

Competition Policy and Competition Law

The Role of Cooperation Between Competition Commission and Higher Education Indonesia Experience



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I. Background

- Globalization and Economic Crisis in 1999 definitely change the face of education in Indonesia – i.e: ELIPS project under the Minister of Economic
- Indonesian universities perspective do not have the choice except to participate and to respond to the change, including the need and the pressure. In common, universities have mutual but different ways or issues in responding to the change;
- One of the example is dealing with the enforcement of Law No.5/1999 Prohibition of Monopolistic Practices and Unfair Business Competition. At the early stage of enforcement, various stakeholders such as businesses, industry, government officials/institutions raised many questions on how to understand the law. Enacting the law is one effort while enforcing it, is another challenge. Law No.5/1999 introduced a new approach in doing business in Indonesia. The nature of Competition Law and complexity of its contents are two effects that stakeholders have to come across. ;



II. Initial Steps When Implementing Law No.5/1999

- The law is believed to be transplanted from different legal system.
- Establishment of the Antimonopoly Commission (*Komisi Pengawas Persaingan Usaha (KPPU)*) which is authorized to enforce the law; What kind of institution is KPPU?
- In the beginning: introduction of Law No.5/1999 through dissemination of information, socialization, etc
- What would be the priority? Advocacy for change of behavior, guidelines, doing cases or law enforcement?
- Who prepare guidelines, position paper, reports, data?
- How would the Commission be evaluated? Based on the case decisions, amount of fine, damages?
- What are the consequences if it is unable to respond to all complaints?
- How is the level of the recruited staff, what about investigators knowledge?
- If there is an immediate appeal, would the Court be ready with the expertise? Including Supreme Court?.
- **So many questions, concern, queries pop up!**



Safeguard
policies

III. The Players ... and the Supporting Actors

- Who bear the responsibility and must respond immediately?
- Ofcourse university will be the main source supply of information, experts, lecturers, position papers, research papers, journals, advocacy program
- However, universities wont be able to provide all the answers. To able to produce experts who master the new topic, university must invest for couple of years (training, study, degree, professors, etc....)
- Fact check: Some commissioners are also academics!
It is expected they should be the pioneer experts on this new field.



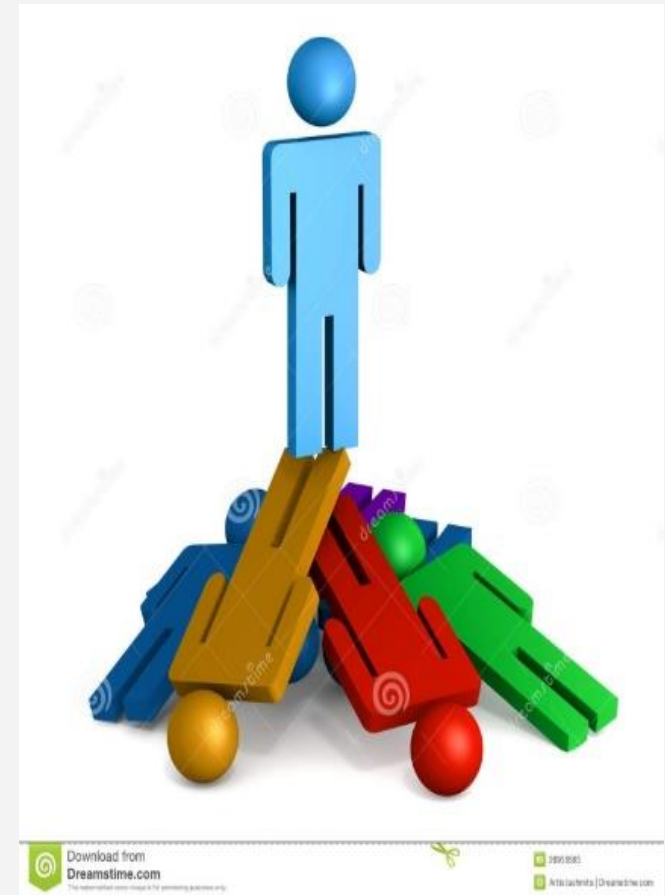
IV. How it Works.....

- It is an advantage that Indonesian education instituted 3 pillars: teaching, research and community services. All the works done are based on the 3 pillars.
- From the early stage, the Competition Commission (KPPU) made a good decision by inviting the academics mainly from Faculty of Law and economics to participate and take a role in developing Competition Law in Indonesia.
- The cooperation usually start with Memorandum of Understanding (MOU) signing between the designated university and KPPU. The MoU is used as an official base to implement various cooperation.
- KPPU formed a team to work with the academics, vice versa: the university provide the experts or opinion based on the research
- See database of KPPU MoU (especially where KPPU regional offices are located).



V. Some of the Works Have Been Done....

- Research;
- Position Paper;
- Drafting of Guidelines;
- Legal Opinions;
- Draft Procedural Law;
- Expert Witness;
- Trainings;
- Competition Law Text Book
- Training of Trainers
Lecturers (Law and Economics)
- Amendment of the current Law No.5
- Possible accredited Journal for Competition Law?
- Etc;



VI. Another Side of the Cooperation

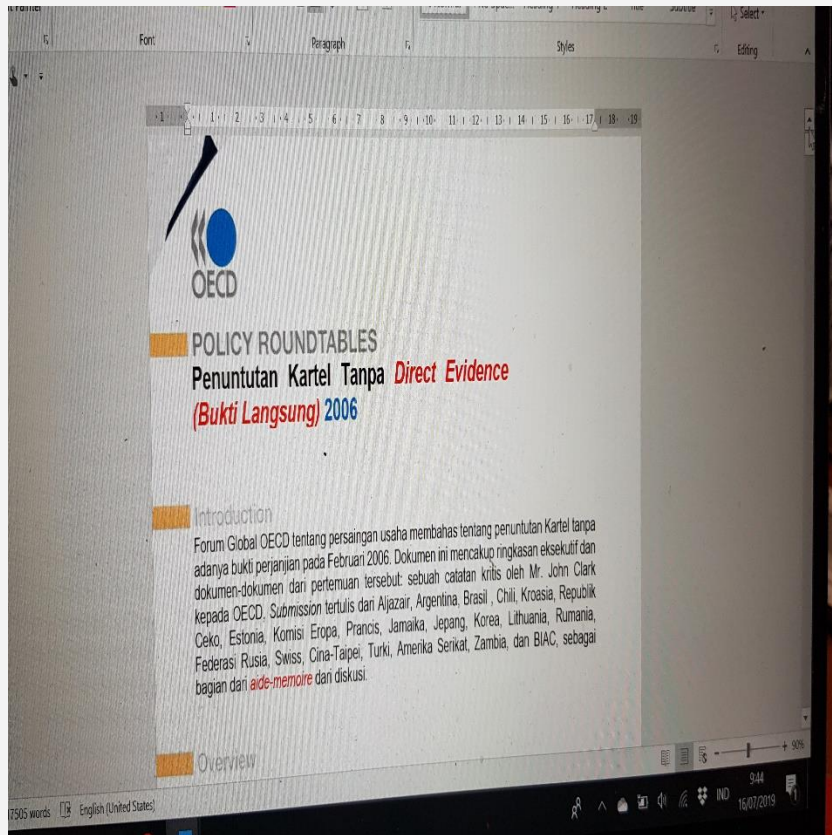
- Indonesia with around 140 state universities and 2000 private universities, encounter difficulties to have lecturer who is capable in teaching Competition Law. To fasten the dissemination of Competition Law, KPPU initiate and support 2 benchmark activities:
 1. **Academia network:** Academia/universities could act as the source of knowledge through shared or joint research, seminars, papers, joint publication, trainings and visiting scholars. Indonesian lecturers who teach competition law in the universities have established a forum: *Forum Dosen Persaingan Usaha (FPDU)*. It is independently formed and established by Competition Law Lecturers from Faculty of Law and Faculty of Economics all over Indonesia with the support from Indonesian Competition Commission (KPPU). With more than 175 members, FDPU prepared its annual activities together with KPPU (national seminars and TOT)
 2. **Preparing and published Competition Law Text Book** with the assistance of GIZ German Technical Assistance. The text book have been prepared by Competitio Law Lecurers from all over Indonesia under the coordination of KPPU and have been used as teaching material ever since its published in 2009 and revised in 2017.



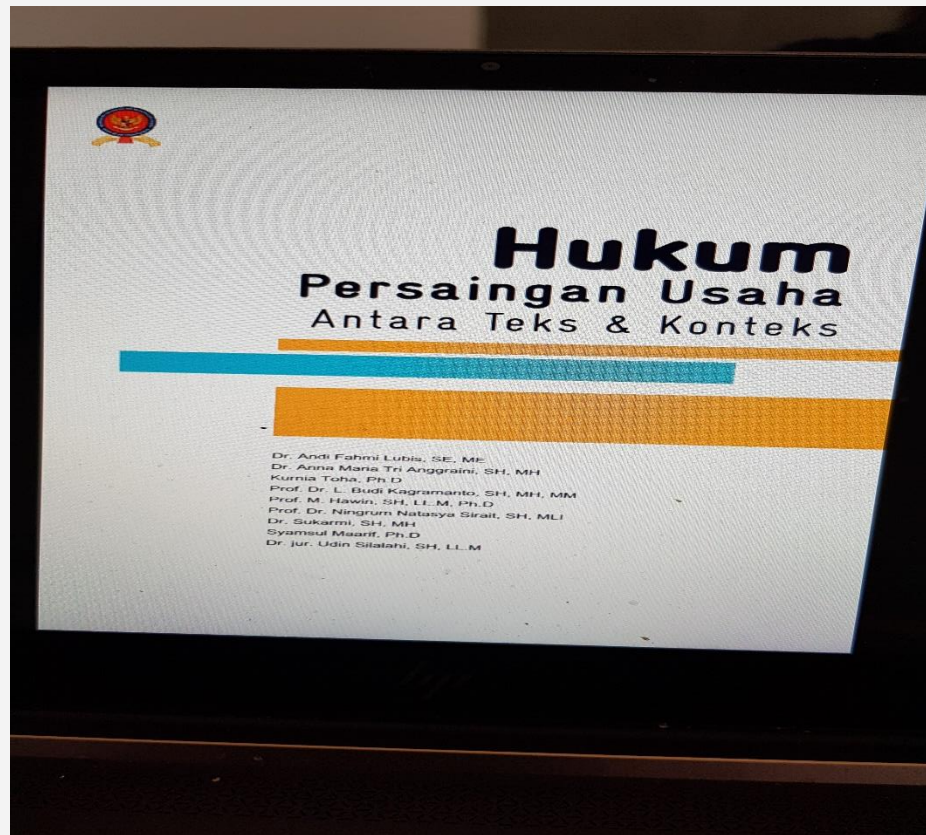
VII. For the Future Cooperation

- Let's take an example: ASEAN Economic Community (AEC) aim at regional **economic integration** by 2020 could be a good test to involve academia.
- Despite all the differences, it is necessary to establish network of authorities/agencies as a forum for discussing & coordinating competition policies and the law. This can be done through capacity building programs/activities/guidelines in developing national competition policy especially for the young competition regime;
- One of the key elements to support this idea is through academia network. Academia/universities could act as the source of knowledge and discussion through shared or joint research, seminars, papers, joint publication, trainings and visiting scholars.
- The academia network such as Indonesian Competition Law Lectures Association (FDPU) could be a good example which should inspire other ASEAN member states to develop similar forum and may be integrated among ASEAN member states (donea) – or see similar forum such as: ASCOLA in Europe – joint research or international conferences?





Translation of OECD 2006
Prosecuting Cartel Without Direct
Evidence and docs on Indonesia
Experience in applying
Circumstantial Evidence Another



Indonesian Competition Law Book,
2009 and Revised in 2017
Cooperation between KPPU, GIZ
Germany and Indonesian
Competition Law Lectures
Association (FDPU)



Terima Kasih

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