

INDONESIAN COMPETITION LAW INTRODUCTION AND RECENT DEVELOPMENT

This article is the revised version of article published in the Indonesian
Constitutional Court's Journal, Volume 1, 3 May 2005

**Prepared by
HMBC RIKRIK RIZKIYANA AND VOVO ISWANTO**

25 AUGUST 2007

RIZKIYANA & ISWANTO
Antitrust and Corporate Lawyers

Plaza DM, 9th Floor
Jl. Jend. Sudirman Kav. 25 Jakarta 12920 INDONESIA
Phone + 62 21 529 02 470 Fax + 62 21 529 02 469
www.ri-advocates.com

PART I
INTRODUCTION TO INDONESIAN LEGAL SYSTEM

A. Background

Republic of Indonesia is the largest archipelago country in the world, comprising approximately 17,000 islands. The islands scatter over more than one tenth of the equator between Southeast Asia and Australia, covering a land area of around 2 million square kilometers and territorial waters nearly four times of its lands. There are at least 5 (five) main islands, namely Java, Sumatera, Kalimantan, Bali and Papua. Main cities include Jakarta (Indonesian capital city, located on the north-west coast Java), Surabaya, Medan, Bandung, Denpasar, Semarang, Yogyakarta, Padang, Palembang, Makassar, Manado, Banjarmasin, Balikpapan, and Jayapura. According to the Population Census of 2000, the total population of Indonesia is 203,456,005. The distribution of population, however, is not even. The island of Java with less than 7 percent of total land area is the home of almost 60 percent of the total population, while the island of Papua that covers almost 21 percent of total land area is inhabited by only 1 percent of the total population. Population growth during the period of 1990-2000 is 1.35 percent per year.

B. Indonesian Legal System

As a former colony of Netherlands, Indonesian Legal System inherits a civil law system or also known as European Continental System. Through the adoption of this system, Indonesian legal system is characterized by compilation of a number of comprehensive, systematically arranged- written regulations, also known as “Code”. There are a number of Codes introduced and enforced by Dutch government in Indonesia 350 years ago which remain in force to date, such as Indonesian Commercial Code, Civil Code and Criminal Code. These codes remain in force in accordance with Article I (one) of Transitional Provision of Indonesian Constitution (UUD 1945) which states that all existing laws and regulations shall remain in effect as long as new laws and regulations have not yet taken under this Constitution.

Apart from civil law system adopted by Indonesian Government as prevailing State Law, there are other legal systems applied nationally or at least in certain areas of Indonesia. These include (traditional) customary law and Islamic law. Islamic law system is applied in Indonesia because most of the Indonesian citizens are Moslems, and the application of this system is limited to private law, especially law on marriage, family and inheritance law. Customary law, on the other hand, is laws introduced and developed by local community which may differ in one area from another.

C. The Position of Competition Law in the Context of Indonesian Legal System.

Indonesian Legal System are originally classified into two primary categories; (1) Public Law, which includes Law on State (State Administrative and Constitutional Laws) and Criminal Law, and (2) Private Law which includes Family Law, Property Laws, Contract Law, Corporate Law, Commercial Law, Economic Law and so on. However, in the light of current development, Indonesian legal system may no longer be considered as strictly following such categorization. Agus Brotosusilo¹ opines:

“This categorization of laws into a public and private law as currently being done cannot be maintained, since as a matter of fact it is apparent that almost no aspect of life is free from state intervention. This is due to the increasing number of aspects of life which are governed by the law. Such development creates a range of new specific laws. For instance, there currently exists a law on environment, population law, pharmaceutical law, health law etc. These characteristics of such new laws are very apparent in the economic law, namely the frequent instances in which such new branch of law do not closely conforms to the categorization. Specific action or matter, from legal point of view, may be sometimes governed by more than one branch of law.”

Accordingly, Indonesian economic law, including competition law, may not only be categorized as private law given that economic activities are not completely free from government interventions. Competition law, for instance, has attributes commonly owned by other categories of law. In other word, economic law governs aspects which may also be founded in other branches of law, either in “private laws” or

¹ Agus Brotosusilo, Pengantar Hukum Indonesia, Work Sheet, presented in the Inter-section Discussion at the Faculty of Law of the University of Indonesia, October 25th 1994. p. 5.

“public laws”. In that respect, Indonesian scholars provide opinions as presented below.

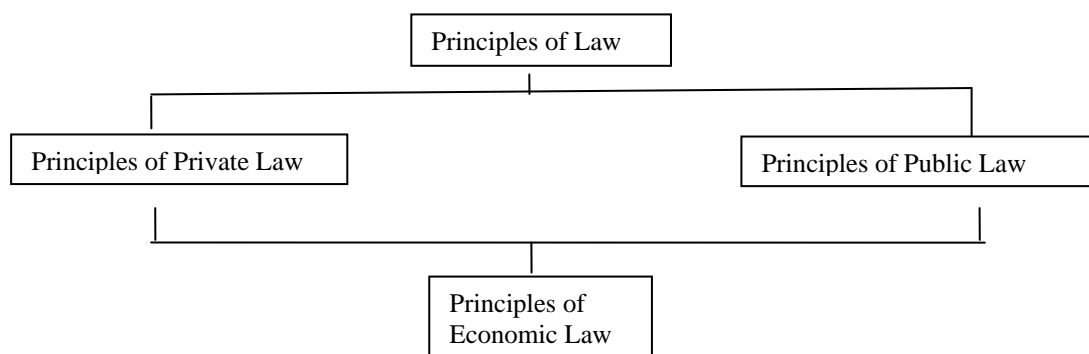
- Sunaryati Hartono asserts that:²

“When research and lecturing methods of the old commercial law was purely private in nature, Indonesian economic law would require an inter-disciplinary and transnational perspective of research and lecturing methods. It is called an inter-disciplinary perspective because:

- (i) Indonesian economic law is not only about private law in nature, but also closely related to State Administrative laws, Inter-Authority laws, Public Laws, and even to the International Public and Private Laws;*
- (ii) Indonesian International Economic Laws takes into account non-legal disciplines, such as knowledge of philosophy, economy, sociology, development administration, geography, environmental, and even futurology.”*

- Sri Redjeki Hartono³ maintains that:

“The broad scope of economic law enables itself to simultaneously accommodate two legal aspects as a comprehensive study. The two legal aspects cover public laws and private laws. Therefore, economic law may consist of a number of legal principles which derive from two legal aspects, which can be illustrated by the following diagram:”



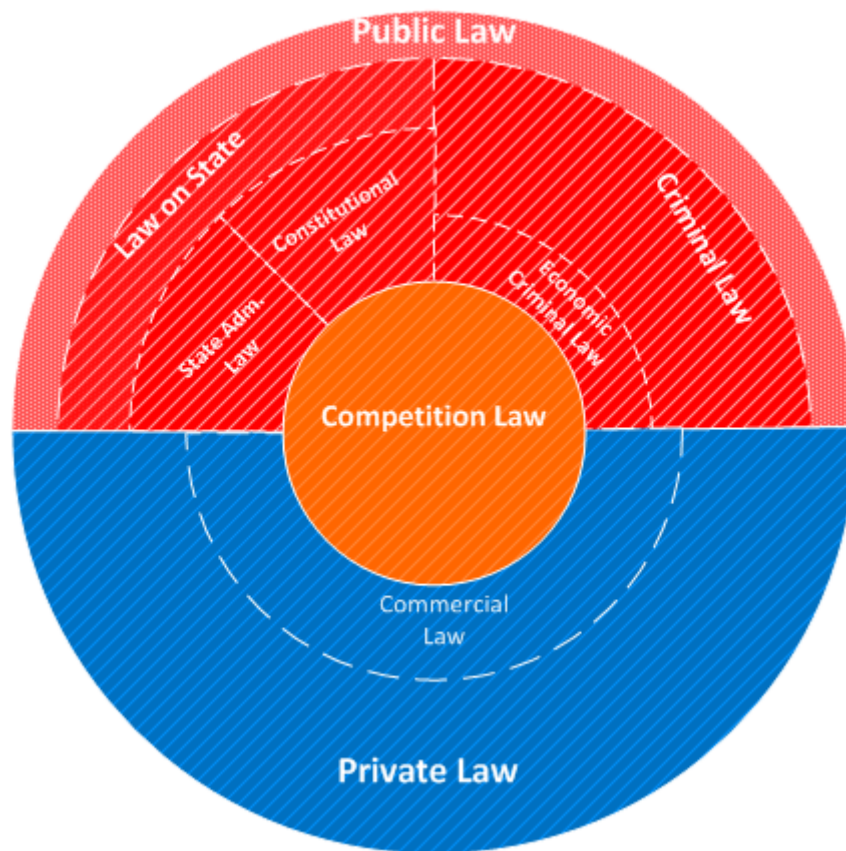
In line with the above views, we are of the opinion that Indonesian competition law, as part of Indonesian economic laws, has feature commonly belong to public and private laws. Thus, Indonesian competition law would certainly have dimensions of the following branches of law; namely constitutional law (relating to competition

² Sunaryati Hartono, C.F.G. “Hukum tentang Pembangunan Indonesia”, Bina Cipta, Bandung. p.60

³ Sri Redjeki Hartono, “Kapita Selekta Hukum Ekonomi”, Bandung:: CV Mandar Maju, 2000. p.39-41.

authorities), state-administrative law (relating to the implementation of role and power of competition authorities), private law (relating to contracts), corporate and commercial law (relating to business entities), as well as criminal law (relating to criminal sanctions), as can be seen in the diagram below.

The Circling Scheme of Position of the Competition Law



Thus, it can be concluded that Indonesian competition law as a part of Indonesian economic laws possesses not only private law aspects but also public laws (state and criminal laws).⁴

⁴ Presented as a Note. The existence of conventions or international agreements in the area of economy or business cannot be made as grounds for the creation of a separate category to accommodate such types of agreements. This is due to the fact that the effectiveness and validity of conventions and international agreements arises only after recognition of such agreements in national legal system, namely ratification by the House of Representatives (DPR), which signifies their adoption into the national legal system, which also means that they are treated in the same manner as or equal to laws in the legal hierarchy.

PART II

INDONESIAN COMPETITION LAW

A. Historical Background.

For about three decades before 1999, business activities in Indonesia developed without due regard to the principles of fair business practices or fair competition. This subsequently resulted in a number of complicated problems. Experts had pointed out that a primary cause of problems in effort to recover from economic crisis in Indonesia was that the structure of Indonesian economy was built inefficiently. Such inefficiency stemmed from ignorance of the principles of fair business competition in Indonesia. Moreover, Indonesian legal system had not played major role in this matter.

In general, it has been widely acknowledged that government, as a representative of the state, has responsibilities to create or maintain a favorable condition for the development of national economy as well as to promote fair business environment. It may be achieved not only by issuing relevant regulations but also by implementing and enforcing them consistently. During his short administration from 1998 to 1999, President Habibie had passed a number of laws in order to implement such responsibility. One of these laws was the law on business competition, also known as the Law Number 5 of 1999 Concerning Prohibition of Monopolistic Practices and Unfair Business Competition (Competition Law). It was enacted on March 5, 1999 and took into effect one year later.

Introduction of the Competition Law denoted first step of Indonesian government to implement and enforce competition law and policy in Indonesia. Apart from this fact, however, there are a number of laws and regulations, applicable before the enactment of the Competition Law, which provides competition-related rules or provisions, such as the Law on Limited Liability Company (Company Law), the Indonesian Criminal Code and the Law on Industry. Those laws aim, among other things, to maintain and enhance a fair business competition in Indonesia. Yet, the implementation and enforcement of these laws are not trivial. Regulatory capture, asymmetric

information, and corruption, as well as lack of human resources capacity in judicial institutions, all together contribute to the deficiencies on regulatory regimes to support competition based environment in Indonesian economy sector.

B. Law No. 5 of 1999.

The primary objectives of Indonesian competition law are set forth in the Competition Law, particularly in its elucidation. It maintains, among other things, that:

“Therefore, it is deemed necessary to promulgate the Law intended to establish legal procedure and provide equal protection to all entrepreneurs in an effort to create a fair business competition. This law shall provide legal certainty to further the acceleration of economic development in the effort of improving public welfare and as implementation of the spirit of the Indonesian Constitution of 1945.”

While the Indonesian Constitution of 1945, which shall be regarded as a basic consideration for every economic laws and regulations in Indonesia including competition law, provides in Article 33 that:

- *National economy activities are designed as a unified effort (cooperative) on the basis of collaborative-related principle.*
- *Production sectors which are important for the state and vital for human living are controlled under state ownership.*
- *Land and water and any natural resources are under state ownership and shall be exploited mainly for the welfare of all people.*

Furthermore, the elucidation of this article has also introduced a concept of national economy principle, known as “the democracy of economy”. The existence of this concept shows that the welfare and prosperity shall be enjoyed by all citizens and the people shall be protected from individual monopolization of important and vital sectors of production.

Instead of providing with all provisions set forth in the Competition Law, we would like to highlight some issues pertaining to provisions stipulating in this law.

1. Prohibited contracts.

Two or more business persons are prohibited to enter into the following contracts:

- a. Oligopoly (a contract having objectives to concentrate production and or marketing of particular goods or service) that may result in monopolistic practices and/or unfair business competition (Article 4);
- b. Price Fixing (a contract fixing the price of goods and or service which are purchased by consumer or customer at the relevant market) (Article 5);
- c. Market Allocation (a contract setting forth provisions of dividing market area or market allocation for goods and/or services) that may result in monopolistic practices and/or unfair business competition (Article 9);
- d. Boycott (a contract setting forth provisions which may restrain other businessperson(s) from entering into the same business activity, either for domestic or overseas market purposes) (Article 10);
- e. Cartel (contract having intention to fix price by regulating production and/or distribution of goods and/or services) that may result in monopolistic practices and/or unfair business competition (Article 11);
- a. Trust (contract stipulating a cooperation by creating an organization of companies or a larger company, while keep maintaining the survival of each companies or its members in order to control production and/or distribution of goods and/or services) that may result in monopolistic practices and/or unfair business competition (Article 12);
- b. Oligopsony (contract having intention to jointly control the purchasing power or supplies and therefore having a power to control the market price of goods and/or services) that may result in monopolistic practices and/or unfair business competition (Article 13);
- c. Vertical Integration (contract having intention to control over production of a number of goods and/or services in the same production chain in which those products or services are products or services of further production process, either in a direct or indirect chain of production) that may result in unfair business competition and/or harm the public interest (Article 14).
- d. Exclusive Dealing (contract setting forth a condition that a supplier of goods and/or services shall only supply or shall not re-supply such goods and/or services to a particular party and/or to a particular place) (Article 15).

- e. Trans-national Agreement (enter into an agreement with other party abroad) that may result in monopolistic practices and/or unfair business competition (Article 16).

2. Prohibited conducts.

One or more businessperson(s) are prohibited to engage in the following conducts:

- a. Monopolization (controlling the production and/or distribution of goods and/or services) that may result in monopolistic practices and/or unfair business competition (Article 17);
- b. Monopsonization (controlling the supply or being a single buyer of goods and/or services) that may result in monopolistic practices and/or unfair business competition (Article 18);
- c. Market Control/domination (unilaterally or jointly with other businessperson(s) (Article 19):
 - refusing and/or restraining particular businessperson to engage in the same business in the relevant market;
 - restraining consumer or customer of the competitor in conducting business relation;
 - restricting the distribution and/or services on the relevant market; or
 - conducting a discrimination towards particular businessperson;That may result in monopolistic practices and/or unfair business competition
- d. Predatory pricing that may result in unfair business competition (Article 20);
- e. Misleading of production cost that may result in unfair business competition (Article 21);
- f. Conspiracy (conspiring with other party in deciding a winner of a bidder) that may result in unfair business competition (Article 22-24).

3. Abuse of Dominant Position:

- a. It is prohibited to abuse a dominant position, directly or indirectly, by means of (Article 25 (1)):

- establishing trading conditions with the intention of restraining and/or impeding consumer from obtaining competitive goods and/or services, in terms of price and/or quality; or
- restricting market and technological development; or
- restraining other businessperson from being competitor in the relevant market.

Businessperson(s) is presumed as having dominant position provided that (Article 25(2)):

- such business person (or a group of business persons) possesses 50% or more of market share; or
- Two or more businesspersons (or groups of business persons) possess 75% or more in cumulative of the market share.

b. Interlocking directorship (prohibited from simultaneously serving as director or commissioner in two or more companies, provided that such companies:

- are in the same relevant market; or
- are closely inter-related in term of business field and/or type of business activities; or
- are jointly capable of dominating the market share of particular goods and/or services;

That may result in monopolistic practices and/or unfair business competition.

c. Concentration of shares ownership (Article 27).

Prohibited from having majority of shares in several companies conducting similar business activities in the same field and in the same relevant market or establishing several companies having the same business activities in the same relevant market, if such ownership causes:

- a businessperson or a group of businesspersons possesses more than 50% of the market share;
- two or more businesspersons or groups of businesspersons possess more than 75% in cumulative of the market share.

d. Merger, Consolidation & Acquisition (Article 28).

Prohibited from conducting merger or consolidation or acquisition of other company's shares that may result in monopolistic practices and/or unfair business competition. According to Article 29, there is obligation for merging parties to notify any merger, consolidation or acquisition which causes value of the assets and/or selling price thereof exceeding a certain amount to the Supervisory Commission for Business Competition Republic of Indonesia (KPPU or Commission). Under this article, however, notification is mandatory after the transaction is completed (post-merger notification).

Article 29(2) states that provisions on thresholds and notification procedure shall be governed by government regulation. Since the Competition Law entered into force in March 2000, the required legislation has not been adopted. As the result, the notification provision has never been enforced by the Commission. In order to prevent merger transactions that may result in creation or strengthening of dominant position, pending the government regulation, the Commission has adopted the Commission Regulation No. 1 of 2009 on the Pre-Merger, Consolidation and Acquisition Notification (Commission Regulation on Pre-merger Notification).

Under the Competition Law, notification is obliged after the completion of merger transaction. In the Commission's opinion, this rule may impose high risk on notifying parties in case the Commission concludes that the merger transaction is in violation of the Competition Law. According to the Competition Law, the Commission has power to adopt an annulment decision if it deems a merger will likely result in monopoly or unfair business practices. Due to these reasons, the Commission encourages any company to notify its merger plan even though the pre-notification is voluntary under the Commission Regulation. The objective is to prevent any decision from the Commission that would undermine the result of the merger transaction.

4. Exemptions.

There are some exemptions of the application of the provisions in this Law which covers (Article 50 to 51):

- any action and/or agreement intended to implement laws and regulation;
or
- agreement related to Intellectual Property Rights or franchising;
- agreement related to technical standards of a product/service which does not impede competition;
- agency agreement which does not contain a clause of re-supplying goods and/or services at lower prices than the contracted price; or
- research cooperative agreement for social or community improvement purposes; or
- international agreement ratified by Government; or
- any agreement and/or action in export oriented which does not disrupt domestic needs and/or supplies; or
- small-scale businesses; or
- a cooperative specifically intended to serve their own members.
- monopoly and/or concentration of business activities which is specifically regulated by Law.

5. Competition Authority.

The Competition Law introduces new institution called the Commission for the Supervision of Business Competition of Republic of Indonesia (KPPU or Commission) which holds significant power in the implementation and enforcement of the Competition Law. The power and authorities conferred upon the KPPU are not only to supervise and maintain competitive environment in Indonesia but also to receive and investigate any report from the public. Furthermore, the Commission may undertake a preliminary investigation or examination, as well as determining administrative sanctions for businessperson found guilty of violating the law (Article 30 to 37). In addition, the Commission has the right to conduct examination which based on its own investigation (without any report from any parties).

6. Case Procedural.

Article 38 to Article 46 in the Competition Law provides special rules on procedure of handling competition case. These rules are then regulated in more detail in the Commission Regulation No. 1 of 2006 on Procedure of Case Handling in the KPPU.

7. Sanction.

There are a number of administrative sanctions which may be imposed by the Commission to reported businessperson. Article 47 provides various types of sanction, covering *inter alia*: (i) decree canceling/annulling agreements as referred to in Articles 4 – 13, Article 15 and 16; (ii) order to business actor to cease from vertical integration arrangement as referred to in Article 14; (iii) order to business actor to refrain activity that has been proven to cause monopolistic practices and/or result in unfair business competition and/or losses to the public; (iv) order to business actor to cease its abuse of dominant position; (v) decree canceling merger or consolidation of business entity and acquisition of shares as referred to in Article 28; (vi) decree for payment of compensation; (vii) imposing a fine at the lowest amount of Rp 1,000,000,000 (one billion rupiah) and at the highest amount of Rp 25,000,000,000 (twenty five billion rupiah). In addition, the Law also provides criminal sanction which extends from Rp 25 billion to Rp 100 billion or imprisonment for maximum 6 months (Article 48).

C. Other Laws and Competition Rules.

As we have mentioned earlier, there are other laws and regulations than the Law No. 5 of 1999 that have provisions related to competition. In fact prior to the adoption of the Competition Law, there actually exists law or regulations containing specific provisions which relate to competition rules. In addition, after the introduction of the Competition Law, a number of laws and regulations are passed which also cover competition rules applicable in specific industry or business sector. In the context of competition rules, those laws or regulations introduced before and after the adoption of the Competition Law essentially have the same objectives or principles as the

Competition Law. The objective is, among others, to create or promote competitive market. Some of these laws or regulations are as follows:

- a. Indonesian Civil Code, article 1365 and the Criminal Code article 382 bis, which implemented in Indonesia based on article 1 of Transitional Rules of Indonesian Constitution year 1945.
- b. Law No. 5 of 1984 on Industry.
- c. Law No. 40 of 2007 on Limited Liabilities Company.
- d. Law No. 8 of 1995 on Capital Market.
- e. Law No. 9 of 1995 on Small Businesses.
- f. Law No. 10 of 1998 in conjunction with Law No. 7 of 1992 on Banking.
- g. Law No. 36 of 1999 on Telecommunication.
- h. Law No. 18 of 1999 on Construction Services.

PART III
IMPLEMENTATION OF LAW NUMBER 5 OF 1999

A. Commission for the Supervision of Business Competition of Republic of Indonesia (KPPU)

It is a common policy in most countries to establish a sort of administrative authority following the enactment of competition law. In Indonesia, the Government along with the legislative body created “*Komisi Pengawas Persaingan Usaha Republik Indonesia*” (the Commission for Supervision of Business Competition of Republic of Indonesia), or in short we refer to “the Commission”, in order to implement and enforce the Competition Law. As laid down in the Law, the Commission is an independent institution free from any intervention, either from the Government or other parties, and responsible directly to the President. Pursuant to the Law, the Commission has following duties:

- undertaking evaluation or examination upon any contract, conduct, and abuse of dominant position that may result in monopolization and/or unfair business competition;
- contributing advises and considerations over Government policies with regard to competition issue;
- preparing any guidance and/or publication related to this law;
- providing a periodical report on achievements to President and the legislative body;
- taking any action/measure in accordance with the Commission authorities stipulated in the Law.

Furthermore, the Commission’s authorities as stipulated in the Competition Law are as follows:

- receiving any report from public and/or businessperson(s) regarding allegation of monopolistic practice and/or unfair business competition;
- conducting any fact finding on allegation of monopolistic practice and/or unfair business competition;

- undertaking any investigation and/or examination on the allegation reported by the public or businessperson(s) or as a result of the fact finding conducted by the Commission and also providing the conclusion upon the result of such investigation and/or examination;
- summoning any businessperson allegedly violating the Law;
- summoning and bringing any witness, expert, and individual considered having knowledge of any violation of the Law;
- requesting assistance from the general investigator to bring in any businessperson, witness, expert witness, or individual which refuse to appear before the Commission upon the summon;
- demanding information from government institutions with regard to the investigation and examination conducted;
- obtaining, auditing, and/or judging any letter, document, or any other evidence within any investigation and/or examination;
- deciding and determining whether there is any injury suffered by the particular businessperson(s) or the public;
- notifying any commission's decision to the particular businessperson(s) allegedly committed in a certain monopolistic practice and/or unfair business competition;
- imposing any administrative sanction to the businessperson(s) violating the Law.

After looking into all provisions stipulating duties and authorities of the Commission as well as the powers granted to the Commission, we may say that the Commission is expected to be a powerful Commission. However, decision rendered by the Commission is not final and binding. Pursuant to the Competition Law, businessperson(s) to whom the decision is made may file a petition of objection against such decision to the District Court within 14 working days, after the Commission decision is informed and received by businessperson(s).

B. Case Handling Procedure

In connection with rules of procedure, the Competition Law has stipulated general rules in Chapter VII on Case Handling Procedure which include Article 38 to 46 of the Law. In order to spell out those general rules, the Commission subsequently

issued the Commission Regulation No. 1 of 2006 on Case Handling Procedure in KPPU.

The Commission has taken into account a number of general principles applicable in the process of handling the case as well as the report. Some of these principles are:

- Principle of legality;
- Principle of prudence;
- Presumption of innocent;
- Due process of law;
- Transparency;
- Confidentiality;
- Non-discrimination; and
- Principle of efficiency.

The procedure of handling the case and report as laid down in the Competition Law and the Commission Regulation No.1 of 2006 will be summarized below.

1. Monitoring

- The Commission may initiate monitoring on business actors which are alleged to have violated the Law based on initial data or information from the public.
- The purpose of monitoring of business actors is to find further information to decide whether or not there is sufficient evidence to support allegation of violation.
- Before the conclusion of monitoring period, Secretariat of the Commission shall decide whether presumption of allegation of violation is supported by initial evidence.
- The conclusion of the existence of alleged violation shall be made in writing by Secretariat of the Commission in the form of “Resume of Monitoring”.
- The period to conduct Monitoring is 90 (ninety) working days and may be extended maximum for 60 (sixty) working days.

2. Research and Report Clarification

- Any injured person or party may report to the Commission on the allegation of violation of Article 38(1) the Competition Law at the address of

Komisi Pengawas Persaingan Usaha Republik Indonesia

Jl. Ir. H. Juanda No. 36

Jakarta 10120

Indonesia

Phone: (62-21) 350 7015, 350 7016, 350 7043

Facsimile: (62-21) 350 7008

Email: infokom@kppu.go.id

- The report shall be made in writing based on clear and complete information. It is written in Bahasa Indonesia and signed by Reporting Party together with the identity of Reporting Party. Afterwards, the report shall be submitted to the Commission Chairman for administrative process.
- The research and clarification process are conducted in order to clarify and finalize the report on alleged violation.
- The assessment on clearness and completeness of the Report is conducted by the Secretariat of the Commission.
- If the Secretariat of the Commission considers that the Report is clear and complete, it may bring the Report to Commissioners Meeting for follow up. If the Report is considered to not satisfy the requirement, it will be put into a Record of incomplete Report.
- The research and clarification period may be conducted maximum for 60 (sixty) working days and may be extended for maximum 30 (thirty) working days.

3. Case Filing

- Filing of the Resume of Report or Resume of Monitoring is conducted by the Secretariat to assess whether it is sufficient to go for a Preliminary Examination.

- The output of case filing will be made in the form of “Report on Alleged Violation” which contains data and information on facts and initial evidence of violation of the Law.
- The Secretariat submits the Report to the Commission for last assessment and evaluation on whether or not the Report shall be followed up by preliminary examination.
- If the Report remains unclear and incomplete, the Secretariat may recommend the Commission to stop the process and notify this to reporting party.
- The case filing of the Report may be conducted maximum for 30 (thirty) working days.

4. Report Examination

- The Secretariat discusses the Report of Alleged Violation with the Commission in a Commission Meeting.
- In the Meeting, the Commission shall assess whether or not the Report should be brought to a Preliminary Examination.
- This process may be conducted maximum for 14 working days.

5. Preliminary Examination or investigation

- The preliminary Examination is conducted by a bench of commissioners consisting of at least 3 Commissioners.
- The purpose of this process is to obtain statement or information from Reported Party and or obtained sufficient initial evidences on the alleged violation.
- The proceedings of preliminary examination shall be recorded in a minutes of preliminary investigation signed by the examined parties and team of examination.
- Within 30 working days, The Commission shall decide whether or not to conduct further examination.
- In case that it is necessary to go to further examination, the Commission shall determine the status of Reported Party, the alleged contract and/or conduct that violated the law as well as the relevant article of the Law.

- In case that Reported Party denies all allegations, team of examination will provide to Reported Party an opportunity to make his defense.
- The Commission may determine that further examination is unnecessary although there is sufficient evidence of violation, if the Reported Party committed to make substantial change of its contract or conduct. On the basis of this commitment, the Commission will conduct a monitoring.
- In case the Commission determines that Reported Party has implemented its commitment, the Commission will decide to cease the monitoring and decide to stop the process.

6. Further Examination or Investigation

- Based on decree of further examination, the examination team will conduct further examination to find additional evidences to prove alleged violation.
- Before the end of further examination, the team will conclude whether or not there is sufficient evidences of alleged violation;
- Afterwards, the result of further examination (which contains at least 2 evidences) shall be made in writing and submitted to the Commission. Later on, the Commission shall decide whether or not there is a violation committed by Reported Party.
- Further examination shall be conducted for maximum 60 working days and may be extended for maximum 30 working days.

7. Board (Assembly) of Commissioners

- To decide whether or not there is a violation of the law, the Commission shall form a board of Commissioners.
- This board is established to asses, conclude and decide the case as well as preparing decision of the Commission for the case.
- In the first assembly, the board of Commissioners will provide an opportunity to Reported Party to make his opinion or defense in connection to the alleged violation;

- The board of Commissioners will then determine whether or not the violation has taken place, based on the assessment of preliminary and further examination as well as relevant evidences.
- The conclusion of this process will be delivered in the form of Commission Decision;
- If it is sufficiently proven that there is a violation, the board of Commissioners may impose administrative sanctions to reported party in accordance with Law No 5 of 1999.

8. Implementation of the Decision

- Soon after the board of Commissioners delivered its decision, the Secretariat must provide an excerpt and a copy of the decision to Reported Party.
- The Reported Party may file a petition of objection against the decision within 14 (fourteen) working days to district court.
- In case that Reported Party is not submitting its objection within the period as stipulated in the Law, the Reported Party is obliged to implement the decision and submit the report to the Commission. Later, the Commission will conduct a monitoring on the implementation of the Decision.
- In case that the period to file petition of objection has elapsed and Reported Party does not implement the decision, the Commission may bring the decision and case filings to national police for further process (criminal investigation).

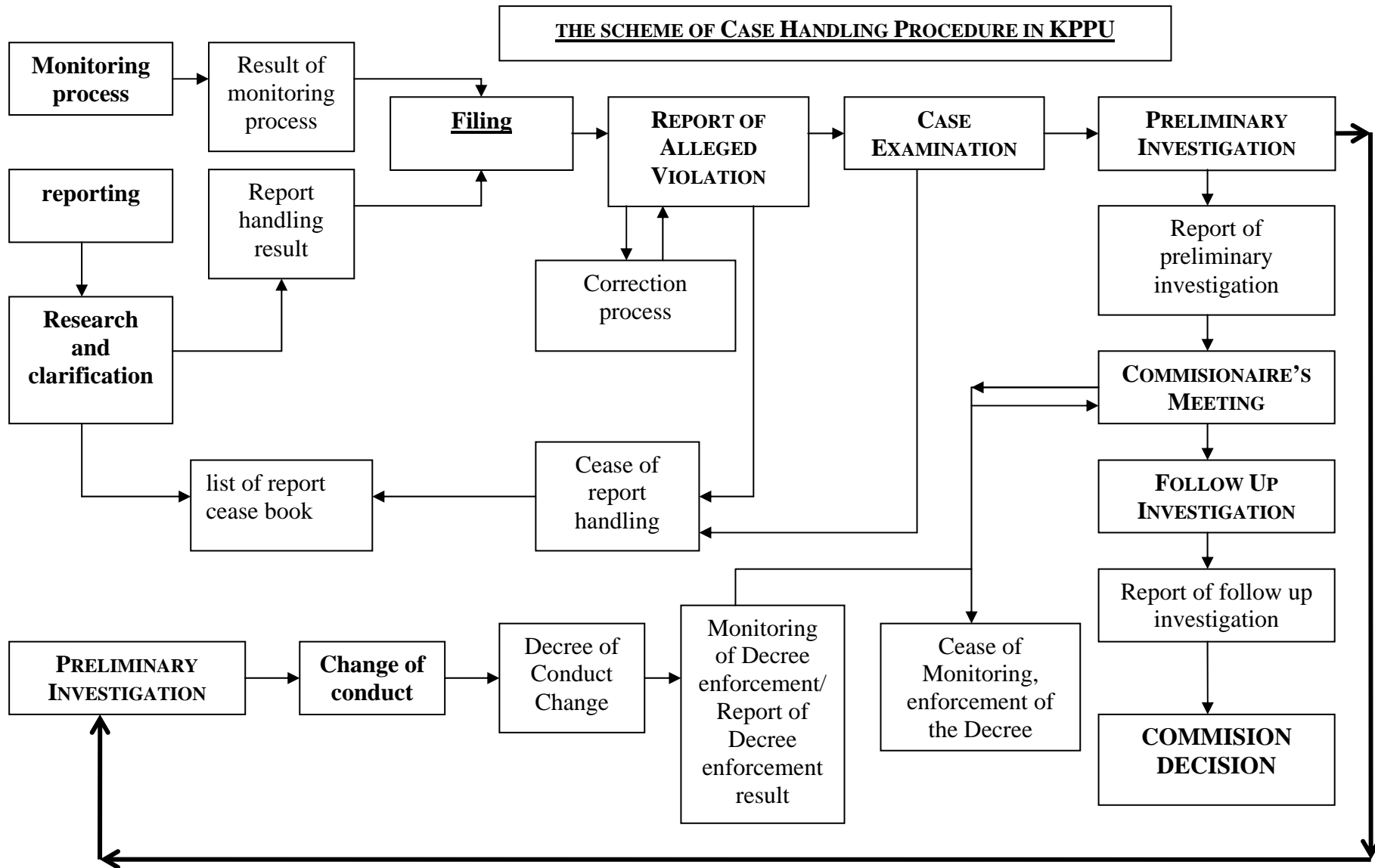
C. Guidelines Issued by KPPU

The Competition Law provides in Article 35 that one of the duties of the Commission is to prepare guidelines and publication related to the Competition Law. In line with this provision, the Commission has issued a number of guidelines outlining its interpretation to the provisions set out in the Competition Law and methods it will use to enforce the Law. This has made the guidelines have an important is way it is very important as well for one who wants to understand the Indonesian Competition Law to read the guidelines. Guidelines that have been adopted by the Commission are as follows:

- Guidelines of Article 22 on Prohibition of Collusive Tendering. Allegations of collusive tendering practices have been dominating complaints filed by third parties to and cases handled by the Commission. This has made the guidelines of Article 22 as the first guidelines introduced by the Commission. In this guideline, the Commission explains its approach used for the enforcement of the Article 22. First, it defines the scope of collusive practices during a tender which are caught by the Law. Secondly, it explains indications of the existence of collusive tendering. Third, it identifies negative impact of collusive tendering to consumers, competition, and finally economy. Finally, it states that it will use rule of reason approach in concluding a violation. Several cases are used as an illustration on how the approach has been implemented.
- Guidelines of Article 50(a) on Exemption and Regulation System in Indonesia. Article 50(a) of the Commission Law states that certain anti-competitive practices conducted by businessperson having objective of implementing applicable laws are exempt from the Competition Law. In this guideline, the Commission gives explanation on how the “having objective of implementing applicable” element should be interpreted. According to the Commission, an anti-competitive practice can only be exempt from the Competition Law if the exemption rule is governed by law or implementing regulations based on explicit delegation by law. Anti-competitive practices which do not have such legal basis will never be exempt.
- Guidelines of Article 47 on Administrative Sanctions. Pursuant to Article 47 of the Competition Law, the Commission has power to impose administrative sanctions on businessperson proved of committing anti-competitive conducts. This guideline explains the method will be used by the Commission in determining fines and how it will evaluate a damages claim. In relation with the determination of damages claim, the Commission emphasizes that it will only receive an actual damages claim. The amount of damages awarded to any victim of anti-competitive practices will be calculated only based on actual loss. Potential loss, on the other hand, will not be included for calculation.
- Implementation Guidance on Pre-Merger, Consolidation and Acquisition. This guidance is part of the Commission Regulation on Pre-merger Notification. In

this guidance, the Commission lays down merger transactions caught by the regulation, procedure for notification, procedure for assessment of anti-competitive effects of a transaction, and the substantive test will be applied.

- Guidelines of Article 50(b) on Exemption in the Implementation of Law No. 5 of 1999 relating to Franchising. Article 50(b) of the Competition Law states that agreements relating to franchising are exempt from the Competition Law. The Commission, in the guidelines, asserts that the application of this provision to franchise agreement is not absolute, meaning under certain circumstance, as laid down in the guidelines, franchise agreement which restricts competition may be caught by the Competition Law.
- Guidelines of Article 50(b) on Exemption in the Implementation of Law No. 5 of 1999 relating to Intellectual Property Rights. Article 50(b) also states that agreements relating to intellectual property right (IPR), for instance patent and copyright agreements, are exempt from the Competition. However, according to the Commission, as explained in the guidelines, this article is not absolute in application. This means, under certain conditions as mentioned in the guidelines, IPR agreement that may result in anti-competitive effects are caught by the Competition Law.
- Guidelines of Article 51 on Monopoly by State-Owned Companies. Article 51 of the Competition Law provides that, monopoly or concentration of business activities significantly affecting the livelihood of society and branches of production strategic for the state shall be stipulated in law and shall be implemented by state-owned companies or institutions formed or governed by the Government business activities. In the guidelines, the Commission asserts that monopoly or concentration of activities is only lawful under the Competition Law if the monopoly rights have first had legal basis, in form of law, explicitly mentioning the reasons for the establishment of the monopoly structure and establishing control and supervision mechanism needed to prevent any harm to competition and public as a whole.
- Guidelines of Article 1(10) on Relevant Market. In the guidelines, the Commission elaborates method it will use when defining relevant market.



D. Cases Decisions issued by the Commission since Year 2000.

Since the Supervisory Commission for Business Competition Republic of Indonesia (the Commission) is established, numbers of cases are handled. Several cases resulted in the decision, while others ended up in the preliminary examination (dismissal stage).

Below is the list of cases handled since year of 2000 which have been decided by the Commission:

1. Case No. 01/KPPU-L/2000 regarding collusive tender on casing and tubing procurement at PT Caltex Pacific Indonesia. The reported party which is PT Caltex Pacific Indonesia is found guilty. Case No. 03/KPPU-L-I/2000 regarding retail business practices of Indomaret Retail Stores. The reported party which is PT Indomarco Prismatama is found guilty.
2. Case No. 07/KPPU-LI/2001 regarding collusive tender on the cow's import procurement at the East Java Local Government Office. The reported party which is the officer of the East Java Local Government is found guilty.
3. Case No. 08/KPPU-L/2001 regarding collusive tender on barite bentonite procurement at YPF Maxus Southeast Sumatra BV. The reported party which is YPF Maxus Southeast Sumatra BV is found guilty.
4. Case No. 09/KPPU-L/2001 regarding collusive tender on OSP CAN procurement at PT Telkom. The reported party which is PT Telkom is found not guilty.
5. Case No. 10/KPPU-L/2001 regarding discrimination on an appointment of insurance companies as a partner of PT Bank BNI. The reported party which is PT Bank BNI is found not guilty.
6. Case No. 01/KPPU-I/2002 regarding discrimination on casing pipe and tubing procurement at PT Pertamina (Indonesian Oil State-owned Company). The reported party which is PT Seamless Pipe Indonesia Jaya and PT Citra Tubindo is found not guilty.
7. Case No. 02/KPPU-I/2002 regarding Day Old Chick Cartel. The reported parties which are PT Japfa Comfeed Indonesia, PT Charoen Pokphand Indonesia, PT Sierad Produce, PT Leon Ayamsatu Primadona and PT Wonokoyo Jaya Corporindo are not found guilty.

8. Case No. 03/KPPU-I/2002 regarding collusive tendering on the sale of stocks and bonds of PT Indomobil Sukses International. The reported parties which are PT. Holdiko Perkasa, PT. Trimegah Securities, PT. Cipta Sarana Duta Perkasa, Mr. Pranata Hajadi, Mr. Jimmy Masrin, PT. Multi Megah Internasional, Parallax Capital Management Pte Ltd., PT. Bhakti Asset Management, PT. Alpha Sekuritas Indonesia, and Deloitte & Touche FAS are found guilty. The Supreme Court overruled the decision.
9. Case No. 05/KPPU-L/2002 regarding monopolization and abuse of dominant position on movie distribution by Cineplex 21 Groups. The reported parties which is Cineplex 21 Group (PT Camila Internusa Film, PT Satrya Perkasa Esthetika Film, and PT Subentra Nusantara) is found guilty.
10. Case No. 01/KPPU-L/2003 regarding vertical integration and abuse of dominant position on ticket reservation system by PT Garuda Indonesia (Airline Company). The reported party which is PT Garuda Indonesia is found guilty. The decision has been being appealed at the Supreme Court.
11. Case No. 02/KPPU-I/2003 regarding price fixing on cargo shipping at the route of Jakarta – Pontianak. The reported parties which are PT Panurjwan, PT Tempuran Emas, PT Wahana Baruna Khatulistiwa, and PT Tanto Intim Lines are found guilty.
12. Case No. 03/KPPU-I/2003 regarding price fixing on cargo shipping at the route of Surabaya – Makasar. The reported parties which are PT Meratus, PT Tempuran Emas, PT Djakarta Lloyd, PT Jayakusuma, PT Samudera Indonesia, PT Tanto Intim Lines, and PT Lumintu Sinar Perkasa are found guilty.
13. Case No. 04/KPPU-I/2003 regarding monopolization, abuse of dominant position, and interlocking directorship on container handling terminal services at Tanjung Priok Port. The reported parties which are PT Jakarta International Container Terminal (JVC Grossbek-Hutchinson – PT Pelindo II), KSO KOJA, and PT Pelindo II are found guilty. The decision has been being appealed at the Supreme Court.
14. Case No. 05/KPPU-I/2003 regarding price fixing on bus fare. The reported parties which are bus operators: Perum PPD, PT Mayasari Bhakti, PT Bianglala,

Metropolitan, PT Steady Safe, Tbk, PT Pahala Kencana, PO Agung Bhakti, and Aja Putra are found guilty.

15. Case No.07/KPPU-L/2003 regarding collusive tendering on Population Registering System procurement at the Local Government Office the City of Semarang. The reported parties which are CV Puri Communication and two local government officers are found guilty.
16. Case No. 08/KPPU-L/2003 regarding discrimination and abuse of dominant position by KAP Hadi Sutanto dan Rekan (Price Waterhouse Coopers affiliation) in auditing services. The reported party which is KAP Hadi Sutanto dan Rekan (Price Waterhouse Coopers) is found guilty. The decision has been being appealed at the Supreme Court.
17. Case No. 01/KPPU-L/2004 regarding monopolization on PKE and Copex loading services at the Port of Belawan, North Sumatera. The reported parties which are PT Pelindo I and PT Musim Mas are found guilty.
18. Case No. 02/KPPU-I/2004 regarding abuse of dominant position by PT Telkom on telecommunication retail services. The reported party which is PT Telkom is found guilty. The decision has been being appealed at the Supreme Court.
19. Case No. 03/KPPU-L/2004 regarding exclusive agreement on tax stamp hologram procurement at Perum Peruri. The reported parties which are Perum Peruri and PT Pura Nusapersada are found guilty. The decision has been being appealed at the District Court of Kudus, Central Java.
20. Case No. 05/KPPU-L/2004 regarding collusive tendering on security services at PT Thames Pam Jaya. The reported parties which are PT Interteknis Surya Terang and PT Thames Pam Jaya are found guilty. The decision has been being appealed at the District Court of South Jakarta.
21. Case No. 06/KPPU-L/2004 regarding exclusionary conduct and abuse of dominant position on battery distribution market. The reported party which is PT Arta Boga Cemerlang is found guilty. The decision is in the period of filing the appeal/objection to district court.
22. Case No. 07/KPPU-L/2004 regarding collusive tendering on sale of PT Pertamina's Very Large Crude Carrier (Tanker Ship). The reported party which are PT Pertamina, Goldman Sachs, Pte., Frontline, Ltd., and PT Equinox are

found guilty. The decision is still in the period of filing the appeal/objection to district court.

23. Case No. 08/KPPU-L/2004 regarding collusive tendering on procurement of finger print ink for Legislative Election year 2004. The reported parties which are Consortium PT Mustika Indra Mas, Consortium of PT Multi Mega Service, Consortium of PT Senorotan Perkasa, Consortium of PT Tricipta Adimandiri, Prof. Dr. Rusadi Kantaprawira, S.H. as Chairman of Tender Committee Procurement of Fingerprint Ink for Legislative Election Year 2004, Consortium of PT Fulcomas Jaya, Consortium of PT Wahgo International Corporation, and Consortium of PT Lina Permai Sakti, PT Nugraha Karya Oshinda are found guilty. All the reported parties were filed a petition of objection to district court.
24. Case No.01/KPPU-L/2005 regarding collusive tendering on procurement of medical equipment in Bekasi Public Hospital (RSUD). All Reported Parties, which are CV Lodaya, PT Mutiara Jaya Farma, PT Ina Farma, PT Fondaco Mitratama, Chairman of Tender Committee for procurement of Medical Equipment in RSUD Bekasi, Head of Project Division, and Head of Bekasi Health Official are found guilty;
25. Case No.02/KPPU-L/2005 regarding violation of trade terms by PT Carrefour Indonesia, PT Carrefour, as a Reported Party is found guilty. The reported party was filed a petition of objection to district court.;
26. Case No.04/KPPU-L/2005 regarding procurement of illegal sugar, with PT Angels Products, PT Bina Muda Perkasa, Sukanto Effendy, and Chairman of Tender Committee as Reported Party are found guilty;
27. Case No.05/KPPU-I/2005 regarding assignment by PT Bursa Efek Jakarta (Jakarta Stock Exchange) in order to make an e-reporting. The Reported Parties are PT Bursa Efek Jakarta and PT Limas Stokhomindo are found guilty.
28. Case No.06/KPPU-L/2005 regarding collusive tendering on procurement of multiyears project in Department of Public Works, Riau. The reported parties which are PT. Waskita Karya (Persero), PT. Hutama Karya (Persero), PT. Wijaya Karya (Persero), PT. Pembangunan Perumahan (Persero), PT. Adhi Karya (Persero) Tbk, PT. Istaka Karya (Persero) Tbk, PT. Harap Panjang, PT. Modern Widya Technical, PT. Anisa Putri Ragil, Ir. S.F. Hariyanto, as the chairman of

Tender Committee on procurement of government services/goods in residential agency in Riau Province (road infrastructure sector) multiyears program, and PT. Duta Graha Indah, are found guilty. All the reported parties were filed the petition of objection to district courts and it have been decided by district court that all reported parties are not violate the law. Nowadays, the case is handled by Supreme Court of Republic of Indonesia,

29. Case No.07/KPPU-L/2005 regarding collusive tendering on procurement of outsourcing service in Bank BTN Syariah. All reported parties, which are PT Bank Tabungan Negara (Persero) and PT Sigma Cipta Caraka are found not guilty.
30. Case No.08/KPPU-I/2005 regarding supply of survey service on imported sugar by PT Sucofindo and PT Surveyor Indonesia. The reported parties, which are PT Surveyor Indonesia and PT Superintending Company of Indonesia are found guilty. The reported parties were filed a petition of objection to district court. Nowadays, the case is handled by Supreme Court of Republic of Indonesia,
31. Case No.10/KPPU-L/2005 regarding cartel of salt trading to North Sumatera. The reported parties which are PT Garam (Persero), PT Budiono Madura Bangun Perkasa, PT Garindo Sejahtera Abadi, PT Graha Reksa Manunggal, PT Sumatera Palm Raya, Usaha Dagang Jangkar Waja, and Usaha Dagang Sumber Samudera are found guilty.
32. Case No.11/KPPU-L/2005 regarding Distribution of Gresik Cement. The reported parties which are PT Bina Bangun Putra, PT Varia Usaha, PT Waru Abadi, PT Perusahaan Perdagangan Indonesia (Persero), UD Mujiarto, TB Lima Mas, CV Obor Baru, CV Tiga Bhakti, CV Sura Raya Trading Coy, CV Bumi Gresik, and PT Semen Gresik (Persero) Tbk are found guilty. All the reported parties was filed the petition of objection to Surabaya District Court and the Decision of KPPU is annulled. The reported parties were filed a petition of objection to district court.
33. Case No.12/KPPU-L/2005 regarding iron ore mining in Tanah Laut Regency. The reported parties which are Perusahaan Daerah Aneka Usaha Manuntung Berseri and PT. Kuang Ye Indo International Mining Development are found not guilty.

34. Case No.13/KPPU-L/2005 regarding collusive tendering on procurement of medical equipment in Public Hospital of Cibinong (RSUD Cibinong). The reported parties which are dr. Radianti, M.A.R.S., as a Chairman of Tender Committee for procurement of Cibinong BRSD Medical Equipment, PT. Bhakti Wira Husada, PT. Wibisono Elmed, PT. Nauli Makmur Graha, PT. Bhineka Usada Raya, and dr. Julianti Juliah, M.A.R.S., as a Director/Head of Cibinong BRSD are found guilty. The reported parties were filed a petition of objection to district court.
35. Case No.14/KPPU-L/2005 regarding operational service of Harbour Mobile Crane (HMC) and Rubber Tyred Gantry (RTG) in Surabaya. The reported parties which are PT Berlian Jasa Terminal Indonesia and PT Usaha Era Pratama Nusantara are found not guilty.
36. Case No.16/KPPU-L/2005 regarding DISHUB Surabaya tender. The reported parties, which are Tender Committee of procurement on environment protection equipment of vehicle test equipment, and CV Lalang Bina Sehati are found guilty. Besides that, another reported party which are Ir. Muhaimin, M.M., as Head of Business Administration in City Transportation Agency and M. Bambang Supriyadi, S.H., M.Si., as Head of City Transportation, Surabaya are found not guilty.
37. Case No.17/KPPU-L/2005 regarding RSUD Bekasi. The reported parties which are PT Bhineka Usada Raya, PT Master Duta and Director of Public Hospital of Bekasi are found not guilty.
38. Case No.19/KPPU-L/2005 regarding tender of Gamma Ray Container Scanner in Pelabuhan Batu Ampar, Batam. The reported parties which are Tender Committee of goods/services on APBN Project of Otorita Batam and PT. Mitrabuana Widyasakti are found guilty. The reported parties were filed a petition of objection to district court.
39. Case No.20/KPPU-L/2005 regarding tender of PJU/SJU DKI Jakarta. The reported parties which are PT Spektra Tata Utama, PT Dinamika Prakarsa Elektrikal, PT Fajar Sumber Rejeki, PT Aula Pratama Bersama, PT Guna Era Distribusi, PT Guna Elektro, PT Dwipurwa Naika Lestari, PT Panca Piranthi Artha, PT Sairo Talenta Nauli, PT Alfa Montage, CV Ria Natalia, and Agency of

Public Road Lighting and Utility Network Facility of DKI Jakarta Province are found guilty.

40. Case No.21/KPPU-L/2005 regarding Discrimination on Gas Distribution by PT Pertamina. The reported parties which are PT. Pertamina (Persero), PT. Banten Inti Gasindo, and PT. Isma Asia Indotama are found not guilty.
41. Case No.22/KPPU-L/2005 regarding tender on pipe planting by PGN. The reported parties which are PT. Perusahaan Gas Negara (Persero), Tbk., Chairman of Tender Committee for procurement for Gas Transmission Project of Labuhan Maringgai Offshore–Muara Bekasi Sumatera – West Java (SSWJ) Phase II PT. Perusahaan Gas Negara (Persero), Tbk., PT. South East Asia Pipe Industries, PT. Bakrie & Brothers, Tbk., Welspun Gujarat Stahl Rohren Pte. Ltd. (Welspun), Daewoo International Corporation, Det Norske Veritas Pte. Ltd and PT. Cipta Dekatama Tastek are found guilty.
42. Case No.02/KPPU-L/2006 regarding direct assignment in PT Pertamina's new logo project. All reported parties which are PT Pertamina and Landor Associates are found guilty.
43. Case No.03/KPPU-L/2006 regarding direct assignment in tender of CIS-RISI PLN. The reported parties which are PT PLN (Persero) Distribution Division of Jakarta Raya & Tangerang, PT. Netway Utama, and PT. PLN (Persero) are found guilty.
44. Case No.04/KPPU-L/2006 regarding distribution system of Yamaha Motor-South Sulawesi. The reported parties which are PT Suracojaya Abadi Motor, UD Sinar Baru and Toko Sinar Alam Pratama are found guilty.
45. Case No.06/KPPU-L/2006 regarding tender of shad upgrading in Region Public Hospital of Pematangsiantar (RSU Pematangsiantar). The reported parties which are Iswan Lubis, S.H. as the Temporary Duty Manager of RSU Pematangsiantar, Santo Denny Simanjuntak, S.H. as a Chairman of Tender Committee on Government Goods/Services in Work Unit of RSU Pematangsiantar, CV Kreasi Multy Poranc, PT Pembangunan Delima Murni, CV Sumber Mulya, Ir. Robert Edison Siahaan as Mayor of Pematangsiantar, Drs. Imal Raya Harahap as a vice mayor of Pematangsiantar, Hasudungan Nainggolan, S.E. are found guilty.

46. Case No.08/KPPU-L/2006 regarding Tender on Non Destructing Testing Inspection Services Works. The reported parties which are PT. Surveyor Indonesia and PT. Inspektindo Pratama are found not guilty.
47. Case No.09/KPPU-L/2006 regarding tender on meubelair in Institution of State Administration (LAN), Makassar. The reported parties which are Tender Committee of Meubelair Procurement, CV Diamond Abadi, and CV Banyumas are found not guilty.
48. Case No.10/KPPU-L/2006 regarding tender of construction works of two ferry ships in BRR NAD-Nias. The reported parties which are Tender Committee of Satker BRR maintenance, rehabilitation, improvement, and construction of sea transportation NAD, PT Daya Radar Utama, Head of Satker BRR maintenance, rehabilitation, improvement, and construction of sea transportation NAD, and Directorate of River and Lake Transportation Traffic and Crossing-General Directorate of Land Transportation- RI Department of Transportation are found not guilty.
49. Case No.14/KPPU-L/2006 regarding tender on integrated shorebase management and logistic services. The reported parties which are Eka Nuri Consortium and BP Berau are found not guilty.
50. Case No.15/KPPU-L/2006 regarding LPG distribution in South Sumatera. The reported party which is PT Pertamina (Persero) is found not guilty.
51. Case No.16/KPPU-L/2006 regarding tender on SKTM works in PT PLN Distribution Division of Jakarta Raya and Tangerang. The reported parties which are PT PLN Distribustion Division of Jakarta Raya and Tangerang, DPD AKLI Jakarta and Tangerang, PT. Alpha Radiant Engineering, PT. Yudhita Nugraha Karya, PT. Tangguk Jaya, PT. Guna Swastika Dinamika, PT. Kedungjaya Rekadayatama, PT. Dipa Menka Engineering, PT. Nusakotrindo Widyatama, PT. Canas Unggul, PT. Megaputra Ganda Dinamika, PT. Riffi Brothers & Sons, PT. Wahanayasa Trans Energi, PT. Indo Fuji Energi, PT. Hilmanindo Signintama, PT. Andika Energindo, PT. Inpar Saka, PT. Metrindo Maju Persada, PT. Mekadaya Terestria, PT. Dhana Julaga Ekada, PT. Sumi Indo Kabel Tbk., PT. Jembo Cable Company Tbk., PT. BICC Berca Cables, PT. Kabelindo Murni Tbk., PT. Voksel Elektrik Tbk., PT. GT Kabel Indonesia Tbk., PT. Prysmian Cables Indonesia, PT.

Terang Kita, and PT. Supreme Cable Manufacturing Corporation are found guilty. Besides that, another reported party which is PT. Prima Beton International is found not guilty.

52. Case No.17/KPPU-L/2006 regarding tender on lamp component in Agency of Public Road Lighting and Utility Network Infrastructure in District Of South Jakarta. The reported parties which are PT Harbarinja Agung, PT Sekala Jalmakarya, and PT Dian Pratama Persada are found guilty. Besides that PT Dinamika Prakarsa Elektrikal and Tender Committee of Goods/Services Agency of Public Road Lighting and Utility Network Infrastructure are found not guilty.
53. Case No.02/KPPU-L/2007 regarding collusive tendering on procurement of nutrient equipment for financial year 2006 in A. Wahab Sjhanie Public Hospital (RSUD), Samarinda, East Kalimantan. All reported parties, which are A. Wahab Sjhanie Public Hospital, CV Risa, PT Binaco Group, CV Fadlan Prima, CV Citra Selaras Abadi, PT Cahaya Bulu Mampua and PT Makna Karya Bhakti are found guilty;
54. Case No.03/KPPU-L/2007 regarding collusive tendering on construction of district court office building in Padang Sidempuan, North Sumatera, with Chairman of Tender Committee for procurement goods/services in Padang Sidempuan District Court, CV Mentari Jasa Mulia, and PT Menara Kharisma Internusa as reported parties are found guilty;
55. Case No.04/KPPU-L/2007 regarding collusive tendering on procurement of LCD Projector at the Administrative Bureau of DKI Jakarta Province for financial year 2006. All reported parties, which are PT. Sima Agustus, PT Tiga Permata Hati, PT Buana Rimba Raya, Committee for procurement goods/services administrative bureau of DKI Jakarta Province for financial year 2006 and Head of administrative bureau of DKI Jakarta Province are found guilty;
56. Case No.05/KPPU-L/2007 regarding collusive tendering on shipping channel dredging in Belawan Harbor, with PT (Persero) Pelabuhan Indonesia I and PT (Persero) Pengerukan Indonesia as reported parties are found guilty;
57. Case No.06/KPPU-L/2007 regarding collusive tendering on procurement of mosquito exterminator (fogging machine) at the Administrative Bureau of DKI Jakarta Province year 2006, with PT Bhakti Wira Husada, PT Perusahaan

- Perdagangan Indonesia, PT Tri Mitra Sehati, PT Rama Mandiri, PT Penta Valent and PT Anugerah Multi Perkasatama as reported parties are found guilty;
58. Case No.07/KPPU-L/2007 regarding shares-ownership by Temasek Group in the two largest Indonesian cellular companies, PT Telkomsel and PT Indosat. The Temasek Group's shareholding was deemed to lead to high price for mobile telecommunication services in Indonesia. All reported parties, which are Temasek Holdings Pte.Ltd, Singapore Technologies Telemedia Pte, Ltd, STT Communications Ltd, Asia Mobile Holdings Pte. Ltd, Indonesia Communications Limited, Indonesia Communications Pte. Ltd, Singapore Telecommunications Ltd, Singapore Telecom Mobile Pte. Ltd and PT Telekomunikasi Selular are found guilty. The KPPU's decision is upheld by the District Court and the Supreme Court;
59. Case No.08/KPPU-L/2007 regarding collusive tendering on procurement and installation of public street lighting and ornament lights in landscaping and funeral office of Bengkulu municipal government. All reported parties which are the Committee for procurement on goods/services of landscaping and funeral Bengkulu Municipal for financial year 2006, PT Multiyasa Aneka Dharma, CV Lisma, CV Arma Putra and PT Taruna Bhakti Perkasa are found guilty;
60. Case No.10/KPPU-L/2007 regarding collusive tendering on advance work of construction/relocation Ratu Zalecha Public Hospital (RSUD), Martapura, South Kalimantan. All reported parties, which are the Committee for advanced work of construction/relocation Ratu Zalecha Public Hospital, Martapura, South Kalimantan year 2006, PT Adhi Karya (Persero), PT Pembangunan Perumahan (Persero), PT Yurdha Adhi Senggara and PT Dewanto Cipta Pratama are not found guilty;
61. Case No.11/KPPU-L/2007 regarding collusive tendering on improvement work of Macoppe-Labessi road in Soppeng, South Sulawesi, year 2006, with PT Nei Dua Karya Persada, CV Hasnur and Committee for procurement of goods services infrastructure of road and bridge office in Soppeng year 2006 as reported parties are found guilty;
62. Case No.12/KPPU-L/2007 regarding collusive tendering on procurement of medical equipment to support Puskesmas in Sukabumi for financial year 2006.

All Reported Parties, which are PT. Karsa Niaga Raya, PT Ramos Jaya Abadi and the committee for procurement of medical equipment to support Puskesmas in the Sukabumi Health Office for financial year 2006 are found guilty;

63. Case No.13/KPPU-L/2007 regarding collusive tendering on procurement of oil palm seedlings in polibeg at South Kalimantan province plantation office year 2006, with CV Borneo Interprises Native, CV Amarta Jaya Teknik and CV Putra Pratama as reported parties are found guilty;
64. Case No.14/KPPU-L/2007 regarding collusive tendering on construction of multi years in Siak, with Ir. Irving Kahar Arifin, M.E., PT Budi Graha Perkasa and PT Pelita Nusa Perkasa as reported parties are found guilty;
65. Case No.15/KPPU-L/2007 regarding collusive tendering on construction of Mall in Prabumulih year 2006, with PT Prabu Makmur, PT Sungai Musi Perdana, PT Putra Prabu, PT Makassar Putra Perkasa, PT Alexindo Sekawan and Chairman of Committee for goods/services of mall construction in Prabumulih are found guilty;
66. Case No.16/KPPU-L/2007 regarding collusive tendering on procurement of PMLT fertilizer in Martapura, South Kalimantan, with CV Irma, CV Yunita, CV Bina Karya, CV Lily, CV Alya, CV Pinang Sandiki, CV Sonakarya Perdana, CV Tanjung Makmur, CV Linda and CV Dimasona Jaya as reported parties are found guilty;
67. Case No.17/KPPU-L/2007 regarding collusive tendering on action of PT Dharmala Sakti Sejahtera Tbk's shares in PT Asuransi Jiwa Manulife Indonesia. All reported parties, which are the Manufacturers Life Insurance Company, PT Asuransi Jiwa Manulife Indonesia, Ari Rahmad Effendi, International Finance Corporation, PT Balai Lelang Batavia, PT Graha Karya Reksatama and Kusmartono are not found guilty;
68. Case No.18/KPPU-L/2007 regarding collusive tendering on procurement of educational television and its equipment in North Sumatera Education Office year 2006. All reported parties, which are Committee for procurement of goods/services in North Sumatera Province education office for financial year 2006, PT Auna Rahmat and PT Hari Maju are found guilty;

69. Case No.19/KPPU-L/2007 regarding conspiracy to acquire confidential business data/information. All reported parties, which are EMI Music South East Asia, PT EMI Indonesia, Arnel Affandi, Dewa 19 and Iwan Sastra Wijaya are found guilty of conspiring to get business secret of PT Aquarious Musikindo, a local recording company, therefore in violation of Article 23 of the Competition Law. The decision is upheld by the District Court and subsequently the Supreme Court;
70. Case No.20/KPPU-L/2007 regarding collusive tendering on procurement of medical equipment in Brebes Public Hospital (RSUD) for financial year 2006. All reported parties, which are dr. Sudjai Sosrodjojo, the Committee for procurement of medical equipment in Brebes, PT Candi Prambanan, CV Usaha Lima Saudara, PT Samudra Citra Persada, PT Pamiko Cipta Husada and PT Graha Ismaya are found guilty;
71. Case No.21/KPPU-L/2007 regarding collusive tendering on procurement of PVC Pipe type 6", 4", and 2" in public work, mining and energy office of Kepulauan Riau Province, with PT Alfatama Anugrah Sari Albaqi and tender committee for procurement of goods/services SNVT development water management performance in Kepulauan Riau Province as the reported parties are found guilty;
72. Case No.22/KPPU-L/2007 regarding monopoly practice on cargo service in Hasanuddin Airport, Makassar. PT Angkasa Pura I (Persero), as the reported party, is found guilty;
73. Case No.23/KPPU-L/2007 regarding collusive tendering on the re-construction project of Melawai Market, Blok M. All reported parties, which are Perusahaan Daerah Pasar Jaya, PT Melawai Jaya Realty, PT Wijaya Wisesa, PT Cipta Gemilang Sejahteraa and PT Santika Tirtautama are not found guilty.
74. Case No.24/KPPU-L/2007 regarding collusive tendering on improvement Pangkalan Balai-Pengumbuk road, with the Committee of goods/services in public works office Banyuasin, South Sumatera, PT Chandratex Indo Artha and PT Anugrah Artha Abadi Nusa as reported parties are found guilty;
75. Case No.26/KPPU-L/2007 regarding price-fixing of short message service (SMS). PT Excelcomindo Pratama, Tbk., PT Telekomunikasi Selular, PT Telekomunikasi Indonesia, Tbk., PT Bakrie Telecom, Tbk., Tbk., PT Mobile-8 Telecom, Tbk., and

PT Smart Telecom as reported parties are found guilty of fixing SMS tariff from 2004 until 2007;

76. Case No.28/KPPU-L/2007 regarding price fixing among taxi service providers in Batam. All reported parties, which are Koperasi Karyawan Otorita Batam (KKOB), Koperasi Pandu Wisata Batam, Koperasi Pengemudi Taksi Domestik Sekupang, Badan Otorita Batam, PT Senimba Bay Resort, PT Nongsa Terminal Bahari, PT. Indotri Terminal Batam, PT Indodharma Corpora, PT Synergi Tharada, PT Citra Tritunas, Koperasi Harbour Bay, Koperasi Pengemudi Taksi Batam (KOPTIBA), Koperasi Primkopol. Koperasi Pegawai Republik Indonesia Citra Wahana, Kopti, Koperasi Bina Warga Pengemudi Taksi, PT Pinki, PT Barelang Taksi, CV Barelang Express, Koperasi Primkopad, Koperasi Mega Gotong Royong, Koperasi Pengayoman Pegawai Departemen Kehakiman, Koperasi Pengemudi Batam, Koperasi Metro, Koperasi Bima, PT Win Transport Utama, Koperasi Pengemudi Taksi Internasional Sekupanga and Koperasi Primkopal are found guilty;
77. Case No.29/KPPU-L/2007 regarding collusive tendering on project of hot-mix road in Cilacap. All reported parties, which are PT Melista Karya, PT Mulia Karya, PT Adhya Bumi Graha Niaga, PT Bangun Cipta Kontraktor and PT Karya Bisa are not found guilty;
78. Case No.30/KPPU-L/2007 regarding collusive tendering on project of construction and road maintenance in Sanggau, West Kalimantan, for financial year 2007. All reported parties, which are the Committee for procurement of goods and services in settlement and infrastructure office of Sanggau, West Kalimantan, Committee for procurement of goods and services for improvement of Entikong road, Committee for procurement of goods and services for improvement of Segole road, PT Rajawali Sakti Kalbar, PT Jungkat, PT Purna Sarana, PT Megah Megah Megah, PT Raffi Karya, PT Sebukit Indah Mempawah and PT Lawang Kuari are found guilty;
79. Case No.31/KPPU-L/2007 regarding collusive tendering on procurement of Jack-UP Drilling Rig in CNOOC SES Ltd. All reported parties, which are China Oilfield Services Limited (COSL), PT COSL Indo and CNOOC SES Ltd are not found guilty;

80. Case No.03/KPPU-L/2008 regarding broadcasting right of Barclays Premier League (EPL) 2007-2010 in Indonesian pay TV market. In this case, it is alleged that the exclusive broadcasting agreement of EPL entered into between ESPN STAR Sport (ESS) and All Asia Multimedia Networks (AAMN), which were concluded without a bidding process, is in contravention of the Competition Law. In its decision, the Commission rules that the agreement has violated Article 16 of the Competition Law, which prohibits businessperson from entering into agreement with foreign party which results in monopoly or unfair business practice, based on consideration that as an essential content for the provision of pay TV services in Indonesia, ESS should give other pay TV operators opportunity to bid for the exclusive agreement;
81. Case No.10/KPPU-L/2008 regarding distribution of subsidized fertiliser. PT Petrokimia Gresik is alleged of discriminating other distribution companies by only choosing PT Murni Sri Jaya and KSU Mahkota Tani as its distributors. In its decision, the Commission rules that the defendants are not found guilty of discrimination practice because it has actually given equal opportunity for other distribution companies to be its distributor;
82. Case No.10/KPPU-L/2008 regarding the supply of clean water in Batam Island. PT Adhya Tirta Batam is convicted of abusing its monopoly right for the supply of clean water in Batam Island due to its policy for only approving new application to be new subscribers after price adjustment is approved by the local authority. The Commission finds that this policy has hurt the people of Batam and therefore in contravention of Article 17 of the Competition Law which prohibits businessperson from controlling the production or marketing of products which may result in monopolistic practices or unfair competition;
83. Case No.22/KPPU-L/2008 regarding collusive tendering on procurement of medical equipment in the Health Office of Central Bangka year 2007, with the committee, CV Menumbing Medika Jayaa and CV Cahaya abadi as Reported Parties are found guilty;
84. Case No.03/KPPU-L/2008 regarding collusive tendering on project of improvement and development PDAM pipe in Siak, Pekanbaru. All reported parties, which are the committee, PT Sarana Indah Perkasa Abadi, PT Putra

Rokan Perkasa, PT Adhiyasa, PT Karya Bukit Nusantara and PT Tobatakkas Abadi are found guilty;

85. Case No.20/KPPU-L/2008 regarding collusive tendering on procurement of contraception medical equipment in Central Java. All reported parties, which are PT Usahatama Sentosa Mas, PT Djaja Bima Agung, PT Pamitra Nitya Kencana, PT Triyasa Nagamas Farma, and the Committee are not found guilty;
86. Case No.28/KPPU-L/2008 regarding collusive tendering on procurement of contracting services activity Regional Revenues and Expenditures Budget of Development Financial year 2007 at the Public Works Service Office Brebes Regency. The reported parties, which are Committee of contracting services activity Regional Revenues and Expenditures Budget of development financial year 2007 at the Works Service Office Brebes regency, PT Bumirejo Tirta Kencana, PT Bumirejo, PT Cempaka Putih Mitra Karya and PT Widodo Koesoemo Baroe are not found guilty;
87. Case No.33/KPPU-L/2008 regarding collusive tendering on Tender of procurement and installation of solar energy electricity for rural, Bengkalis secretariat financial year 2007. The reported parties which are PT Segorolor, PT Pancuran Mas Jaya, PT Simponi Jaya, Committee of good/service on Tender of procurement and installation of solar energy electricity for rural, Bengkalis secretariat financial year 2007, Officer of technical activity execution Tender of procurement and installation of solar energy electricity for rural, Bengkalis secretariat financial year 2007 and Rita Kristyani are on not found guilty;
88. Case No.33/KPPU-L/2008 regarding collusive tendering on Tender of procurement of goods/services Public Works Service Office of Kepahiang Regency financial year 2007. The reported parties which are PT Saribina Jasakontrindo, CV Atakana, PT Intermatra Comperta, PT Kandis Raya Perkasa, PT Karya Bukit Nusantara, PT Kayasa Bumi Utama, PT Waskita Karya Cabang Bengkulu, PT Pondasi Karya Megah, Committee of Tender of procurement of goods/services Public Works Service Office of Kepahiang Regency financial year 2007, PT Asdam Jaya, PT Indobangun Megatama, PT Bina Raya Gema Reksa, PT Bumi Mangun's Karya, PT Prambanan Dwiwaka Perwakilan Bengkulu are found guilty;

89. Case No.39/KPPU-L/2008 regarding collusive tendering on tender of procurement model equipment, reference/exercise book and multimedia equipment at Madiun educational city office financial year 2007. The reported parties, which are PT. Damata Sentra Niaga, CV. Fajar Jaya, CV. Eka Jaya, the Committee of procurement model equipment, reference/exercise book and multimedia equipment at Madiun Educational City Office financial year 2007, are found guilty;
90. Case No.41/KPPU-L/2008 regarding collusive tendering on auction of television, DVD, and antenna procurement at Province North Sumatra educational office financial year 2007. The reported parties, which are the Committee of auction of television, DVD, and antenna procurement at North Sumatra Province Educational Office financial year 2007, PT. Pelita Jaya Mandiri and Abdul Wahid Soenge, are found guilty;
91. Case No.46/KPPU-L/2008 regarding collusive tendering on laboratory equipment procurement in economic science University of Andalas year 2007 and procurement of collective necessity equipment in economic science, humanities, and agriculture University of Andalas financial year 2007. The reported parties are the Chairman of Committee of goods and services procurement University of Andalas financial year 2007, PT Prakarsa Subur, CV Wahana Karsa Mulia, CV Mulya Inza Pratama, CV Dammar Tiga, CV Fajar Utama, PT Prakarsa Subur and CV Mulya Inza Pratama, are found guilty;
92. Case No. 49/KPPU-L/2008 regarding collusive tendering on medical equipment (Polysomnograph) procurement at Duren Sawit Hospital Health Office of DKI Jakarta Province, financial year 2007. The reported parties, which are PT tiara Kencana, PT bhakti Wira Husada, PT Ilong Prayatna, PT Kamara Idola, the Committee of medical equipment (Polysomnograph) procurement at Duren Sawit Hospital Health Office of DKI Jakarta Province, financial year 2007, are found guilty;
93. Case No. 53/KPPU-L/2008 regarding market allocation. The reported parties, which are the Center Board of Management Association of Electricity and Mechanical Contractor of Indonesia (AKLI), Regional Board Management of AKLI, Branch Board Management of AKLI Palopo, Branch Board Management

of AKLI Luwu Utara, Branch Board Management of AKLI Luwu Timur and Branch Board Management of AKLI Tana Toraja, are found guilty of allocating market for the provision of electrical and mechanical services in South Sulawesi; and

94. Case No.62/KPPU-L/2008 regarding collusive tendering on procurement of goods/services construction SNVT Development of Road and Bridge of Sumbawa, Escalation Package Sejong Tetar Lunyuk Street, financial year 2008. The reported parties are the Committee of procurement of goods/services construction SNVT Development of Road and Bridge of Sumbawa, Escalation Package Sejong Tetar Lunyuk Street, financial year 2008 Adhi–Metro JO, PT Bahagia Bangun Nusa, PT Eka Praya Jaya. The Committee of the procurement of goods/services construction SNVT Development of Road and Bridge of Sumbawa, Escalation Package Sejong Tetar Lunyuk Street, financial year 2008, Adhi–Metro JO and PT Eka Praya Jaya are found guilty.