

Analisa yuridis kewenangan komisi pengawas persaingan usaha menjatuhkan sanksi administratif (Studi kasus: Putusan I/KPPU-L No/2013) = Juridical analysis of KPPU's authority to impose administrative sanction (Case study : Commisission's Decision NO.1 KPPU-L/2013)

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Abstrak

UU No. 5 Tahun 1999 memberikan kewenangan menjatuhkan sanksi administratif kepada KPPU sebagai competition authority di Indonesia. Dalam beberapa kasus, KPPU memberikan sanksi administratif di luar dari yang terdapat dalam Undang-Undang tersebut, khususnya dalam perkara persekongkolan tender. KPPU sering menjatuhkan sanksi larangan mengikuti tender atau pelelangan kepada pelaku usaha, padahal bentuk sanksi tersebut tidak terdapat dalam Undang-Undang.

Dalam putusan KPPU No. 1/KPPU-L/2013, KPPU menjatuhkan sanksi larangan mengikuti pelelangan selama dua tahun kepada ketiga pelaku usaha. Akibat permasalahan ini beberapa putusan KPPU yang memuat hukuman tersebut dibatalkan oleh Pengadilan Negeri maupun Mahkamah Agung. Padahal pelaku usaha tersebut terbukti melanggar pasal 22.

Competition Act No. 5 Year 1999 gives an authority for KPPU as competition authority in Indonesia to impose administrative sanction. In some cases, KPPU also imposed administrative sanction beyond those which contained in Competition Act, especially in bid rigging cases. KPPU often imposes prohibition in tendering or auctions sanction to the bidders. However, that kind of sanction is not exist in the Competition Act. In Commission's Decision No. 1/KPPU-L/2013, KPPU imposed prohibition in auctions for two years to those three tender participants. The consequence of this problem is some of KPPU's Decisions which contained that kind of sanction were cancelled by District Court or by Supreme Court, although that tender participants have been proven violating the article No. 22 in Competition Act.