

# Tinjauan Yuridis Comparative Advertising dalam Hukum Persaingan Usaha di Indonesia dan Republik Federal Jerman (Studi Iklan Perbandingan Milik Le Minerale dan AQUA) = Juridical Review of Comparative Advertising in the Antitrust Laws in Indonesia and the Federal Republic of Germany (Case Study of Le Minerale and AQUA Comparative Ads)

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## Abstrak

Dalam memasarkan, mempromosikan, dan mengiklankan barang dan/atau jasa, pelaku usaha dapat melakukannya melalui berbagai cara, termasuk mengiklankannya melalui iklan perbandingan atau comparative ads. Meskipun merupakan strategi pemasaran yang efektif, iklan perbandingan memiliki potensi besar untuk disalahgunakan dalam persaingan, dimana pelaku usaha saling menjatuhkan produk satu sama lain dengan iklan ini dan berakibat pada terganggunya iklim persaingan. Di Jerman, praktik iklan perbandingan diawasi melalui perangkat undang-undang di bawah hukum persaingan usaha karena implikasi dari praktiknya terhadap pelaku usaha lain dan pasar. Sementara itu, berbeda dengan Jerman, Indonesia belum mengatur mengenai iklan perbandingan di dalam instrumen hukum apapun, termasuk Undang-Undang No. 5 Tahun 1999 yang menaungi praktik persaingan usaha di Indonesia, padahal iklan perbandingan erat kaitannya dengan keberlangsungan pelaku usaha lain di dalam pasar. Skripsi ini akan membahas mengenai perbedaan pengaturan iklan perbandingan di Indonesia dan Jerman beserta dengan penerapan dan permasalahan yang dihadapi oleh masing-masing negara. Selain itu, skripsi ini akan memberikan saran terkait apa saja hal yang bisa diadaptasi dari Jerman dalam meregulasi iklan perbandingan.

.....In marketing, promoting, and advertising goods and/or services, business actors can do so through various means, including advertising them through comparative ads. Although it is an effective marketing strategy, comparative advertising has a great potential to be misused in competition, where business actors drop each other's products with this kind of advertisement and resulting in the disruption of the market condition and the competitive environment. In Germany, the practice of comparative advertising is monitored through statutory tools under unfair competition law due to the implication of its practice on other businesses and the market. Meanwhile, in contrast to Germany, Indonesia has not regulated comparative advertising in any legal instruments, including Act number 5 of 1999 which covers business competition practices in Indonesia, even though it is closely related to the sustainability of other business actors in the market. This thesis will discuss the differences in the regulation of comparative advertising in Indonesia and Germany along with the application and problems faced by each country. In addition, this thesis will also provide suggestions regarding what can be adapted from Germany in regulating comparative advertising.