

Single-Brand Aftermarket Sebagai Pasar Bersangkutan Menurut Hukum Persaingan Usaha Di Amerika Serikat Dan Perbandingannya Dalam Hukum Persaingan Usaha Di Indonesia (Studi Kasus Caccuri v. Sony Interactive Entertainment LLC) = Single-Brand Aftermarket As Relevant Market according To Antitrust Law Of The United States And Its Comparison To Antitrust Law Of Indonesia (Case Study Of Caccuri v. Sony Interactive Entertainment LLC)

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Abstrak

Pasar bersangkutan di dalam hukum persaingan usaha dapat meliputi berbagai macam bentuk menyusul adanya perkembangan pasar yang dinamis. Di Amerika Serikat, salah satu bentuk pendefinisian pasar bersangkutan dapat berupa single-brand aftermarket, yang mana pasar bersangkutan ini hanya mencakup produk lanjutan dari produk merek tertentu. Pasar bersangkutan jenis ini pada mulanya timbul di dalam perkara Eastman Kodak v. Image Technical Services (Supreme Court, Certiorari to The United States Court of Appeals for The Ninth Circuit, 1992), yang mana hakim di dalam perkara tersebut mendefinisikan pasar bersangkutan hanya berupa servis dan suku cadang dari mesin fotokopi dan micrographic Kodak. Dalam perkembangannya, penentuan single-brand aftermarket sebagai pasar bersangkutan disempurnakan oleh hakim di dalam perkara Newcal Industries, Inc. v. IKON Office Solution (United States Court of Appeals, Ninth Circuit, 2008), yang mana perkara ini mengeluarkan suatu pertimbangan khusus untuk menentukan aftermarket sebagai pasar bersangkutan yang dikenal dengan Newcal factors. Adapun di Indonesia, pengaturan hukum persaingan usaha tidak meliputi secara spesifik terkait dengan single-brand aftermarket sebagai pasar bersangkutan, sebagaimana dicakup di dalam hukum persaingan usaha di Amerika Serikat. Dengan menggunakan metode penelitian yuridis normatif, tulisan ini akan mencoba menganalisis bagaimana single-brand aftermarket diterapkan sebagai pasar bersangkutan di dalam penegakan hukum persaingan usaha di Amerika Serikat, sekaligus membahas bagaimana ia diterapkan di dalam kasus aktual dan bagaimana single-brand aftermarket diadaptasikan ke dalam hukum persaingan usaha di Indonesia.Relevant market definition in the context of antitrust law may consist various forms, following the dynamic of the market development. In the United States, relevant market may also be defined to consist single-brand aftermarket products, in which it encapsulates only the aftermarket products of specific brands. This type of relevant market first invented in Eastman Kodak v. Image Technical Services (Supreme Court, Certiorari to The United States Court of Appeals for The Ninth Circuit, 1992), where the judges defined and limited the relevant market in that case to contain services and spare parts of Kodak's photocopiers and micrographics. Considerations on defining single-brand aftermarket as relevant market in the subsequent cases developed as judges in Newcal Industries, Inc. v. IKON Office Solution (United States Court of Appeals, Ninth Circuit, 2008) invented several factors in regards of determining aftermarket as relevant market known as Newcal factors. In Indonesia, the laws regarding antitrust enforcement do not specifically include single-brand aftermarket as relevant market, as provided in the antitrust law of the United States. Utilizing normative juridical research method, this writing will attempt to analyze on how single-brand aftermarket is applied as relevant market in the enforcement of antitrust law in the United States. This

writing will also discuss on how single-brand aftermarket as relevant market is implemented in actual cases and how it is adapted to antitrust law in Indonesia.