

ABSTRACT

Direct appointment is one method in the procurement of goods and/or services which is commonly used by State Owned Enterprises. This research aimed to analyze the provision on the direct appointment by State Owned Enterprises in procurement of goods and/or services. The types of this research is normative legal research by analyzing the secondary data resources descriptively and qualitatively. The direct appointment by the State-Owned Enterprises is regulated in the Ministry Regulation of State Owned Enterprises No. PER-05/MBU/2008 *juncto* Ministry Regulation of State Owned Enterprises No. PER-15/MBU/2012 on General Guidance for Implementation of Procurement of Goods and/or Services State-Owned Enterprises. It is found that there are differences on the direct appointment by government and the direct appointment by State Owned Enterprises. The differences lied on the process and the principles. Unfortunately, that provision is contrary to the Law No. 5 of 1999 on Prohibition of Monopoly Practice and Unfair Business Competition, especially Article 19 letter d on discrimination and 22 on conspiracy. On that case, the legal principle of *Lex Superior derogat Legi Inferior* is applied. So, the application of Law No. 5 of 1999 as the higher regulation has to be prioritized. Besides, the Ministry Regulation of State Owned Enterprises No. PER-05/MBU/2008 was not mandated by the Law which explicitly explain that formulation of such regulation is not based on the unfair business competition.

Keywords: direct appointment, state owned enterprises, business competition