

## **Evaluating Merger Control Frameworks in the Telecommunications Sector: A Comparative Study between Indonesia and South Korea**

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### **ABSTRACT**

This research examines merger control frameworks in the telecommunications sector through a comparative analysis of Indonesia and South Korea. Over the past decade, Indonesia's telecommunications sector has undergone significant consolidation in which the number of operators has reduced from eight to three, raising questions about the adequacy of its merger control framework. South Korea offers a valuable comparison, having developed a merger control framework that involves the sectoral regulators into the assessment of potential anti-competitive effects.

Through the normative-empirical approach, this research analysed primary legal materials, including Indonesia's Law No. 5 of 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition and South Korea's Monopoly Regulation and Fair Trade Act, alongside the implementing regulations and the competition authorities' decisions of notified telecommunications mergers. The comparative analysis uncovered differences in how each jurisdiction structure their institutions, design the procedures, and assess telecommunications mergers.

The findings reveal that Indonesia prioritizes procedural efficiencies through its post-merger notification system, but is limited in their capacity to effectively prevent anti-competitive risks in highly concentrated and regulated markets such as telecommunications. In contrast, South Korea demonstrates greater effectiveness through its pre-merger notification system, sectoral coordination, and continually adapted assessment criteria. Conclusively, this research finds that Indonesia strengthen its merger control framework by adopting key elements of South Korea's approach, particularly pre-merger assessments, formalized coordination with sectoral regulators, and adapting assessment methodologies and criteria according to evolving market circumstances and merger types. However, these reforms should be implemented with clear coordination protocols to avoid the jurisdictional conflicts that complicated South Korea's early implementation.

**Keywords:** Merger Control, Telecommunications Regulation, Competition Law, Indonesia, South Korea, Institutional Coordination, Law

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## Evaluasi Kerangka Pengawasan Merger di Sektor Telekomunikasi: Studi Komparatif antara Indonesia dan Korea Selatan

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### INTISARI

Penelitian ini mengkaji kerangka pengawasan merger di sektor telekomunikasi melalui analisis komparatif antara Indonesia dan Korea Selatan. Dalam dekade terakhir, sektor telekomunikasi di Indonesia telah mengalami konsolidasi signifikan di mana jumlah operator berkurang dari delapan menjadi tiga, menimbulkan pertanyaan tentang kapasitas kerangka pengawasannya. Korea Selatan merupakan perbandingan yang relevan, karena telah mengembangkan struktur pengawasan ganda di mana pengawasan telekomunikasi khusus melengkapi penegakan hukum persaingan umum.

Melalui pendekatan normatif-empiris, penelitian ini menganalisis bahan hukum primer, termasuk UU No. 5 Tahun 1999 tentang Larangan Praktek Monopoli dan Persaingan Usaha tidak Sehat dan *Monopoly Regulation and Fair Trade Act*, beserta peraturan pelaksana dan keputusan lembaga persaingan usaha atas notifikasi merger telekomunikasi. Analisis komparatif mengungkapkan perbedaan dalam cara masing-masing yurisdiksi menyusun institusinya, merancang prosedurnya, dan menilai merger telekomunikasi.

Hasil penelitian mengungkapkan bahwa Indonesia lebih menekankan efisiensi prosedural melalui sistem notifikasi pasca-merger, namun terbatas dalam kapasitasnya untuk mencegah risiko anti-persaingan secara efektif di pasar yang sangat terkonsentrasi dan teregulasi seperti telekomunikasi. Sebaliknya, Korea Selatan menunjukkan efektivitas lebih tinggi melalui sistem notifikasi pra-merger, koordinasi sektoral, serta kriteria penilaian yang terus disesuaikan. Secara kesimpulan, penelitian ini menemukan bahwa Indonesia dapat memperkuat kerangka pengawasan mergernya dengan mengadopsi elemen-elemen tertentu dari pendekatan Korea Selatan, khususnya penilaian pra-merger, koordinasi formal dengan regulator sektoral, dan mengadaptasi metodologi dan kriteria penilaian sesuai dengan keadaan pasar yang berkembang dan jenis merger. Namun demikian, reformasi ini harus diimplementasikan dengan protokol koordinasi yang jelas untuk menghindari konflik yurisdiksi yang memperumit implementasi awal Korea Selatan.

**Kata kunci:** Pengawasan Merger, Regulasi Telekomunikasi, Hukum Persaingan Usaha, Indonesia, Korea Selatan, Koordinasi Kelembagaan, Hukum

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