

Joint venture ditinjau dari hukum persaingan usaha : studi komporasi Indonesia, Jepang, Singapura, Amerika Serikat, dan Uni Eropa =
Reviewed joint venture from business competition law : comparison study between Indonesia, Japan, Singapore, United States of America and European Union

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Abstrak

Tesis ini membahas mengenai studi perbandingan pengaturan joint ventures di Indonesia dengan beberapa yurisdiksi lain, yaitu Jepang, Singapura, Amerika Serikat, dan Uni Eropa. Studi perbandingan pengaturan joint ventures tersebut terutama ditinjau dari aspek hukum persaingan usaha. Penelitian ini adalah penelitian deskriptif dengan pendekatan kualitatif, menggunakan metode penelitian yuridis normatif dan obyek penelitian berbasis norma hukum, baik dalam peraturan perundang-undangan maupun yang sudah secara kongkrit ditetapkan oleh hakim dalam kasus-kasus yang diputuskan di pengadilan. Pengaturan joint ventures dari aspek persaingan usaha di yurisdiksi tersebut belum dilakukan secara khusus melalui suatu undang-undang tersendiri, namun biasanya tersirat dalam pengaturan mengenai persaingan usaha tidak sehat dan antimonopoli.

Hasil penelitian menyarankan sebaiknya Pemerintah Republik Indonesia mempertimbangkan untuk melakukan pengaturan secara khusus mengenai kerja sama antar pelaku usaha dalam bentuk joint ventures melalui peraturan perundang-undangan tersendiri. Pengaturan mengenai joint ventures tersebut sebaiknya menyelaraskan prinsip kebebasan berkontrak oleh para pihak dalam pembentukan joint ventures dengan aspek hukum persaingan usaha dan hukum perusahaan. Hal ini untuk menjamin kepastian hukum dan mendorong terciptanya persaingan usaha secara sehat serta mencegah timbulnya praktek monopoli dalam kerja sama antar pelaku usaha melalui pembentukan joint ventures.

.....This thesis discusses comparative study among some countries, which compare Indonesian joint ventures regulation with other jurisdiction from other countries, such as Japan, Singapore, United States of America, and European Union. This comparative study is reviewed from competition law aspect. This research employs descriptive research method with qualitative approach. To be more specific, this research employs normative research method. This research adapts legal norms for the object of research in legislation. In addition, the cases have been concretely established by the judge and have been decided in the court. Joint ventures regulation from business competition aspect has not been performed particularly through its own legislation but it is generally implicit in the regulation of an unfair business and anti-monopoly.

The result of the research suggest that Indonesian Government should consider doing a special arrangement of cooperation among business in the form of joint ventures through its own legislation. Joint ventures regulation should adapt the principle of contractual freedom by the parties in establishing of joint ventures to legal aspect competition and corporate law. This is aims to ensure legal certainty and encourage a fair competition. In addition, this can prevent monopolistic practice in partnership or business through the establishment of joint ventures.