

ABSTRACT

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LEGAL ASPECT OF EVIDENTIARY PROCESS OF CARTEL CASES IN INDONESIA USING INDIRECT EVIDENCE

(xii + 309 pages)

Cartels are agreements among the competitive business actors within the same relevant market to eliminate the competition between them. There are three types of cartel such as price, allocation of territory, and production. The main purpose of cartel is to gain an excessive profit for the benefit of cartel participants. In order to prove the violation of Article 5, Article 9, and Article 11 of Law No. 5/1999, the fulfillment of agreement is required. However since cartels between the businesses actors are conducted in silent, The Commission of Supervisory of Business Competition (“KPPU”) needs an indirect evidence to prove the existence of cartel agreements between the business actors. The uses of indirect evidence has not regulated under the Law No. 5/1999. Therefore this study was conducted to explore and analyze the evidentiary process of cartel cases by KPPU specifically for the evidentiary process of cartel cases using indirect evidence. By using statue approach, cases approach and conceptual approach, the authors will analyze the consistency of KPPU to prove the violation of regulation under the Law No. 5/1999 and the uses of indirect evidence to proof such violation. The result shows that KPPU does not consistent to define the elements of Article 5 and Article 11 of Law No. 5/1999 specifically agreements and relevant market. Further to proof the violation of Law No. 5/1999, KPPU only uses indirect evidence without any hard evidence as regulated under Article 42 of Law No. 5/1999.

References: 41 (2005-2017)