

CHAPTER I

INTRODUCTION

A. Background

According to law No. 5 of 1999, agreement in a corporate cartel was prohibited; generally cartel is a form of cooperation of several manufacturers of certain products. The purpose of the cartel agreements are usually for supervising a production, sales, and price of a specific product goods or services¹. On the other hand, the cartel may also be interpreted as a form of association within companies where they have the same interests, and poured into a form of contract with the purpose to preventing the occurrence of competence, allocation, as well as to review the results of the research or promotes the exchange or certain products. Competition would encourage every business to review the conduct of its business as efficiently as possible in order to sell goods or services at a lower price, so that every business agent competes to reach the efficiency so in turn consumers can choose the best alternative for those goods or services for their needs

Law No. 5 of 1999 contains three categories of prohibited; the prohibited agreement, prohibited activities, and dominant position. In the category of prohibited agreement, there are 10 acts that should not be done by businesses- oligopoly, pricing, territory distribution, boycott, cartel, trust, oligopsony,

¹ Suyud Margono, *Hukum Anti Monopoli*, Jakarta: Sinar Grafika, 2009, p. 93.

vertical integration, private agreement, and agreement foreign². The second category is an activity that is prohibited by law No. 5 of 1999 that are monopoly, monopsony, market control, and conspiracy. For the category of dominant position, the forms of prohibited acts by law no. 5 of 1999 are; dominant position, dual position, the ownership of shares, merger, and consolidation and acquisition³.

Commission for the supervision of business competition (KPPU) was established based on article 30 paragraph 1 of law no. 5 of 1999 on prohibition of monopolistic practices and unfair competition. The commission can conduct a survey and make the decision if there is a violation of law no. 5 of 1999 on prohibition of monopolistic practices and unfair competition conducted by businessmen.

An unfair competition that is investigated by the commission is the alleged existence of cartel practices beef. This case actually have been investigated by the commission since 2013; the commission has overseen the development of this case including cartel beef activity, especially imported beef and local beef.

The Commission held a continued trial, hearing cases of alleged cartel beef, on Tuesday 22nd September 2015. It was held in accordance with the case number 10 / KPPU-1/2015 of alleged violation of article 11 and 19 letter c of law no. 5 of 1999 on prohibition of monopoly practice and unfair competition

² Hermansyah, *Pokok-pokok Hukum Persaingan Usaha*, Jakarta: Kencana Prenada Media, 2008, p. 25.

³ *Ibid*, p. 38- 46

of imported beef in Jakarta, Bogor, Depok, Tangerang and Bekasi (Jabodetabek)⁴. A total of 32 feedlotter companies were suspected to be the member of corporate cartel on imported beef. They were considered to hold the stock that go into the abattoir (RPH), causing scarcity in the market⁵. It is clear that the government firmly set in article 11 of law no. 5 of 1999 that such practices are prohibited from making agreements with competitors that intend to influence the price in order to regulate the production and or marketing of goods and or services which may result in monopolistic practices and or unfair competition.

Cartel beef issue has become of particular interest because in the law no. 5 of 1999 about the prohibition of monopolistic practices and unfair business competition forms of violation under article 11 is the *Rule of Reason*. From the description above, it is rolled out their new issues in the field of business competition because an action can be considered to result in unfair business competition after it was found their negative impact in this case on the consumer.

⁴ KPPU “Gelar Sidang Lanjutan Dugaan Kartel Daging Sapi Jabodetabek”, available at <http://www.kppu.go.id/id/blog/2015/09/kppu-gelar-sidang-lanjutan-dugaan-kartel-daging-sapi-jabodetabek/> accessed at Sunday 8th January 2017, 20.30pm.

⁵ Redaksi KPPU, Penegakan Hukum “ KPPU Gelar Sidang Dugaan Kartel Daging Sapi” Majalah Kompetisi/ Edisi 50/2015, p. 28-29.

B. Statement of Problem

Based on the background explained above, there are two problems discussed in this research:

1. How does Commission For The Supervision Of Business Competition (KPPU) decide the imported beef case as cartel agreement ?
2. What are the mechanisms made by Commission For The Supervision Of Business Competition (KPPU) in resolving the cartel cases of imported beef ?

C. Objectives of Research

Objectives of the research are;

1. To know the decision methods of the commission for the supervision of business competition (KPPU) in the case of imported beef categorize as a cartel agreement.
2. To find out the mechanism undertaken by the commission for the supervision of business competition in settling cartel case of imported beef.

D. Benefits Research

The benefits derived from this study are as follows:

1. Theoretical Benefits

Theoretically the results of this study are expected to develop the knowledge gained during the lecture at the Faculty of Law, Muhammadiyah University of Yogyakarta. To develop writer's knowledge in commercial law and find real application classroom jurisprudence and field practice.

2. Practical Benefits

The results of this study are expected to be useful for the writer herself and for all parties involved either the public, government, and law enforcement officers who deal with the issues studied.