

**PERSENGKONGKOLAN TENDER PADA PENGADAAN PAKET
PEMBANGUNAN INFRASTRUKTUR DITINJAU DARI PERATURAN
KOMISI PENGAWAS PERSAINGAN USAHA
(STUDI KASUS : PUTUSAN KPPU NOMOR 25/KPPU-I/2020)**

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INTISARI

Penulisan Hukum ini bertujuan untuk mengetahui dan menganalisis kesesuaian Putusan KPPU Nomor 25/KPPU-I/2020 terkait persekongkolan tender pengadaan paket pembangunan revetment dan pengurugan lahan di Pelabuhan Perikanan Popoh Kabupaten Tulungagung dengan Pedoman Pasal 22 UU No. 5 Tahun 1999. Selain itu, penulisan hukum ini juga bertujuan untuk mengetahui dan menganalisis penerapan pendekatan *rule of reason* untuk membuktikan persekongkolan tender dan penjatuhan sanksi yang berbeda kepada para terlapor pada Putusan KPPU Nomor 25/KPPU-I/2020.

Metode penelitian yang digunakan dalam penulisan hukum ini adalah yuridis normatif dengan menggunakan data primer dan data sekunder. Data informasi diperoleh melalui tinjauan kepustakaan dan wawancara terhadap narasumber. Kemudian, data yang diperoleh dianalisis menggunakan metode kualitatif dan disajikan secara deskriptif.

Berdasarkan penelitian, dapat ditarik dua kesimpulan. Pertama, Putusan KPPU Nomor 25/KPPU-I/2020 telah sesuai dalam menerapkan Pasal 22 UU No. 5 Tahun 1999. Tindakan para terlapor menyebabkan persaingan usaha tidak sehat dengan cara melakukan persekongkolan horizontal dan vertikal. Kedua, persekongkolan tender dalam Pasal 22 UU No. 5 Tahun 1999 menggunakan pendekatan *rule of reason* sehingga membuktikannya perlu menganalisis dampak yang ditimbulkan. Dalam pertimbangan Putusan KPPU Nomor 25/KPPU-I/2020 Majelis Komisi telah menerapkan pendekatan *rule of reason* berdasarkan Peraturan KPPU No. 2 Tahun 2010 dan Pedoman Pasal 22 UU No. 5 Tahun 1999. Dibuktikan dengan tindakan terlapor yang tidak jujur, melawan hukum, dan menghambat persaingan usaha.

Kata Kunci : Hukum Persaingan Usaha, Persekongkolan Tender, KPPU, Rule of Reason.

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***TENDER CONSPIRACY IN PROCUREMENT OF INFRASTRUCTURE
DEVELOPMENT PACKAGES PURSUANT FROM TO THE BUSINESS
COMPETITION SUPERVISORY COMMISSION REGULATIONS
(Study Case of KPPU Decision Number 25/KPPU-I/2020)***

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ABSTRACT

The purpose of this legal research is to find out and analyze the suitability of the KPPU Decision Number 25/KPPU-I/2020 regarding tender conspiracy for the procurement of a revetment development package and landfill at the Popoh Fishing Port, Tulungagung Regency with the Article 22 of 22 of Law No. 5 of 1999 Guidelines. Furthermore, the writing of this law also aims to find out and analyze the application of the rule of reason approach to prove a tender conspiracy and impose different sanctions against reported party in KPPU Decision Number 25/KPPU-I/2020.

This research is normative legal research method with used primary data and secondary data. Information data was obtained through literature review and interviews with informants. Then, obtained data analyzed using qualitative methods and presented descriptively.

Based on research, two conclusion can be drawn. First, KPPU Decision Number 25/KPPU-I/2020 has been appropriate in implementing Article 22 of 22 of Law No. 5 of 1999. The actions of the reported parties caused unfair business competition by conducting horizontal and vertical tender conspiracy. Second, the tender conspiracy in Article 22 of 22 of Law No. 5 of 1999 using rule of reason approach so as to prove it is necessary to analyze the impact. In considering the KPPU Decision Number 25/KPPU-I/2020 the Commission Council has applied the rule of reason approach based on KPPU Regulation No. 2 of 2010 and Guidelines for Article 22 of 22 of Law No. 5 of 1999. Evidenced by the actions of the reported party who were dishonest, against the law, and hindered business competition.

Keywords : Business Competition Law, Tender Conspiracy, KPPU, Rule of Reason.

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