

CHAPTER III

RESEARCH METHOD

Research Method is how to fulfill the target object science. Role of method is very important in a research, for a good and bad research depends on how the application of the method is used.

A. Type of Research

The Research of this undergraduate thesis used a normative legal research. Normative legal research is a research based on literature. The method is conducted by examining the existing literature, and this study applied the research on legal principle and research on legal systemic.²⁹ In other word, normative legal research is a scientific research procedure to find truth based on legal scientific logic in term of its normative.³⁰ This is because this study uses secondary data or data obtained through library materials raised 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”. The results of research present in fully clear, detailed and systematic discussion about the issues.

B. Type of Data

²⁹ Soerjono Soekanto and Sri Mamudji, 1985, *Penelitian Hukum Normatif: Suara Tinjauan Singkat*, Jakarta, Rajawali Press, p. 12-14.

³⁰ Hardijan Rusli, 2006, “Metode Penelitian Hukum Normative: Bagaimana?”, *Law Review*, Vol. 5 No. 3, 2006, Fakultas Hukum Pelita Harapan, p. 40.

This legal research used secondary data. The secondary data in this legal research is the data obtained from the study of literature or the review of the literature or library materials related to the problem or research material that is often referred to as legal materials. The secondary data or literature data is known as legal materials in legal research as there is an unwritten agreement of expert legal researcher, that the legal materials in the form of literature are grouped into:³¹

1. Primary legal materials, in the form of:
 - a. 1945 Constitution;
 - b. Law No. 5 of 1999 on Prohibition of Monopolistic Practices and Unfair Business Competition;
 - c. Law No. 8 of 1999 on Consumer Protection;
 - d. KPPU Regulation No. 1 of 2010 juncto KPPU Regulation No. 1 of 2006 on the Case Handling Process;
 - e. Draft Guidelines of Implementation article 15 Law No. 5 of 1999 on Prohibition of Monopolistic Practices and Unfair Business Competition;
 - f. Draft Guidelines of Implementation article 17 Law No. 5 of 1999 on Prohibition of Monopolistic Practices and Unfair Business Competition;
 - g. Draft Guidelines of Implementation article 25 Law No. 5 of 1999 on Prohibition of Monopolistic Practices and Unfair Business Competition.
2. Secondary legal materials is legal materials which may provide an explanation for the primary legal materials, which may include bill,

³¹ Mukti Fajar ND, Yulianto Achmad, 2009, *Dualisme Penelitian Hukum Normatif dan Empiris*, Yogyakarta, Pustaka Pelajar, p. 156.

research, textbooks, scientific journals, newspapers, pamphlets, brochures, and Internet news.

3. Tertiary legal materials are also a legal substance that can explain the primary legal materials and secondary legal materials, in the form of a dictionary, encyclopedias, and others related to this research.³²

C. Method of Collecting Data

In the data collection practices used by literature study, literature study is used to obtain secondary data through a series of activities of studying the literature of legal materials, including primary legal materials, secondary legal materials, and tertiary legal materials. Literature study are done by reading, studying, taking notes, making reviews on the materials libraries that are related to the topic raised by the researcher.³³ Secondary data and legal material in this research will be taken from:

1. A variety of local and national library;
2. Data centers are available in every researched corporate;
3. Data centers of government agencies and institutions associated with the object researched by the researcher;
4. Internet sites.

D. Method of Data Analysis

³² Mukti Fajar ND, Yulianto Achmad, *Op.Cit.*, p. 157-158.

³³ Mukti Fajar ND, Yulianto Achmad, *Op.Cit.*, p. 160.

Secondary data obtained in this research will be systematically compiled and analyzed. This research is conducted using descriptive qualitative, namely by providing exposure and explain in detail to uncover what lies behind real events that has a purposes to search the values contained therein.³⁴

1. The nature of analysis

Descriptive analysis means that the researcher in analyzing intends to give an idea or disclosure of the subject and the object of the investigation, as the result of the research. Researchers do not justify the results of the research.

2. Approach

In this legal research, the researcher used statute and case approach. Statute is intended that the researcher used the rule of law as the basis for initial analysis.³⁵ While, case approach is to examine the case to be used as a reference for legal issues.³⁶ Using the case approach, which needs to be understood is the *ratio decidendi*, i.e the legal reasons used by the judge to be delivered to its decision.

According to Goodheart as quoted by Peter Mahmud Marzuki, *ratio decidendi* stated with attention of fact materially. This fact is a person,

³⁴ Mukti Fajar ND, Yulianto Achmad, *Op.Cit.*, p. 283.

³⁵ Mukti Fajar ND, Yulianto Achmad, *Op.Cit.*, p. 185.

³⁶ Mukti Fajar ND, Yulianto Achmad, *Op.Cit.*, p. 183-192.

place, time and everything that goes with it. This ratio shows that science is the science of law prescriptive.³⁷

³⁷ R.A. Granita Ramadhani, 2009, "Analisis Aspek Legalitas Transaksi Efek Short-Selling Pada Masa Krisis Keuangan (Studi Kasus: Penghentian Sementara Perdagangan Bursa Efek Indonesia Tanggal 8-10 Oktober 2008 Disebabkan Penurunan Harga Secara Tajam Terkait Indikasi Short-Selling)" (Thesis, Fakultas Hukum Universitas Indonesia), p. 69-70.