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ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN INDONESIA

-- 2005 --

This report is submitted by the Indonesian Delegation to the Competition Committee FOR DISCUSSION at its forthcoming meeting to be held on 8-9 June 2006.

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Executive summary

1. This paper is primarily about progresses in the enforcement of competition law and policy in Indonesia. It briefly explains the KPPU (Commission for Supervisory of Business Competition, Republic of Indonesia) measures against anticompetitive conducts of business, changes in the competition law and policy, and the role of KPPU in the formulation and implementation of other policies including those related to regulatory reforms.

2. In 2000 – 2004, KPPU handled 33 cases resulted in 24 decisions while the rest of 9 cases were terminated due in fact that no initial evidence was found at the preliminary investigation stage. In 2005, KPPU handled 11 cases resulted in 7 decision. Following the trend in the previous years, the type of competition cases in 2005 is also dominated by collusive tendering.

3. There have been some factors constraining the enforcement of the law including those related to weaknesses inherent within the law. These include, among others, (a) weaknesses in the case handling procedure regulated by the law; (b) the authorities of KPPU provided by the law are not sufficient to conduct an effective investigation; and (c) there are some provisions in the law which should apply rule of reasons approach instead of per se illegal and vice versa. Cross ownership, for instance, should be treated rule of reason instead of per se illegal.

4. For these reasons, among others, KPPU has conducted a study aimed at reviewing the law as an initial stage taken to amend law in the hope that the draft could be submitted to the parliament in 2007.

5. As part of the problems faced with regard to litigation procedure in the appeal courts, changes has made to make the enforcement to be effective. There are great improvements on legal procedure of competition appeal in the District courts and Supreme Court by endorsement of Supreme Court Rules (Perma). Although the Competition Law enforcement in Indonesia during the first three years marked with a tendency to overturn of KPPU decisions by District Court, some of KPPU decision were upheld by the Court in the latest years. KPPU procedures on enforcement were updated and practically many improvement of legal and substantial enforcement process were happened. All of these progresses are aimed at creating a fair and transparent law enforcement within KPPU.

6. While a significant progress has been made in the law enforcement, the role of KPPU in promoting competition policy seems to have a mixed result. Some of related government agencies have adopted the competition policies recommended by KPPU, while some others are still lack of competition framework. Currently, KPPU and some ministries, including Ministry of Finance and Ministry of Trade are in progress to conclude new policies regarding competition constraints in the market.

1. Introduction

7. The establishment Law No. 5/1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition indicates strong domestic commitment to create competitive market and fair business practices as a foundation for a sustainable economic growth. Following the establishment of the law, the government of Indonesia appointed a number of commissioners to run the Commission for Supervisory of Business Competition (KPPU), an independent regulatory agency in charge of implementing and enforcing the law. As mandated by the law, the Commission has two major tasks. The first is to handle competition cases and the second is to provide policy recommendation to the government regarding policies affecting competition in the market.

8. As an annual report submitted to the OECD Competition Committee, the objective of this paper is to review the enforcement of competition law in Indonesia in 2005, to explain the role of KPPU in the

formulation and implementation of other policies including those related to regulatory reforms, and to explain the changes made on competition law and related policies.

2. Changes to competition law and policies

9. There are improvements on legal procedure of competition appeal in the District courts and Supreme Court by endorsement of Supreme Court Rules (Perma). Although the Competition Law enforcement in Indonesia during the last three years marked with a tendency to overturn of KPPU decisions by District Court, one of KPPU decision was upheld by the Court early of this Year. KPPU procedures on enforcement were updated and practically many improvement of legal and substantial enforcement process were happened. All of these progresses are aim to create a fair and transparent law enforcement within KPPU.

10. In 2000 – May 2006 KPPU has handled 55 cases, 34 of them are accomplished, and eight of nine appealed cases were in litigation process in the courts. This reflects that there has been a great progress in the law enforcement, at least in terms of the quantity of cases. The effectiveness of law enforcement, however, has been constrained by many factors, including those related to substantial weaknesses of the law, and the absence of related guidelines and government regulation.

11. In response to the above constraints, KPPU has initiated a study to review the law in order to prepare a draft of law for amendment and prepared a number of drafts for both guidelines and government regulation on Merger and Acquisition.

2.1 New Provisions of Law on Business Competition and related Regulations

12. Six years experiences in enforcement activities suggested that there have been some factors constraining the effectiveness of law enforcement including those related to weaknesses inherent within the law. These include, among others, (a) weaknesses in the case handling procedure regulated by the law; (b) the authorities of KPPU provided by the law are not sufficient to conduct an effective investigation; and (c) there are some provisions in the law which should apply rule of reasons approach instead of per se illegal and vice versa. Cross ownership, for instance, should be treated rule of reason approach instead of per se illegal.

13. Indeed there is an urgent need to amend the law and for this reason, among others, KPPU has conducted a study aimed at reviewing the law as an initial stage taken to amend the law in the hope that the draft could be submitted to the parliament in 2007.

14. The process to amend the law, however, seems to be a long way to go. While waiting for the process of amendment, the urgency to solve the problem in terms of, for instance, litigation procedure in the appeal courts seems to have been in much higher priority. As part of the steps taken to solve the problems faced with regard to case handling procedure in the appeal courts, changes has been made to make the enforcement to be effective.

15. There are great improvements on legal procedure of competition appeal in the District courts and Supreme Court by endorsement of Supreme Court Rules. In 2003 the Supreme Court enacted regulation No. 1 of 2003 concerning the Procedure of Lodging Legal Efforts on Appealed Courts of KPPU Ruling. A further improvement is also made in 2005 by issuing Supreme Court Regulation No. 03 of 2005.

16. The above rules of Supreme Court might be summarised as follows:

- Law No. 5 of 1999 stipulated that the business player can appeal to district court in the legal domicile of business player. The arising problem when the same case was filed by different

business player in different court. So that by law No.5 of 1999 rules, hearing before the courts for the same case would be conducted in some different courts. After the enactment of Supreme Court Regulation No. 03 of 2005, for the appeal filed by more than 1 (one) business player for the same KPPU decision, KPPU may submit an application to the Supreme Court allow the supreme court to appoint one of the proposed District Courts;

- Law No. 5 of 1999, stipulated that for the KPPU decision the business player can make an appeal to the District Courts at no more than 14 (fourteen) days of which the Business Player has received the notification of KPPU decision, and or announcement through the website of KPPU;

- To prevent the KPPU decision to be filed at the Public Administration Courts, as it has happened in the initial period of KPPU development, Supreme Court Regulation No. 03 of 2005 has stipulated that the KPPU decision is not included as Public Administration Rules. By the presence of regulation of Supreme Court No. 03 of 2005, the KPPU decision will never be filed at Public Administration Courts;

- In handling the case, the number of days in any stage of investigation or case handling refers to working days and not calendar days so that different perception concerning day has been overcome.

2.2 Guidelines Regarding Provisions on Law No. 5 of 1999

17. The effectiveness enforcement of the law in Indonesia might be affected by the absence of at least two types of guidelines, namely technical guidelines concerning case handling procedure and guidelines concerning certain provisions in the law.

18. In 2000 KPPU enacted a rule regarding case handling procedure, namely KPPU Decree No. 5 of 2000. The decree, however, has been to some extent considered to be inadequate to handle latest issues in case handling, including those related to the principle of due process of law. In response to this issue, KPPU recently issued a new decree, namely Decree No. 1 of 2006.

19. While the new KPPU rule regarding case handling procedure is in effect, most of other guidelines concerning certain provisions of the law have been in the process of development. The only guideline that has been issued regarding provision of the law is Guideline for Article 22 of Law No. 5 of 1999 concerning Collusive Bidding. In essence, this guideline covers both horizontal and vertical collusion.

2.3 Proposed Regulation to the Government

20. In economic theory, Merger and Acquisition (M&A) may be efficiency enhancing tool, but in practice, M&A may become a market power creation tool. Due to the fact that M&A potentially affects business environment, therefore, competition authorities should supervise it. Law No. 5/1999 therefore provides an article concerning M&A, namely Article 28.

21. In absence of a government regulation concerning merger and acquisition, article 28 of Law No. 5/1999 cannot be enforced. KPPU has therefore prepared a draft of Government Regulation concerning Merger and Acquisition. Supposedly, the draft will be submitted to the government at the end of this year.

3. Enforcement of Competition Law and Policy

3.1 KPPU Measures Against Anticompetitive Practices

22. KPPU measures against anticompetitive practices consist of some activities. These are monitoring of business, report handling, case handling, and monitoring the implementation or enforcement of KPPU decisions.

3.1.1 Business Monitoring

23. One of the duties of KPPU as mandated by Law No. 5 of 1999 is to conduct investigation concerning the suspected business activity and or action of business player that may result in the occurrence of monopolistic practice and or unfair business competition.

24. Some of monitoring activities in 2005 are summarised below:

No	Monitoring Activity	Result
1	Tender Conspiracy in the Department of Public Works of Riau Province	Recommendation: Preliminary Investigation shall be conducted with suspected violation to Article 22 of Law No. 5 of 1999. The Commission decided that there has been a violation against the law.
3	Monopolistic practices conducted by Real time Information Service Provider in BEJ (Jakarta Stock Exchange)	Recommendation: Preliminary Investigation shall be conducted with suspected violation to Article 19 sub d of Law No. 5 of 1999. The Commission decided that there has been a violation against the law.
4	Price fixing agreement conducted by PT. Sucofindo and PT. Surveyor Indonesia	Recommendation: Preliminary Investigation shall be conducted with suspected violation to Article 5 paragraph (1), Article 17, Article 19 sub a of Law no. 5 of 1999. The Commission decided that there has been a violation against the law.
5	Resale Price Maintencace, exclusive dealing and kartel in the distribution of Gresik Cement	Recommendation: Preliminary Investigation shall be conducted with suspected violation to Article 8, Article 11, Article 15 paragraph (1) and paragraph (3) of Law No. 5 of 1999. The Commission decided that there has been a violation against the law.

3.1.2 Report Handling

25. Below are the numbers of public reports received by KPPU since 2001 up to 2005:

Year	Number of reports	Reports brought to examination process
2000	7 (seven)	1 (one)
2001	31 (thirty one)	5 (five)
2002	49 (forty nine)	5 (five)
2003	57 (fifty seven)	5 (five)
2004	71 (seventy one)	7 (seven)
2005	182 (one hundred eighty two)	19 (nineteen)
up to May 2006	31 (thirty one)	3 (three)

3.1.3 Case Handling

26. Below are the numbers of cases handled by KPPU since 2000 up to 2005:

Year	Number of Case	Remarks
2000	2 Cases	Found Guilty: 2 Cases
2001	5 Cases	Found Guilty: 2 Cases, Found Not Guilty: 2 Cases, Decision to terminate the case examination: 1 Case
2002	8 Cases	Found Guilty: 2 cases, Found Not Guilty: 1 case, Suggestion and Recommendation: 1 case Decision to terminate the case examination: 4 cases
2003	9 Cases	Found Guilty: 6 cases, Found Not Guilty: 1 case Decision to terminate the case examination: 2 cases
2004	9 cases	Found Guilty: 7 cases Decision to terminate the case examination: 2 cases
2005	22 Cases	Found Guilty: 8 cases Found Not Guilty: 3 cases, Decision to terminate the case examination: 4 Cases On going process : 7 cases
2006	4 cases	On going process : 3 cases Decision to terminate the case examination: 1 Case

Recapitulation of Decision for Case Handling

- Number of Decision: 34 Cases (Found Guilty: 25 Cases, Found Not Guilty: 6 Cases, Policy Recommendations to Government: 3 Cases)
- Number of Decision to terminate the case examination: 14 Cases
- On Going process: 11 Cases

3.1.4 Cases at the Appeal Courts

27. Some of KPPU Decisions that have been filed at appeal courts are summarised as follows:

No	Case Number	Objection (PN/District Court)	Level of Appeal Courts	Latest Position
1	Case No. 03/KPPU-I/2002: Tender on Sales of Government Shares on PT Indomobil Sukses Makmur International	District Court	District Court	Final & conclusive (KPPU Decision revoked)
2	Case No. 01/KPPU-L/2003: Garuda Indonesia	PN	Supreme Court	
3	Case No. 04/KPPU-L/2003: Container Loading and Unloading Service by PT JITC	PN	Supreme Court	Final & conclusive (KPPU reinforced)
4	Case No. 05/KPPU-L/2003: City Bus of DKI Jakarta	Withdrawn	Withdrawn	Final & conclusive (KPPU reinforced)
5	Case No. 08/KPPU-I/2004: PWC	PN	Supreme Court	Still in process at Supreme Court
6	Case No. 2/KPPU-L/2004: Telkom	PN	Supreme Court	Still in process at Supreme Court
7	Case No. 03/KPPU-L/2004: Procurement of Excise Label by PT Pura Nusapersada	PN	Supreme Court	Still in process at Supreme Court
8	Case No. 05/KPPU-L/2004: Tender on Procurement of security services at PT TPJ	PN	Supreme Court	In the process at Supreme Court

No	Case Number	Objection (PN/District Court)	Level of Appeal Courts	Latest Position
9	Case No. 07/KPPU-L/2004: Tender on VLCC of PT Pertamina	PN	Supreme Court	Final & conclusive (KPPU reinforced)
10	Case No. 08/KPPU-L/2005: Ink of KPU (General Election Commission)	KPPU	Supreme Court	Still in process at Supreme Court
11	Case No. 02/KPPU-L/2005: Application of trading requirements of PT Carrefour Indonesia	KPPU	Still in process at MA	Still in process at Supreme Court
12	Case No. 04/KPPU-L/2004: Auction of Illegal Sugar	D	District Court	Still in the process at District Court
13	Case No. 06/KPPU-I/2005: Conspiracy of Tender for Multi-Years Project of Department of Public Works of Riau Province	PN	Supreme Court	Still in process at Supreme Court
14	Case No. 08/KPPU-L/2005: Price Determination as conducted by PT Sucofindo and PT Surveyor Indonesia on survey service provider for the import of sugar	PN	Supreme Court	Still in process at Supreme Court
15	Case No. 11/KPPU-I/2005: Distribution of Gresik Cement as conducted by Consortium of Gresik Cement Distributor for Area IV.	Still in process at PN	District Court	Still in the process at District Court

Recapitulation of Objection and Latest Development

- Objection (District Court): 15 Rulings (12 have been decided, 2 still in process and 1 withdrawn)
- Winning at District Court: 3 Rulings
- Losing at District Court: Rulings
- Cassation at Supreme Court: 11 Rulings (4 have been decided, 7 in progress)
- Winning at Supreme Court: 3 Rulings

28. The following are the summary of some significant cases that received public attentions and various comments from legal communities as well as from the government.

- *Case decision no: 07/KPPU-l/2004: allegation of violation law No. 5/1999 conducted by PT Pertamina*

29. This case was about allegation of violation of Law No. 5 year 1999 regarding the devastation process of two Very Large Crude Carrier (VLCC) Tankers which previously owned by PT. Pertamina (Persero). The Council of Commissioners found PT. Pertamina guilty by violating Article 19 d and Article 22. PT. Goldman Sachs, Frontline Ltd and PT. Perusahaan Pelayaran Equinox were fined Rp. 19.710.000.000, Rp. 25.000.000.000, and Rp. 16.560.000.000, respectively. The Council of Commissioners also punished Goldman Sachs Pte and Frontline Ltd. to pay to the Government Treasury for compensation lost of Rp. 60.000.000.000 and Rp. 120.000.000.000, respectively.

30. On April 2004, President Director of PT. Pertamina (Persero) decided to sell 2 units of VLCC. The Director formed internal devastation team and appointed Goldman Sachs. During the divestation process, PT. Goldman Sachs invited 43 potential bidders. There were 7 companies submitting proposals, 6 companies were invited and considered as potential bidders, 1 company was uninvited. From all 7 companies, 4 companies (including Frontline Ltd) did not submit direct price proposal as required, but only represented by broker or agent, PT. Equinox.

31. Based on investigation result which was appropriated by asking information from 23 witness, 3 experts, observed around 291 documents and their correspondence with the related parties domestically and internationally, on selling process of 2 units of VLCC tankers proven that there was intrigue between Pertamina with Goldman Sachs to win Frontline, with intrigue evidence as follows:

- Give opportunity to Frontline through its broken (PT.Equinox) to submit the third quotation when time limit for quotation submission already closed on 7th June 2004, proven there was email correspondence of PT. Equinox as brocker with Frontline on 9th June 2004.
- Third quotation of Frontline which slightly difference at the amount of US $ 500 thousand compared with the second offering from Essar.
- Did not open the third quotation envelope of Frontline in front of Notary (as mentioned in tender requirement which develop by Goldman Sachs itself/request for bid). The cause is financial lost of US $ 20 million – US $ 56 million for 2 units of VLCC because there was

only US $ 184 million for 2 units of VLCC tankers, far below market prices at that time (July 2004) which around US $ 204 – 240 million for 2 units of VLCC.

32. Besides that within the investigation, Commission Council found proof that Pertamina also conduct discrimination by direct appointment to Goldman Sachs as the financial advisor and arranger for the selling process of those tankers. This appointment process is unusual, considering it was done in such a short time (2 weeks) also without beauty contest process as usually conducted by Pertamina all this time in its effort to find consultant services in their company.

33. Within the investigation, Commission Council found fact the Frontline has not settled the full payment yet to Pertamina for purchasing 2 tanker ship of VLCC Pertamina as promised before in the sale and purchase agreement (SPA) between Pertamina and Frontline which is US $ 184 million. Frontline pays to Pertamina at the amount of US $ 170.863 million only. By this there difference of US $ 13.137 million (around Rp. 118.233 billion).

- *Case Decision No. 08/KPPU-l/2003, Public Accountant Office/Kantor Akuntan Publik (KAP) Hadi Susanto, a member of Pricewaterhouse Coopers (PWC)*

34. KPPU executed an investigation based on report of an allegation of violation by public accountant office (KAP) Drs. Hadi Susanto & Rekan -- now changed to KAP Haryanto Sahari & Rekan—a member of Pricewaterhouse Coopers (PWC) office which hereafter referred as Reported Party.

35. Main issue in this case was about false interpretation made by Reported Party regarding audit procedure on PT. Telkom’s annual consolidation financial statement which listed both in Jakarta Stock Exchange (JSE) and NY Stock Exchange. This false interpretation was used to influence parties involved in audit on PT. Telkom’s annual consolidation financial statement not to be well cooperated with KAP Eddy Pianto as PT Telkom’s auditor.

36. As well known auditor, false interpretation by Reported Party efficiently influenced those involved parties caused damage on KAP Eddy Pianto’s audit performance on PT. Telkom’s financial statement. Audit by KAP Eddy Pianto was annulled by US SEC, brought impact that KAP Eddy Pianto failed to enter market of audit service especially for premium service for big companies in Jakarta.

37. The false interpretation was used to justify conduct of Reported Party not willing to be associated with audit performance by KAP Eddy Pianto on PT. Telkom’s financial statement. Reported Party was an auditor of PT Telkomsel, subsidiary company of PT Telkom. Financial statement of PT Telkomsel had to be consolidated in PT. Telkom’s annual financial statement.

38. Unwillingness of the Reported party to be associated with audit by KAP Eddy Pianto was for a reason that Reported Party had doubt on KAP Eddy Pianto’s capability and eligibility. KAP Eddy Pianto was not one of four biggest auditor in Indonesia used to give premium audit service to big companies listed in Jakarta Stock Exchange. Reported Party stood on its own opinion that KAP Eddy Pianto had enough capability and eligibility to perform before US SEC. Reported Party did not give consent for its audit report on PT Telkomsel’s financial statement to be attached to audit report by KAP Eddy Pianto on PT Telkom’s financial statement. For that reason, US SEC has rejected submission of audit report by PT Telkom.

39. According to Commission Council’ opinion, Reported Party did not have authority to assess the qualification of KAP Eddy Pianto to practice in front of US SEC. There was not enough proper economic justification of Reported party’s conduct. There was no proper reason Reported Party will responsible for PT Telkom’s audited consolidation financial statement submitted to US SEC.

40. Improper conduct by Reported party has brought impact auditors other than four biggest in Indonesia will not able to enter this premium market. KAP Eddy Pianto has failed in performing audit not because its lack of ability. It was because unwillingness of Reported Party to cooperate. Further, as audit by KAP Eddy Pianto annulled by US SEC, Reported Party appointed by PT Telkom to conduct audit with higher price. Intended conduct by Reported Party brought result that the audit work was awarded to Reported Party.

41. Based on fact and conclusions, Commission council decided that Reported Party is legally proven and confirm the violation of article 19 letter a and letter b law no. 5/1999 and punished to pay penalty at the amount of Rp. 20.000.000.000,-. PWC then submit its objection for the KPPU's decision.

- *Case Decision No. 04/KPPU-I/2003: JICT (Jakarta International Cargo Terminal)*

42. Commission for the Supervision of Business Competition conducted monitoring program concerning possibility of unfair practices in business activities in Tanjung Priok Port especially the international terminal services of cargo loading and unloading. It was concerned that there was an authorisation agreement between Pelindo II with PT. JITC on 27th March 1999 which consists of clause 32.4 that obstacle unknown entrepreneurs to enter the cargo service market. It was Commission's opinion that the authorisation agreement strongly had potency to violate Law Number 5 Year 1999.

43. Based on that finding, Commission submitted recommendation letter to state minister of state-owned companies which basically asked the related minister to use its influence and authority to eliminate and or adjust clause 32.4 of the authorisation agreement in order to meet the spirit of law number 5 year 1999 regarding the prohibition of monopoly practice and unhealthy business competition.

44. The request of elimination and adjustment was no accommodated, then Commission conducted an investigation on this case.

45. **At the end the council of Commissioners assessed and concluded as follows**:

a. Essential of clause 32.4 un the authorisation agreement is not a reflection of cooperation as meant in the article 26 (2) law No. 21/92, but a from of delegation of authority's transaction or transaction of act of extended the monopoly right by giving guarantee to control 75% of market segment in the related market from the Reported III as state-own companies to carry on the port to the Reported I as Indonesian Law Enforcement.

b. That the monopoly practice and unhealthy business competition happened in Tanjung Priok Port cause by the process and privatisation implementation which did not prioritised the function of public service in harbour affairs service.

c. That the status of the Reported III as state-owned companies is an entrepreneur, then regulation function in it should be return to the state.

d. The Reported I and Reported II has made an agreement collectively by controlling the marketing of container services in Tanjung Priok port which did not proof to block it's a business competitor, to implement competition especially in marketing purpose, so it is not violation as mentioned in the article 4 Law Number 5 year 1999.

e. The Reported I has monopolised the production on the related marker which cause an unhealthy competition by blocking other entrepreneurs to enter the related market, so it is violation as mentioned on article 17 verse (1) Law Number 5 year 1999.

f. The Reported I and the Reported II has collectively done activities which caused unhealthy business competition in the form of blocking consumer or consumer of its competitor not to make business relationship with its competitor, so it is a violation as mentioned in the Article 19 letter b Law Number 5 year 1999.

g. The Reported I has indirectly abused its dominant position to block other entrepreneur which is potential to enter the related market, so it is a violation as mentioned in the Article 25 verse 1 letter c law Number 5 year 1999.

h. Wibowo S. Wirjawan has double position on two companies within the same related market caused an unhealthy business competition, so it is a violation as mentioned in the article 26 letter a Law Number 5 year 1999.

i. The council considers that violation to article 17 verse (1), article 19 letter b and Article 25 verse 1 letter c, as mentioned above done because of clausul 32.4 in the authorisation agreement.

j. The council considers that there are clause 30.1 in the authorisation agreement which said that the law of RI is applicable in this agreement and clause 30.2 which said that if a stipulation from this agreement is consider illegal or cancel, the stipulation is consider not as a part from the agreement but stipulations from the agreement which will still considered valid as before without influenced by the cancelled stipulation.

k. Commission council consider stipulation in the article 52 verse 2 and article 43 verse 3 Law Number 5 year 1999.

Merger and acquisition

46. Up to this time KPPU has never handled the case related to merger and acquisition that can only be applied if the Government Regulation concerning merger and acquisition has prevailed. Up to the present time KPPU has still been preparing a Government Regulation Draft on merger and acquisition that will be proposed to the government.

4. The role of KPPU in the development of other (competition) policies

47. Prior to the economic crisis, Indonesia was considered to be one of the most promising economies in Southeast Asia. The economic performance during this period, however, has been built upon the government's over-active role, including the over-regulation of business in general, the ownership of vast state-enterprises, and the support of crony capitalism, as manifested by government-granted import, trading monopolies, and access to government contracts and state bank credit.

48. Not surprisingly, the economic development during this period was heavily influenced by rent-seeking behaviour in business sector. Since 1997, Indonesia has been in the midst of a long and exhausting economic crisis, which worsened along with the world's economic decline, reaching its nadir in 1998. Some argued that one of the factors is that Indonesia did not present a clear competition policy. Previously, like many other developing countries, competition policy has not been a significant object of public or private sector concern in Indonesia.

49. The enactment of law No. 5/1999 is an attempt to end the crisis while starting to develop a clear policy direction for a sustainable economic growth. While the law regulates fair business practices and prohibits monopolistic practices and unfair business competition, it also creates a legal foundation for regulatory policy reforms by giving a mandate for KPPU, among other things, to provide policy advice to

the government regarding policies that affect business competition. For KPPU, the implementation of the mandate would be to synchronise competition and the government policy to become effective competition policy.

50. More than 50 policy advices have been submitted to the Government during the last six years. The approach to harmonise policies to become effective competition policy has a mixed result. While some economic sectors have a great improvement in policy reforms, some other sectors are left behind. Those sectors where the laws mentioning competition as a new approach, such as in Telecommunication and Oil/Gas industry, seems to have a significant improvement. The other sector with tremendous competition policy approach is airline industry. In this sector the Government was trying to set up a floor price but many airlines abandoned the rules since it was not binding. KPPU was advising the government to not put the floor price and let the pricing fixed by the market. KPPU and the Ministry of Trade are in progress to conclude new policy on cane sugar import trading . The most strategic step has been made on the regulatory reform action which KPPU has been able to generate inter minister meeting on this matter.