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Perbandingan Pengaturan Merger Lintas Batas dalam Hukum Persaingan Usaha antara Indonesia dan

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'AZIZAH AZ-ZAHRAH, Irna Nurhayati, S.H., M.Hum., LL.M., Ph.D.

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DAFTAR PUSTAKA

BUKU

Ali, Zainuddin. *Metode Penelitian Hukum*. Jakarta: Sinar Grafika, 2009.

Alison Jones and Brenda Sufrin, "EC Competition Law, Text, Cases, and Materials," (Oxford University Press: New York, 2004).

Black, Henry Campbell *Black's Law Dictionary: Sixth Edition*. St. Paul: West Publishing Co, 1990.

Catur Agus Saptono, *Hukum Persaingan Usaha: Economic Analysis of Law dalam Pelaksanaan Merger* (Jakarta: Kencana Prenada Media Group, 2017).

Fuady, Munir. *Hukum tentang Merger*. Bandung: PT Citra Aditya Bakti, 1999.

Lubis, Andi Fahmi, et al. *Hukum Persaingan Usaha Buku Teks Edisi Kedua*. Jakarta: Komisi Pengawas Persaingan Usaha (KPPU), 2017.

Marzuki, Peter Mahmud. *Penelitian Hukum Edisi Revisi*. Jakarta: Prenadamedia Group, 2005.

Mertokusumo, Sudikno. *Penemuan hukum Sebuah Pengantar*. Yogyakarta: Liberty, 2009.

Mohammad Bedier, *Cross-Border Mergers and Acquisitions The Case of Merger Control v. Merger Deregulation* (Massachusetts USA: Edward Elgar Publishing Limited, 2018).

Nugroho, Susanti Adi. *Hukum Persaingan Usaha di Indonesia, dalam Teori dan Praktik Serta Penerapan Hukumnya*. Jakarta: Kencana, 2012.

Rizkiyana. Rikrik. *Competition Law in Indonesia*. Singapore: LexisNexis, 2014.

Soekanto, Soerjono. *Pengantar Penelitian Hukum*. Jakarta: UI-Press, 1986.

Widjaja, Gunawan. *Merger dalam Perspektif Monopoli: Seri Hukum Bisnis*. Jakarta: Raja Grafindo Persada, 2002.

ARTIKEL JURNAL DAN HASIL PENELITIAN

Alford, Roger P. "The Extraterritorial Application of Antitrust Laws: The United States and European Community Approaches". *Virginia Journal of International Law* 33, no. 1 (1992): 2.



Andreana, Ina Putri dan Anak Agung Sri Utari. "Cross-Border Mergers and Acquisitions Influence of A Company on Workforce Continuity", *Journal of Humanities, Social Sciences and Business (JHSSB)* 2, No. 1 (Desember, 2022): 357-365. <https://doi.org/10.55047/jhssb.v2i1.475>

Andrew I Gavil, William E. Kovacic, dan Jonathan B. Baker, "Antitrust Law in Perspective: Cases, Concepts, and Problems in Competition Policy," (Washington DC: Thompson West, 2002), 934.

Beckler, Richard W., and Matthew H. Kirtland. "Extraterritorial Application of US Antitrust Law: What Is a Direct, Substantial, and Reasonably Foreseeable Effect under the Foreign Trade Antitrust Improvements Act." *Tex. Int'l LJ* 38 (2003): 11.

Bergman, Mats A., Malcolm B. Coate, Maria Jakobsson, and Shawn W. Ulrick. "Merger control in the European Union and the United States: just the facts." *European Competition Journal* 7, no. 1 (2011): 92.

Coeurdacier, Nicolas, et.al. Cross-Border Mergers and Acquisitions and European Integration, Panel Meeting of Economic Policy in Ljubljana ke-47 pada April 2008, Great Britain, 2009, hlm. 58.

Endik Wahyudi dan Wahyu Prakoso, "Urgensi Penerapan Prinsip Ekstrateritorial Bagi Penegakan Hukum Persaingan Usaha Di Indonesia" *Lex Jurnalica* 18, no.3 (Desember 2021): 260.

Fahamsyah, Ermanto, dan Fadhila Atika Sari, "Post-Notification Arrangements in Merging Business Entities (Mergers) as an Effort to Prevent Unfair Business Competition" *Lentera Hukum* 6, No. 2 (2019): 215-224. <https://doi.org/10.19184/ejh.v6i2.9970>.

Gaung Aidaferti Zelina CH, "Cross-Border Competition Framework: Implementasi Prinsip Ekstrateritorialitas Pada Penerapan Hukum Persaingan Usaha Indonesia di Bawah Undang-Undang Nomor 5 Tahun 1999" *Santher* 2, no. 2 (2023): 195, DOI: 10.36526/js.v7i2.

Gaung Aidaferti Zelina CH, "Implikasi Hukum Peraturan KPPU Nomor 3 Tahun 2023 Terhadap Merger yang Dilakukan Investor Asing ke Indonesia Terkait Fungsi Pengawasan KPPU dalam Proses Merger" (Tesis, Universitas Indonesia, 2023).

Hu Zhe, "Cross-Border Mergers & Acquisitions and the Legal Response of Host Countries" (Doctoral Dissertation, National University of Singapore, 2005).

Jedin, Mohd Haniff, "Trends and regional patterns of cross-border mergers and acquisitions: A case of Malaysian and Indonesian acquirers". *Journal of International Studies*, 8, (2012): 99-113.



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Universitas Gadjah Mada, 2024 | Diunduh dari <http://etd.repository.ugm.ac.id/>

Jennifer K. Mammen; Daniel C. Schwartz, "The Expanded Role of CFIUS in International Business Transactions after FIRRMA," *International Business Law Journal* 2019, no. 1 (2019), 55.

Jones and Sufrin on 1238 dalam Ryan Paul Knott, "Extraterritoriality, the Effects Doctrine and Enforcement Cooperation Through Bilateral Agreements with Regards to Antitrust Law" (Tesis, University of Johannesburg, 2010).

Jordan A. Dresnick, Kimberley A. Piro and Israel J. Encinosa, "The United States as Global Cop: Defining the 'Substantial Effects' Test in U.S. Antitrust Enforcement in the Americas and Abroad" *The University of Miami Inter-American Law Review* 40, no. 3 (Spring, 2009), 483.

Juwana, Hikmahanto, "An Overview of Indonesia's Anti Monopoly Law," *Washington University Global Studies Law Review* 1 (2002), 185.

Kevin B. Goldstein, "Reviewing Cross-Border Mergers and Acquisitions for Competition and National Security: A Comparative Look at How the United States, Europe, and China Separate Security Concerns from Competition Concerns in Reviewing Acquisitions by Foreign Entities," *Tsinghua China Law Review* 3, no. 2 (Spring 2011), 241.

King, Jaime S. dan Erin C. Fuse Brown, "The Anti-Competitive Potential of Cross-Market Mergers in Health Care," *Saint Louis University Journal of Health Law & Policy* 11, no. 1 (2017): 67.

Ky P. Ewing Jr., "United State Merger Notification Regime," *International Business Lawyer* 26, no. 3 (March, 1998): 123.

N.H., Kang, and Johansson, S., "Cross-border Mergers and Acquisitions: Their Role in Industrial Globalization", DSTI/DOC (2000) 1. Internal Working Paper, OECD, Paris, 2000, hlm. 30.

OECD, "Roundtable on The Standard For Merger Review, With A Particular Emphasis On Country Experience With The Change of Merger Review Standard From The Dominance Test To The Slc/Siec Test" Policy Roundtables, OECD, 2009.

P.I. Bhat. "Comparative Method of Legal Research: Nature, Process and Potentially". *Journal of the Indian Law Institute* 57, no. 2 (2015): 149, <https://www.jstor.org/stable/44782499>.

Panagiotis N Fotis & Michael L Polemis, "The Use of Economic Tools in Merger Analysis: Lessons from US and EU Experience", *European Competition Journal* 7, no. 2, (2011): 323, DOI: 10.5235/174410511797248333.



Pierce, Richard J. "Comparing the Competition Law Regimes of the United States and India." *National Law School of India Review* 29, 1 (2017): 50. <http://www.jstor.org/stable/26459200>.

Rakic, Ivana. "Cross-Border Mergers and Competition Law: An Overview of Comparative Practice". Conference Paper dipresentasikan pada Globalization and Law International Scientific Conference, 2017, hlm. 449.

Randolph W. Tritell, "International Aspects of United States Merger Review Policy" *Federal Trade Commission* (2000), 7.

Rastislav Funta, "Extraterritorial Application of US-Antitrust Law on Global Cartels From Comparative (EU Law) Perspective," *The Lawyer Quarterly* 3 (2018): 214.

Roger P. Alford, "The Extraterritorial Application of Antitrust Laws: The United States and European Community Approaches", *Virginia Journal of International Law* 33, no.1 (1992), 8.

Rogers, C. Paul. "A Concise History of Corporate Mergers and the Antitrust Laws in the United States." *National Law School of India Review* 24, no. 2 (2013): 21, <http://www.jstor.org/stable/44283759>.

Rusinski, Michal. "World Investment Report 2000: Cross-Border Mergers and Acquisitions and Development," *Polish Quarterly of International Affairs* 9, no. 4 (2000): 3-339.

Sirait, Ningrum Natasya. "The development and progress of competition law in Indonesia." *The Antitrust Bulletin* 54, 1 (2009): 19.

Syarah Meiriska Dewi, Siti Anisah, "Comparative Study on the Application of Extraterritorial Jurisdiction in Competition Law Between Indonesia and US Anti-Trust Law", *INJURLENS* 2, Issue 1, (April 2022), 8.

W. J., Kamba, "Comparative Law: A Theoretical Framework." *The International and Comparative Law Quarterly* 23, no. 3 (1974): 485–519, <http://www.jstor.org/stable/757885>.

Wicaksono, Muhammad Rifky, Kusuma Raditya, Laurensia Andrin, dan Muhammad Hawin. "Implementing the Extraterritoriality Principle to Strengthen Competition Law Enforcement in Indonesia in the AEC Era: A Comparative Study" *Indonesia Law Review* 9, no. 1 (2019): 36, <https://doi.org/10.15742/ilrev.v9n1.498>.

Yusuf, Muhammad Fadhal, "Reformulasi Sistem Post Merger Notification untuk Menghindari Rechtsvacuum Pembatalan Merger oleh KPPU" *Jurnal Persaingan Usaha* 2, no. 2 (2022): 112.



Zulheri. "Competition Merger Review for Cross-Border Mergers and Acquisitions in Indonesia." *Indonesian Law Review*. 7 (2017): 395-417.

INTERNET

Aimen Mir, Christine Laciak and Sarah Melanson, "United States: CFIUS Review", [globalcompetitionreview.com](https://globalcompetitionreview.com/review/the-antitrust-review-of-the-americas/2022/article/united-states-cfius-review), <https://globalcompetitionreview.com/review/the-antitrust-review-of-the-americas/2022/article/united-states-cfius-review> (diakses pada 30 Mei 2024).

Ashwin. "Regulation of Cross-Border Mergers and Acquisitions in India, UK and USA" https://enhelion.com/blogs/2023/07/12/regulation-of-cross-border-mergers-and-acquisitions-in-india-uk-and-usa/#_ftn16 (diakses pada 20 Februari 2024).

Baker McKenzie. "United States: 2024 HSR Notification Thresholds Announced." [Globalcompliancencnews.com](https://www.globalcompliancencnews.com/2024/02/08/https-insightplus-bakermckenzie-com-bm-antitrust-competition_1-united-states-2024-hsr-notification-thresholds-announced_01242024/#:~:text=Notification%20Threshold%2C%20%E2%80%9CSize%20of%20Transaction%E2%80%9D%20Test%2C%20%E2%80%9CSize,million;%20Other%20party%20$22.3%20million%2C%20$445.5%20million%2C). [https://www.globalcompliancencnews.com/2024/02/08/https-insightplus-bakermckenzie-com-bm-antitrust-competition_1-united-states-2024-hsr-notification-thresholds-announced_01242024/#:~:text=Notification%20Threshold%2C%20%E2%80%9CSize%20of%20Transaction%E2%80%9D%20Test%2C%20%E2%80%9CSize,million;%20Other%20party%20\\$22.3%20million%2C%20\\$445.5%20million%2C](https://www.globalcompliancencnews.com/2024/02/08/https-insightplus-bakermckenzie-com-bm-antitrust-competition_1-united-states-2024-hsr-notification-thresholds-announced_01242024/#:~:text=Notification%20Threshold%2C%20%E2%80%9CSize%20of%20Transaction%E2%80%9D%20Test%2C%20%E2%80%9CSize,million;%20Other%20party%20$22.3%20million%2C%20$445.5%20million%2C) (diakses pada 13 Mei 2024).

Benson, Michael D. "Cross-Border M&A Activity on the Rise." <https://www.plasticstoday.com/business/cross-border-m-a-activity-on-the-rise> (diakses pada 20 Februari 2024).

Chandrawati Dewi, Gustaaf Reerink, dan Bilal Anwari. "Indonesian Competition Commission Rolls Out Major Overhaul of Merger Control Regime", ABNRLaw.com <https://www.abnrlaw.com/news/indonesian-competition-commission-rolls-out-major-overhaul-of-merger-control-regime> (diakses pada 5 Maret 2024).

Chandrawati Dewi, Gustaaf Reerink, dan Bilal Anwari., "Merger Control – Indonesia", Lexology.com (diakses pada 30 Juni 2024).

Carter Ledyard, "The Expanding Scope of CFIUS's Jurisdiction and Mandatory Reporting", clm.com, <https://www.clm.com/the-expanding-scope-of-cfiuss-jurisdiction-and-mandatory-reporting/#:~:text=The%20regulations%20define%20%E2%80%9CCritical%20Technologies,the%20Nuclear%20Regulatory%20Commission%20and> (diakses pada 30 Juni 2024).

Davis Polk, Wardwell LLP, "Merger Control Worldwide 2023", Lexology.com (diakses pada 30 Juni 2024).



Federal Register the Daily Journal of the United States Government. "Premerger Notification; Reporting and Waiting Requirements." <https://www.federalregister.gov/documents/2023/01/30/2023-01584/premerger-notification-reporting-and-waiting-period-requirements> (diakses pada 13 mei 2024).

Greg Roumeliotis, "U.S. Blocks MoneyGram Sale to China's Ant Financial on National Security Concerns" <https://www.reuters.com/article/idUSKBN1ET039/> (diakses pada 1 Juni 2024).

Mergerfilers Global Legal Guides. "Merger Filing Guide." <https://www.mergerfilers.com/guide.aspx?expertjuris=UnitedStates#guidebook> (diakses pada 13 Mei 2024).

PWC, "PwC Indonesia, Mergers and Acquisition Update 2023" <https://www.pwc.com/id/en/publications/deals/mergers-acquisition-update-2023.pdf> (diakses pada 20 Februari 2024).

Stefan. "Cross-Border Mergers and Acquisitions: Challenges and Best Practices for International Deals." <https://www.docurex.com/en/cross-border-mergers-and-acquisitions/> (diakses pada 20 Februari 2024).

UNCTAD, "World Investment Report 2000: Cross-Border Mergers and Acquisitions and Development" https://unctad.org/system/files/official-document/wir2000_en.pdf (diakses pada 20 Februari 2024).

U.S. Department of the Treasury Office of Public Affairs, "Fact Sheet: Final CFIUS Regulations Implementing FIRMA", [treasury.gov](https://home.treasury.gov/system/files/206/Final-FIRMA-Regulations-FACT-SHEET.pdf), <https://home.treasury.gov/system/files/206/Final-FIRMA-Regulations-FACT-SHEET.pdf> (diakses pada 30 Juni 2024).

PERATURAN PERUNDANGAN-UNDANGAN DAN PEDOMAN ATURAN

Horizontal Merger Guidelines U.S. Department of Justice and the Federal Trade Commission 2023.

KPPU, *Pedoman Penilaian terhadap Penggabungan, Peleburan, atau Pengambilalihan*, (Jakarta: KPPU-RI, 2020).

Lampiran Peraturan KPPU No. 1 Tahun 2009 tentang Petunjuk Pelaksanaan Pra Notifikasi Penggabungan, Peleburan, dan Pengambilalihan.

Peraturan KPPU Nomor 2 Tahun 2013 tentang Pedoman Pelaksanaan tentang Penggabungan atau Peleburan Badan Usaha dan Pengambilalihan Saham Perusahaan yang Dapat Mengakibatkan terjadinya Praktik Monopoli dan Persaingan Usaha Tidak Sehat yang menggantikan Peraturan KPPU Nomor 13 Tahun 2010.



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Peraturan KPPU Nomor 2 Tahun 2023 tentang Tata Cara Penanganan Perkara Praktik Monopoli dan Persaingan Usaha Tidak Sehat.

Peraturan KPPU Nomor 3 Tahun 2023 tentang Penilaian Terhadap Penggabungan, Peleburan, atau Pengambilalihan Saham dan/atau Aset Yang Dapat Mengakibatkan Terjadinya Praktik Monopoli dan/atau Persaingan Usaha Tidak Sehat yang menggantikan Peraturan KPPU Nomor 3 Tahun 2019.

Peraturan Pemerintah Nomor 57 Tahun 2010 tentang Penggabungan atau Peleburan Badan Usaha dan Pengambilalihan Saham Perusahaan yang Dapat Mengakibatkan Terjadinya Praktik Monopoli dan Persaingan Usaha Tidak Sehat.

Undang-Undang Nomor 5 Tahun 1984 tentang Perindustrian.

Undang-Undang Nomor 5 Tahun 1999 tentang Larangan Praktek Monopoli dan Persaingan Usaha.

PUTUSAN

Komisi Pengawas Persaingan Usaha V. PT Pertamina dkk. Keputusan KPPU Nomor 07/KPPU-L/2004.

Komisi Pengawas Persaingan Usaha V. PT Telekomunikasi Selular, dkk. Keputusan KPPU Nomor 07/KPPU-L/2007.

Komisi Pengawas Persaingan Usaha V. Nippo Corporation. Keputusan KPPU Nomor 16/KPPU-M/2023.

United States v. Aluminum Co. of America.

Hartford Fire Ins. Co. v. California (1993).

United States v. Nippon Paper Industries Co.