

Enhancing Procedural Fairness and Transparency of Competition Law Enforcement

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EVOLUTION OF CASE HANDLING PROCEDURE

Improving transparency and procedural fairness in competition law enforcement

Reg. No. 05/2000

Clarification of complaint (10 days)

Preliminary hearing (30 days)

Advance hearing (30 days)

Decision (30 days)

Reg. No. 01/2006

Clarification of Complaint (60 + 30 days)

Filing (30 days)

Presentment of Report (14 days)

Preliminary Hearing (30 days)

Behavioral Adaption (60 days)

Advance Hearing (60+30 days)

Decision (30 days)

Reg. No. 01/2010

Clarification of Complaint (30 days)

Investigation by Secretariat (30 days)

Filing (30 days)

Presentment of Report (7 days)

Preliminary Hearing (30 days)

Advance Hearing (60+30 days)

Commissions Deliberation (15 days)

Decision (30 days)

PROCEDURAL FAIRNESS





1 Separation of investigation and decision making

Only investigator can handle case to gain sufficient evidences, and its clarity and completeness. Before the new regulation, Commissioner also act as investigator.

A process call "Hearing" is changed from the way of collecting evidences, to a way of hearing evidences from both sides (prosecuting investigator, and the suspect).

Commissioner (in form of Commissioner Council) will act as the Judge at the Hearing.

Decision made by Commissioner Council with the assistance from the Hearing Officer (Clerk). Before the new regulation, Investigator together with Commissioner made the Decision.

2

Knowing the right, obligation, and allegation of the suspect

Detail list of right and obligation of the Reporter and the Reported in competition law proceeding, including:

- a. Notify on any progress made by KPPU
- b. Accompanied by their advocates
- c. Submit evidences (including witness and expert)
- d. Examine the evidence prior to deliberation of conclusion
- e. Submit conclusion at the Hearing before the deliberation of decision by the Commissioner Council

The Reported shall be informed on its status, including the suspected infringement and the provision addressed.

Time frame for the Hearing is fixed, which enable the Reporter and the Reported to estimate when the decision will announced by the Commission.

3

Review on
competition
authority's decision
by Courts

KPPU's decision can be objected to the District Court and Supreme Court (up to re-cassation). KPPU is a Party on the objection proceeding (principle of equality).

District Court can ask for an Additional Hearing to KPPU when it found other evidences or incomplete information provided.

Execution of Decision shall be made through District Court, but KPPU can make necessary means according to other law to collect the fines.

TRANSPARENCY

Means of providing information on the case to public in term of general and enforcement policies.

1

Enforcement Policies

- All progress shall made open to the Reporter and the Reported.
- Evidences use in the Hearing are open for scrutiny.
- All Hearings are open to public, so anyone can come and attend the Hearing.
- Dissenting Opinion by Commissioners is allowable and shall be made public in the Decision.

2

General Policies

All state authority shall comply to the law on openness of information (Law No.14/2008). List of public information must specified by the official website, including annual report, code of ethics, guidelines, Case Decision, and budget.

Authorities denying the request of public information can be reported to the Commission for Public Information, an independent state agency.

IMPACT OF GREAT TRANSPARENCY

- Greater transparency means greater commitment to the public. Competition authority shall be able to improve their impact while improving the number and quality of its human resources.
 - Prosecution skill of investigator needs to be improved, since because anyone can attend the Hearing.
 - Authority shall promote efficiency in their budget.
 - Outcome or impact of the agency becomes indicators of agency success.

KOMISI PENGAWAS PERSAINGAN USAHA
<http://www.kppu.go.id>

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