

## FOREWORD

Lord Jesus who is the Alpha and Omega, the one and only one who is able to give blessings, grace and mercy for the people in the world, may the Author be able to write and finish this Thesis as one of the prerequisites to obtain the Bachelor of Law Degree (S1) in Business Law Specificity at Faculty of Law Universitas Pelita Harapan in 2017.

The Thesis at hand is titled **“ANALYSIS ON THE PRACTICE OF PRICE FIXING WHICH CAUSES UNFAIR BUSINESS COMPETITION”**.

This topic is selected for several reasons which mainly is for the completion for the writers undergraduate study and the Author’s willingness and interest in analyzing this fulfillment of the elements of price fixing in this popular case.

In the process of writing this Thesis, the author has gained greater knowledge and valuable experiences of academic matters and life experiences. Aside from the benefit of gaining academic surplus, the writer would also like to thank everyone who has helped the writer in successfully finishing this Thesis. The author wishes to thank with a full-hearted gratitude to the follow people below:

1. Prof. Dr. Bintan R. Saragih, S.H., as the Dean of the Faculty of Law, Universitas Pelita Harapan, who has been a supportive and excellent role model for the Faculty throughout the Author’s law school journey, especially in giving me the opportunity to enjoy the studious experience of law school in the Faculty of Law of University of Pelita Harapan.

2. Dr. Susi Susantijo, S.H., LL.M., as the Head of Master of Notary Program Universitas Pelita Harapan, and as the Academic Supervisor of the author's law school life, who has always assisted and supported me in every aspect of pursuing my academic life and helped to pursue the goal of finishing my Bachelor of Law Degree as planned.
3. Dr. Velliana Tanaya, SH., MH as the Director of the Faculty of Law Universitas Pelita Harapan who has been helpful in her guidance and assistance for the author's law school life, and having a great impact for the great prideful education experience for the author in the Faculty of Law of Universitas Pelita Harapan.
4. Dr. Vincensia Esti P.S., S.H., M.Hum., as the Head of Department of the Faculty of Law Universitas Pelita Harapan, who has been very helpful and supportive towards the process and succession of pursuing my academic achievements in this Faculty.
5. Dr. jur. Udin Silalahi, SH., LL.M as the Supervisor of this Thesis. Thank you for all of your kindness, and helpfulness in helping my law school life very beneficial academically, especially in completing this thesis. The Supervisor is seen as a person full of spirit and willingness, who has been very thoughtful in teaching the author important lessons to gain under your teaching.
6. All lecturers at the Faculty of Law Universitas Pelita Harapan, who has been very helpful for the author in gaining knowledgeable experiences of

law and life lessons throughout the whole courses of the author's law school life.

7. All secretariats in the Faculty of Law Universitas Pelita Harapan who is always present in helping the different kinds of help the author needs. (Mrs. Theresia Rini Setiani, S.E., Ms. Ulli, Mas Pomo, and Mas Wahyu).
8. Mr. Johnson Sun and Mrs. Lie Lie Law the Author's beloved parents, who is always giving the author their best support and encouragement everyday. Thank you for all of your disciplinary actions for me to become a diligent law student at UPH, even with the several life challenges I had, the author is very thankful that God has put me as the son of both my parents. Thank you for always pushing me very hard unto pursuing to become a more mature and intellectual person who should not lose hope and strive for greatness everyday of my life.
9. Stevano Sun, the Author's brother. Thank you for your very harsh teaching in molding me to become more mature and more law abiding. I adore your patience and kindness in supporting me even in times when the author is not present to support his brother. I thank you for being a very discipline brother, which in fact sets a very good role model for me to become a successful lawyer in the future.
10. Thomas Deisaviory, S.H., the authors best friend, who becomes one of the first supporter and motivator for the author to pursue a law degree. The author also want to thank for the guidance in preparation for pursuing a law degree since the beginning of my law school life. There is so much to

thank regarding the knowledge passed and life lessons learned from the author's best friend.

11. Lastly, to everyone else whom the writer may not be able to mention, thus is also important in helping the writer to pursue and finish his Bachelor of Law Degree in Universitas Pelita Harapan. The author will always be gratifying every kind of help given, through work and prayers for the completion of this thesis. Thank you for being present in my journey of law school life.

Regarding the author's expectation for this thesis, even though it may not be as perfect for the eyes of every people in Indonesia, the author will be very willing to be learning on how to improve greatly on the analyze of this thesis through advices and critics from every person who is willing to improve this thesis. The author also hope that this thesis will bring awareness and improvement for the practice of business competition in Indonesia, and in the implementation of the Business Competition law in the upcoming future for the readers.

Karawaci, 21November 2017

The Author

Marconio

## TABLE OF CONTENT

<b>TITLE.....</b>	<b>i</b>
<b>AUTHENTICITY .....</b>	<b>ii</b>
<b>APPROVAL OF SUPERVISOR .....</b>	<b>iii</b>
<b>APPROVAL OF EXAMINERS.....</b>	<b>iv</b>
<b>ABSTRACT .....</b>	<b>v</b>
<b>FOREWARD .....</b>	<b>vi</b>
<b>TABLE OF CONTENT .....</b>	<b>x</b>
<b>LIST OF PICTURE .....</b>	<b>xiv</b>
<b>CHAPTER I INTRODUCTION .....</b>	<b>1</b>
1.1 Background.....	1-11
1.2 Formulation of Issue.....	12
1.3 Purpose of Thesis.....	12
1.4 Merits of Thesis.....	12
1.4.1 Theoretical Aspect.....	12-13
1.4.2 Practical Aspect.....	13
1.5 Systematic Writing.....	13-14
<b>CHAPTER II LITERATURE REVIEWS.....</b>	<b>15</b>
2.1 Understanding of Business Competition and Economy.....	15-17
2.2 Business Competition Law in Indonesia.....	17-19
2.3 The Market Economy.....	19-25
2.4 The Types of Market Structure .....	25-26
2.5 Allowable and Prohibited Practice.....	26
2.5.1 Allowable Practices.....	26-27
2.5.2 Prohibited Practices.....	28-30
2.6 Per se illegal and Rule of Reason.....	31-33
2.7 General Understanding of Price Fixing.....	34
2.7.1 Understanding of Article 11(Cartel) .....	35-36
2.7.2 Understanding of Article 5 ( Price Fixing) .....	36-37
2.7.3 Understanding of Article 9 (Market Division) .....	37-38
2.8 Evidences.....	38
2.8.1 Evidence in Competition Law .....	38-40
2.8.2 Direct and Indirect Evidences .....	40-42
2.8.3 Evidence in Price Fixing .....	42-45
2.8.3.1 Plus Factor Analysis of Price Fixing Evidence.....	45-49
2.9 Conceptual Framework.....	49-51
<b>CHAPTER III RESEARCH METHODOLOGY .....</b>	<b>52</b>
3.1 The Type of Legal Research.....	52
3.1.1 Normative Legal Research.....	53
3.2 Resource of Legal Research.....	54
3.2.1 Primary Legal Materials.....	54-55
3.2.2 Secondary Legal Materials.....	55-56

3.2.3 Tertiary Legal Materials.....	56
3.2.4 Non Legal Materials.....	56
3.3 Legal Research Approach .....	56-58
3.4 Qualitative Analysis.....	58-60
3.5 Obstacles and Prevention.....	60
3.2.3 Obstacles.....	60
3.2.4 Preventions.....	60
<b>CHAPTER IV ANALYSIS.....</b>	<b>61</b>
4.1 Case Position.....	61-62
4.1.1 Chronology of the case.....	61-62
4.1.2 Identity of the Defendants.....	63
4.1.3 Suspected Prohibition.....	64
4.1.4 Preliminary Investigation.....	64
4.1.5 Investigation.....	65-66
4.1.6 KPPU Consideration.....	66
4.1.6.1 Product Market.....	66-67
4.1.6.2 Geographical Market.....	67-68
4.1.6.3 The Fulfillment of the Elements of Price Fixing .....	68-73
4.1.7 KPPU Decision.....	73
4.2 Analysis on Case Number: 04/KPPU-I/2016.....	74-75
4.2.1 Business Actors.....	75
4.2.2 Price Fixing Agreement.....	75-76
4.2.2.1 Regarding Golf Course Meeting.....	77-82
4.2.2.2 Regarding Electronic Letters/Emails.....	78-82
4.2.3 Business Actors and Business Competitors.....	82
4.2.4 Price Fixing on certain good and/ or services.....	83
4.2.4.1 Regarding Golf Course Meeting.....	83
4.2.4.2 Regarding Electronic Letters/Emails.....	84-92
4.2.5 Relevant Market.....	93
<b>CHAPTER V CONCLUSION AND SUGGESTION.....</b>	<b>94</b>
5.1 Conclusion.....	94
5.2 Suggestion.....	95
<b>BIBLIOGRAPHY.....</b>	<b>96-97</b>

## LIST OF PICTURE

Picture 4.1	Price Comparison of 110CC Scoters in Year 2013.....	88
Picture 4.2	Price Comparison of 125CC Scoters in Year 2013.....	88
Picture 4.3	Price Comparison of 110CC Scoters in Year 2014.....	88
Picture 4.4	Price Comparison of 125CC Scoters in Year 2013.....	88
Picture 4.5	Price Increment of 110-125CC Scoters in Year 2013-2014.....	91
Picture 4.6	Price Comparison of several 110CC Scooters in 2012-2014.....	92
Picture 4.7	Price Comparison of 125CC Scoters in Year 2012-2014.....	93
Picture 4.8	Price Comparison of Honda Beat and Yamaha Mio GT in Year 2012-2014.....	93

