

**PERSEKONGKOLAN TENDER DALAM PERSPEKTIF HUKUM  
PERSAINGAN USAHA  
(Studi Putusan KPPU No. 15/KPPU-L/2020)**

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**INTISARI**

Penelitian dalam Penulisan Hukum ini bertujuan untuk mengetahui dan menganalisis kesesuaian Putusan KPPU Nomor 15/KPPU-L/2020 tentang dugaan persekongkolan dalam tender pengembangan Sistem Penyediaan Air Minum di Gresik Jawa Timur dengan peraturan perundang-undangan di bidang persaingan usaha. Selain itu, penelitian ini juga bertujuan untuk mengkaji penerapan pendekatan *rule of reason* dalam perkara tersebut.

Penelitian ini menggunakan metode penelitian yuridis normatif dan bersifat deskriptif. Data informasi diperoleh dari penelitian kepustakaan. Data yang ada kemudian dianalisis menggunakan metode kualitatif.

Penelitian dalam penulisan hukum ini menghasilkan dua kesimpulan. Pertama, Putusan KPPU No. 15/KPPU-L/2020 telah sesuai dengan ketentuan persaingan usaha di Indonesia. Terlapor tidak terbukti melanggar ketentuan Pasal 22 UU No. 5 Tahun 1999 karena fakta yang ada tidak cukup untuk membuktikan adanya persekongkolan tender yang menyebabkan persaingan usaha tidak sehat. Kedua, pengaturan persekongkolan tender dalam UU No. 5 Tahun 1999 menggunakan pendekatan *rule of reason* sehingga untuk membuktikannya dibutuhkan analisis ekonomi dan bukti dampak kerugian dari tindakan yang dilakukan terhadap persaingan usaha. Dalam perkara Sistem Penyediaan Air Minum di Gresik, Majelis Komisi telah menerapkan pendekatan *rule of reason* dalam menentukan adanya persekongkolan tender yang terlihat dalam Pertimbangan Majelis Komisi. Putusan KPPU Nomor 15/KPPU-L/2020 telah menerapkan pendekatan *rule of reason* dan sesuai dengan ketentuan persaingan usaha di Indonesia.

**Kata Kunci: Persekongkolan Tender, *Rule of Reason*, KPPU**

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***TENDER CONSPIRACY BASED ON THE PERSPECTIVE OF  
INDONESIAN COMPETITION LAW  
(Study Case of KPPU Decision Number 15/KPPU-L/2020)***

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**ABSTRACT**

*The purpose of this research is to find out and analyze conformity of KPPU's Decision Number 15/KPPU-L/2020 concerning alleged conspiracy in the tender for the development of the Drinking Water Supply System in Gresik, East Java with Indonesian Competition Law. In addition, this study also aims to examine the application of the rule of reason approach in this case.*

*This research uses the normative legal research method. Normative research is carried out by reviewing library data. Existing data are then analyzed using qualitative methods.*

*This research produces two conclusions. First, in KPPU Decision Number 15/KPPU-L/2020 the accused did not violate Article 22 of Law No. 5 of 1999. KPPU in deciding this case has complied with the provisions in the field of competition law because the facts are not sufficient to prove the existence of a conspiracy tender that causes unfair competition. Second, tender conspiracy in Law no. 5 of 1999 uses the rule of reason approach therefore an economic analysis and the impact of losses from actions taken on business competition are needed to prove it. In this case, the Commission Council has implemented the rule of reason approach in determining the tender as seen in the Commission Council deliberations. The KPPU's Decision Number 15/KPPU-L/2020 has implemented the rule of reason approach and is in accordance with the provisions of business competition in Indonesia.*

***Keyword: Tender Conspiracy, Rule of Reason, KPPU***

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