

CHAPTER V

CLOSING

A. Conclusion

The conclusion of this research is as follows:

1. According to the KPPU, the acquisition of PT Alfa Retailindo by PT Carrefour Indonesia proved to have violated article 17, paragraph (1) and Article 25 paragraph (1) letter a of Law No. 5 1999 on Prohibition of Monopolistic Practices and Unfair Business Competition. This is evidenced by the findings of the KPPU in its investigation. According to the KPPU, after the acquisition of PT Alfa Retailindo, PT Carrefour Indonesia with a market share of more than 50% fulfilled the elements of a dominant position. On a dominant position, PT Carrefour Indonesia used its dominant position to implement the terms of trade to suppliers with the aim of preventing or inhibiting consumers to obtain similar goods or services. The mechanism used by KPPU in determining violations of PT Carrefour Indonesia is using two approaches, namely the rule of reason approach and the per se illegal approach. Rule of reason approach is violating article 17, paragraph (1) and the per se illegal approach is violating Article 25 paragraph (1) letter a.
2. Based on the decision of the Supreme Court, PT Carrefour Indonesia was not proven to be guilty of violating article 17, paragraph (1) and Article 25 paragraph (1) letter a of Law No. 5 Year 1999 on Prohibition of Monopolistic Practices and Unfair Business Competition as defined by

the KPPU in its decision No. 09/KPPU-L/2009. This was proved by the wrong application of the law by the KPPU in linking the elements of article alleged facts existing law, thus becoming one consideration. Thus PT Carrefour Indonesia was not guilty of doing the monopoly and discount dominant position in the sector of modern retail market in Indonesia. This was confirmed by the decision of the South Jakarta District Court No. 1598/Pdt.G/2009/PN.Jkt.Sel to annul the KPPU decision and the Supreme Court ruling No. 502 K/Pdt.Sus/2010 which rejected the cassation of KPPU.

B. Recommendation

1. Law No. 5 of 1999 on Prohibition of Monopolistic Practices and Unfair Business Competition should be well implemented so that the conditions of competition in Indonesia run well, and there is no unfair competitions among business people, especially small businesses.
2. The KPPU as an independent body should monitor the implementation of the Law No. 5 Year 1999 on Prohibition of Monopolistic Practices and Unfair Business Competition. Through its authority, the KPPU may be a referee in resolving cases that is related to the prohibition of monopoly and unfair competition. Through this case the KPPU further boost its performance so that in deciding each case competition, it must be made taking into account any legal provisions as possible without neglecting

the elements of proof, facts and data pertaining to produce quality decisions and prioritize justice for all parties concerned.

3. There should be a policy of limiting trading terms by setting a maximum amount of trading terms so it will not burden the supplier. Restrictions on the maximum value of trading terms will push up the manufacturing efficiencies enjoyed by consumers instead of retailers.
4. The needs to increase regulatory authorities and more wisely on the KPPU to undertake preventive measures against the acquisition of a company and its violation.