

Analisis yuridis perbandingan ketentuan notifikasi dan batasan nilai (threshold) dalam rezim kontrol merger di Indonesia, Amerika Serikat, Uni Eropa, dan Singapura = Juridical analysis of notification system and jurisdictional threshold in merger control regime in Indonesia, United States, European Union, and Singapore

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Abstrak

Seiring dengan berkembang pesatnya perekonomian global, Merger menjadi hal yang sangat umum dilakukan dalam kegiatan bisnis. Transaksi Merger menjadi sangat populer bagi para pelaku usaha yang ingin berlomba mengembangkan usahanya serta berupaya memenangkan persaingan. Agar dalam transaksi Merger ini tidak menimbulkan ketentuan-ketentuan yang dilarang dalam Undang-Undang Persaingan Usaha, maka diatur mengenai ketentuan pemberitahuan Merger dan Batasan Nilai Merger sebagai kriteria suatu transaksi Merger harus diberitahu kepada Komisi. Dalam membahas mengenai kontrol Merger khususnya mengenai sistem notifikasi Merger terdapat perbedaan pengaturan di Indonesia dan yurisdiksi lain seperti di Singapura, Amerika Serikat dan Uni Eropa. Pada penelitian ini, metode yang digunakan adalah yuridis normatif dan dapat disimpulkan bahwa Indonesia sampai saat ini menggunakan sistem notifikasi post-Merger sedangkan pada yurisdiksi lain umumnya sudah menerapkan sistem notifikasi pre-Merger yang dianggap lebih efektif dalam hal pencegahan pelanggaran Undang-Undang Persaingan Usaha. Serta ketentuan Batasan Nilai (threshold) di Indonesia yang didasarkan atas nilai aset atau nilai penjualan serta belum memisahkan ketentuan bagi Merger lokal dan Merger asing.

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Along with the global economic growth, Merger has become a very common thing to do in business activities. Merger transaction becomes very popular for a company who want to compete to develop their business and try to win the competition. In order for the merger transaction does not infringe the prohibited rules in the Competition Act, there are rules for a Merger parties to notified their transaction that has reach the jurisdiction threshold to the Commission. In discussing the merger control in particular regarding the merger notification system there are different regulations in Indonesia and other jurisdiction such as in Singapore, the United States and the European Union. In this study, the main issues are answered through the normative analysis method, and it can be concluded that Indonesia currently use the post-merger notification system, while other jurisdiction generally has implemented a pre-merger notification system that are considered more effective in preventing infringement of the Competition Act. And also about the threshold regulations in Indonesia that based on the value of the asset or the value of sales (turnover) and not separate the threshold merger regulation for local Merger and foreign Merger.