

ABSTRACT

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JURIDICAL ANALYSIS OF PRICE FIXING AGREEMENT ALLEGATION IN THE SURABAYA TO AMBON ROUTE FREIGHT CONTAINER INDUSTRY (CASE STUDY PUTUSAN PERKARA NO. 08/KPPU-L/2018)

(ix + 84 pages)

Antitrust law is a law which one of the purposes is to stimulate the growth of economy of a country. Compliance to the law will result a fair competition situation where each businessman competes to acquire the market share. However, some businessmen prefer to acquire the market share by committing unfair competition. One of the ways is to participate in a price fixing agreement. It is an agreement in which the parties agreed to set a certain price so that they would not have to compete. However, this agreement is prohibited *per se illegal-ly* under Indonesia's antitrust law, it is regulated in Article 5 of Indonesia's antitrust law (Undang-Undang Nomor 5 Tahun 1999). One of the examples of price fixing agreement can be found in Putusan Perkara No. 08/KPPU-L/2018. In this case, four businessmen in the Surabaya to Ambon Route Freight Container Industry are involved in a price fixing agreement. In this case's investigation, circumstantial evidence was used, which requires communication evidence and structural evidence. In this case, the communication evidence was a letter which shows the alternation of the freight container price. KPPU stated that this letter is a form of communication which leads to a price fixing agreement. However, according to Udin Silalahi, communication evidence requires an interaction between businessmen and/or a knowledge of their competitors' pricing strategy in the future. The communication evidence in this case did not fulfill those requirements, and therefore, it risks the verdict to be cancelled by higher-leveled courts. The reason of the usage of this weak communication evidence happened because of unclear regulation of communication evidence in the Pedoman KPPU. This research used juridical-normative method in the form of judicial study case. The purpose of the research is to determine if Putusan No.08/KPPU/2018 complied to Indonesia's antitrust law. This research concludes that the regulation of price fixing agreement, especially in terms of communication evidence is not sufficient yet and KPPU needs to regulate it in order to strengthen Indonesia's antitrust law.

References: 37 (1957-2021)

Keywords: Price Fixing Agreement, Circumstantial Evidence, Antitrust Law