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English - Or. English

19 November 2024

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Global Forum on Competition

Competition in the Food Supply Chain – Contribution from Indonesia

- Session IV -

2-3 December 2024

This contribution is submitted by Indonesia under Session IV of the Global Forum on Competition to be held on 2-3 December 2024.

More documentation related to this discussion can be found at: oe.cd/gfc24.

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JT03555781

Competition in the Food Supply Chain

- Contribution from Indonesia -

1. Unfair business competition is clearly detrimental to the interests of society at large. Especially for people who really need food commodities to meet their daily needs. Not only the consumers, the impact will reach other business actors who are unable to do anything because they are losing competition in the market. One of the cases in food commodities handled by The Indonesia Competition Commission (ICC or KPPU) was the case of cartels involving cattle importers. Beef has become an important commodity for the community, especially in big cities. It can be said that beef is a primary need that must be maintained in terms of availability and affordability. Problems in the beef supply chain will be a problem that is detrimental to the stakeholder. After an examination and going through the trial process, ICC decided that the reported parties were legally and convincingly proven to have violated Article 11 and Article 19(c) of Law No. 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition and Law (Indonesian Competition Law). In this case, The KPPU also provided advice to the government to consider regulating and supervising the implementation of imports so as not to harm stakeholders in the market. In the long term, healthy competition in the cattle importation is expected to ensure availability in the market at reasonable prices.

1. Beef Supply-Demand Management in Indonesia

2. Beef is a key component of the Indonesian diet, especially in urban areas, where it is consumed in a variety of traditional dishes. Driven by a growing population, rising incomes, and changing dietary preferences, demand for beef has been steadily increasing. However, the local cattle farming industry faces several challenges, such as limited pastureland, high production costs, low productivity, and disease outbreaks, which can result in fluctuations in supply. The government is trying to increase domestic beef production through investment in agriculture, cattle breeding programs, and improved farming techniques. To fill the gap between local production and domestic demand, Indonesia imports a significant portion of its beef. Beef imports are a critical component of Indonesia's food security strategy, particularly in ensuring that prices remain stable and that there is adequate supply to meet the growing demand in urban markets.

3. An increasing domestic beef price due to stockout will have a negative impact for consumers since it will reduce their purchasing power. This will in turn force consumers to shift from buying domestic beef to other alternative products (such as imported beef, and/or buffalo). For the producer, an increasing beef price will not provide a positive impact on them, since they only receive a low share in the supply chain. At the macro level, the high price of beef can reduce the overall consumption of animal protein. In this situation, it is important for the government to provide a support for the environment for cattle farmers, particularly improving the cattle breeding system and the infrastructure to distribute both live cattle & beef from the production regions to the market areas.

4. Indonesia relying on both domestic production and imports to satisfy the market. As the demand for beef continues to rise, managing the balance between these sources will be key to maintaining food security and price stability in the country. Inability to meet demand due to a lack of available stock, can significantly disrupt the food value chain,

which spans everything from raw material sourcing to production, distribution, and retail. Agricultural commodities, one of which is beef, experience big price fluctuations, in which price spikes becoming an annual tradition especially during national and religious event. Effective management of the food value chain during stockouts requires strategic planning and proactive measures to minimize the impact on producer, consumers, and retailers. The Indonesian government, regulates the process of importing beef to ensure that the country's food security needs are met and fulfill interests of all existing stakeholders.

5. In addition to dealing with the need to encourage population production from local farms and control prices, the complicated problem of the beef trade system also stems from fraud and import violations. Over the past 10 years, problems related to cattle imports have not only touched the realm of Competition law but also anti-corruption law enforcement. Cases of corruption and bribery in beef imports occurred with a pattern of cooperation between officials and importation entrepreneurs. The pattern was similar, import entrepreneurs bribe the government to give an assignment that increases the number of beef import quotas and their derivatives. Case of bribery of imported beef was handled by the Corruption Eradication Commission in early 2013.

2. Indonesia Competition Commission Case on Beef Importation (2016)

6. Beef needs in Indonesia are supplied from the domestic market in the form of local cattle and the international market in the form of imported feeder cattle, ready-to-slaughter cattle and imported meat. The national allocation for beef imports is determined annually based on the results of coordination meetings at the ministerial level taking into account domestic production and consumption needs. The government considers the obstacles and conditions of the distribution of slaughter cattle by making corrections to ready-to-slaughter cattle that cannot be distributed and slaughtered for the supply of meat. The feeder cattle import will be carried out, among others, to meet the needs of domestic slaughter cattle and special needs.

7. The entry of beef can be carried out after the business actor obtains an entry permit from the Minister of Trade based on the recommendation from the Minister of Agriculture. The recommendations include provisions on the country of origin, the number and classification of feeders and with a quarterly validity period. That in making imports, Feedlotter is given the freedom to choose the frequency and time of making purchases as long as it does not exceed the quota given and does not exceed the time that has been limited by the import approval letter. Indonesia relies on imported beef from Australia and New Zealand, since beef from these countries have similar quality to Indonesian beef (grass-fed). Australia is a major importing country due to geographical factors that are relatively closer to Indonesia and free of foot and mouth disease. In addition to obtaining cattle supplies from the international market, feedloters also receive local cattle supplies, either directly to farmers or cattle markets, or receive supplies through their agents.

8. The cattle case handled by The KPPU was related to the alleged violation of Article 11 and Article 19 (c) of Law Number 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition and Law (Indonesia Competition Law). This violation was suspected to have been committed by 32 cattle fattening companies (feedloters) in the geographical market of Jakarta and its surroundings area. The supply of beef in this region was 65% from imports in the form of feeder cattle and ready-to-slaughter cattle. In this case, investigators found that in 2013 and in July-August 2015 business actors alone and/or jointly took actions to regulate the supply of cattle by restricting the sale of cattle to slaughterhouses under the pretext of maintaining the continuity of inventory. The alleged agreement carried out by feedloter business actors on the

momentum of the government planning to restrict imports as happened in 2013 and 2015 and with this arrangement create market conditions of shortage of supply so that prices become high. This action has resulted in an increase in cattle prices which has an impact on the increase in beef prices.

9. The KPPU considered that the transparency of import allocations set by the Ministry of Agriculture and the Indonesian Meat and Feedlot Producers Association was only valid in 2012 and early 2013. This allocation also did not take into account the existence of affiliates of business actors who obtain quota allocations that had the potential to result in the control of supply by business actors, where there were 6 (six) affiliate groups in the relevant market that control the supply of imported cattle to the region around 58% in 2014 and increase by around 61 until the third quarter of 2015.

10. Based on Article 11 of Indonesian Competition Law, business actors are prohibited from entering into agreements with rival business actors, which intend to influence prices by regulating the production and/or marketing of a good and/or service, which can result in monopolistic practices and/or unfair business competition. The key focus of Article 11 is on abuse of market power. It includes practices such as setting prices artificially high or low to force competitors out of the market, limiting production, sales, or market access in a way that restricts competition, and imposing unfair trading conditions on customers or suppliers. Essentially, this article prevents companies from exploiting their dominant position to the detriment of competition and consumers. It is designed to ensure that dominant companies do not use their market power in ways that reduce competition, harm consumers, or impede market entry for new or smaller players.

11. Meanwhile, in Article 19 (c) of Indonesian Competition Law it is regulated that business actors are prohibited from carrying out one or several activities, either alone or with other business actors, which can result in monopolistic practices and/or unfair business competition in the form of restricting the circulation and/or sale of goods and or services in the relevant market. Specifically, this article prohibits any agreement or concerted practice between competitors that directly or indirectly restricts competition by reducing or limiting the production, distribution, or sale of goods or services. This includes practices that create barriers to market entry, limit consumer choice, or distort free market dynamics.

12. The KPPU found the fact that there was an agreement made by business actors facilitated by the Indonesian Meat and Feedlot Producers Association. The Tribunal found a series of meetings that ultimately showed the similarities in the actions taken by the Reported Parties. In meetings at the association, business actors allegedly hold talks about the selling price of cattle. There was also marketing arrangements that have an impact on unreasonable price increases and are detrimental to the public interest. Supply detention carried out by not realizing the number of cattle import quotas that had approved by the government and rescheduling sales. In the next stage, the existing stock was not fully marketed, so that the supply in the market was relatively low and the parties had a reasonable reason to increase the price. The price increased eventually resulted in the strike of the slaughterhouse.

13. The KPPU through its decision stated that 32 importer and feedlotter companies that import feeder cattle and imported cattle on a sustainable basis violated Indonesian Competition Law in Article 11 and Article 19(c) were guilty of the charge of price fixing and manipulation of market supply and imposed heavy fines. This decision was confirmed by the supreme court and the parties were fined 59 billion rupiah. In its decision, The KPPU also issued three recommendations to the Government. The first recommendation was addressed to the Ministry of Agriculture. The KPPU asked the Ministry of Agriculture to make policies based on meeting needs through the availability of cattle supply and affordability. Second, The KPPU asked the Ministry of Trade to establish a policy of

granting approval of imported cattle quotas within 1 (one) year in advance to importers to ensure certainty of distribution. Third, The KPPU also asked the Ministry of Trade to examine affiliate relations among importers to avoid unfair business competition.

3. Conclusion

14. The food commodity trading system is expected to provide balance for stakeholders in the market, not only for consumers but also for producers and distributors. In the case of an imbalance between supply and demand, imports are a strategy that must be taken by the government. While committed to improving domestic production, the government must improve the beef import trade system so that in the future there will be no more problems related to imported beef. One of the highlights by The KPPU was for the government to conduct a detailed and accurate search for information on business actors, so that it can be known whether there was affiliation among business actors which can cause market dominance.

15. The transparency of the import system and quota needs to be enforced by the government. There must be clear policies and supervision in the implementation of beef imports. The government can be more assertive in encouraging the realization of cattle imports by importers. The non-realization of imports by importers who already have import quotas is equivalent to closing the opportunity to get import quotas by other business actors, so there should be more business actors who can get import quotas. The KPPU hope that pro-competition policies will provide legal certainty for the parties involved and opportunities to all parties to participate in the market. In the long term, it is hoped that this can guarantee availability of food commodities at competitive prices.