

Tinjauan Yuridis Dugaan Praktik Tying Agreement dan Vertical Agreement on Discount oleh PT. Astra Honda Motor pada Kasus Pelumas di Bengkel AHASS = Juridical Analysis of Alleged Practices of Tying Agreement and Vertical Agreement on Discount by PT. Astra Honda Motor in Lubricant Case at AHASS Workshop

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Abstrak

Skripsi ini membahas mengenai dugaan praktik Tying Agreement dan Vertical Agreement on Discount yang dilakukan oleh PT. AHM terkait dengan perjanjian eksklusif antara PT. AHM dengan Main Dealer dan/atau bengkel AHASS. Dugaan bentuk pelanggaran berupa Tying Agreement terdiri atas dua bentuk pengikatan, yaitu kewajiban bagi calon pemilik bengkel AHASS untuk membeli strategic tools yang disediakan oleh PT. AHM pada saat pertama kali membuka bengkel AHASS dan kewajiban bagi pemilik bengkel AHASS untuk hanya menjual suku cadang (termasuk pelumas) asli PT. AHM. Sedangkan dugaan bentuk pelanggaran berupa Vertical Agreement on Discount yaitu kebijakan pemberian insentif berupa potongan harga bagi bengkel AHASS atas pembelian pelumas AHM Oil pada Main Dealer jika bengkel AHASS tersebut hanya menjual pelumas AHM Oil dan/atau tidak menjual pelumas merek lain. Penelitian ini menggunakan metode yuridis normatif dengan menggunakan pendekatan analisis data kualitatif. Hasil penelitian menunjukkan bahwa berdasarkan keterangan para saksi, para ahli, dan terlapor, PT. AHM tidak terbukti melakukan Tying Agreement dan Vertical Agreement on Discount sebagaimana diatur dalam Pasal 15 ayat (2) dan (3) UU Persaingan Usaha.

.....This thesis discusses about the alleged practice of Tying Agreement and Vertical Agreement on Discount conducted by PT. AHM regarding to the exclusive agreement between PT. AHM with the Main Dealer and/or the AHASS workshop. The alleged violation of a tying agreement consists of two forms of binding. First, the obligation for the prospective AHASS workshop owner to purchase strategic tools that provided by PT. AHM and the second form is the obligation for the AHASS workshop owner to only sell genuine spare parts (including lubricants) by PT. AHM. Meanwhile, the alleged violation of a Vertical Agreement on Discount is the provisions of providing incentives in the form of discounted prices for AHASS workshops for the purchase of AHM Oil lubricants at the Main Dealer if the AHASS workshops only sell AHM Oil lubricants and/or does not sell other brands of lubricants. This research uses a normative juridical method using a qualitative data analysis approach. The results showed that based on the statements of the witnesses, experts and reported parties, PT. AHM is not proven guilty of performing Tying Agreement and Vertical Agreement on Discount as regulated in Article 15 verse (2) and (3) of the Monopoly Law 5/1999