

Unclassified

English - Or. English

23 May 2022

Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE

Annual Report on Competition Policy Developments in Indonesia

-- 2021 --

This report is submitted by Indonesia to the Competition Committee FOR INFORMATION.

JT03495861

Table of contents

Indonesia	3
Introduction	3
1. Overview of National Business Competition.....	4
2. Reform in Competition Regulation.....	5
3. Enforcement of Competition Law	6
4. Merger and Acquisition Assessment.....	7
5. Supervision of MSME Partnership.....	8
6. Policy Advocacy.....	9
7. Competition in Globalization	10
8. Finance and Human Resources.....	11

FIGURES

Figure 1. National Economic Growth	3
Figure 2. Trend for National investment	3
Figure 3. Trend for National Investment	4
Figure 4. Trend for Business Competition Index	5
Figure 5. Trend for Complaint Accepted	6
Figure 6. Trend for KPPU's Decision	7
Figure 7. Trend for M&A notification	8
Figure 8. Trend for Delay in M&A Notification	8
Figure 9. Trend for Policy Advice and Recommendations	9
Figure 10. Trend for Budget Allocation	12
Figure 11. Trend for Annual Budget Allocation	12

TABLES

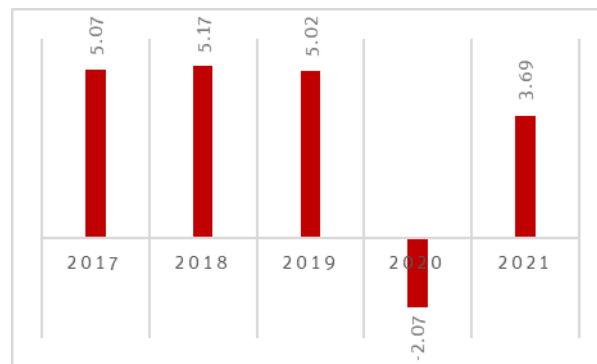
Table 1. International Negotiations with the Competition Chapter	11
------------------------------------------------------------------	----

Indonesia¹

Introduction

1. According to the Coordinating Ministry for Economic Affairs, the Indonesian economy is in a positive recovery momentum. This improvement has been seen since the second quarter until the end of 2021. The government believes that the consistent implementation of the national economic recovery strategy will grow the Indonesian economy by 5.2% by the end of 2022, an initial foundation to promote economic recovery and structural reforms to get out of the middle-income trap.

Figure 1. National Economic Growth



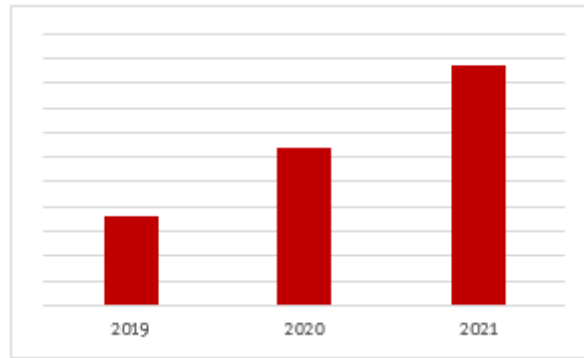
Source: BPS, 2021

2. This positive increase cannot be separated from the rise in public confidence to consume goods or services and encourage the recovery of domestic demand and lead to increased production as a response from the business. Throughout 2021, investment grew by 3.80%. The increase in Indonesia's Manufacturing Purchasing Manager's Index (PMI) which rose to a level of 53.7 in January 2022 is also a positive signal for Indonesia's economic prospects. In the ASEAN region, Indonesia is also predicted to experience stronger economic growth than other ASEAN countries, such as Malaysia, Thailand and the Philippines.

Figure 2. Trend for National investment

(domestic, billion Rp)

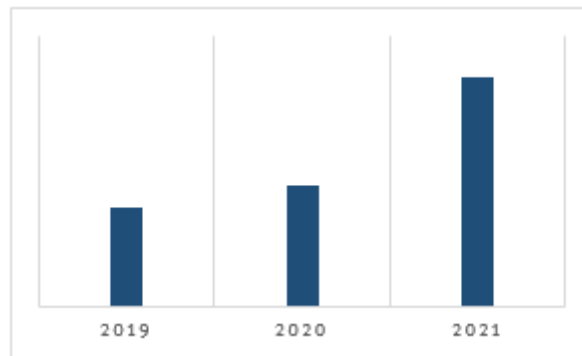
¹ KPPU Annual Report 2021, under the theme Of “Rise, Grow And Compete”



Source: BPS, 2021

Figure 3. Trend for National Investment

(overseas, million US\$)



Source: BPS, 2021

3. In terms of business competition, it was noted that the level of national business competition, represented by the Business Competition Index, also experienced an increase. Based on last year's index measurement, the index reached 4.81 points (on a scale of 1-7). This means that business competition in Indonesia is included in the category of business competition towards high. This value has increased compared to 2020, which was at 4.65. This positive increase also provides optimism for KPPU in pursuing the National Target of 5.0 points as stated in the National Medium-Term Development Plan (RPJMN) for 2024.

4. This positive momentum should be maintained so that the Indonesian economy continues to experience a positive acceleration. For this reason, the Indonesia Competition Commission (KPPU) is committed to assisting the government in creating a competitive business climate, free from various forms of anti-competitive behavior that distort markets and hinder trade and investment in Indonesia.

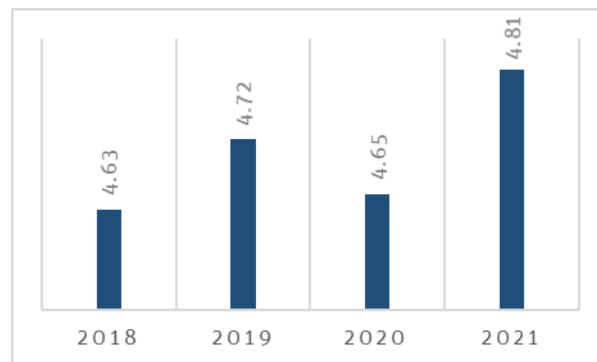
5. Here we convey the performance of KPPU's law enforcement throughout 2021 and our priorities in 2022.

1. Overview of National Business Competition

6. As with the RPJMN Year 2024, the level of national business competition is measured from the Business Competition Index which is measured by the KPPU. In the

RPJMN, it is targeted that the level of business competition in Indonesia will reach 5.0 (from a scale of 7.0) in 2024. Based on the calculations, the 2021 business competition index will reach 4.81 or in the category of high competition. The amount of the index or level of business competition has increased when compared to 2020. This means that the intensity of business competition in Indonesia has also increased in line with the increase in economic growth during this pandemic.

Figure 4. Trend for Business Competition Index



Source: KPPU, 2021

7. The Business Competition Index (BCI) is measured to determine the level of competition in each economic sector in every province in Indonesia. This index is measured nationally in 34 provinces through the aggregation method by measuring business competition in each economic sector in the region using the SCP (Structure, Conduct and Performance) paradigm approach, plus the market dimensions (demand and supply conditions), regulatory dimensions and institutional dimensions (understanding, respondents to competition institutions and policies).

8. In 2022, KPPU will increase its focus and actions on areas or sectors that have a low competition index value, particularly through assisting government in the formulation and implementation of its policies to comply with the principles of fair competition.

2. Reform in Competition Regulation

9. In 2021, KPPU issued KPPU Regulation Number 2 of 2021 concerning Guidelines for Imposing Fines for Violation of Monopolistic Practices and Unfair Business Competition. This regulation has been promulgated in the State Gazette of the Republic of Indonesia Year 2021 Number 589. The regulation regulates 3 (three) major points, namely guidelines for determining the number of fines, provisions for bank guarantees related to requirements for objections and cassation to the KPPU's Decision, as well as related to payment of fines and facility of payments. The regulation is a form of implementation of Government Regulation Number 44 of 2021 concerning the Implementation of the Prohibition of Monopolistic Practices and Unfair Business Competition. The issuance of KPPU Regulation Number 2/2021 is a form of adjustment to Law Number 11 of 2020 concerning Job Creation which was issued in 2020. To obtain a copy of the KPPU's regulations, you can visit the KPPU's official website (<https://kppu.go.id/peraturan-komisi/>).

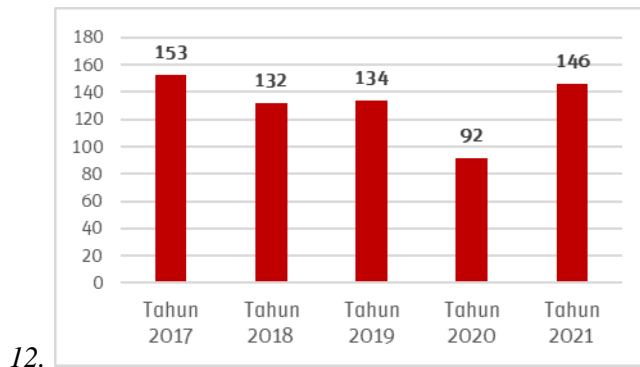
10. KPPU also carries out various regulatory arrangements to improve the quality and credibility of the KPPU as a competition law enforcement agency in Indonesia. Some of

these regulations are as follows (i) KPPU Regulation Number 1 of 2021 concerning Accounting Policies within the KPPU; (ii) KPPU Regulation Number 3 of 2021 concerning Procedures for Establishing a Regulation of the KPPU; and (iii) KPPU Regulation Number 4 of 2021 concerning Human Resource Management.

3. Enforcement of Competition Law

11. Last year, KPPU handled 205 (two hundred and five) complaints, 146 of which were received in 2021. These complaints were followed up with a clarification process on the substance of the alleged violation and its completeness. A total of 52 (fifty-two) or 25.4% complaint were successfully completed. Ten complaints were followed up at the Investigation stage. The number of these complaint has increased by 59% compared to 2020. The increase in this complaint shows the better understanding of the public regarding forms of competition violations as well as a form of public trust in the role of KPPU in enforcing competition law.

Figure 5. Trend for Complaint Accepted

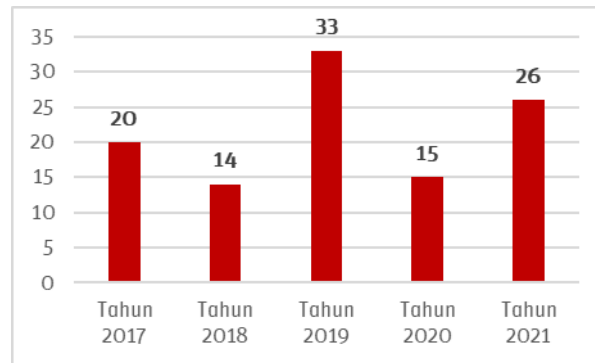


12. Source: KPPU, 2021

13. Of the complaints received, 71% of the complaint were allegations of bid rigging and 29% were allegations of behavior outside of bid rigging. This data shows that bid rigging still dominates complaint submitted to the KPPU, in fact the percentage has increased by 9% compared to 2020.

14. KPPU also carried out law enforcement initiatives and focuses on non-bid rigging behavior. There were 32 (thirty-two) law enforcement initiatives carried out by KPPU. Nine initiatives or 28.1% of them proceed to the Investigation stage. In total, KPPU conducted 65 (sixty-five) investigations throughout 2021. In 2021, the KPPU issued 26 (twenty-six) decisions for violations of the law. Most of the case (11 cases) are decisions on delay in notification of mergers and acquisitions, 10 (ten) decisions on cases of bid rigging, and 5 (five) decisions on other cases. In total, KPPU imposed a fine of Rp55,283,500,000 from 26 (twenty-six) decisions to 31 (thirty-one) Reported Parties in that year.

Figure 6. Trend for KPPU's Decision



Source: KPPU, 2021

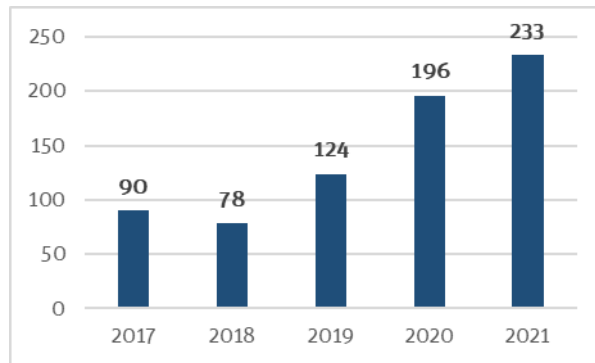
15. Business actors may object to the KPPU's decision to the Commercial Court and file cassation to the Supreme Court. Last year, there were 7 (seven) decisions that were objected. Six of them were forwarded to the cassation, of which three of them were won by the KPPU. In terms of the execution of KPPU's decisions, through the process of enforcing the competition law, business actors have paid a violation fine of Rp. 148,460,883,992 throughout 2021. In total since KPPU was established, the contribution of the imposition of competition fines on non-tax state revenue has approached Rp1 Trillion, or Rp970,266,141,335 to be exact.

16. In 2022, KPPU will increase its law enforcement efforts in the strategic sector and the digital economy, as well as increase efforts for business actors' compliance with KPPU's decisions through more effective cooperation with the Indonesian Attorney General's Office and the Indonesian National Police.

4. Merger and Acquisition Assessment

17. Notification of mergers and acquisitions to the KPPU experienced a significant increase in 2021. There were 233 notifications received, an increase of 20% from 2020. The transaction value reported in that year, accumulatively reached around Rp. 8,833 trillion or Rp. 8,833,068,981,904,570 to be exact. Most of the transactions reported were share acquisitions (87%) and asset transfers (11%). Most notifications come from the property, logistics and technology sectors. Meanwhile, transactions between foreign business actors reached 41% of the transactions that were notified. Singapore, Japan, and Australia were the countries with the most business actors notifying the KPPU last year.

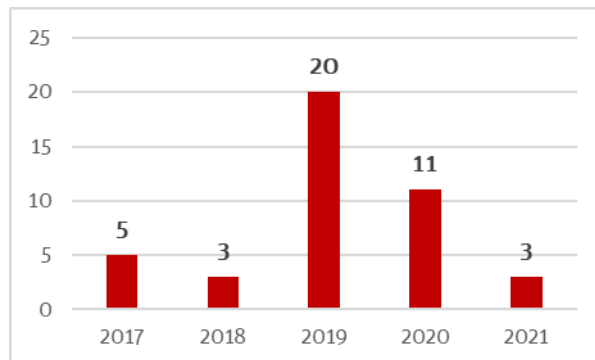
Figure 7. Trend for M&A notification



Source: KPPU, 2021

18. There was an increasing trend of law enforcement for delays in notification of mergers and acquisitions. It is estimated that this is due to the lack of understanding of business actors on this obligation. In 2022, KPPU will improve coordination with related ministries/agencies and business associations so that the obligation to notify the KPPU of mergers and acquisitions can be widely known.

Figure 8. Trend for Delay in M&A Notification



Source: KPPU, 2021

5. Supervision of MSME Partnership

19. Supervision of the implementation of micro, small and medium business partnerships (MSMEs) has become the authority of the KPPU after Law No. 20 of 2008 and Government Regulation No. 17 of 2013. In particular, the KPPU is given the authority to enforce the law on violations of the implementation of MSME partnerships by large or medium-sized businesses. The law enforcement is carried out based on KPPU Regulation No. 4 of 2019 concerning Procedures for Supervision and Handling of Partnership Cases.

20. In 2021, KPPU received 12 (twelve) complaints related to partnership supervision and carried out one research initiative. The number of supervisory partnerships increased by 41% from the previous year. This is suspected to be an increase in the understanding of MSME actors regarding matters that need to be considered, in fulfilling the principles of a healthy partnership. There were 15 (fifteen) MSME partnership cases handled by KPPU in 2021.

21. The supervision and enforcement of the law has begun to show positive results for business actors, especially for partnering MSMEs. Examples of positive impacts can be seen from the improvement in the management of plasma plantations covering an area of 23,566.98 ha in the oil palm plantation sector, to the increase in harvest yields and plasma income. This benefit was felt by 11,437 household heads or about 45,748 people. There was also the handling of cases that have an impact on plasma farmers, who get the return of plantation land from the nucleus company covering an area of 492.01 hectares. The same positive impact also occurred in the handling of cases in the construction sector, with the late payment of work payments from the main contractor to the sub-contractor amounting to Rp9,189.505,575.

22. In online transportation sector, the benefits felt by partner with open access for equalize rights partners and opportunities for appeal. This benefit enjoyed by more from 3.5 million driver who provide online transportation service throughout Indonesia. Drivers who have revoke their partnership also got return on the reminding balance. At this moment, more than 4,000 drivers has accepted their remainder balance worth more from IDR 500 million. So did the benefits felt by 692 farmers in the poultry sector and 1566 post agents in logistics sector throughout Indonesia.

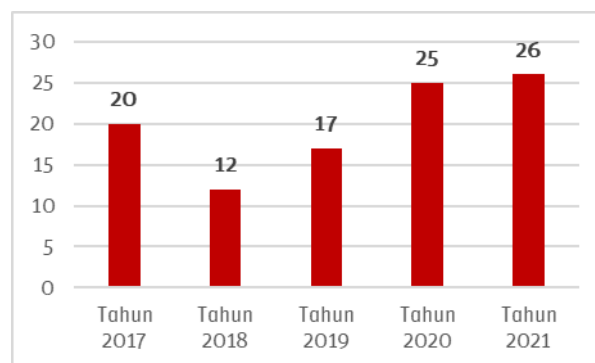
23. In 2022, KPPU will increase its role in law enforcement for the implementation of partnership. A number of cases already are in KPPU hearing in 2022. This is also a momentum to educate SMEs that regulations, particularly KPPU and the Government, implement his job in keeping MSMEs to able to grow without disturbance from dominant business actor.

6. Policy Advocacy

24. Last year, KPPU submitted 26 (twenty-six) policy advice and recommendations to the Government to prevent monopolistic practices and unfair business competition. These policy advice and recommendations were related to the policies of the Central Government, Regional Governments, as well as the implementation of case decisions at the KPPU. Effectively, 81% of the policy advice and recommendations were implemented by the Government. Higher compared to previous years.

25. In total, since 2001, there have been 274 (two hundred and seventy-four) policy advice and recommendations that have been pushed by the KPPU to the Government.

Figure 9. Trend for Policy Advice and Recommendations



Source: KPPU, 2021

26. KPPU's policy advice and recommendation in 2021 are mostly related to anti-dumping duties (BMAD) and import duties (BMTP), such as on Biaxially Oriented Polypropylene, Expansible Polystyrene (EPS) products, ceramic tiles, HRC Alloy, clothing and accessories. clothing, aluminum zinc coated steel (BJLAS), cigarette paper, cold rolled stainless steel, and others. This shows that competition policy is starting to be considered in the context of cross-border trade.

27. The harmonization of competition policies also experienced a positive trend, along with the involvement of KPPU in various discussions of economic issues and policies, such as the National Interest Consideration Team, Tariff Team, Domestic Content Team, Sustainable Product Development Team, Food Task Force Team, and others.

28. In order to support the government in implementing competition policy, KPPU has provided a method, namely the Competition Policy Assessment. This method is an instrument to identify whether a policy/regulation that will be/has been enacted has regulatory substance related to business competition. If the identification results conclude that there is a substance of business competition, KPPU will conduct an analysis of the impact of competition on the said policy/regulation and provide recommendations to the Government.

29. KPPU hopes that this method can become an official procedure or consideration in the Government in every economic policy formulation. KPPU targets to explain the use of this method widely to the Government. In 2022, KPPU will provide an application that will make it easier for the Government to use this method, as well as increase cooperation with the Government, especially Regional Governments to adopt this method in the policy formulation process.

30. In terms of sectoral studies, last year KPPU succeeded in conducting 5 (five) studies related to competition in several sectors in Indonesia, including the Study of Relevant Markets in the Digital Economy, Study of Competition and Welfare in Indonesia, Study of Partnerships in the Automotive Industry, Study of Interlocking Directorate, and Study of the Chicken Industry.

31. In order to foster competition culture and provide appreciation to the Ministry and the Provincial Government, KPPU held the KPPU Award 2021 on December 14, 2021 at the Pullman Thamrin Hotel, Central Jakarta. With the theme "Business Competition, Partnership, and Economic Recovery", KPPU intends to show its commitment to continue fully supporting the President's directives and collaborating with the Government, in order to oversee the process for economic recovery. In order to prevent the creation of high market concentration after the future economic recovery. At the KPPU Award 2021, KPPU awarded two categories, namely Business Competition and Partnership to 11 (eleven) Ministers and 9 (nine) Governors who had the best performance in implementing competition policies and implementing Micro, Small, and Medium Enterprise Partnerships.

7. Competition in Globalization

32. Competition is one of the economic issues that has received attention in various discussions of international trade agreements initiated by the Government of Indonesia. Currently, competition is one of the chapters discussed in various comprehensive economic partnership agreements (CEPAs). KPPU was appointed by the Government to be the lead in the negotiation process on the competition chapter in the various agreements.

Table 1. International Negotiations with the Competition Chapter

No.	Negotiations	Process
1.	Indonesia–Australia CEPA	Done
2.	Indonesia–United Arab Emirates CEPA	Done
3.	RCEP Agreement	Done
4.	AANZFTA Agreement	Done
5.	Indonesia–European Union CEPA	Done
6.	Indonesia–Canada CEPA	Ongoing

33. It is unavoidable that competition is one of the influential substances in bringing in foreign investment and increasing the trade balance to Indonesia. In 2022, KPPU will increase its coordination with the Government in overseeing the trade liberalization process, in order to provide the greatest benefit to the state.

34. In the ASEAN framework, Indonesia is a country with the most developed implementation of business competition. In 2021, Indonesia took the lead in the association of ASEAN competition authority, as Chair of the ASEAN Head of Competition Agencies Meeting (AHCA) and Chair of the ASEAN Expert Group on Competition (AEGC). During the chairmanship, Indonesia, in particular KPPU, carried the theme "Safeguarding Competition Policy for Economic Recovery" to convey a message about the importance of competition authorities to oversee the implementation of competition policies during the economic recovery period due to the Covid-19 pandemic.

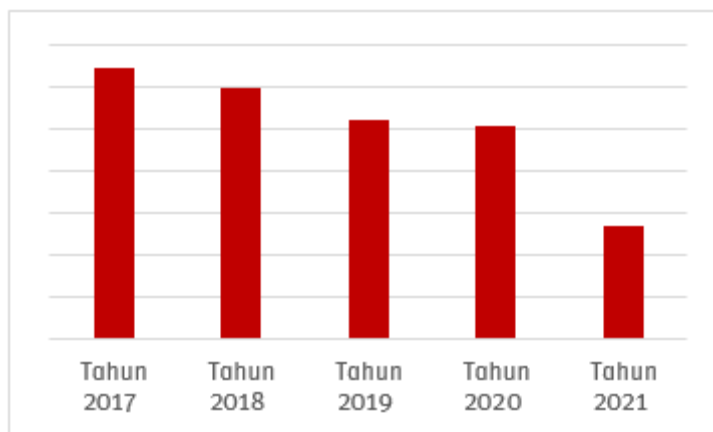
35. In the chairmanship, KPPU succeeded in bringing the leaders of the ASEAN competition authorities to agree on a commitment with the competition authorities in facing the economic recovery period. The joint commitment, which is called the Joint Statement of the ASEAN Heads of Competition Agencies on Maintaining Competition Policy in Post-Pandemic Economic Recovery, contains joint actions carried out by the competition authorities during the economic recovery period to ensure that competition laws and policies will continue to be implemented during this period.

36. KPPU has also succeeded in bringing ASEAN to complete 2 (two) main achievements (deliverables) in the region, namely the ASEAN Regional Capacity Building Roadmap 2021-2025 and Recommendations on Substantive and Procedural Standards in Competition Law Enforcement for ASEAN. These two products are intended to increase cooperation and coordination in the enforcement of cross-border competition law, as well as to reduce the capacity gap that still exists.

8. Finance and Human Resources

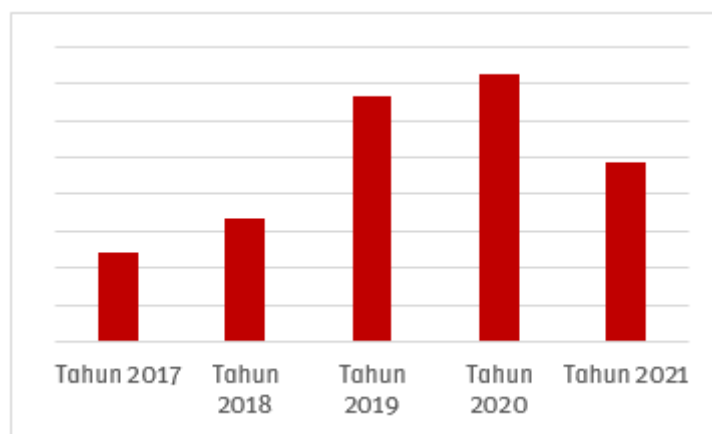
37. In 2021, KPPU received an Unqualified Opinion (WTP) for the ninth time in a row on the KPPU's Financial Statements from 2012 to 2020. This shows the consistency of the quality of financial supervision at KPPU. In terms of budget, KPPU is supported by a budget of Rp. 141,290,622,000 in 2021. KPPU was able to use its budget with annual realization up to 96.59, higher than national average for realization at 91.75%.

Figure 10. Trend for Budget Allocation



Source: KPPU, 2021

Figure 11. Trend for Annual Budget Allocation



Source: KPPU, 2021

38. In the implementation of the 2021 Electronic Integrity Assessment Survey (e-SPI) conducted by the Corruption Eradication Commission (KPK), KPPU received a score of 81.1 and was above the national average of 72.4. This means that KPPU has a low risk of corruption and has a good system for responding to incidents of corruption and prevention.

39. These positive performances were supported by the resource assets of the KPPU Secretariat. Demographically, the KPPU Secretariat currently consists of a total of 443 employees with a distribution of 56.2% male and 43.8% female. From this distribution, 0.2% has a doctoral degree, 20.3% has a master's degree, 48.8% has a bachelor's degree, and the rest vary from D4 to junior high school. The comparison of the investigator's function with that of administrators and other functions is very sharp. From the total demographics of 443 employees, only 32% functional investigators are owned by KPPU, while 49.2% are administrators. This illustrates the lack of quantity for KPPU investigators who function as prosecuting investigators and investigative investigators in law enforcement and case handling processes.

40. Meanwhile, at Secretariat level, the Secretariat General office has 76.75% of the total employees, Deputy for Law Enforcement with 16.70%, and Deputy for Studies and

Advocacy with 6.55%. As for regional offices, there are a total of 144 employees with details of 18.1% at Regional Offices I, 12.5% at Regional Offices II, 13.2% at Regional Offices III, 13.9% at Regional Offices IV, 13.2 % at Regional Offices V and VI, and 16% at Regional Office VII.

41. Until now, efforts to change the status of KPPU employees to State Civil Apparatus are still not satisfactory. The KPPU Secretariat is currently not integrated with Law No. 5/2014 concerning the State Civil Apparatus. Within a period of 21 years, various efforts have been made to resolve organizational and staffing arrangements. In particular, through amendments to Law No. 5/1999 and collaboration with the Supreme Court in interpreting Article 34 paragraph (4) of Law No. 5/1999, as well as submitting a judicial review at the Constitutional Court. These various efforts have not been able to provide a solution for the completion of the existing organizational and staffing arrangements.

42. KPPU has also carried out harmonization and alignment with related institutions, to convey the urgency of institutional and staffing arrangements, including requesting the direction of the Vice President of the Republic of Indonesia. On this occasion, the Vice President of the Republic of Indonesia strongly supports the acceleration of the KPPU's institutional and staffing arrangement, according to the importance of the strategic roles and functions of the KPPU, in maintaining the competition climate in Indonesia. The KPPU's institutional and staffing arrangement should actually not only the KPPU's job, but the Government and all related elements. Therefore, KPPU is committed to conclude this issue by the end of 2022.