

The Implementation of Law No. 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition in the Era of Covid-19 Pandemic in Indonesia

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ABSTRACT

This legal research aims to answer such concerns and analyze the legal framework of Competition Law alongside its implementation during the Covid-19 pandemic in Indonesia and how it has accommodated the major changes the pandemic had on the business industry in Indonesia.

Acknowledging the importance of Competition Law in regulating a healthy business atmosphere, especially in times of Covid, this legal research conducts normative research through a conceptual approach to answer the research questions, utilizing secondary data such as books, scholarly articles, and journal articles to analyze the subject matter and draw a legal conclusion.

The author finds that (1) the exemption provision within Article 50(a) has sufficiently accommodated exemptions for the application of Competition Law with specific regards to the urgency of the procurement of Covid-19 vaccines in Indonesia, however certain clarifications should be made clearer with regards to the wordings of the article as well as the extent of emergency health situations to which this law shall be exempted; (2) the applicability of Competition Law in Indonesia during Covid-19 is assessed through KPPU's internal regulation and external supervision, such as KPPU Regulation No. 1 Year 2020 and notifications regarding mergers and acquisitions which can be sent to the KPPU through online platforms, in which was found several drawbacks that should be taken into account; and (3) aspects of Competition Law – with respect to the authority of the KPPU and the inclusion of a provision regarding consumer protection – should be improved in order to accommodate future emergency situations.

Key Words: Covid-19, Competition Law, Monopoly, Exemption.

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Implementasi Undang-Undang Nomor 5 Tahun 1999 tentang Larangan Praktek Monopoli Dan Persaingan Usaha Tidak Sehat Di Era Pandemi Covid-19 Di Indonesia

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INTISARI

Penelitian hukum ini bertujuan untuk menjawab kekhawatiran tersebut dan menganalisis kerangka hukum Undang-Undang Persaingan beserta implementasinya selama pandemi Covid-19 di Indonesia dan bagaimana UU tersebut mengakomodasi perubahan besar yang terjadi akibat pandemi terhadap industri bisnis di Indonesia.

Menyadari pentingnya Hukum Persaingan dalam mengatur iklim usaha yang sehat khususnya di masa Covid, penelitian hukum ini melakukan penelitian normatif melalui pendekatan konseptual untuk menjawab pertanyaan penelitian, dengan memanfaatkan data sekunder berupa buku, artikel ilmiah, dan artikel jurnal untuk menganalisis materi pelajaran dan menarik kesimpulan hukum.

Penulis menemukan bahwa (1) ketentuan pengecualian dalam Pasal 50(a) sudah cukup mengakomodir pengecualian untuk penerapan UU Persaingan khususnya terkait urgensi pengadaan vaksin Covid-19 di Indonesia, namun beberapa klarifikasi harus dibuat lebih jelas sehubungan dengan kata-kata pasal serta sejauh mana situasi darurat kesehatan yang dikecualikan dari undang-undang ini; (2) Penerapan Hukum Persaingan di Indonesia pada masa Covid-19 dinilai melalui pengaturan internal KPPU dan pengawasan eksternal, seperti Peraturan KPPU No. 1 Tahun 2020 dan pemberitahuan mengenai merger dan akuisisi yang dapat dikirimkan ke KPPU melalui platform online, di mana ditemukan beberapa kekurangan yang harus diperhitungkan; dan (3) aspek Hukum Persaingan – sehubungan dengan kewenangan KPPU dan pencantuman ketentuan mengenai perlindungan konsumen – perlu diperbaiki untuk mengakomodasi situasi darurat di masa mendatang.

Kata Kunci: Covid-19, Hukum Persaingan, Monopoli, Pengecualian.

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