

**7th ASEAN Competition Conference 2017
- ASEAN @ 50 – Managing Change in a
Competitive ASEAN
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*Commission for the Supervision of Business Competition
KPPU Building
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OUT LINE

- ❑ *Why are Competition laws also relevant for smaller companies?*
- ❑ *Are MSMEs too small to affect the market?*
- ❑ *How can small companies promote the competition culture?*
- ❑ *How can small companies benefit from competition enforcement*

Background settings of competition

1 Society has not been to participate in existing business opportunities, including the development of small and micro enterprises

2 The development of private enterprises characterized by various forms of government policies that are less precise

3 The relationship between the decision makers with business people

4 The businessman close to the power elite get the ease excessive

5 The lack of competitiveness of businesses in the market at home and abroad

6 The need for regulation of fair competition

7 The lack of new businesses that play a role in the Indonesian economy. The development of small and medium enterprises become large sustainable

Benefits of Competition

a. Bring up Innovation

b. The diversity of products

c. Prices were synonymous with quality

d. Consumers as a price taker

e. Costumer needs fulfilled

*Why are Competition laws
also relevant for smaller
companies?*

- The purpose of competition law -

Safeguard the interests of the public and increase the efficiency of the national as efforts welfare of the people

ensure the same business opportunities for businesses large, medium and small

to prevent monopolistic practices and or unfair business competition

The effectiveness and efficiency of business operations

The main task of KPPU

The KPPU has the authority to provide advice and judgment on government policies that lead to unfair competition

Policy
Advocacy

The KPPU has the authority to investigate, examine and decide the alleged violation of unfair competition by businesses

Law
Enforcement

By strengthening in government regulations No. 57/2010, The Commission has the authority to receive and evaluate the merger were notified and consulted

Control of
Merger

Through law number 20 year 2008 jo PP No. 17/2013, The KPPU has the authority to supervise and enforce the law on the implementation of the partnership between major actors with MSMEs

Oversight
Partnership

KPPU Tasks Related to Partnership

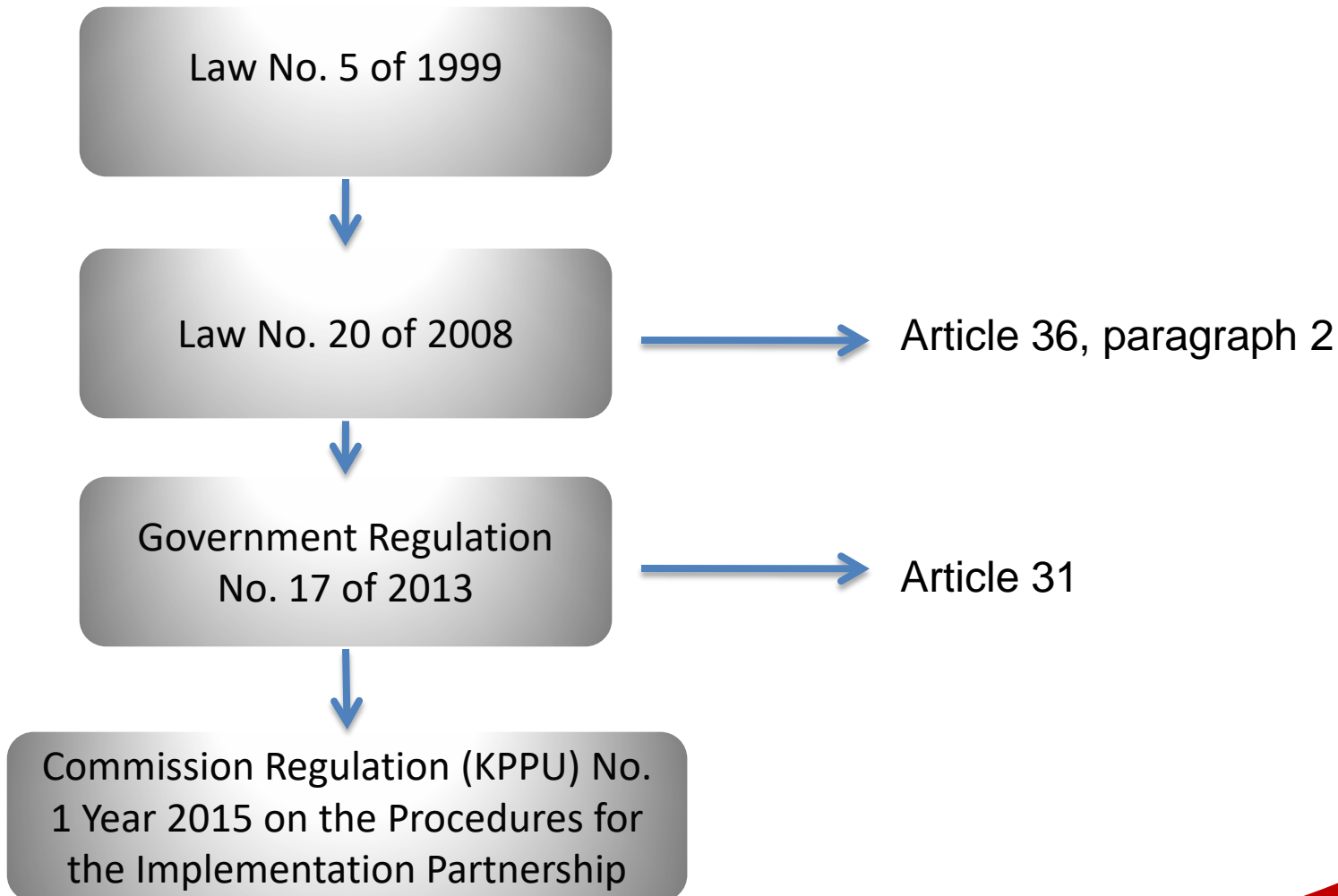
Large/Medium & Small Companies

- ❑ Based UU No. 5 of 1999 on the prohibition of monopolistic practices and unfair business competition, in creating a conducive business climate, effective and efficient Commission oversees that businesses do not perform: **(1) Agreement prohibited, (2) Prohibited act, and (3) Abuse of dominant position.**
- ❑ Based UU No. 20 Year 2008 on Micro, Small and Medium Enterprises, implementation of the **Partnership** supervised orderly ole institution formed and tasked to oversee the competition as stipulated in the law (Article 36 paragraph 2)
- ❑ By Regulation No. 17 of 2012, in monitoring the implementation of the Partnership, the Commission coordinate with relevant agencies (Article 31)
- ❑ The task of monitoring the implementation of the **Partnership** by businesses of Micro, Small and Medium Enterprises is a tool, which complements the previous Commission's function is oversight of competition

Commission tasks related to the implementation of the partnership Large/Medium & Small Companies

- ❑ In the competition supervision, relating to micro, small and medium enterprises, the Commission can only protect from unfair competition practices as stipulated in Law No. 5, 1999 (such as **abuse of dominant position**)
- ❑ But with the Law No. 20 In 2008, the Commission can make the protection of micro, small and medium enterprises in the form of surveillance partnerships, some of which are not covered by the Act No. 5, 1999 as the **abuse of dominant position**

The legal basis for the implementation of the Partnership Large, Medium and Small Companies

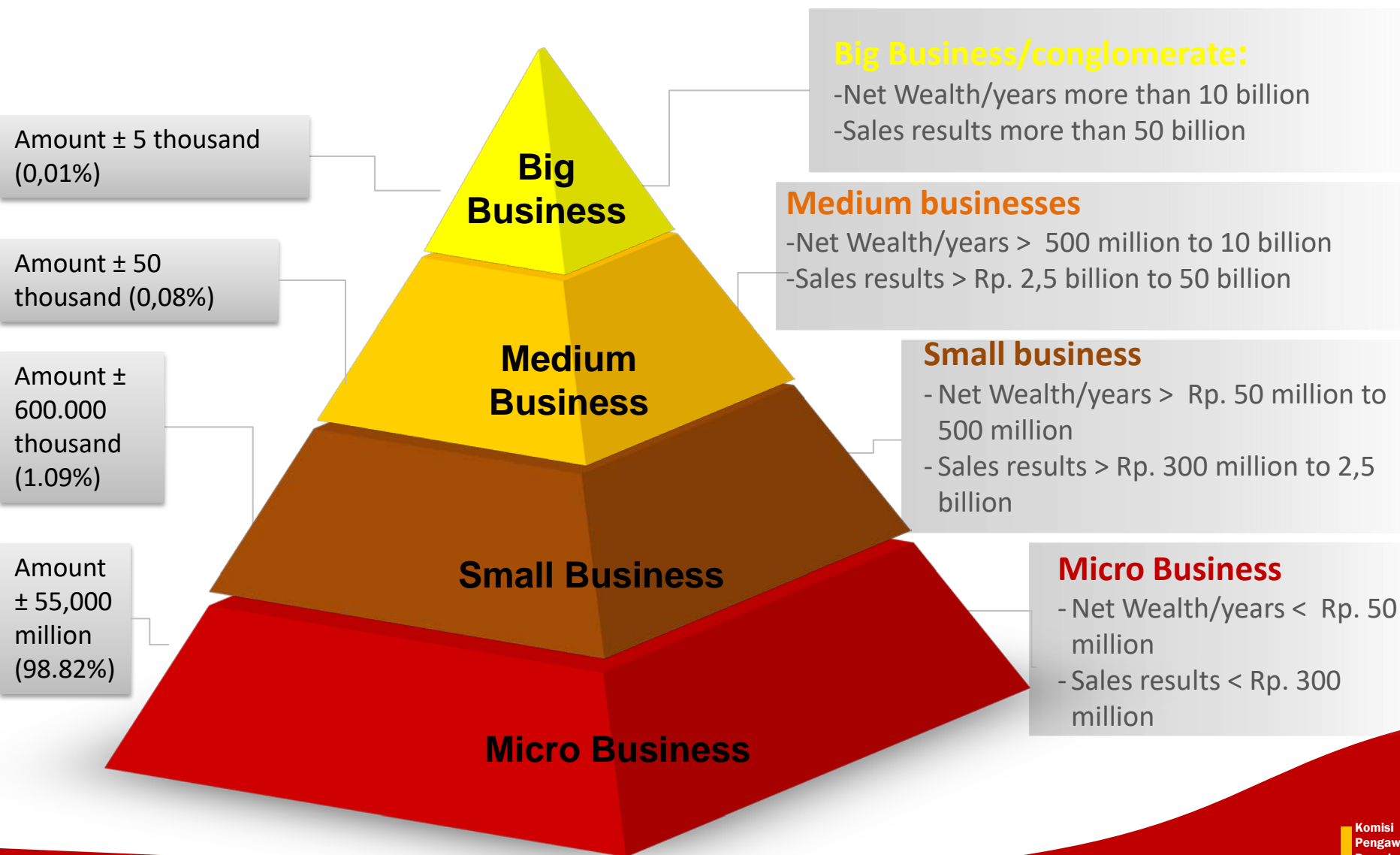


Partnership/Subcontracting Large/Medium & Smaller Companies

"Cooperation in the business relationship, directly or indirectly, on the basis of the principle of mutual need, trust, strengthen, and profitable involving businesses of Micro, Small and Medium Enterprises with Large Business"

*Are MSMEs too small to
affect the market?*

Snapshot MSMEs di Indonesia



Big Business/conglomerate:

- Net Wealth/years more than 10 billion
- Sales results more than 50 billion

Medium businesses

- Net Wealth/years > 500 million to 10 billion
- Sales results > Rp. 2,5 billion to 50 billion

Small business

- Net Wealth/years > Rp. 50 million to 500 million
- Sales results > Rp. 300 million to 2,5 billion

Micro Business

- Net Wealth/years < Rp. 50 million
- Sales results < Rp. 300 million

MSME too Big affect to the market

- ❑ 90% of businesses in Indonesia are small and micro enterprises;
- ❑ According to data from the Central Bureau of Statistics (BPS) in 2016 the total value of Gross Domestic Product (GDP) in Indonesia reached close to US\$ 1.000 billion. Of these SMEs to contribute US\$ 500 billion or 50% of total GDP of Indonesia;
- ❑ Subcontracting that's one way to advance the micro, small and medium;
- ❑ With the Law No. 5 of 1999, Law No 20 of 2008 and Government Regulation No.17 of 2013 making sub-contracting culture goes well condusive;
- ❑ With the healthier pyramid structure of Indonesian Industry expectation to 2025, MSME havepotential contriobution of 70% of GDP of will be US\$ 4.000 billion with the income per capita per year US\$ 18.000, it means prosperity of people in MSMEs will increase

*How can small companies
promote the competition
culture?*

- MSME provides young entrepreneurs as new businesses are creative and innovative;
- If the condition is empowered with relevant partnerships with major industry supply chain, SMEs will grow well and be able to log in as the new entrance of small and medium businesses with a culture of healthy competition;
- As the success of regulation and institutions to encourage partnership is the creation of a pyramid structure with a healthier industry in the future and welfare of MSME better

*How can small
companies benefit
from competition
enforcement ?*

The goal

The purpose of
Law 5 of 1999

- To keep the public interest of the public and to improve national economic efficiency as one of the efforts to improve the people's welfare
- **To create a conducive business climate through the stipulation of fair business competition in order to ensure the certainty of equal business opportunities for large-, middle-as well as small-scale business actors in Indonesia**
- To prevent monopolistic practices and unfair business competition that may be committed by business actors; and
- The certain of effectiveness and efficiency in business activities

Law no. 20/2008
and Government
Regulation No.
17/2013

- Protecting the market structure of the economic concentration by certain business groups through the ownership and control of business partners
- encourage the formation of market structure which ensures the growth of fair competition and protect consumers
- develop cooperation to improve the bargaining position of Micro, Small and Medium Enterprises

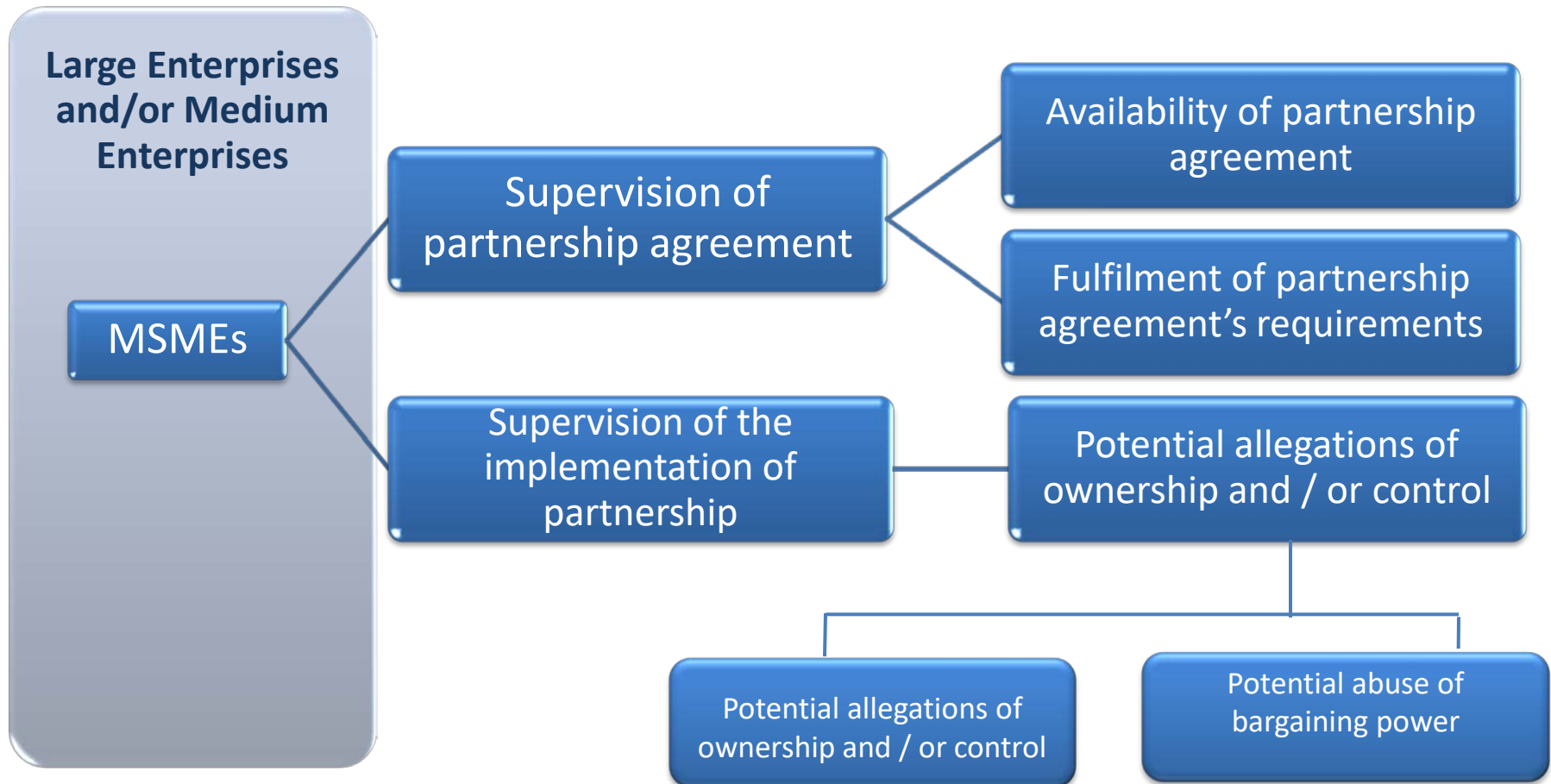
Tasks and authority of the Commission related to the Partnership

- ❑ Based on Law No. 20 Year 2008 & PP 17 In 2013 the Commission's task is two:
 1. Supervising the partnership (in coordination with the relevant technical agencies)
 2. case handling process execution of the partnership from the reports received by the Commission or Commission initiative
- ❑ Characters competition supervision and enforcement of the Partnership tend persuasive towards behavioral change on the basis that the partnership formed by the needs of the partnership

Supervision of the Implementation of Partnership

- Persuasive emphasizing behavioral change businesses, especially for the business medium / large
- The nature of enforcement such as mediating the improvement of relations between businesses that partner
- Sanctions applied if businesses medium / large really have the intention to misbehave, master / has medium businesses / small and do not want to change behavior

Object supervision of the implementation of partnership



Case handling partnerships

- ❑ Tend to be persuasive, stressing to changes in the behaviour of business enterprises, especially for medium/large enterprises.
- ❑ Nature of enforcement, for example mediation repair for the relationship between partner companies.
- ❑ Sanctions application if medium/large sized enterprises thoroughly have the intention to misbehave/dominate micro enterprises and unwilling to make changes in behavior.

Administrative Sanctions based on Law No. 20/2008

- Large enterprises that violate the provisions of Article 35 paragraph (1) subject to administrative sanctions in the form of revocation of business license and/or penalty in the amount of Rp.10.000.000.000,- (ten billion rupiah) maximum by the authorized institution.
- Medium enterprises that violate the provisions of Article 35 paragraph (1) subject to administrative sanctions in the form of revocation of business license and/or penalty in the amount of amount of Rp.5.000.000.000,- (five billion rupiah) maximum by the authorized institution.
- revocation of business license, official license issuer shall revoke the business license entrepreneurs are concerned at the latest within 30 working days after the decision had final in binding (inkracht).

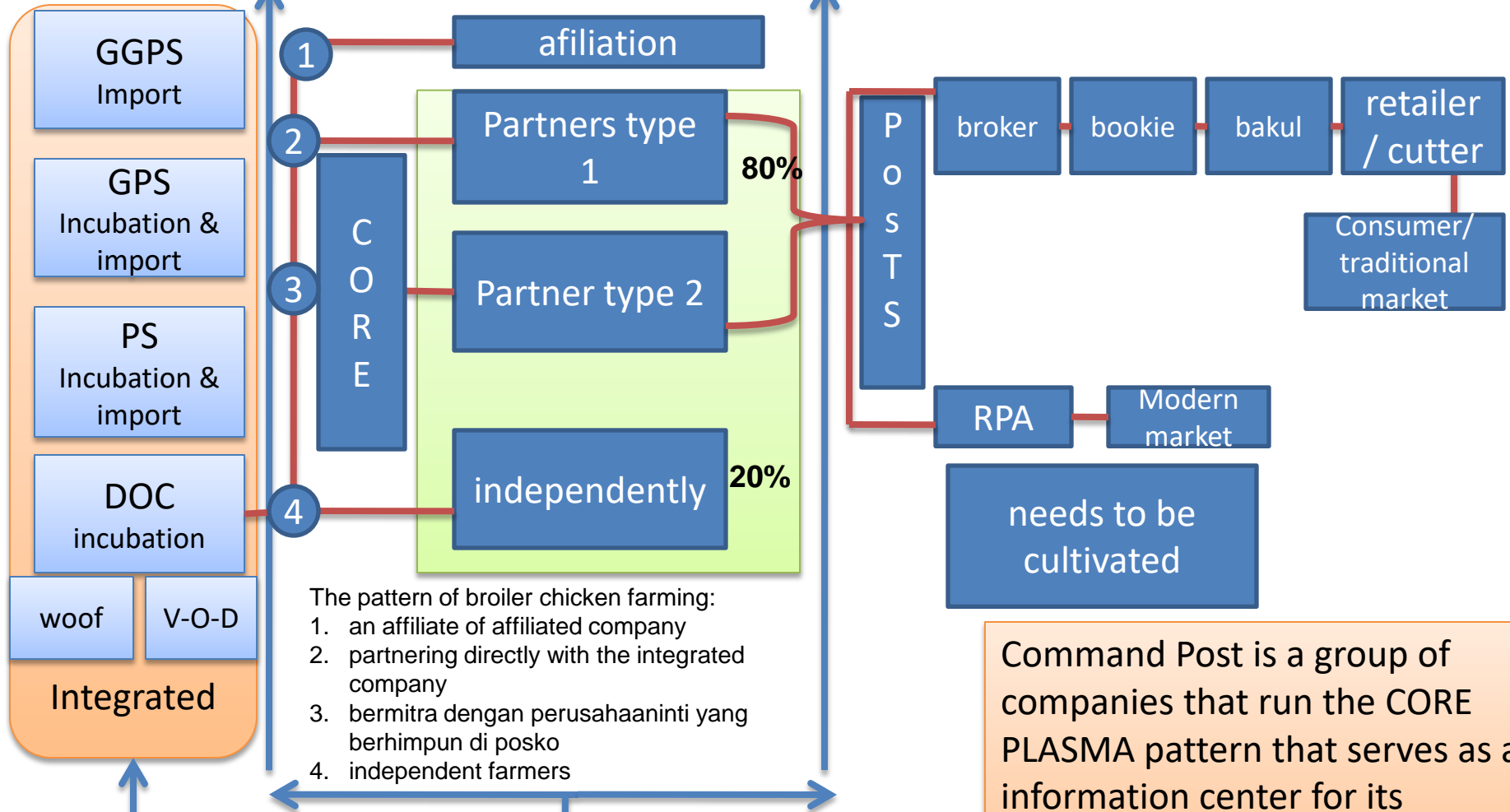
Case Examples

- Carrefour otherwise violate Article 19 (a) the law number 5 year 1999 and fined Rp 1.500.000.000,- (one point five billion rupiah) for implementing trade requirements to suppliers who are mostly MSMEs in the form:
 - **Imposition *Listing Fee*** : fees charged to suppliers to supply their products to Carrefour but not all of these suppliers charge.
 - **Imposition *Minus Margin*** : reduce payments to suppliers if the suppliers found selling their products at a cheaper price to a competitor Carrefour.
- Independent smaller chicken farm and the big dominant chicken farms: abuse of dominance position
- SMSEs Metal Industry and the big dominant automotive industry : local content schedule and technology transfer to MSMEs metal industry

upstream market

cultivation

downstream market



The pattern of broiler chicken farming:
 1. an affiliate of affiliated company
 2. partnering directly with the integrated company
 3. bermitra dengan perusahaan inti yang berhimpun di posko
 4. independent farmers

Command Post is a group of companies that run the CORE PLASMA pattern that serves as an information center for its members in the control market supply and price in the market

Thank You

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