

**IMPORTASI BAWANG PUTIH DITINJAU DARI UNDANG-UNDANG  
NOMOR 5 TAHUN 1999 TENTANG LARANGAN PRAKTIK  
MONOPOLI DAN PERSAINGAN USAHA TIDAK SEHAT  
(STUDI KASUS : PUTUSAN KPPU PERKARA NOMOR 05/KPPU-I/2013)**

**INTISARI**

Oleh :

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Penelitian ini bertujuan yaitu: (1) untuk mengetahui pelaku usaha dan pengaturan importasi bawang putih memenuhi persyaratan ketentuan Pasal 50 huruf a Undang-Undang No.5/1999, (2) untuk mengetahui pertimbangan KPPU mengenai adanya pelanggaran Pasal 19 huruf c tentang Penguasaan Pasar dan Pasal 24 tentang Persekongkolan dalam Undang-Undang No.5/1999 sesuai dengan perspektif Hukum Persaingan Usaha.

Penelitian ini merupakan penelitian hukum normatif menggunakan data sekunder diperoleh melalui penelitian kepustakaan dan dianalisis secara kualitatif.

Hasil penelitian: Pertama, pelaku usaha dan pengaturan importasi bawang putih tidak memenuhi persyaratan ketentuan Pasal 50 huruf a Undang-Undang No.5/1999. Importasi bawang putih oleh Pelaku Usaha Hortikultura perkara Putusan KPPU No.05/KPPU-I/2013 tidak dikecualikan Pasal 50 huruf a Undang-Undang No.5/1999. Karena Pelaku Usaha melakukan importasi bukan bertujuan melaksanakan peraturan perundang-undangan yang berlaku melainkan hanya berdasarkan Peraturan Menteri Pertanian tentang RIPH dan Peraturan Menteri Perdagangan tentang Ketentuan Impor Produk Hortikultura delegasi tegas dari Undang-Undang Hortikultura, dan pelaku usaha importasi bukan pelaku usaha yang dibentuk/ditunjuk oleh Pemerintah. Kedua, pertimbangan KPPU mengenai adanya pelanggaran Pasal 19 huruf c Undang-Undang No.5/1999 tentang Penguasaan Pasar dan Pasal 24 Undang-Undang No.5/1999 tentang Persekongkolan sesuai perspektif hukum persaingan usaha. Ditinjau dari *Rule of Reason* menunjukkan penguasaan pasar ada hubungan afiliasi antara Terlapor dan tidak realisasi impor sesuai kuota RIPH disetujui serta jangka waktu SPI dipersyaratkan sehingga kelangkaan pasokan bawang putih berdampak lonjakan harga di pasar. Berdasarkan *Per se Illegal* dilarang persekongkolan pelaku usaha dengan distorsi Kementerian Perdagangan RI tidak mensosialisasikan resmi perpanjangan jangka waktu SPI menghambat hanya beberapa pelaku usaha diterbitkan perpanjangan SPI tidak ada dasar hukum. Perilaku itu menyebabkan persaingan usaha tidak sehat importasi bawang putih.

Kata Kunci: importasi, penguasaan pasar, persekongkolan, persaingan usaha tidak sehat.

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**GARLIC IMPORTATION BASED ON ACT NUMBER 5 YEAR 1999  
ON THE PROHIBITION OF MONOPOLY PRACTICES  
AND UNFAIR BUSINESS COMPETITION  
(CASE STUDY: KPPU'S VERDICT NUMBER 05/KPPU-I/2013)**

**ABSTRACT**

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The purposes of this research are: (1) to find out whether business entities and the provision of garlic importation has met the requirement of Article 50 point a Act Number 5 Year 1999, (2) to find out whether the judgement of KPPU on the violation of Article 19 point c concerning Market Control and Article 24 Act Number 5 Year 1999 concerning Conspiracy has been in line with Anti-Competition Law's perspective.

This research is a normative legal research which using secondary data obtained from literary research which were analyzed qualitatively.

Research findings: First, business entity and garlic importation regulation did not meet the requirement of Article 50 point a Act Number 5/1999. Garlic importation of horticulture business entity in the KPPU's Verdict No. 05/KPPU-I/2013 is not exempted by Article 50 point a Act Number 5/1999. This is caused by the business entities conducting such importation were not intended to implement the existing regulations, the above mentioned business entities were carrying out the obligation arising from the Regulation of Agriculture Ministry in regards of RIPH and the Regulation of Ministry of Trade in regards of the Importation Provisions of Horticulture Products as explicit delegation from the Horticulture Law, and the business entities carrying out the importation were not the institution designed/appointed by the Government. Secondly, the judgements of KPPU relating to the existence of violation of Article 19 point c Act of Number 5/1999 concerning Market Control and Article 24 Act Number 5/1999 concerning conspiracy have been in line with the anti-competition law's perspective. Reviewed from *Rule of Reason* that there is market control because of affiliations between the Defendant, unrealized import quota according to the approved RIPH's quota and SPI's required period. These situations then lead to a significant hike of garlic's price in the market. Based on *Per Se Illegal*, conspiracy between business entities and government's distortion are prohibited. The Ministry of Trade of RI did not formally socialized extension of SPI which led to hamper only a few business entities got the issuance of SPI extension with no legal framework. Such behaviour have resulted an unfair competition on garlic importation.

Key Words: importation, market control, conspiracy, unfair business competition.

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