

**ANALISIS YURIDIS TENTANG KARTEL BAN KENDARAAN
BERMOTOR RODA EMPAT DALAM PERSPEKTIF
HUKUM PERSAINGAN USAHA (Studi Kasus
Putusan KPPU Nomor 08/KPPU-I/2014)**

Oleh:

Andi Bikar Putra¹, Anna Maria Tri Anggraini²

INTISARI

KPPU adalah lembaga yang dibentuk berdasarkan UU No. 5 Tahun 1999 (UU Persaingan Usaha) yang berwenang untuk melakukan pengawasan dan penyelesaian perkara hukum persaingan usaha di Indonesia. KPPU meneliti dan mengamati adanya dugaan pelanggaran atau terjadinya persaingan usaha tidak sehat pada Industri ban di Indonesia, dan menetapkan enam pelaku usaha anggota Asosiasi Pengusaha Ban Indonesia (APBI) sebagai terlapor. Selanjutnya, memeriksa dan memutus perkara telah terjadi pelanggaran dalam perjanjian yang dilarang dalam pemasaran ban di Indonesia yang diputus dalam Putusan No.08/KPPU-I/2014.

Penelitian ini adalah penelitian hukum normatif dengan tipe penelitian deskriptif. Pendekatan masalah yang digunakan adalah pendekatan normatif terapan. Data yang digunakan adalah data sekunder yang terdiri dari bahan hukum primer, bahan hukum sekunder dan bahan hukum tersier. Pengumpulan data dilakukan dengan studi pustaka dan studi dokumen. Pengolahan data dilakukan dengan cara pemeriksaan data, rekonstruksi data dan sistematisasi data yang selanjutnya dilakukan analisis secara kualitatif.

Hasil penelitian dan pembahasan menunjukkan bahwa kartel dilarang dalam Undang-Undang No. 5 Tahun 1999 tentang Larangan Praktek Monopoli dan Persaingan Usaha Tidak Sehat yang terdapat dalam Pasal 5 (penetapan harga) dan Pasal 11 (kartel) UU Persaingan Usaha. Pandangan hukum Majelis Komisi Persaingan Usaha dengan hasil pemeriksaan menggunakan analisis rumusan pasal dan pendekatan per se Illegal, rule of reason menyatakan bahwa para terlapor terbukti secara sah memenuhi unsur pelanggaran Pasal 5 (penetapan harga) dan Pasal 11 (kartel) UU Persaingan Usaha dan dimuat dalam Putusan KPPU Nomor 08/KPPU-I/2014. Pelanggaran persaingan usaha yang dilakukan para terlapor tersebut menimbulkan kondisi persaingan usaha yang tidak sehat (monopoli), karena kebutuhan produksi dan harga ban di Indonesia hanya dapat terpenuhi oleh beberapa perusahaan ban yang tergabung sebagai anggota APBI. Untuk itu, Majelis Komisi menetapkan sanksi hukum bagi para terlapor akibat pelanggaran tersebut yaitu denda masing-masing sebesar Rp. 25.000.000.000 (dua puluh lima milyar rupiah).

Kata Kunci : KPPU, Perjanjian yang Dilarang, Monopoli, Kartel
YURIDICAL ANALYSIS OF FOOTWEAR MOTOR VEHICLE CARTELS

¹ Mahasiswa Program Magister Ilmu Hukum, Fakultas Hukum, Universitas Gadjah Mada.

² Dosen Program Magister Hukum, Fakultas Hukum, Universitas Gadjah Mada.

IN PERSPECTIVE THE LAW OF BUSINESS COMPETITION

By:

Andi Bikar Putra³, Anna Maria Tri Anggraini⁴

ABSTRACT

KPPU is an institution established under Law no. 5 of 1999 (Business Competition Law) authorized to conduct supervision and settlement of business competition law cases in Indonesia. KPPU examines and observes allegations of violation or unfair business competition in the tire industry in Indonesia, and establishes six business players of the Association of Indonesian Ban Entrepreneurs (APBI) as reported. Furthermore, examining and deciding cases has been a breach of the prohibited agreement in tire marketing in Indonesia which was decided in Decision No.08 / KPPU / I / 2014. Therefore, this study examines and discusses the alleged breach of agreement prohibited in tire marketing in Indonesia, the legal considerations of KPPU for the breach of agreement prohibited in tire marketing and legal consequences for violations stipulated by KPPU in its decision about the violation in tire marketing at Indonesia.

This research is normative law research with descriptive research type. The problem approach used is the applied normative approach. The data used are secondary data consisting of primary legal materials, secondary legal materials and tertiary legal materials. The data collection was done by literature study and document study. Data processing is done by examination of data, data reconstruction and systematization of data which then conducted qualitative analysis.

The results of the study and discussion show that the cartel is prohibited in Law no. 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition contained in Article 5 (pricing) and Article 11 (cartel) of the Business Competition Law. The legal view of the Commission of Business Competition Competition with the results of the examination using the analysis of the article formulas and the approach per se Illegal, the rule of reason states that the reporters proved to legally comply with the violation of Article 5 (pricing) and Article 11 (cartel) of Business Competition Law and contained in Decision of KPPU Number 08 / KPPU-I / 2014. The violation of business competition conducted by the reporters resulted in unfair business competition condition (monopoly), because production requirement and tire price in Indonesia can only be fulfilled by some tire companies that joined as member of APBI. To that end, the Commission Assembly set a legal sanction for the reported as a result of the violation of the respective fines of Rp. 25,000,000,000 (twenty five billion rupiahs)

Keywords : KPPU, Forbidden Agreement, Monopoly, Cartel

³ Student of Law Master, Faculty of Law, Gadjah Mada University.

⁴ Lecture of Law Master, Faculty of Law, Gadjah Mada University.