

Analisis Implementasi Batasan Nilai (Threshold) Notifikasi Dalam Ketentuan Merger di Indonesia = Analysis of the Implementation of Notification Thresholds in Merger Provisions in Indonesia

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Abstrak

Pada prinsipnya aksi korporasi adalah tindakan yang diperbolehkan dalam suatu perusahaan. Akan tetapi kegiatan tersebut dapat menjadi suatu yang dilarang apabila dilakukan melalui proses dan cara yang tidak sesuai dengan ketentuan yang berlaku sebagaimana yang terdapat dalam Undang-Undang Nomor 5 Tahun 1999 Tentang Larangan Praktik Monopoli dan Persaingan Usaha Tidak Sehat di Indonesia. Sehingga merger dan akuisisi harus diatur secara jelas dan rinci dalam suatu instrumen hukum yang mengikat. Penerapan ketentuan tersebut diperlukan suatu penilaian dan ketentuan pemberitahuan merger serta batasan nilai merger yang wajib dilakukan pemberitahuan kepada komisi. Beberapa negara memiliki merger review guidelines sendiri dalam menentukan ketentuan batasan nilai wajib notifikasi. Adapun, metode dalam penelitian ini yaitu yuridis normatif melalui norma-norma hukum dan melalui pendekatan perbandingan (comparative approach). Dalam penelitian ini dapat disimpulkan bahwa Indonesia menjadi satu-satunya negara di Asean yang mewajibkan dan mengimplementasikan post merger notification sedangkan yang lain mewajibkan pre merger yang dinilai lebih efektif. Serta dalam menentukan batas nilai (threshold) notifikasi merger di Indonesia dapat dilihat berdasarkan nilai aset atau nilai penjualan serta dalam pengawasan terkait merger, KPPU memiliki berbagai penilaian dan faktor dalam perhitungan batasan nilai notifikasi yang wajib dan bagi badan usaha yang tidak perlu melakukan notifikasi.

.....In principle, corporate actions are actions that are allowed in a company. However, these activities can become prohibited if they are carried out through processes and methods that are not in accordance with the applicable provisions as contained in Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition in Indonesia. So that mergers and acquisitions must be regulated clearly and in detail in a binding legal instrument. The application of these provisions requires an assessment and provision of merger notification as well as limits on the value of the merger that must be notified to the commission. Several countries have their own merger review guidelines in determining the provisions on the mandatory notification value limit. Meanwhile, the method in this research is normative juridical through legal norms and through a comparative approach. In this study, it can be concluded that Indonesia is the only country in ASEAN that requires and implements post-merger notification, while others require pre-merger which is considered more effective. As well as in determining the threshold value (threshold) for notification of mergers in Indonesia, which can be seen based on the value of assets or the value of sales as well as in monitoring related to mergers, KPPU has various assessments and factors in calculating the limit on the value of mandatory notifications and for business entities that do not need to provide notifications.