

Analisis yuridis mengenai penyalahgunaan posisi dominan melalui pemilikan saham = Juridical analysis of the abuse of a dominant position through shareholdership

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Abstrak

[ABSTRAK

Undang-Undang Nomor 5 Tahun 1999 tentang Larangan Praktek Monopoli dan Persaingan Usaha Tidak Sehat bertujuan untuk melindungi pasar agar tetap tercipta persaingan usaha yang efektif, wajar, dan efisien. Undang-Undang ini dapat ditegakkan kepada setiap pelaku usaha. Lingkup dari definisi pelaku usaha dipertanyakan ketika terdapat pelaku usaha asing yang karena aktivitas investasinya di Indonesia dipertanyakan. Berlakunya Undang-Undang kemudian didasarkan pada adanya suatu kendali yang dilakukan oleh induk perusahaan terhadap anak perusahaan. Kendali tersebut dapat diketahui dengan menerapkan suatu doktrin yakni doktrin entitas ekonomi tunggal atau yang lebih dikenal dengan single economic entity doctrine. Metode penelitian adalah metode kepustakaan. Hasil penelitian menunjukkan bahwa cakupan dari definisi "pelaku usaha" dalam Undang-Undang Nomor 5 Tahun 1999 dapat dijembatani oleh doktrin single economic entity yang menjadi dasar berlakunya penerapan Pasal 27 Undang-Undang Nomor 5 Tahun 1999 atas kelompok usaha Temasek.

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ABSTRACT

Law of the Republic Indonesia Number 5 year 1999 concerning Prohibition of Monopolistic Practices and Unfair Bussiness aims to protect markets in order to establish efficient, effective, and fair business competitions. This law can be enforced to every businessman. The scope of businessman definition is under a question if there are foreign businessmen whose investment activities are called into question. The enactment of the law is based on a control done by holding companies to their subsidiaries. The control can be recognized by applying single economic entity doctrine. The method of research utilized in this research is literature method. The result of the research shows that the scope of 'businessman' definiton in the Law Number 5 year 1999 can be associated with the single economic entity doctrine which is the basis of the Article 27 of Law number 5 year 1999 application for Temasek Group., Law of the Republic Indonesia Number 5 year 1999 concerning Prohibition of Monopolistic Practices and Unfair Bussiness aims to protect markets in order to establish efficient, effective, and fair business competitions. This law can be enforced to every businessman. The scope of businessman definition is under a question if there are foreign businessmen whose investment activities are called into question. The enactment of the law is based on a control done by holding companies to their subsidiaries. The control can be recognized by applying single economic entity doctrine. The method of research utilized in this research is literature method. The result of the research shows that the scope of 'businessman' definiton in the Law Number 5 year 1999 can be associated with the single economic entity doctrine which is the basis of the Article 27 of Law number 5 year 1999 application for Temasek Group.]