

Pemenuhan unsur persekongkolan tender pengadaan barang dan jasa ditinjau dari hukum persaingan usaha di Indonesia analisis putusan nomor 04 KPPU 1 2014 = Tender conspiracy examination of goods and services procurement according to competition law in Indonesia analysis of business competition supervisory commission decision no 04 KPPU 1 2014

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Abstrak

Pelaksanaan tender merupakan kegiatan yang wajib menerapkan prinsip persaingan usaha yang sehat. Dugaan persekongkolan guna mengatur dan menentukan pemenang tender terjadi dalam Tender Pekerjaan Rekonstruksi/Peningkatan Jalan Siborong-borong Cs di SATKER Pelaksanaan Jalan Nasional Wilayah II Propinsi Sumatera Utara Balai Besar Pelaksanaan Jalan Nasional I Direktorat Jenderal Bina Marga Kementerian Pekerjaan Umum. KPPU sebagai lembaga yang diberi kewenangan oleh UU No. 5 Tahun 1999 untuk menegakkan Hukum Persaingan Usaha memegang peranan penting dalam kasus ini. Namun, dalam membuktikan temuan dan fakta dalam kasus ini KPPU terkesan tidak konsisten dan mengabaikan metode analisa yang telah diamanatkan dalam UU No. 5 Tahun 1999 yaitu metode rule of reason dalam membuktikan setiap dugaan kasus persekongkolan.

.....Tender is one of the activities that must contain fair competition principles. Suspicion of tender conspiracy in order to regulate and determine the winning bidder was occurred in Tender of Reconstruction/Improvement Siborong-borong Cs Road in National Road Working Unit Regional II North Sumatra National Road Main Station I Director General of Highway Construction and Maintenance, Ministry of Public Works. Business Competition Supervisory Commission (KPPU) as an institution that is authorized by Act No. 5 of 1999 to uphold Competition Law, plays an important role in this case. Nonetheless, while analyzing the facts in this case, KPPU seemed to be inconsistent and ignored the methods of analysis that has been mandated in the Act No. 5 of 1999 in . The methods ignored are rule of reason and refer to the Commission Guidelines on Article 22 of Act No. 5 / 1999 as a minimum reference of the Commission in order to prove every tender conspiracy cases.