

Monpoli atas essential oleh badan usaha dalam persepektif hukum persaingan

M. Hadi Susanto, author

Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=124205&lokasi=lokal>

Abstrak

Penelitian ini bersifat preskriptif, menggunakan metode penelitian yuridis normatif dan metode perbandingan hukum dengan data sekunder yang diperoleh melalui studi kepustakaan sebagai sumber datanya. Implementasi ketentuan Pasal 33 UUD 1945 telah mengakibatkan struktur monopoli pada sektor-sektor industri yang terkait dengan essential facility. Akan tetapi, quo vadis batasan implementasinya berpotensi terjadinya penyalahgunaan posisi monopoli berupa penutupan akses kepada pelaku usaha lain sehingga berdampak pada pasar hulu maupun pasar hilir.

Dalam perspektif hukum persaingan, essential facility merupakan sumber daya yang sangat penting bagi kelangsungan persaingan usaha sehingga tindakan penutupan akses atas essential facility memiliki dampak mematikan iklim persaingan. Oleh karena itu, diperlukan parameter, konsep pengaturan bahkan batasan pengecualian pemberlakuan hukum persaingan terhadap tindakan badan usaha yang memonopoli essential facility.

.....The characteristic of this research is prescriptive; using the normative juridical and law comparison research method with the secondary data that obtained through the study of literature (library research) as a source of data. Implementation of the provisions of Article 33 of Constitution of Indonesia has resulted in the monopoly structure of the sectors related to essential facility. However, obscurity of limits the implementation of a form has the potential occurrence of abuse of monopoly position such as closing access to the other business actor.

In the perspective of competition law, essential facility is a resource that is essential for sustainability of the competition so that the closure of access to essential facility has a impact of lessen in the competition. Therefore, the condition required parameters, concept and the exclusion limits of competition law implementation related monopoly of essential facility.