

Hambatan Masuk Terhadap Pelaku Usaha Jasa Freight Forwarding Benih Bening Lobster Dalam Penerapan Prinsip Rule of Reason Pada Putusan KPPU Nomor 04/KPPU-I/2021 = Barriers to Entry for Clear Puerulus Forwarding Service Providers in the Application of the Rule of Reason Principle in KPPU Decision Number 04/KPPU-I/2021

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Abstrak

Penelitian ini dilakukan untuk memahami hambatan yang dihadapi oleh pelaku usaha jasa freight forwarding benih bening lobster dalam memasuki pasar serta kaitannya dengan penerapan prinsip rule of reason dalam memenuhi unsur Pasal 17 UU No. 5 Tahun 1999 tentang larangan praktek monopoli dan persaingan usaha tidak sehat. Putusan KPPU Nomor 04/KPPU-I/2021 menjadi acuan dalam penelitian ini karena putusan tersebut membahas kasus terkait pelanggaran persaingan usaha oleh salah satu pelaku usaha yang bergerak di bidang pengadaan dan pemasaran benih lobster. Oleh karena itu, penelitian ini bertujuan untuk mengeksplorasi bagaimana hambatan masuk mempengaruhi penerapan prinsip rule of reason oleh Komisi Pengawas Persaingan Usaha dalam pelaksanaan unsur pasal 17 UU No. 5 Tahun 1999. Mengacu pada latar belakang yang telah dikemukakan di atas, Peneliti akan membatasi ruang lingkup pembahasan yang akan dianalisis lebih lanjut di dalam skripsi ini ke dalam beberapa pokok permasalahan, yaitu: (1) Bentuk hambatan masuk yang dialami oleh para pelaku usaha benih bening lobster lain dalam Putusan KPPU Nomor 04/KPPU-I/2021; (2) Pengaruh hambatan masuk dalam pengadaan jasa freight forwarding benih bening lobster terhadap penerapan prinsip rule of reason dalam memenuhi unsur Pasal 17 UU No. 5 Tahun 1999; dan (3) Evaluasi Putusan KPPU Nomor 04/KPPU-I/2021 dalam menerapkan prinsip rule of reason pada kasus pelanggaran persaingan usaha di bidang pengadaan jasa freight forwarding benih bening lobster. Penelitian yang dilakukan oleh peneliti menggunakan metode yuridis-normatif, tipe penelitian deskriptif, pendekatan kualitatif, dan bahan hukum primer, sekunder, serta tersier. Alat pengumpulan data yang digunakan adalah studi pustaka. Hambatan masuk yang dialami oleh para pelaku usaha nyata maupun potensial adalah hambatan masuk yang berhubungan dengan regulasi. Dalam kasus ini, terdapat regulasi untuk perizinan usaha pengeluaran benih bening lobster yang berbentuk SPWP atau SKWP. Hambatan masuk dalam pengadaan jasa freight forwarding benih bening lobster terhadap penerapan prinsip rule of reason dalam memenuhi unsur Pasal 17 UU No. 5 Tahun 1999 telah secara menyeluruh memiliki dampak terhadap pemenuhan unsur Pasal 17 secara simultan. Putusan KPPU Nomor 04/KPPU-I/2021 telah tepat dalam menerapkan prinsip rule of reason pada kasus pelanggaran persaingan usaha di bidang pengadaan jasa freight forwarding benih bening lobster. KPPU melakukan analisis yang komprehensif terhadap pasar dan dampak tindakan PT Aero Citra Kargo terhadap persaingan usaha.

.....This research was conducted to understand the barriers faced by puerulus freight forwarding service providers in entering the market and its relationship with the application of the rule of reason principle in fulfilling the provisions of Article 17 of Law No. 5 of 1999 concerning the prohibition of monopolistic practices and unfair business competition. The decision of the Business Competition Supervisory Commission (KPPU) Number 04/KPPU-I/2021 serves as a reference in this study as it discusses a case related to a violation of business competition by one of the companies engaged in the procurement and

marketing of lobster seeds. Therefore, this study aims to explore how entry barriers affect the application of the rule of reason principle by the Business Competition Supervisory Commission in implementing the provisions of Article 17 of Law No. 5 of 1999. Referring to the aforementioned background, the researcher will narrow down the scope of discussion to several key issues to be further analyzed in this thesis, namely: (1) Forms of entry barriers experienced by puerulus business entities in the Decision of the KPPU Number 04/KPPU-I/2021; (2) The influence of entry barriers in the procurement of freight forwarding service on the application of the rule of reason principle in fulfilling the provisions of Article 17 of Law No. 5 of 1999; and (3) Evaluation of the KPPU Decision Number 04/KPPU-I/2021 in applying the rule of reason principle to the case of business competition violation in the procurement of transparent lobster seed freight forwarding services. The research conducted by the researcher utilizes the juridical-normative method, descriptive research type, qualitative approach, and primary, secondary, and tertiary legal materials. The data collection tool used is literature study. The entry barriers experienced by actual and potential business entities are regulatory barriers. In this case, there are regulations for the licensing of transparent lobster seed production in the form of SPWP or SKWP. The entry barriers in the procurement of transparent lobster seed freight forwarding services have had an overall impact on the simultaneous fulfillment of the provisions of Article 17. The KPPU Decision Number 04/KPPU-I/2021 was appropriate in applying the rule of reason principle to the case of business competition violation in the procurement of transparent lobster seed freight forwarding services. The KPPU conducted a comprehensive analysis of the market and the impact of PT Aero Citra Kargo's actions on business competition.