

# Implementasi penerapan kebijakan Leniency Program atau Immunity Policy di Australia berkaitan dengan pemberian Civil Immunity dan Criminal Immunity terhadap tindakan kartel serta penerapannya di Indonesia = Implementation of The Leniency Program or Immunity Policy in Australia with respect to the provision of Civil Immunity and Criminal Immunity to cartel conduct and it's implementation in Indonesia

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## Abstrak

Pembuktian kartel menjadi tantangan utama bagi otoritas persaingan untuk menemukan perjanjian yang mendasari terbentuknya suatu perilaku kartel. Senjata jitu pembasmi kartel yang telah diakui beberapa negara di dunia yaitu dengan menerapkan kebijakan leniency, salah satunya diterapkan negara Australia dan dikenal dengan kebijakan Immunity. Penerapan pemberian Immunity di Australia dianggap perlu diterapkan di Indonesia dalam upaya penuntasan penyakit kartel. Oleh karenanya penelitian ini bertujuan untuk membahas dan memberikan penjelasan mengenai regulasi kebijakan leniency yang diterapkan di Australia serta mengkaji urgensi penerapan kebijakan leniency tersebut dalam hukum persaingan usaha di Indonesia. Bentuk penelitian ini yaitu penelitian yuridis normatif Metode yang digunakan adalah metode kualitatif dan menghasilkan bentuk penelitian deskriptif-analitis dengan menyajikan gambaran objektif mengenai keadaan yang sedang diteliti. Penelitian ini menghasilkan kesimpulan bahwa dalam menerapkan kebijakan imunitas, ACCC menetapkan dua sistem kekebalan yaitu Civil Immunity dan Criminal Immunity dan satu sistem kekebalan alternatif yang dikenal dengan Cooperation Policy. Dalam menerapkan kebijakan tersebut ACCC melibatkan lembaga lain yaitu CDPP untuk menangani pemberian Criminal Immunity. Bahwasannya keberhasilan kebijakan imunitas di Australia perlu dicontoh dan diterapkan oleh Indonesia dengan perumusan kebijakan yang bijak dalam upaya pembasmian kartel.

.....Proving a cartel becomes the main challenge for competition to find an agreement that forms a cartel's behaviour. The main weapon of cartel extermination that has been recognized by several countries in the world is by implementing a leniency policy, one of which is implemented by Australia and is known as the Immunity Policy. The application of Immunity in Australia is considered necessary to be applied in Indonesia as an effort to eradicate cartel disease. Therefore, this study aims to discuss and provide an explanation of the leniency policy that applied in Australia as well to examine the urgency the leniency policy in business competition law in Indonesia. The form of this research is normative juridical research. The method used is a qualitative method and produces a descriptive-analytical research form by presenting an objective picture of the situation being studied. This study concludes that in implementing the immunity policy, the ACCC establishes two immune systems, namely Civil Immunity and Criminal Immunity and an alternative immune system known as the Cooperation Policy. In implementing the ACCC policy, another institution, namely CDPP, is involved to provide criminal immunity. That the immunity policy in Australia needs to be imitated and implemented by Indonesia with a wise policy formulation in the effort to eradicate cartels.