

Tentang Larangan Praktek Monopoli dan Persaingan Usaha

Tidak Sehat dalam Perdagangan Garam Industri

Aneka Pangan di Indonesia (Studi Kasus

Putusan KPPU Nomor: 09/KPPU-I/2018)

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INTISARI

Penelitian dalam Penulisan Hukum ini bertujuan untuk menganalisis kedudukan hukum Surat Rekomendasi dan Surat AIPGI dalam kasus perdagangan garam industri aneka pangan di Indonesia ditinjau dari hukum perjanjian dan mengetahui penerapan Pasal 11 Undang-Undang Anti Monopoli dalam Putusan KPPU Nomor: 09/KPPU-I/2018.

Penelitian ini dilakukan secara normatif dan didukung dengan wawancara sebagai data penunjang. Jenis penelitian ini dilakukan dengan cara meneliti bahan pustaka primer, sekunder, dan tersier serta pelaksanaan wawancara untuk memperoleh data pendukung. Data kemudian dianalisis dengan menggunakan metode kualitatif dan selanjutnya disajikan secara deskriptif, sehingga nantinya akan diperoleh kesimpulan yang dapat menjawab permasalahan.

Berdasarkan hasil penelitian dapat disimpulkan walaupun Surat Rekomendasi dan Surat AIPGI memenuhi syarat sah suatu perjanjian sebagaimana Pasal 1320 Kitab Undang-Undang Hukum Perdata, namun bentuk dan isi kedua surat tersebut tidak dapat dikategorikan sebagai perjanjian dan hanya berupa usulan semata. Bahwa yang memiliki kekuatan hukum mengikat sebagaimana hukum perjanjian adalah perjanjian tidak tertulis yang dilakukan Para Terlapor. Hasil penelitian juga menyimpulkan Para Terlapor tidak terbukti melakukan pelanggaran terhadap Pasal 11 Undang-Undang Anti Monopoli sebagaimana dugaan dari investigator KPPU, serta penerapan Pasal 11 Undang-Undang Anti Monopoli dalam Putusan KPPU Nomor: 09/KPPU-I/2018 sudah tepat.

Kata Kunci: Kartel, Perjanjian, Persaingan Usaha Tidak Sehat.

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Analysis of Violation toward Regulation Number 5 of 1999 on Prohibition of Monopoly Practice and Unfair Business Competition in Salt Industry Commerce in Indonesia (Case Study on KPPU's Verdict Number: 09/KPPU-I/2018)

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ABSTRACT

This research aims to analyze the legal position of Recommendation Letter and AIPGI Letter in salt industry commerce case in Indonesia in the perspective of contractual law and to find out the application of Article 11 of Anti-Monopoly Law in KPPU's Verdict Number: 09/KPPU-I/2018.

This research is a juridical legal research with an interview as supporting data. This type of research was conducted by examining primary, secondary, and tertiary library materials and also by conducting an interview to obtain supporting data. The data then analyzed by using the qualitative methods and then presented in a description approach, so it can obtained conclusions that can answer the problems.

Based on the results of the research it can be concluded that although the Recommendation Letter and AIPGI Letter meet the legal requirements of a contract according to Article 1320 of Indonesia Civil Code, however the form and content of the two letters cannot be categorized as an agreement and only as a form of proposal or suggestion. On the other side the one that have a binding legal force as an contract is the unwritten agreement made by the reported parties. This research also concluded that the reported parties were not proven to violated Article 11 of of Anti-Monopoly Law as alleged by KPPU's investigator, so the application Article 11 of of Anti-Monopoly Law in KPPU's Verdict Number: 09/KPPU-I/2018 was appropriate.

Keywords: Cartel, Agreement, Unfair Business Competition.

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