

Konsistensi putusan KPPU terhadap pelanggaran persekongkolan tender berdasarkan hukum persaingan usaha = The consistency of the KPPU decision against conspiracy of tender based on competition law

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Abstrak

Putusan KPPU adalah salah satu produk hukum KPPU yang dapat membebankan sanksi tindakan administratif berupa denda kepada pelaku usaha yang terbukti bersalah. Terdapat beberapa perbedaan pembebanan denda dalam beberapa putusan KPPU atas pelanggaran persekongkolan tender, hal inilah yang menjadi latar belakang dalam penelitian. Adapun yang menjadi rumusan masalah adalah bagaimana eksistensi sanksi terhadap pelanggaran hukum persaingan usaha, bagaimana penerapan sanksi terhadap pelanggaran persekongkolan tender oleh KPPU, bagaimana penerapan hukum oleh KPPU dalam putusan nomor 12/KPPU-L/2009, 03/KPPU-L/2011, dan 12/KPPU-L/2013, dan apakah KPPU telah konsisten dalam menerapkan UU 5/1999 dan pedoman pelaksanaan pasal 47 terhadap pelaku usaha yang terbukti bersalah melanggar pasal 22 UU 5/1999. Metode penelitian yang digunakan adalah metode penelitian normatif dengan metode analisis data menggunakan pendekatan kualitatif. Beberapa teori yang digunakan diantaranya teori koherensi, teori korespondensi, teori empiris dan teori pragmatis. Setelah dilakukan penelitian hukum persaingan usaha berdasarkan undang-undang dan aturan pelaksana yang kemudian diterapkan pada persoalan konkrit dalam putusan KPPU nomor 12/KPPU-L/2009, 03/KPPU-L/2011, dan 12/KPPU-L/2013 diperoleh kesimpulan bahwa KPPU tidak konsisten dalam putusannya, tidak konsisten terhadap undang-undang dan aturan pelaksanaannya

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The KPPU's decision is one of the Commission's legal products that can impose sanctions in the form of administrative action such as fines to business actors that are proven guilty. There are some differences in the levying of fines in Commission's decision on conspiracy of tender, it is at the background in research. As for the formulation of the problem is how the existence of sanctions against violations of competition law, how the application of sanctions against violations of tender conspiracy by the Commission, how the application of the law by the Commission in decision No. 12 / KPPU-L / 2009, 03 / KPPU-L / 2011, dan 12 / KPPU-L / 2013, and whether the Commission had been consistent in the implementation of Law 5/1999 and the guidelines of implementing for article 47 of the business actors that were found guilty of violating Article 22 of Law 5/1999. The method used is a method normative research with data analysis method uses a qualitative approach. Several theories used include coherence theory, the theory of correspondence, empirical theory and pragmatic theory. After doing research competition law is based on law and implementing rules are then applied to concrete problems in the Commission's decision No. 12 / KPPU-L / 2009, 03 / KPPU-L / 2011, dan 12 / KPPU-L / 2013 the conclusion is the Commission inconsistent in its decision, inconsistent with the law and its implementing rules