

# CHAPTER I

## INTRODUCTION

### A. Background

Technological developments have made much incredible progress. Many aspects of life sector have used the existence of the technology. The presence of technology has given a big impact for human life in various aspects and dimensions. Currently the demand for technology, both the information technology and telecommunications is very high on the upper middle class and lower middle class. All individuals urgently need to accelerate technology development or improve individual and community development, which presents a wide selection of forms of technology and advance.<sup>1</sup>

One of the forms of development is the presence of internet amongst the people. By connecting through the internet, people can not only increase knowledge of the community, but the internet is also able to provide a highly sophisticated communication services with people all over the world. It means, they can communicate with their brothers and sisters in other countries.

Indonesia is ranked 6 in the world. In 2016, the use of the internet service in Indonesia reached 102.8 million people<sup>2</sup> in Indonesia's

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<sup>1</sup> Dika Wahyudin, 2016, "Tentang Perkembangan Teknologi dari Masa ke Masa", available at <http://dikakerenwordpress.com/2015/09/16/tentang-perkembangan-teknologi-dari-masa-ke-masa/>, accessed on Thursday, December 8<sup>th</sup>, 2016 at 5.00 pm.

<sup>2</sup> Oik Yusuf, 2014, "Pengguna Internet Indonesia Nomor Enam Dunia", available at <http://kominfo.go.id/content/detail/4286/pengguna-internet-indonesia-nomor-enam-dunia/0/sorotan-media>, accessed on Thursday, December 8<sup>th</sup>, 2016 at 8.10 pm.

population of about 255 million populations.<sup>3</sup> It proved that the Internet becomes the need of every individual. However, besides the internet has a positive impact, the Internet also has a negative impact for users. For example, if people are not careful to use the internet, the internet could be a fraud.

Figure 1.1

Data showing the number of Internet users in Indonesia

<b>Top 25 Countries, Ranked by Internet Users, 2013-2018</b>						
<i>millions</i>						
	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
1. China*	620.7	643.6	669.8	700.1	736.2	777.0
2. US**	246.0	252.9	259.3	264.9	269.7	274.1
3. India	167.2	215.6	252.3	283.8	313.8	346.3
4. Brazil	99.2	107.7	113.7	119.8	123.3	125.9
5. Japan	100.0	102.1	103.6	104.5	105.0	105.4
6. Indonesia	72.8	83.7	93.4	102.8	112.6	123.0
7. Russia	77.5	82.9	87.3	91.4	94.3	96.6
8. Germany	59.5	61.6	62.2	62.5	62.7	62.7
9. Mexico	53.1	59.4	65.1	70.7	75.7	80.4
10. Nigeria	51.8	57.7	63.2	69.1	76.2	84.3
11. UK**	48.8	50.1	51.3	52.4	53.4	54.3
12. France	48.8	49.7	50.5	51.2	51.9	52.5
13. Philippines	42.3	48.0	53.7	59.1	64.5	69.3
14. Turkey	36.6	41.0	44.7	47.7	50.7	53.5
15. Vietnam	36.6	40.5	44.4	48.2	52.1	55.8
16. South Korea	40.1	40.4	40.6	40.7	40.9	41.0
17. Egypt	34.1	36.0	38.3	40.9	43.9	47.4
18. Italy	34.5	35.8	36.2	37.2	37.5	37.7
19. Spain	30.5	31.6	32.3	33.0	33.5	33.9
20. Canada	27.7	28.3	28.8	29.4	29.9	30.4
21. Argentina	25.0	27.1	29.0	29.8	30.5	31.1
22. Colombia	24.2	26.5	28.6	29.4	30.5	31.3
23. Thailand	22.7	24.3	26.0	27.6	29.1	30.6
24. Poland	22.6	22.9	23.3	23.7	24.0	24.3
25. South Africa	20.1	22.7	25.0	27.2	29.2	30.9
<b>Worldwide***</b>	<b>2,692.9</b>	<b>2,892.7</b>	<b>3,072.6</b>	<b>3,246.3</b>	<b>3,419.9</b>	<b>3,600.2</b>

*Note: individuals of any age who use the internet from any location via any device at least once per month; \*excludes Hong Kong; \*\*forecast from Aug 2014; \*\*\*includes countries not listed*  
 Source: eMarketer, Nov 2014

181948 www.eMarketer.com

Source: Website Kominfo <http://www.kominfo.go.id> accessed on Thursday, December 8<sup>th</sup>, 2016 at 10.05 am.

In line with the society high response of internet basic service, companies engaged in internet service providers started offering their services. Other internet service providers were competing to produce new innovation, and these things often lead to monopolistic practices or unfair

<sup>3</sup> Syamsul Hadi, 2016, "Data Jumlah Sensus Penduduk Update 2016", available at <http://www.seocontoh.com/2016/01/data-jumlah-sensus-penduduk-update-2016.html>, accessed on Friday, December 23<sup>rd</sup>, 2016 at 6.58 pm.

competition practices among them. So, legal provisions governing the implementation on fair business competition in the business world should be enforced. This law is very important so that economic efficiency can be achieved through the interaction of market forces.<sup>4</sup> Rules on competition law in the form of legislation are expected to provide rules and regulations to business economists in conducting business activities.<sup>5</sup>

The proper functioning of a supervisory agency is one manifestation of the enforcement process of justice for all levels of society. Thus, the problem faced by every business is the competition in relation to the “role” played by the Commission for the Supervision of Business Competition (KPPU). In this case the KPPU has a role and the authority to determine and resolve the parties which were deemed in violation of Law No. 5 of 1999 on Prohibition of Monopolistic Practices and Unfair Business Competition. The law is the basis of rules to implement fair business practices. Therefore, the role of the KPPU is to maintain the stability of the monopolies components. Since Law No. 5 1999 becomes effective, many cases of violation allegation on the Law No. 5 of 1999 were reported by the public to the Commission, and even some

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<sup>4</sup> Suyud Margono, 2009, *Hukum Anti Monopoli*, Jakarta, Sinar Grafika, p. 19.

<sup>5</sup> Suyud Margono, *Op.Cit.*, p. 20.

of the reports were settled by the Commission, either proven or not proven.<sup>6</sup>

The world of telecommunications businesses certainly provides many innovations in service delivery in order to attract the sympathy of customers, one of which is PT. Telekomunikasi Indonesia who in early 2015 released its new product namely Indihome Triple Play. Indihome Triple Play is a package product of Telkom which provides Home Phone service, high speed internet access, interactive TV services as well as a variety of content such as digital music portal services and home automation. This service gave evidence that Telkom can provide a solution that supports the digital lifestyle in the home of Indonesian society widely with variant limitless content package.<sup>7</sup> This product of Telkom is able to compete with other businesses, such as the Biznet, First Media, MNC Play, and My Republic which are included in the same market.<sup>8</sup>

With the release of Indihome Triple Play product, there is a connection with the shift of Telkom's network of copper cable to fiber optic cable. Indihome Triple Play is a package that must be purchased with

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<sup>6</sup> Ungki Miftahul Muttaqin, 2009, "Peran Komisi Pengawasan Persaingan Usaha (KPPU) Perspektif Hukum Islam" (Thesis, Fakultas Syari'ah Universitas Islam Negeri Sunan Kalijaga Yogyakarta). p. 2-3.

<sup>7</sup> PT. Telekomunikasi Indonesia, "Launching Indihome Ready – Telkom Mendukung Pembangunan Rumah dengan Konsep Digital", available at <http://www.telkom.co.id/launching-indihome-ready-telkom-mendukung-pembangunan-rumah-dengan-konsep-digital.html>, accessed on Tuesday, December 13<sup>th</sup>, 2016 at 9.18 pm.

<sup>8</sup> Anonymous, 2015, "Dikepung Pemain Asing dan Lokal, Telkom Optimistis Indihome Kuasai Pasar Internet", available at <http://m.indotelkom.com/kanal?c=id&it=telkom-optimistis-indihome-kuasai-pasar-internet>, accessed on Tuesday, December 13<sup>th</sup>, 2016 at 9.36 pm.

three products at once. Thus, customers cannot choose whether they only want to use one or two among the products offered, because the product is in packages. If the customers do not want to use (stop) one or two products, then the Telkom will disconnect all the services. And if the customer wants to add speed Internet network, then the two other products also must be raised.<sup>9</sup> The customers who previously used a speedy service are required to individually switch from speedy to Indihome Triple Play services.<sup>10</sup>

This makes people dissatisfied or feel pressured to buy a product which is not needed. Therefore, the users of the service of Indihome Triple Play complain to the KPPU related to the service giving force to them. Then, in a response to the information given by the customer Indihome Triple Play, the KPPU conducted an investigation since March 2015 for 60 working days. Finally, after the evidence has been gathered, the KPPU improved a case of Indihome Triple Play services to the examination.<sup>11</sup>

KPPU found there are three allegation practice of competition violation such as tying agreement, abuse of monopolistic practices, and

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<sup>9</sup> Rasni Gani, 2016, "KPPU: Indihome Telkom Rugikan Pelanggan dan Pengusaha", available at <http://makassar.tribunnews.com/2016/10/12/kppu-indihome-telkom-rugikan-pelanggan-dan-pengusaha>, accessed on Tuesday, December 13<sup>th</sup>, 2016 at 11.05 pm.

<sup>10</sup> Aditya Panji Rahmanto, 2015, "Telkom Speedy Dihentikan, Pelanggan Dirayu Pindah ke Indihome", available at <http://m.cnnindonesia.com/teknologi/20150520115043-185-54449/telkom-speedy-dihentikan-pelanggan-dirayu-pindah-ke-indihome/>, accessed on Tuesday, December 13<sup>th</sup>, 2016 at 11.24 pm.

<sup>11</sup> Anonymous, 2016, "KPPU Masih Kumpulkan Bukti Pelanggaran Indihome", available at <http://techno.okezone/read/2016/06/10/207/1411758/kppu-masih-kumpulkan-bukti-pelanggaran-indihome>, accessed on Tuesday, December 13<sup>th</sup>, 2016 at 11.58 pm.

dominant position in which the category of tying agreement requires the purchase of a product package (buy one have to buy other products).<sup>12</sup> The customers got disadvantages because they had impressed forced to use the product package. When the customers want to use only one service, then the network of the other products will be dropped overall.

Monopolistic practices were carried out by PT. Telekomunikasi Indonesia which requires customers to use Indihome Triple Play with three products (Internet, TV, and telephone). This method is considered potentially eliminating the opportunity for other businesses offering similar services. It also prevents customers to choose other providers based on what they need. Then, in dominant position, Telkom as the biggest company which provide Telecommunication services abused its dominant position, resulting in the market share of Telkom's for fixed line reached 99 percent. With this strategy, Telkom had prevented new companies to enter the market or prevent the competitors.<sup>13</sup>

This allegations were found by the KPPU by which Telkom through its services are violating Law No. 5 of 1999 on Prohibition of Monopolistic Practices and Unfair Business Competition article 15

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<sup>12</sup> Anonymous, 2016, "Dalami Pelanggaran, KPPU Tingkatkan Status Kasus Telkom Indihome", available at <http://techno.okezone.com/read/2016/10/12/107/1512464/dalami-pelanggaran-kppu-tingkatkan-status-kasus-telkom-indihome>, accessed on Tuesday, December 13<sup>th</sup>, 2016 at 11.42 pm.

<sup>13</sup> Anonymous, 2017, "KPPU Gelar Sidang Perdana Monopoli Indihome Telkom", available at <https://autotekno.sindonews.com/read/1182095/132/kppu-gelar-sidang-perdana-monopoli-indihome-telkom-1487687319>, accessed on Tuesday, August 1<sup>st</sup>, 2017 at 8.58 am.

paragraph (2) about tying agreement, article 17 about monopoly, and article 25 paragraph (1) point a and c about dominant position.

Therefore, the KPPU as the supervisor of unfair business competition practices should take steps to protect the rights of consumers. Then, based on the description, the researcher is interested in the title: “The Supervision of Commission for the Supervision of Business Competition (KPPU) against Unfair Business Competition to the Telecommunication Business in Indihome Package”.

## **B. Statement of Problems**

Based on the background explained above, there are two problems that will be discussed in this research, as follows:

1. Has the Indihome program PT. Telekomunikasi Indonesia violated the provisions of unfair business competition?
2. How to settle the case in the Commission for the Supervision of Business Competition (KPPU)?

## **C. Objectives of Research**

Objectives to be achieved in the research are:

1. To make a legal analysis regarding allegation of violation by PT. Telekomunikasi Indonesia related to unfair business competition through Indihome Triple Play product.

2. To determine the settlement of unfair business competition to the Telecommunication Business in Indihome Triple Play in Commission for the Supervision of Business Competition (KPPU).

#### **D. Benefits of Research**

1. Theoretical Benefits

The benefits of this research is to develop the science of business law, especially the law of unfair business competition related to the settlement of unfair business competition by the Commission for the Supervision of Business Competition (KPPU).

2. Practical Benefits

This research is expected to contribute for the parties related to the topic appointed by the researcher, which is the supervision of Commission for the Supervision of Business Competition (KPPU) against unfair business competition to the telecommunication business in Indihome package.