

Praktik Predatory Pricing oleh Qualcomm di Uni Eropa dan Perbandingannya dengan Hukum Persaingan Usaha di Indonesia (Studi Putusan European Commission Case AT.39711) = Qualcomm's Predatory Pricing Practices in the European Union and its Comparison with Competition Law in Indonesia (European Commission Case AT.39711 Study Decision)

Vania Aqilla Cahyaningrum, author

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Abstrak

Qualcomm melakukan praktik predatory pricing dengan menjual 3 (tiga) jenis baseband chipset kepada Huawei dan ZTE yang merupakan 2 (dua) pelanggan penting dalam pasar baseband chipset UMTS dengan tujuan untuk mengeliminasi Icera yang merupakan pesaing utamanya. Penelitian ini dilakukan dengan tujuan untuk mengetahui ketepatan penerapan hukum persaingan usaha di Uni Eropa dalam memutuskan tindakan predatory pricing oleh Qualcomm dan penerapan hukum persaingan usaha di Indonesia jika kasus predatory pricing serupa dengan yang dilakukan oleh Qualcomm terjadi di Indonesia. Bentuk penelitian yang digunakan dalam melakukan penelitian karya tulis ini adalah Yuridis-Normatif dengan meninjau putusan European Commission Case AT.39711 dan peraturan perundang-undangan mengenai hukum persaingan usaha di Indonesia dan Uni Eropa. Hasil penelitian menunjukkan bahwa European Commission telah tepat dalam menggunakan hukum persaingan usaha di Uni Eropa untuk memutuskan kasus predatory pricing oleh Qualcomm yang terbukti melakukan praktik predatory pricing untuk 3 (tiga) jenis baseband chipset-nya pada periode Juli 2009-Juni 2011 dan jika kasus tersebut terjadi di Indonesia, maka termasuk ke dalam praktik predatory pricing serta terdapat perbedaan pengenaan denda antara hukum persaingan usaha di Indonesia dan Uni Eropa. Saran yang dapat diberikan adalah lebih diawasinya proses kegiatan usaha, ditaatinya prinsip persaingan usaha, serta Indonesia dapat memberikan opsi price-cost test lainnya agar dapat dicapai hasil yang lebih akurat dan diterapkannya denda dengan mempertimbangkan jumlah keuntungan pelaku usaha.

.....Qualcomm practices predatory pricing by selling 3 (three) types of baseband chipset to Huawei and ZTE which are 2 (two) important customers in the UMTS baseband chipset market, with the aim of eliminating Icera, which is Qualcomm's main competitor. This study was conducted with the aim of knowing the exactness of the application of European Union's competition law in deciding predatory pricing practice by Qualcomm and the application of Indonesia competition law if predatory pricing cases similar to those carried out by Qualcomm occur in Indonesia. The form of research used in conducting this research paper is juridical-normative by reviewing the decision of European Commission Case AT.39711 and the regulation regarding Indonesia and European Union competition law. The results show that European Commission has been right in using the European Union competition law to decide on the predatory pricing case by Qualcomm which was proven to have practiced predatory pricing for the 3 (three) types of baseband chipset in the period of July 2009-June 2011 and if the case is occurred in Indonesia, it is included in the practice of predatory pricing but only for one type baseband chipset in the period of July 2010-March 2011 and there is a difference in the imposition of fines between Indonesia and European Union competition law. Suggestions that can be given are more supervised of business processes, adherence to the competition principle, and

Indonesia can provide other price-cost test options in order to achieve more accurate results and fines taking by considering the amount of profit earned by undertaking.