



PERBANDINGAN PENGATURAN NILAI HERFINDAHL-HIRSCHMAN INDEX DALAM MERGER CONTROL DI UNI EROPA, INDONESIA, DAN AMERIKA SERIKAT

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INTISARI

Penulisan hukum ini bertujuan untuk pertama, mengkaji dan mengetahui pengaturan mengenai perbedaan penilaian Herfindahl-Hirschman Index (HHI) dalam merger control dari perspektif persaingan usaha di Uni Eropa, Indonesia dan Amerika Serikat. Kedua, untuk mengkaji dan mengetahui perbandingan kelebihan dan kekurangan pengaturan HHI di Uni Eropa, Indonesia, dan Amerika Serikat. Serta terakhir, untuk mengkaji lesson learned yang dapat diambil dari analisis perbandingan pengaturan HHI di Indonesia, Amerika Serikat, dan Uni Eropa berserta adopsi yang dimungkinkan di Indonesia

Metode yang digunakan dalam penulisan hukum ini adalah metode penelitian yuridis normatif. Penulisan hukum ini dilakukan melalui studi pustakan yang didasari oleh peraturan perundang-undangan dan kasus-kasus yang berlaku di Indonesia, Uni Eropa, dan Amerika Serikat. Analisis data penelitian ini dilakukan dengan metode data analysis dan comparative analysis sehingga menghasilkan kesimpulan yang mampu menjawab pokok permasalahan penelitian ini.

Penelitian ini membahas pengaturan mengenai perbedaan penilaian Herfindahl-Hirschman Index (HHI) dalam *merger control* dari perspektif persaingan usaha di Uni Eropa, Indonesia dan Amerika Serikat. Penelitian ini membuat hasil sebagai berikut: Pertama, perbedaan signifikan pengaturan bergantung pada sistem pembuktian potensi anti-persaingan dalam pengaturan merger control suatu negara. Kedua, kelebihan dan kekurangan dari rezim pengaturan penilaian HHI bergantung pada sistem pembuktian potensi anti persaingan yang dilaksanakan oleh masing-masing negara. Ketiga, lesson learned yang dapat diambil dari Indonesia berfokus pada dua hal, yakni; penilaian HHI hanya diperuntukan sebagai safe harbor dari potensi anti persaingan dan tidak dapat membuktikan potensi anti persaingan dan efektivitas penilaian HHI sebagai safe harbor bergantung pada standar potensi anti persaingan. Dari penelitian ini, Penulis menyarankan Indonesia untuk membentuk pedoman baru dan/atau peraturan baru yang berfokus pada penempatan kedudukan HHI sesuai dengan setiap bentuk dampak anti persaingan yang dapat disebabkan oleh *mergers*.

Kata kunci: Herfindahl-Hirschman Index, Hukum Persaingan Usaha, *Merger Control*, Penilaian.

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**REGULATORY COMPARISON ON HERFINDAHL-HIRSCHMAN INDEX
ASSESSMENT IN EUROPEAN UNION, INDONESIA, AND UNITED STATES
MERGER CONTROL REGULATIONS**

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ABSTRACT

This legal writing aims to first, examine and understand the regulations regarding differences in the assessment of the Herfindahl-Hirschman Index (HHI) in merger control from the perspective of business competition in the European Union, Indonesia and the United States. Second, to examine and compare the advantages and disadvantages of IHL regulations in the European Union, Indonesia and the United States. And finally, to examine lessons learned that can be drawn from a comparative analysis of IHL arrangements in Indonesia, the United States and the European Union as well as the adoption that is possible in Indonesia

The method used in writing this law is the normative juridical research method. This legal writing was carried out through library studies which were based on applicable laws and regulations in Indonesia, the European Union and the United States. Data analysis for this research was carried out using data analysis and comparative analysis methods to produce conclusions that were able to answer the main problem of this research.

This research discusses the regulations regarding differences in the assessment of the Herfindahl-Hirschman Index (HHI) in merger control from the perspective of business competition in the European Union, Indonesia and the United States with the following results: First, significant differences in regulations depend on the system of proving anti-competitive potential in merger regulations. control of a country. Second, the advantages and disadvantages of the IHL assessment regulatory regime depend on the system of proving anti-competitive potential implemented by each country. Third, lessons learned that can be taken from Indonesia focus on two things, namely; The HHI assessment is only intended as a safe harbor from potential anti-competition and cannot prove potential anti-competition and the effectiveness of the HHI assessment as a safe harbor depends on the potential anti-competitive standard. From this research, the Writer advises for Indonesia to create a new set of guidelines and/or regulation that focuses upon the role of HHI in accordance with every set of anti-competitive strategy that arise due to mergers.

**Keyword : Herfindahl-Hirschman Index, Competition Law, Merger Control,
Assessment**

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