

The Legal Analysis of KPPU's Authority in Merger Control Over State-Owned Enterprises Merger With Potential Monopolistic Impact in Indonesia

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ABSTRACT

This legal research is aimed to understand the concept of merger protection specifically in State-Owned Enterprises and the boundaries set by Indonesia's Competition Law to distinguish State-Owned Enterprises that may or may not conduct monopolistic practices in Indonesia.

This legal research will employ normative legal research format. The normative legal research is carried out through analysis of the relevant law and legislations to discover the legal application on the scope of Article 51 of Indonesia's Competition Law towards State-Owned Enterprises in Indonesia. Further, the implication of Article 51 of Indonesia's Competition Law towards merger control obligation within Article 29 of Indonesia's Competition Law, through books, journals, articles, and other materials.

The findings of this research show that Article 51 of Indonesian Competition Law has not provide clear explanation for the threshold of Article 51 of Indonesian Competition Law to be executed. Thus, it is important to take into account proper merger control for state-owned enterprises merger as not all state-owned enterprises is exempted from competition law.

Keyword : Competition Law, Merger Control, State-Owned Enterprises

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Analisa Yuridis Terhadap Wewenang KPPU dalam Merger Control Terhadap Merger Badan Usaha Milik Negara (BUMN) Yang Memiliki Potensi Monopoli di Indonesia

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Intisari

Penelitian ini bertujuan untuk mendapatkan pemahaman atas konsep perlindungan merger khususnya terhadap Badan Usaha Milik Negara (BUMN) dan batasan yang terkandung dalam Undang-Undang Tentang Larangan Praktik Monopoli dan Persaingan Tidak Sehat (UU No. 5 Tahun 1999), untuk membedakan BUMN mana sajakah yang berhak melakukan monopoli di Indonesia.

Penelitian ini dilakukan melalui metode pendekatan normatif. Metode akan dilakukan dengan melakukan analisa terhadap Undang-Undang dan peraturan terkait untuk mendapatkan bentuk aplikasi dan lingkup Pasal 51 UU No. 5 Tahun 1999 terhadap BUMN di Indonesia. Kemudian, implikasi dari Pasal 51 UU No. 5 Tahun 1999 terhadap kewajiban merger control yang terkandung dalam Pasal 29 UU No. 5 Tahun 1999, melalui buku, jurnal, artikel, dan materi terkait.

Hasil penelitian ini menunjukkan bahwa Pasal 51 UU No. 5 Tahun 1999 belum memiliki kejelasan terhadap elemen-elemen dalam pasal. Maka, sangat perlu dilakukan merger control terhadap BUMN dikarenakan tidak semua BUMN memiliki hak monopoli.

Kata Kunci : Hukum Persaingan Usaha, Merger Control, Badan Usaha Milik Negara (BUMN)

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