held in the Office of Commission For The Supervision Of Business Competition (KPPU) of Jakarta. Held on April 11<sup>th</sup> 2017, 10.00 am

## CONCLUSION

### A. Conclusion

In this last chapter, the author will present the conclusions of the problems discussed in the previous chapter. The conclusions obtained by the author are as follows:

1. Analysis of legal considerations about The detention of supply of imported beef in cartel practice with the Considering article 11 Law No 5 of 1999 regarding cartels that business actors are prohibited from entering into an agreement, with a competing business actor, intending to influence prices by regulating the production and or marketing of goods and service, which may result in monopolistic practices and unfair business competition and article 19 letter c of law number 5 year 1999 that the alleged violation of article 19 letter c of law number 5 year 1999 which in essence relates to the behavior of business actors either by themselves or other business actors who restrict the circulation and sale to the relevant market. The business actor alleged to have violated Article 11 of Law Number 5 Year 1999 in this case is that the element of business actor as described in the analysis of business actor has been fulfilled. Decision of Commission for The Supervision of Business Competition Cases Number 10 / KPPU-I / 2015 concerning Alleged Violation of Article 11 and Article 19 letter c of Law Number 5 Year 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition.

1. In resolving the cartel case of imported beef the KPPU had passed through several stages, which more or less can be classified as follows stage of indication collection, preliminary examination, advanced examination, judgment adjudication, execution of decision. In order for the rule of law to be enforced properly, adequate organs of law enforcement are required. A rule of law, however good substantively, will not work properly if it is not supported by a good law enforcement system. In view of that, to enforce business competition law, or rather oversee the implementation of Law No. 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition, Commission for the Supervision of Business Competition ( KPPU) was established. Commission for the Supervision of Business Competition ( KPPU) is established as an independent institution that is tasked to conduct investigation, examination, and provide assessment as well as an institution to take legal action for business actors conducting monopolistic practices and / or unfair business competition.

## **B. Recommendation**

From the above conclusions, the authors propose some suggestions as follows:

1. Business actor in carrying out his business must pay more attention to the provisions of law in accordance with the principles of fair business competition in order to run the business of creating a balance in law both among business actors and society as a consumer and the need of a regulatory system that can protect the parties Which has an unfavorable position in running its business activities.
2. KPPU must be more detailed in conducting investigations, especially in data collection in order to provide legal certainty related to alleged cartel practices in beef import. The government should also pay more attention to the needs of beef before determining the system of quota division that is applied because it can inhibit the distribution of beef to the community which can cause the scarcity and high cost of beef in the community.



## BIBLIOGRAPHY

### Books:

- Andi Fahmi Lubis, Ana Maria Tri Anggreani, etc, 2009, *Hukum Persaingan Usaha Antara teks dan Konteks*, Jakarta: Komisi Pengawas Persaingan Usaha.
- Arus Akbar Silodae, Wirawan B. Ilyas, 2011, *Pokok-pokok Hukum Bisnis*, Jakarta: Salemba Empat.
- Christine, Kansil, 2011, *Hukum Perusahaan Indonesia (Aspek Hukum Dalam Ekonomi)*, Jakarta: Pradnya Paramita.
- Ningrum Sirait, 2013, *Asosiasi dan Persaingan Usaha Tidak Sehat*, Medan: Pustaka Bangsa Press.
- Munir Fuadi, 2001, *Hukum Antimonopoli Menyongsong Era Persaingan Usaha Tidak Sehat*, Bandung, PT. Citra Aditya Bakti.
- Hendry Campbell, 1990, *Black's Laws Dictionary*, (St Paul Minn West Publishing Co).
- Hermansyah, 2008, *Pokok-pokok Hukum Persaingan Usaha*, Jakarta: Kencana Prenada Media.
- Hikmahanto, 2003, *Peran Lembaga Peradilan Dalam Menangani Perkara Persaingan Usaha*, Jakarta: Partnership for Business Competition (PBC),
- Kamal, Mustafa Rokan, 2010, *Hukum Persaingan Usaha (Teori dan Praktik di Indonesia)*, Jakarta, PT. Raja Grafindo Persada.
- Natasya, Ningrum Sirait, 2004, *Hukum Persaingan di Indonesia UU No. 5 Tahun 1999 Tentang Larangan Praktik Monopoli dan Persaingan Usaha Tidak Sehat*, Medan, Pustaka Bangsa Press.
- Nasution, Farid dan Retno Wiranti, 2008, *Kartel dan Problematikanya*, Jakarta, Majalah Kompetisi.
- Prayoga, Ayudha D, 2000, *Persaingan Usaha dan Hukum yang Mengaturinya di Indonesia*, Jakarta, Proyek ELIPS.
- Muhammad Endriyo Susila, Ahdiana Yuni Lestari, etc, 2007, *Buku Pedoman Penulisan Hukum Fakultas Hukum UMY*, Yogyakarta: Fakultas Hukum Universitas Muhammadiyah Yogyakarta.

R.Murjiyanto, SH, 2002, *Pengantar Hukum Dagang Aspek-Aspek Hukum Perusahaan Dan Larangan Praktek Monopoli*, Yogyakarta: Liberty Yogyakarta.

Rachmadi Usman, 2001, *Hukum Persaingan Usaha Di Indonesia*, Jakarta: PT Gramedia Pustaka Utama.

Susanti Adi Nugroho, 2012, *Hukum Persaingan Usaha Di Indonesia, Dalam Teori Dan Praktik Serta Penerapan Hukumnya*, Jakarta: Kencana Prenada Media Group.

Suyud Margono, 2009, *Hukum Anti Monopoli*, Jakarta: Sinar Grafika.

Yani, Ahmad dan Gunawan Widjaya, 2006, *Seri Hukum Bisnis Anti Monopoli*. Jakarta, PT Raja Grafindo Persada:

### **Legislations:**

Law Number 5 of 1999 about Monopoly Practice and Unfair Competition.

Article 11 Law Number 5 of 1999 about Monopoly Practice and Unfair Competition.

Cartel Settings and Sample Case, Commission For the Supervision of Bussniss Competition Regulation Number 4 Year 2010 about The Guidance of the article 11 about Cartel from Law Number 5 Year 1999.

### **Interview:**

Direct Interview with Mr. Dendy R Sutrisno as Head of Legal, Public Relations and Cooperation, held in the Office of Commission For The Supervision Of Business Competition (KPPU) of Jakarta. Held on April 11<sup>th</sup> 2017, 10.00 am

### **Internet /Website**

Anonymous, Referensi Penting Hukum dan Politik GRESNEWS, “  
Aturan Hukum Kartel”, accessed at  
<http://www.gresnews.com/berita/tips/2256198-aturan-aturan-hukum-kartel/0/> at Thursday 17<sup>th</sup> November 2016 23.18 pm.

KPPU,” Draft Pedoman Kartel”, accessed at  
[http://www.kppu.go.id/docs/Pedoman/draft pedoman kartel.pdf](http://www.kppu.go.id/docs/Pedoman/draft_pedoman_kartel.pdf) at Friday  
18<sup>th</sup> November 2016 15.35 pm.

KPPU, “KPPU Gelar Sidang Lanjutan Dugaan Kartel Daging Sapi” accessed at  
<http://www.kppu.go.id/id/blog/2015/09/kppu-gelar-sidang-lanjutan-dugaan-kartel-daging-sapi-jabodetabek/> at Sunday 8<sup>th</sup> January 2017  
09.52 am.

Redaksi KPPU, Penegakan Hukum “KPPU Gelar Sidang Dugaan Kartel Daging Sapi”  
Majalah Kompetisi/ Edisi 50/2015.