

Interpretasi eksploitasi konsumen dalam substansi pasal 17 (praktik monopoli) undang-undang Nomor 5 tahun 1999 menurut perspektif persaingan usaha = Interpretation of consumers exploitation in article 17 monopoly practice law number 5 year 1999 under the perspective of competition law

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Abstrak

[ABSTRAK

Monopoli merupakan suatu hal yang tidak melanggar hukum karena dapat terbentuk dari efisiensi pelaku usaha dalam menjalankan proses produksinya. Namun penyalahgunaan Posisi Monopoli atau yang disebut sebagai Praktik Monopoli dalam Undang-Undang Nomor 5 Tahun 1999, sebaliknya merupakan suatu hal dilarang secara tegas melalui Pasal 17. Dampak negatif yang ditimbulkan oleh penyalahgunaan Posisi Monopoli tidak hanya berdampak langsung kepada konsumen, melainkan juga berdampak negatif kepada kesejahteraan pasar secara keseluruhan. Tesis ini membahas interpretasi eksploitasi konsumen dalam substansi Pasal 17 Undang-Undang Nomor 5 Tahun 1999 menurut perspektif Hukum Persaingan Usaha. Tesis ini juga membahas mengenai interpretasi eksploitasi konsumen tersebut dalam Putusan KPPU tentang Praktik Monopoli, yaitu pada Putusan Nomor 07/KPPU-L/2007 tentang Dugaan Pelanggaran oleh Kelompok Usaha Temasek, Putusan Nomor 11/KPPU-L/2008 tentang Pengelolaan Air Bersih di Pulau Batam, dan Putusan Nomor 20/KPPU-I/2009 tentang Jasa Pelayanan Taksi di Bandara Internasional Juanda Surabaya. Penelitian Tesis ini menggunakan metode deskriptif-analisis. Dimana hasil penelitian menyimpulkan bahwa penilaian eksploitasi konsumen dalam substansi Pasal 17 menurut perspektif Hukum Persaingan Usaha dapat dilakukan melalui penilaian terhadap 2 (dua) unsur, yaitu; eksploitasi konsumen dengan membatasi pilihan konsumen atas barang dan jasa melalui Hambatan Masuk (Barriers to Entry) dan eksploitasi konsumen melalui penetapan harga jual yang tinggi. Sementara interpretasi eksploitasi konsumen dalam Putusan KPPU tentang Praktik Monopoli juga menerapkan penilaian terhadap 2 (dua) unsur tersebut, yaitu pada Putusan Nomor 07/KPPU-L/2007 tentang Dugaan Pelanggaran oleh Kelompok Usaha Temasek, Putusan Nomor 11/KPPU-L/2008 tentang Pengelolaan Air Bersih di Pulau Batam, dan Putusan Nomor 20/KPPU-I/2009 tentang Jasa Pelayanan Taksi di Bandara Internasional Juanda Surabaya.

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ABSTRACT

Monopoly was not seen as a law violation, because it could be formed from the efficiency in production process. Meanwhile, the abuse of Monopoly Position or what we know as Monopoly Practices in the Law Number 5 Year 1999 is harmful and legally restricted through Article 17. The negative effects of Monopoly Practices will impact directly to consumer and overall market poverty. This study discussed about the interpretation of consumer exploitation in Article 17 Law Number 5 Year 1999 under Competition Law's Perspective and about the interpretation of consumer exploitation in KPPU's Decision on Monopoly Practice, which are the Decision Number 07/KPPU-L/2007 about Violation Allegation by Temasek, Decision Number 11/KPPU-L/2008 about Clean Waters Management in Batam, Decision Number

20/KPPU-I/2009 about Taxi Service in Juanda International Airport, Surabaya. All of those, studied by using the descriptive-analysis method. The result of this study concluded that the assessment of consumer exploitation in the substance of Article 17 under the Competition Law's Perspective, could be evaluated through 2 (two)

conducts, which are; consumer exploitation by limiting their choice of goods and services through the creation of Barriers to Entry, and consumer exploitation by excessive pricing. Meanwhile, the interpretation of consumer exploitation in KPPU's Decision on Monopoly Practice also assessed those 2 (two) conducts in the Decision

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