

**PERTIMBANGAN KOMISI PENGAWAS PERSAINGAN USAHA  
DALAM MENGGUNAKAN PENDEKATAN PRINSIP *RULE OF REASON*  
DITINJAU DARI ASPEK KEPASTIAN HUKUM  
(Studi Putusan KPPU Nomor 31/KPPU-I/2019 Dan  
Putusan KPPU Nomor 03/KPPU-L/2020)**

**Oleh**

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**INTISARI**

Penelitian ini bertujuan untuk mengetahui dan menganalisis penggunaan pendekatan prinsip *rule of reason* yang dilakukan oleh KPPU didalam memeriksa dan memutus perkara-perkara dugaan pelanggaran pasal-pasal Undang-Undang Nomor 5 Tahun 1999. KPPU sebagai lembaga yang memiliki wewenang dan fungsi yang besar di dalam penegakan hukum persaingan di Indonesia, diharapkan mampu memberikan penegakan hukum yang baik di Indonesia dan benar-benar mewujudkan asas dan tujuan dibentuknya Undang-Undang Nomor 5 Tahun 1999.

Jenis penelitian ini adalah penelitian yuridis normatif yang dilakukan dengan cara meneliti bahan pustaka dan data sekunder yang dikumpulkan melalui mekanisme studi kepustakaan. Pada penlitian ini penulis menggunakan tehnik deduktif dan disajikan secara sistematis yang kemudian menarik kesimpulan untuk menjawab rumusan masalah sehingga tujuan penelitian ini dapat tercapai.

Berdasarkan hasil penelitian dan pembahasan disimpulkan bahwa penggunaan pendekatan prinsip *rule of reason* belum ada aturan tegasnya baik didalam hukum materil maupun hukum formil persaaingan usaha di Indonesia, sehingga KPPU di dalam menggunakan pendekatan prinsip *rule of reason* berdasarkan inisiatifnya didalam menginterpelasi pasal yang diduga dilanggar oleh pelaku bisnis. Untuk itu diharapkan kedepannya negara melakukan perbaikan Undang-Undang Nomor 5 Tahun 1999 dan membuat aturan yang tegas mengenai penggunaan pendekatan prinsip *rule of reason* agar kepastian hukum lebih dirasakan di Negara Kesatuan Republik Indonesia.

***Kata Kunci:*** *rule of reason, persaingan usaha, KPPU*

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**THE CONSIDERATIONS OF THE BUSINESS COMPETITION  
SUPERVISORY COMMISSION IN USING THE RULE OF REASON  
PRINCIPLE APPROACH REVIEWED FROM THE ASPECTS  
OF LEGAL CERTAINTY  
(Study of KPPU Decision Number 31/KPPU-I/2019 And  
KPPU Decision Number 03/KPPU-L/2020)**

**By**

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**ABSTRACT**

This research aims to find out and analyse the use of the rule of reason principle approach carried out by the KPPU in examining and deciding cases of alleged violations of the articles of Law Number 5 of 1999. KPPU as an institution that has great authority and function in the enforcement of competition law in Indonesia, is expected to be able to provide good law enforcement in Indonesia and really realise the principle and purpose of the formation of Law Number 5 of 1999.

This type of research is a normative juridical research that is carried out by researching library materials and secondary data collected through the literature study mechanism. In this study, the author uses deductive techniques and is presented systematically which then draws conclusions to answer the formulation of the problem so that the objectives of this research can be achieved.

Based on the results of research and discussion, it is concluded that the use of the rule of reason principle approach has no firm rules both in material law and formal law of business in Indonesia, so that KPPU in using the rule of reason principle approach based on its initiative in interpellating articles that are suspected of being violated by business actors. For this reason, it is hoped that in the future the state will improve Law Number 5 of 1999 and make firm rules regarding the use of the rule of reason principle approach so that legal certainty for business actors can be better felt in the Unitary State of the Republic of Indonesia.

**Keywords:** rule of reason, business competition, KPPU

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