

DRAFT OF
LAW OF THE REPUBLIC OF INDONESIA
NUMBER... YEAR...
REGARDING
PROHIBITION OF MONOPOLISTIC PRACTICES AND UNFAIR BUSINESS
COMPETITION

BY THE GRACE OF THE ALMIGHTY GOD

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. whereas economic development must be directed towards the realization of people's welfare based on Pancasila and the 1945 Constitution Law of the Republic of Indonesia;
- b. whereas economic democracy requires equal opportunity for every citizen to participate in the process of production and/or marketing of goods and/or services, the creation of a healthy business climate, economic efficiency and fairness so as to encourage economic growth and the operation of a fair market economy;
- c. whereas Law Number 5 Year 1999 regarding Prohibition of Monopolistic Practices and Unfair Business Competition is no longer in line with the dynamics and legal needs of the people so that it needs to be replaced;
- d. whereas based on the considerations as intended in letter a, letter b, and letter c, it is necessary to establish a Law regarding Prohibition of Monopolistic Practices and Unfair Business Competition;

In view of:

Article 20, Article 21, Article 27 paragraph (2), and Article 33 of 1945 Constitutional Law;

Upon the joint approval of
HOUSE OF REPRESENTATIVE
and
PRESIDENT OF THE REPUBLIC OF INDONESIA
HAS DECIDED

To stipulate:

LAW REGARDING PROHIBITION OF MONOPOLISTIC PRACTICE AND UNFAIR
BUSINESS COMPETITION.

CHAPTER I
GENERAL PROVISIONS

Article 1

In this Law referred to as:

1. Monopoly shall be the control of production and/or marketing of certain goods and/or use of services by one entrepreneur or one group of entrepreneurs.
2. Monopolistic practices shall be the centralization of economic power by one or more entrepreneurs causing the control of production and/or marketing of certain goods and/or services, resulting in an unfair business competition and may cause damage to the public interests.
3. Centralization of economic power shall be the obvious control of the relevant market by one or more entrepreneurs which enables them to fix prices of the goods and/or services.
4. Dominant position shall be a situation where an entrepreneur does not have any significant competitor in the relevant market with regard to the market share being controlled, or the entrepreneur is in the highest position among its competitors in the relevant market with regard to its financial capability, ability to have access to the supply or sales, and ability to adapt the supply and demand of certain goods or services.
5. Entrepreneur shall be an individual person or a company, in the form of legal or nonlegal entity established and domiciled domestically or abroad and either individually or collectively, conduct activities in the jurisdiction of the Republic of Indonesia that affect related domestic market.
6. Unfair Business Competition shall be competition among entrepreneurs in conducting production and/or marketing activities of goods and/or services conducted in a manner which is unfair or contradictory to the law or hampering business competition.
7. Contract shall be an action by one or more entrepreneurs to bind themselves with one or more other entrepreneurs and/or party associated with other entrepreneur under any name, either made in writing or not.
8. Business conspiracy shall be a form of cooperation conducted by entrepreneurs with other entrepreneurs with the intention to control the relevant market in the sole interest of the conspiring entrepreneurs.
9. Market shall be an economic institution in which the buyers and sellers can directly or indirectly conduct trading transaction of goods and/or services.
10. Relevant market shall be a market related to the range and/or certain marketing area of the entrepreneurs for the same kind or type of goods and/or services or substitutes of intended goods and/or services.
11. Market share shall be the percentage of control of certain goods or services controlled by the entrepreneurs in the relevant market in a certain calendar year.
12. Market price shall be the price formed in the interaction of demand and supply in the market.
13. Consumers shall be each user and/or user of goods and/or services for both their own interests and those of other parties.

14. Goods shall be any objects, both tangible and intangible, both movable and immovable, both consumables and non-consumables, and can be traded, used, employed, or utilized by consumers or entrepreneurs.
15. Services shall be any service and proceedings in the form of work or performance achieved, traded by one party to another party in the society to be used by the consumers or entrepreneurs.
16. Business Competition Supervisory Commission hereinafter abbreviated as KPPU, shall be a state institution which in the implementation of its duties and authorities is independent, detached from the influence of the Government and/or any party.
17. The Commission Council shall be the council whose task is to examine and decide cases at KPPU.

CHAPTER II PRINCIPLE AND OBJECTIVE

Article 2

Entrepreneurs in Indonesia conduct their business activities based on economic democracy by considering the balance between entrepreneurs' interest and public interest.

Article 3

The objectives of this law are:

- a. to increase the efficiency of the national economy as one of the efforts to improve the welfare of the people while still taking the public interest into account.
- b. to create a conducive business climate through healthy business competition, thus securing equal business opportunity for micro, small, middle and large scale entrepreneurs;
- c. to prevent monopolistic practices and/or unfair business competition by the entrepreneurs; and
- d. to create effectiveness and efficiency in business activities.

CHAPTER III PROHIBITED CONTRACTS

Part One Oligopoly

Article 4

- (1) Entrepreneurs are prohibited from making any contracts with competitor entrepreneurs with the intention and/or resulting in control of the production, the

marketing, the purchasing, and/or receiving that can cause monopolistic practices and/or unfair business competition.

- (2) Entrepreneurs should be suspected or considered jointly controlling the production and/or marketing of goods and/or services, as intended in paragraph (1), if 2 (two) or 3 (three) Entrepreneurs or group of Entrepreneurs control more than 75% (seventy five percent) of the Market Share of one type of Goods or Services.
- (3) Entrepreneurs who violate the provisions in paragraph (1) shall be subject to administrative sanctions in the form of:
 - a. cancellation of the Agreement;
 - b. imposition of a fine of maximum 25% (twenty five percent) of the sales value associated with the violation in the period of violation and in the Related Market.
 - c. recommendation for revocation of business license to the institution issuing a business permit; and/or
 - d. publication of the parties on the black list of Entrepreneurs.
- (4) Further provisions regarding the procedure for imposing administrative sanctions as intended in paragraph (3) shall be regulated in Government Regulations.

Part Two Pricing

Article 5

- (1) Entrepreneurs are prohibited from making any contract with competitor entrepreneurs in order to determine prices on certain goods and/or services to be borne by the consumers or clients in the same relevant market.
- (2) Provisions as intended in Paragraph (1) of this article shall not be applicable to:
 - a. a contract made in a joint venture business; or
 - b. a contract made based on the existing law.

Article 6

Entrepreneurs are prohibited from making contracts with other entrepreneurs which cause buyers having to pay a different price from the price that must be paid by other buyers for the same type of goods and/or services.

Article 7

Entrepreneurs are prohibited from making any contract with their business competitors in order to determine the price below the market price, that can cause monopolistic practice and unfair business competition.

Article 8

Entrepreneurs are prohibited from making any contract with other entrepreneurs which sets the condition that the receivers of the goods and/or services are not to resell or resupply the goods and/or services they receive, under a price lower than the price agreed upon, thus causing Monopolistic Practice and Unfair Business Competition.

Article 9

- (1) Entrepreneurs who violate the provisions of Article 5, Article 6, Article 7 and/or Article 8, are subject to administrative sanctions in the form of:
 - a. cancellation of the Agreement;
 - b. imposition of a fine of maximum 25% (twenty five percent) of the sales value associated with the violation in the period of violation and in the Related Market.
 - c. recommendation for revocation of business license to the institution issuing a business permit; and/or
 - d. publication of the parties on the black list of Entrepreneurs.
- (2) KPPU can provide a reduction in sanctions as intended in paragraph (1) letter b for Entrepreneurs who acknowledge and report their actions that are suspected of violating the provisions of Article 5.
- (3) Further provisions regarding the procedure for imposing administrative sanctions as intended in paragraph (1) shall be regulated in Government Regulations.

Part Three Area Distribution

Article 10

(Article 9 DRAFT OF LAW)

- (1) Entrepreneurs are prohibited from making agreements with their business competitor aimed at dividing the marketing area or market allocation for goods and/or services that can lead to the occurrence of Monopolistic Practices and/or Unfair Business Competition.
- (2) Entrepreneurs who violate the provisions in paragraph (1) are subject to administrative sanctions in the form of:
 - a. cancellation of the Agreement;
 - b. imposition of a fine of maximum 25% (twenty five percent) of the sales value associated with the violation in the period of violation and in the Related Market.
 - c. recommendation for revocation of business license to the institution issuing a business permit; and/or
 - d. publication of the parties on the black list of Entrepreneurs.

- (3) KPPU can provide a reduction in sanctions as intended in paragraph (2) letter b for Entrepreneurs who acknowledge and report their actions that are suspected of violating the provisions as intended in paragraph (1).
- (4) Further provisions regarding the procedure for imposing administrative sanctions as intended in paragraph (2) shall be regulated in Government Regulations.

Part Four Boycotting

(Article 10 DRAFT OF LAW)

- (1) Entrepreneurs are prohibited from making agreements, with competitor Entrepreneurs, which deter other Entrepreneurs from doing the same business, both for the purpose of Markets in the country and foreign markets which can lead to Dominant Position.
- (2) Entrepreneurs are prohibited from making agreements with competitor Entrepreneurs, to refuse to sell any Goods and/or Services of other Entrepreneurs so that the action:
 - a. harms or can be expected to harm other Entrepreneurs; or
 - b. restricts other Entrepreneurs from selling or buying any Goods and/or Services from the Related Market.
- (3) Entrepreneurs who violate the provisions in paragraph (1) shall be subject to administrative sanctions in the form of:
 - a. cancellation of the Agreement;
 - b. imposition of a fine of maximum 25% (twenty five percent) of the sales value associated with the violation in the period of violation and in the Related Market.
 - c. recommendation for revocation of business license to the institution issuing a business permit; and/or
 - d. publication of the parties on the black list of Entrepreneurs.
- (4) Further provisions regarding the procedure for imposing administrative sanctions as intended in paragraph (2) shall be regulated in Government Regulations.

Part Five Cartel

Article 12 (Article 11 DRAFT OF LAW)

- (1) Entrepreneurs are prohibited from making agreements with competitor Entrepreneurs, which intends to influence prices by regulating the production and/or marketing of goods and/or services.
- (2) Entrepreneurs who violate the provisions in paragraph (1) shall be subject to administrative sanctions in the form of:

- a. cancellation of the Agreement;
 - b. imposition of a fine of maximum 25% (twenty five percent) of the sales value associated with the violation in the period of violation and in the Related Market
 - c. recommendation for revocation of business license to the institution issuing a business permit; and/or
 - d. publication of the parties on the black list of Entrepreneurs.
- (3) KPPU can provide a reduction in sanctions as intended in paragraph (2) letter b for Entrepreneurs who acknowledge and report their actions that are allegedly violating the provisions as intended in paragraph (1).
- (4) Further provisions regarding the procedure for imposing administrative sanctions as intended in paragraph (2) shall be regulated in Government Regulations.

Part Six Trust

Article 13 (Article 12 DRAFT OF LAW)

- (1) Entrepreneurs are prohibited from making any contract with other entrepreneurs in a form of joint cooperation by combining the companies into a bigger joint venture company or larger limited liability, by keeping and maintaining the continuation of each subsidiary or member company, with the intention to control production and/or marketing of goods and/or services, thus causing monopolistic practices and/or unfair business competition.
- (2) Entrepreneurs who violate the provisions in paragraph (1) are subject to administrative sanctions in the form of:
- a. cancellation of the contract;
 - b. imposition of a fine of maximum 25% (twenty five percent) of the sales value associated with the violation in the period of violation and in the Related Market.
 - c. recommendation for revocation of business license to the institution issuing a business permit; and/or
 - d. publication of the parties on the black list of Entrepreneurs.
- (3) Further provisions regarding the procedure for imposing administrative sanctions as intended in paragraph (2) shall be regulated in Government Regulations.

Part Seven Oligopsonies

Article 14 (Article 13 DRAFT OF LAW)

- (1) Entrepreneurs are prohibited from making any contract with competitor entrepreneurs with the intention to jointly control the buying or receiving of supplies in order to control prices of the goods and/or services in the relevant market, that can cause monopolistic practices and/or unfair business competition.
- (2) Entrepreneurs can be suspected or considered as jointly controlling the buying or receiving of supplies as intended in Paragraph (1) of this article if two or three entrepreneurs or group of entrepreneurs control more than 75% (seventy five percent) of the market share of one type of certain foods or services.
- (3) Entrepreneurs who violate the provisions in paragraph (1) shall be subject to administrative sanctions in the form of:
 - a. cancellation of the Agreement;
 - b. imposition of a fine of maximum 25% (twenty five percent) of the sales value associated with the violation in the period of violation and in the Related Market.
 - c. recommendation for revocation of business license to the institution issuing a business permit; and/or
 - d. publication of the parties on the black list of Entrepreneurs.
- (4) Further provisions regarding the procedure for the imposition of administrative sanctions as intended in paragraph (3) shall be regulated in Government Regulations.

Part Eight Closed Contracts

Article 15 (Article 14 DRAFT OF LAW)

- (1) Entrepreneurs are prohibited from making any contract with other entrepreneurs which imposes terms by which the parties receiving the goods and/or services shall only supply or shall not resupply intended goods and/or services to certain parties and/or at certain places which can result in Monopolistic Practices and/or Unfair Business Competition.
- (2) Entrepreneurs are prohibited from making any contract with other parties which imposes terms by which the parties receiving certain goods and/or services must be willing to purchase goods and/or other services from the supplier company which can cause Monopolistic Practices and/or Unfair Business Competition.
- (3) Entrepreneurs are prohibited from making any contract regarding prices or certain discount prices of the goods and/or services, which impose terms by which the entrepreneurs receiving the goods and/or services from the supplier company:
 - a. must be willing to purchase the goods and/or other services from the supplier company, or;

- b. shall not purchase the same or similar type of goods and/or services from other entrepreneurs which are the competitors of the supplier company.
- (4) Entrepreneurs who violate the provisions in paragraph (1), paragraph (2), and/or paragraph (3), are subject to administrative sanctions in the form of:
 - a. cancellation of the Contract;
 - b. imposition of a fine of maximum 25% (twenty five percent) of the sales value associated with the violation in the period of violation and in the Relevant Market;
 - c. recommendation for revocation of business license to the institution issuing a business permit; and/or
 - d. publication of the parties on the black list of Entrepreneurs.
- (5) Further provisions regarding the procedure for the imposition of administrative sanctions as intended in paragraph (4) shall be regulated in Government Regulations.

Part Nine Contracts with Foreign Parties

Article 16 (Article 15 DRAFT OF LAW)

- (1) Entrepreneurs are prohibited from making agreements with other parties abroad that contain provisions that can lead to the occurrence of Monopolistic Practices and/or Unfair Business Competition.
- (2) Entrepreneurs who violate the provisions in paragraph (1) are subject to administrative sanctions in the form of:
 - a. cancellation of the Contract;
 - b. imposition of a fine of maximum 25% (twenty five percent) of the sales value associated with the violation in the period of violation and in the Relevant Market;
 - c. recommendation for revocation of business license to the institution issuing a business permit; and/or
 - d. publication of the parties on the black list of Entrepreneurs.
- (3) Further provisions regarding the procedure for imposing administrative sanctions as intended in paragraph (2) shall be regulated in Government Regulations.

Part Ten Collusion

Article 17 (Article 16 DRAFT OF LAW)

Entrepreneurs are prohibited from conducting Collusion with other Entrepreneurs and/or parties related to other Entrepreneurs to regulate and/or determine the winner of a tender so that it can lead to Unfair Business Competition.

Article 18
(Article 17 DRAFT OF LAW)

Entrepreneurs are prohibited from conducting Collusion with other Entrepreneurs and/or parties related to other Entrepreneurs to obtain information on their competitors' business activities which are classified as company secrets so that it can lead to Dominant Position.

Article 19
(Article 18 DRAFT OF LAW)

Entrepreneurs conduct collusion with other Entrepreneurs and/or parties related to other Entrepreneurs to inhibit the production and or marketing of competitor Entrepreneurs' Goods and or Services with the intention that the Goods and or Services offered or supplied in the Related Market are reduced either in quantity, quality or timeliness required.

Article 20

- (1) Entrepreneurs who violate the provisions of Article 16, Article 17, and/or Article 18, are subject to administrative sanctions in the form of:
 - a. cancellation of the Contract;
 - b. imposition of a fine of maximum 25% (twenty five percent) of the sales value associated with the violation in the period of violation and in the Relevant Market;
 - c. recommendation for revocation of business license to the institution issuing a business permit; and/or
 - d. publication of the parties on the black list of Entrepreneurs.
- (2) KPPU can provide a reduction in sanctions as intended in paragraph (1) letter b for Entrepreneurs who acknowledge and report their actions that are suspected of violating the provisions of Article 16.
- (3) Further provisions regarding the procedure for imposing administrative sanctions as intended in paragraph (1) shall be regulated in Government Regulations.

CHAPTER IV
BANNED/PROHIBITED ACTIVITIES

Part One
Vertical Integration

Article 21
(Article 20 DRAFT OF LAW)

- (1) Entrepreneurs are prohibited from making any contract with other entrepreneurs with the intention to control production of several products belonging to a chain of certain goods and/or services production in which each chain of production is a result of the processing or advanced process, either in one direct or indirect chain, which can cause Monopolistic Practice and/or unfair business competition.
- (2) Entrepreneurs who violate the provisions in paragraph (1) are subject to administrative sanctions in the form of:
 - a. termination of activities;
 - b. stipulation of compensation payments;
 - c. imposition of a fine of maximum 25% (twenty five percent) of the sales value associated with the violation in the period of violation and in the Relevant Market;
 - d. recommendation for revocation of business license to the institution issuing a business permit; and/or
 - e. publication of the parties on the black list of Entrepreneurs.
- (3) Further provisions regarding the procedure for imposing administrative sanctions as intended in paragraph (2) shall be regulated in Government Regulations.

Part Two Monopoly

Article 22 (Article 21 DRAFT OF LAW)

- (1) Entrepreneurs are prohibited from controlling any production and/or marketing of goods and/or services that can cause monopolistic practices and/or unfair business competition.
- (2) Entrepreneurs should be suspected or considered as controlling production and/or marketing of goods and/or services as intended in Paragraph (1) of this article if:
 - a. Relevant goods and/or services do not have substitutes;
 - b. resulting in other Entrepreneurs not being able to enter into the same business competition for Goods and/or Services; or
 - c. one Entrepreneur or one Entrepreneur group controls more than 50% (fifty percent) of the Market Share of one type of Goods or Services.
- (3) Entrepreneurs who violate the provisions in paragraph (1) are subject to administrative sanctions in the form of:
 - a. termination of activities;
 - b. stipulation of compensation payments;

- c. imposition of a fine of maximum 25% (twenty five percent) of the sales value associated with the violation in the period of violation and in the Relevant Market;
 - d. recommendation for revocation of business license to the institution issuing a business permit; and/or
 - e. publication of the parties on the black list of Entrepreneurs.
- (4) Further provisions regarding the procedure for the imposition of administrative sanctions as intended in paragraph (3) shall be regulated in Government Regulations.

Part Three Monopsony

Article 23 (Article 22 DRAFT OF LAW)

- (1) Entrepreneurs are prohibited from controlling the receiving of supplies or becoming sole buyers of Goods and/or Services in the Related Market which may result in Monopolistic Practices and/or Unfair Business Competition.
- (2) Entrepreneurs should be suspected or considered as controlling the supplies receiving or being the sole buyer as intended in Paragraph (1) of this article if one entrepreneur or a group of entrepreneurs controls more than 50% (fifty percent) of the market share of the same type of certain goods or services.
- (3) Entrepreneurs who violate the provisions in paragraph (1) are subject to administrative sanctions in the form of:
 - a. termination of activities;
 - b. stipulation of compensation payments;
 - c. imposition of a fine of maximum 25% (twenty five percent) of the sales value associated with the violation in the period of violation and in the Relevant Market;
 - d. recommendation for revocation of business license to the institution issuing a business permit; and/or
 - e. publication of the parties on the black list of Entrepreneurs.
- (4) Further provisions regarding the procedure for the imposition of administrative sanctions as intended in paragraph (3) shall be regulated in Government Regulations.

Part Four Market Controlling

Article 24 (Article 23 DRAFT OF LAW)

- (1) Entrepreneurs are prohibited from conducting one or more activities, either separately or jointly with other entrepreneurs, which can cause monopolistic practices and/or unfair business competition by:
- refusing and/or hampering certain entrepreneurs from conducting the same type of business in the relevant market;
 - hampering the consumers or clients of competitor entrepreneurs from conducting any business contact with those competitor entrepreneurs;
 - restricting distribution and/or selling of the goods and/or services in the relevant market; or
 - conducting discrimination practices against certain entrepreneurs.
- (2) Entrepreneurs who violate the provisions in paragraph (1) are subject to administrative sanctions in the form of:
- termination of activities;
 - stipulation of compensation payments;
 - imposition of a fine of maximum 25% (twenty five percent) of the sales value associated with the violation in the period of violation and in the Relevant Market;
 - recommendation for revocation of business license to the institution issuing a business permit; and/or
 - publication of the parties on the black list of Entrepreneurs.
- (3) Further provisions regarding the procedure for imposing administrative sanctions as referred to in paragraph (2) shall be regulated in Government Regulations.

Part Five
Selling without Making Any Profit and Expense Cheating

Article 25
(Article 24 DRAFT OF LAW)

Entrepreneurs are prohibited from supplying goods and/or services by selling without making any profits or by setting a very low price with the intention to eliminate or end their competitors' business in the relevant market and/or set up entry barriers for potential Entrepreneurs at relevant market, thus causing monopolistic practices and/or unfair business competition.

Article 26
(Article 25 DRAFT OF LAW)

Entrepreneurs are prohibited from cheating in setting the production cost and other expenses which are part of the goods' and/or services' components, that can cause monopolistic practices and/or unfair business competition.

Article 27
(Article 26 DRAFT OF LAW)

- (1) Entrepreneurs who violate the provisions of Article 25 and/or Article 26, are subject to administrative sanctions in the form of:
- a. termination of activities;
 - b. stipulation of compensation payments;
 - c. imposition of a fine of maximum 25% (twenty five percent) of the sales value associated with the violation in the period of violation and in the Relevant Market;
 - d. recommendation for revocation of business license to the institution issuing a business permit; and/or
 - e. publication of the parties on the black list of Entrepreneurs.
- (2) Further provisions regarding the procedure for imposing administrative sanctions as intended in paragraph (1) shall be regulated in Government Regulations.

CHAPTER V ABUSE OF DOMINANT POSITION

Article 28 (Article 27 DRAFT OF LAW)

- (1) Entrepreneurs are considered to have a Dominant Position if 1 (one), 2 (two), or 3 (three) Entrepreneurs, or 1 (one) Entrepreneur group controls 50% (fifty percent) or more of Market Share of one type of Goods and/or certain services in the market with high market barriers and low bargaining power of buyers.
- (2) Further provisions regarding the domination of Market Share shall be regulated by a Ministerial Regulation which administers government affairs in the field of Trade.
- (3) Entrepreneurs as intended in paragraph (1) are either directly or indirectly prohibited from:
- a. establish trade conditions with the aim of preventing and/or hampering consumers from obtaining competitive goods and/or services, both in terms of price and quality;
 - b. restrict markets and technology development; and/or
 - c. hamper other Entrepreneurs who have the potential to become competitors to enter the Relevant Market, either using financial strength, the strength of the technology power network, or unhealthy business practices.

Article 29 (Article 28 DRAFT OF LAW)

Every person who holds a position as a director or commissioner of a company, at the same time is prohibited from concurrently being a director or commissioner of another

company which may result in the occurrence of Monopolistic Practices and/or Unfair Business Competition, if the company:

- a. is in the same Relevant Market;
- b. has a close relationship in the field and/or type of business; and/or
- c. collectively can master the Market Share of certain Goods and/or Services.

Article 30

(Article 29 DRAFT OF LAW)

Entrepreneurs are prohibited from holding majority shares in several similar companies that conduct business activities in the same field or establish several companies that have the same business activities in the same Related Market which can result in Monopolistic Practices and/or Unfair Business Competition, if the ownership causes:

- a. 1 (one) Entrepreneur or 1 (one) Entrepreneur group controls more than 50% (fifty percent) of the Market Share of 1 (one) type of certain Goods and/or Services; or
- b. 2 (two) or 3 (three) Entrepreneurs or Entrepreneur group controls more than 75% (seventy five percent) of the Market Share of 1 (one) type of certain Goods and/or Services.

(Article 31 DRAFT OF LAW)

- (1) Plans for consolidation or plan for merger of business entity, plans for taking over shares, plans for acquiring assets or plans for establishing joint ventures as intended in Article 30 which result in asset values and/or sales value exceeding certain amounts, must be notified to KPPU before merger or consolidation of business, takeover of shares, takeover of assets, or the formation of a joint venture shall be effective juridically
- (2) Provisions regarding the determination of the limits of asset value and/or sales value and procedures for notification as intended in paragraph (1), are regulated in Government Regulations.

Article 31

(Article 32 DRAFT OF LAW)

- (1) Entrepreneurs who violate the provisions of Article 28, Article 29, and/or Article 30 are subject to administrative sanctions in the form of:
 - a. termination of abuse of Dominant Position;
 - b. refusal of merger or consolidation of business entities, acquisition of shares, acquisition of assets or establishment of joint ventures;
 - c. cancellation of merger or consolidation of business entities, takeover of shares, acquisition of assets or establishment of joint ventures that are not through KPPU's approval;

- d. imposition of a fine of maximum 25% (twenty five percent) of the sales value associated with the violation in the period of violation and in the Related Market.
 - e. imposition of a fine of maximum 25% (twenty five percent) of the value of the transaction related to the violation within the period of the violation and to the Related Market.
 - f. recommendations for revocation of business licenses to institutions issuing business licenses; and/or
 - g. publication of parties in blacklisted Entrepreneurs for a certain period of time.
- (2) Further provisions regarding administrative sanctions as intended in paragraph (1) are regulated in Government Regulations.

CHAPTER VI ABUSE OF DOMINANT BARGAINING POSITION

Article 32 (Article 33 DRAFT OF LAW)

- (1) Entrepreneurs are prohibited from abusing the dominant bargaining position in partnership with other Entrepreneurs that can lead to Monopolistic Practices and/or Unfair Business Competition.
- (2) Entrepreneurs should be suspected of abusing the dominant bargaining position when practicing partnerships in the form of:
- a. stipulation of conditions in transactions of goods and/or services other than those agreed to;
 - b. unilateral refusal to accept the goods of the business partner that has been previously agreed upon or cause the business partner to withdraw the goods that have been agreed upon previously; and/or
 - c. delay or reduction in the amount of payment, stipulation or change in transaction conditions, or implementation of transaction conditions that causes harm to its business partners.

Article 33 (Article 34 DRAFT OF LAW)

- (1) Entrepreneurs who violate Article 32 provisions are subject to administrative sanctions in the form of:
- a. cancellation of the Contract;
 - b. termination of abuse of Dominant Position;
 - c. termination of abuse of dominant bargaining positions;

- d. imposition of a fine of maximum 25% (twenty five percent) of the value of the transaction related to the violation within the period of the violation and to the Related Market.
 - e. recommendation for revocation of business license to the institution issuing a business permit;
 - f. publication of the parties on the black list of Entrepreneurs; and/or
 - g. termination of certain activities or actions that cause harm to other parties.
- (2) Further provisions regarding administrative sanctions as intended in paragraph (1) shall be regulated in Government Regulations.

CHAPTER VII BUSINESS COMPETITION SUPERVISORY COMMISSION

Part One Domicile

Article 34 (Article 35 DRAFT OF LAW)

- (1) Supervision of the implementation of the prohibition on Monopolistic Practices and Unfair Business Competition shall be conducted by KPPU.
- (2) KPPU as intended in paragraph (1) is subordinate and responsible to the President.
- (3) KPPU is domiciled in the capital city of the Republic of Indonesia.

Part Two Tasks, Functions, and Authority

Article 35 (Article 36 DRAFT OF LAW)

- (1) KPPU has the duty to supervise and enforce the law prohibiting Monopolistic Practices and/or Unfair Business Competition.
- (2) Law enforcement as intended in paragraph (1) shall be conducted in the domain of administrative law and not in the context of pro justitia.
- (3) Provide advice and consideration to the Government related to policies on Monopolistic Practices and/or Unfair Business Competition.
- (4) The tasks as intended in paragraph (1) are reported regularly to the President and the House of Representatives.

Article 36 (Article 37 DRAFT OF LAW)

In conducting the tasks as intended in Article 35, KPPU has the function as follows:

- a. prevention and supervision of the occurrence of Monopolistic Practices and/or Unfair Business Competition; and
- b. enforcement of law prohibiting Monopolistic Practices and/or Unfair Business Competition.

Article 37
(Article 38 DRAFT OF LAW)

In conducting the function of prevention and supervision of the occurrence of Monopolistic Practices and/or Unfair Business Competition as intended in Article 36 letter a, KPPU is authorized to:

- a. conduct studies and monitoring of Entrepreneurs or groups of Entrepreneurs who control a certain amount of Market Share which have the potential to result in Monopolistic Practices and/or Unfair Business Competition;
- b. request and obtain data and information regarding industrial structure and industrial performance from government agencies and/or Entrepreneurs;
- c. establish a reporting system on the performance of industries and/or Entrepreneurs that are monitored;
- d. conduct research on business activities and/or actions of Entrepreneurs that have the potential to result in the occurrence of Monopolistic Practices and/or Unfair Business Competition; and
- e. cooperate with state institutions and related institutions both domestically and abroad in order to prevent Monopolistic Practices and/or Unfair Business Competition.

Article 38
(Article 39 DRAFT OF LAW)

- (1) In conducting law enforcement functions as intended in Article 36 letter b, KPPU has the authority to:
 - a. receive reports from the public or Entrepreneurs about alleged occurrences of Monopolistic Practices and/or Unfair Business Competition;
 - b. conduct investigations and/or inspections on cases of alleged Monopolistic Practices and/or Unfair Business Competition reported by the public, Entrepreneurs, or those found by KPPU as a result of research;
 - c. conclude the results of investigations and/or inspections regarding the existence or absence of Monopolistic Practices and/or Unfair Business Competition;
 - d. summon Entrepreneurs who have allegedly violated the provisions of this law;

- e. summon and present witnesses, experts and any person deemed to know of the violations of the provisions of this law;
 - f. request assistance from the Indonesian National Police to present Entrepreneurs, witnesses, experts, or every person as intended in letter d and letter e who do not fulfill the summons;
 - g. request information from government agencies related to investigations or inspections of Entrepreneurs who are suspected of violating the provisions of this Law;
 - h. obtain, examine and/or assess letters, documents or other evidence for investigation or examination;
 - i. impose administrative sanctions on Entrepreneurs who violate the provisions of this law; and
 - j. compile regulations of the Business Competition Supervisory Commission and consult with the House of Representatives.
- (2) Requests for assistance as intended in paragraph (1) letter f shall be submitted to the Republic of Indonesia National Police investigators in writing by stating a description of alleged violations of this Law.
- (3) The Republic of Indonesia National Police Investigator immediately follows up on requests for assistance as intended in paragraph (2).

Article 39
(Article 41 DRAFT OF LAW)

In conducting the function of giving advice and consideration on policies of Government as intended in Article 35 paragraph (3), KPPU is authorized to:

- a. conduct a study of government policies related to Monopolistic Practices and/or Unfair Business Competition;
- b. request data and information to related institutions or parties regarding government policies related to Monopolistic Practices and/or Unfair Business Competition; and
- c. provide advice and consideration on government policies related to Monopolistic Practices and/or Unfair Business Competition.

Part Three
Membership of KPPU

Paragraph 1
Structure and Status

Article 40
(Article 42 DRAFT OF LAW)

- (1) KPPU consists of one Chairperson concurrently functioning as member, a Vice Chairperson concurrently functioning as a member and at least 7 (seven) members.

- (2) The office term of KPPU member as referred to in paragraph (1) shall be 5 (five) years and can be reappointed one time for the next office term.
- (3) The Chairperson and vice chairperson of KPPU as intended in paragraph (1) shall be elected by the People's Representative Council of the Republic of Indonesia for a term of 5 (five) years.
- (4) Chairperson, Vice Chairperson and members of KPPU in conducting their duties, functions and authorities are collective and collegial.
- (5) KPPU members as intended in paragraph (1) shall be state officials.
- (6) If the term of office of KPPU members as intended in paragraph (2) ends and KPPU members for the next term of office have not been appointed, then the term of office of KPPU members can be extended until the appointment of new KPPU members for no longer than 6 (six) months.

Paragraph 2
Selection and Appointment

Article 41
(Article 43 DRAFT OF LAW)

- (1) KPPU members as intended in Article 40 are appointed by the President after obtaining the approval of the People's Representative Council of the Republic of Indonesia.
- (2) Candidates for KPPU members are proposed by the President to the People's Representative Council of the Republic of Indonesia after selection by the selection committee formed by the President
- (3) Candidates for KPPU members as intended in paragraph (2) are proposed as much as 2 (two) times the number of KPPU members and are determined as candidates for permanent members.
- (4) Selection as intended in paragraph (2) shall be conducted by no later than 6 (six) months before the expiration of the term of office of KPPU members.
- (5) Further provisions regarding the procedures for selecting KPPU members are regulated in a Presidential Regulation.

Article 42

The House of Representatives of the Republic of Indonesia establishes a ranking sequence from the number of KPPU permanent members as intended in Article 41 paragraph (3).

Article 43
(Article 44 DRAFT OF LAW)

The requirements to become a KPPU member shall be as follows:

- a. a citizen of the Republic of Indonesia;

- b. at the time of registration at least 30 (thirty) years old and not more than 60 (sixty) years old at the time of appointment;
- c. loyal to Pancasila and the 1945 Constitution Law;
- d. believe in and devoted to God Almighty;
- e. honest, fair and well-behaved;
- f. domiciled in the territory of the Republic of Indonesia;
- g. have experience in the business sector or has knowledge and expertise in law or economy;
- h. does not have family relations to the second degree and/or related by marriage with other KPPU members;
- i. never been sentenced to prison based on a court decision that has permanent legal force because of a criminal offense that is threatened with imprisonment of 5 (five) years or more;
- j. never been declared bankrupt by the court; and
- k. is not a member of a political party, does not hold a position in the government, and a State-Owned Enterprise/Regionally-Owned Enterprise and a business entity.

Paragraph 4 Dismissal

Article 44 (Article 46 DRAFT OF LAW)

- (1) KPPU members are dismissed honorably or dishonorably.
- (2) KPPU members are honorably dismissed as intended in paragraph (1) in the event of:
 - a. pass away;
 - b. resign;
 - c. the end of office term;
 - d. infliction of a long term illness, either physically or spiritually for 6 (six) months on end as evidenced by a doctor's certificate; or
 - e. resign from the position due to having a family relationship to the second degree and/or related by marriage with other KPPU members.
- (3) KPPU members are dismissed dishonorably as intended in paragraph (1) on a temporary or permanent basis.
- (4) KPPU members are temporarily dismissed dishonorably as intended in paragraph (3) if:

- a. determined as a suspect of a criminal offense threatened with imprisonment of 5 (five) years or more;
 - b. commit a disgraceful act;
 - c. violate the code of ethics; or
 - d. no longer fulfills one of the conditions as a member of the Commission as stipulated in Article 43;
 - e. not attend a plenary meeting which is the duty and obligation, for 3 (three) consecutive times for no apparent reason; or
 - f. conduct acts that are proven to hinder KPPU in making decisions, stipulations and decisions as stipulated in the laws and regulations.
- (5) In case KPPU Member is sentenced to imprisonment based on a court decision that has obtained permanent legal force for committing a criminal act as intended in paragraph (4) letter a, he or she is permanently dismissed dishonorably.
 - (6) In case KPPU Member is not proven to have committed a crime based on a court decision that has obtained permanent legal force, the related person shall be rehabilitated.
 - (7) KPPU members are dismissed dishonorably as intended in paragraph (3) for reasons as intended in paragraph (4) letter b, letter c, letter d, letter e, and letter f based on the decision of the honorary assembly.
 - (8) Dismissal of KPPU Members as intended in paragraph (1) shall be stipulated by a Presidential Decree at the request of KPPU.

Article 45
(Article 47 DRAFT OF LAW)

- (1) KPPU members are temporarily dismissed dishonorably as intended in Article 44 paragraph (4) letter b, letter c, letter d, letter e, and letter f with a Presidential Decree at the request of KPPU.
- (2) Temporary dismissal as intended in paragraph (1) shall be at maximum 60 (sixty) work days and can be extended for a maximum of 30 (thirty) work days.
- (3) In case the extension of time as intended in paragraph (2) has expired without being continued with dismissal, related person shall be rehabilitated by a Presidential Decree.
- (4) The Presidential Decree as intended in Article 46 paragraph (8) and Article 47 paragraph (1) shall be issued by no later than 7 (seven) work days after receipt of the KPPU's request.
- (5) Since the request for a temporary dismissal as intended in paragraph (1), the relevant KPPU Member is released from duties as a member of the KPPU.

Article 46

(Article 48 DRAFT OF LAW)

- (1) If there is a detention order for KPPU Members, related KPPU Member is temporarily dismissed from his position.
- (2) Temporary dismissal as intended in paragraph (1) shall be at the maximum 60 (sixty) work days and can be extended for a maximum of 30 (thirty) work days.
- (3) In case the extension of time as intended in paragraph (2) has ended and there has been no court decision, the related person shall be permanently dismissed dishonorably as a member of KPPU.
- (4) If a court decision states that related person is not guilty, the related person shall be rehabilitated.

Article 47
(Article 49 DRAFT OF LAW)

Further provisions regarding procedures for dismissal as intended in Article 44, Article 45, and Article 46 shall be regulated in Regulations of KPPU.

Paragraph 5
Interim replacement

Article 48
(Article 50 DRAFT OF LAW)

- (1) In case a member of the KPPU is dismissed for the reasons as intended in Article 44 paragraph (2) or paragraph (5), an interim replacement of KPPU members will be carried out from the prospective KPPU members of the next rank from the results of selection conducted by the People's Representative Council of the Republic of Indonesia.
- (2) A substitute KPPU member is appointed to continue the remaining term of office of the KPPU member being replaced.

Paragraph 6
Replacement of Chairperson

Article 49
(Article 51 DRAFT OF LAW)

- (1) In case the chairperson of KPPU is dismissed for the reasons as intended in Article 44 paragraph (2) or paragraph (5), the vice chairperson of KPPU replaces the chairperson of KPPU.
- (2) Vice chairperson of KPPU who replaces KPPU chairman as intended in paragraph (1) shall be replaced by KPPU members who obtain the most votes after the KPPU vice chairperson during the election of the Chairperson and Vice Chairperson of KPPU.
- (3) In case the Chairperson and Vice Chairperson of KPPU are dismissed due to the reasons as intended in Article 44 paragraph (2) or Article 44 paragraph (4) letter a, the KPPU chairman and vice chairman shall be filled by KPPU members who

obtain the next most votes at the time of election of chairperson and vice chairperson of KPPU.

- (4) Substitute Chairperson and/or vice chairperson as intended in paragraph (1), paragraph (2), and paragraph (3) shall be stipulated by a Presidential Decree.

Part Four Secretariat General of KPPU

Article 50 (Article 53 DRAFT OF LAW)

- (1) In conducting the duties, functions and authority, KPPU members are supported by Secretariat General of KPPU.
- (2) Secretariat General of KPPU as intended in paragraph (1) is subordinate to and responsible directly to the chairperson of KPPU.
- (3) Further provisions regarding the organization, duties, functions, authority and work procedures of the KPPU Secretariat General are regulated by Presidential Regulation.

CHAPTER VIII CONFIDENTIALITY OF INFORMATION

Article 51 (Article 55 DRAFT OF LAW)

- (1) Any person who serves as a member of KPPU, an official or KPPU employee is prohibited from using or disclosing any information that is confidential to other parties, except in the context of implementing its functions, duties, and authority based on KPPU's Decrees or required by law.
- (2) Anyone who has served as a member of the Commission or has served as a structural official or KPPU employee is prohibited from using or disclosing any confidential information to other parties.
- (3) Anyone who knows confidential information, either because of his position, his profession as a supervised party, or has a relationship with KPPU, is prohibited from using or disclosing confidential information to other parties, except in the context of carrying out his functions, duties and authority based on KPPU's Decree or required by law.
- (4) Violations of the provisions of paragraph (1), paragraph (2), and paragraph (3) may be subject to administrative sanctions and/or criminal sanctions in accordance with the provisions of the laws and regulations.
- (5) Further provisions regarding the confidentiality, use and disclosure of information as intended in paragraph (1), paragraph (2), and paragraph (3), shall be regulated in Regulations of KPPU.

CHAPTER IX CODE OF ETHICS

Article 52
(Article 56 DRAFT OF LAW)

- (1) KPPU establishes and enforces a code of ethics.
- (2) Code of ethics as intended in paragraph (1) shall be prepared by KPPU containing norms that must be obeyed by KPPU members while carrying out their duties to safeguard the dignity, honor, image and credibility of KPPU.
- (3) Further provisions regarding the code of ethics and procedures for enforcing the code of ethics as intended in paragraph (1) are regulated in KPPU Regulations.

Article 53
(Article 57 DRAFT OF LAW)

- (1) To enforce the KPPU's code of ethics as intended in Article 52, an honorary assembly is formed.
- (2) The honorary assembly as intended in paragraph (1) is permanent.
- (3) Membership of the honorary assembly as intended in paragraph (1) consists of elements as follows:
 - a. 1 (one) member of KPPU;
 - b. 2 (two) professionals; and
 - c. 2 (two) academics.
- (4) Composition of the Honorary Assembly membership as intended in paragraph (1) consists of:
 - a. 1 (one) chairperson concurrently member; and
 - b. 4 (four) members.
- (5) The Chairperson as intended in paragraph (3) letter a is chosen from and by the honorary assembly members.
- (6) KPPU members sitting in the honorary assembly as intended in paragraph (3) letter a do not handle reported cases at KPPU.

Article 54
(Article 58 DRAFT OF LAW)

- (1) The honorary assembly has the duty:
 - a. conduct investigation and verification, as well as examination of complaints and/or reports of alleged violations of the code of ethics by KPPU members;
 - b. determine decisions; and
 - c. submit decisions to relevant parties to be followed up.

- (2) The honorary assembly is authorized to:
- a. summon KPPU members who are suspected of violating the code of ethics to provide explanations and defense;
 - b. summon reporters, witnesses and/or other related parties to be questioned, including to be asked for documents or other evidence;
 - c. impose sanctions on KPPU members who are proven to violate the code of ethics; and
 - d. recommend the rehabilitation of the good reputation of the reported KPPU members.
- (3) Sanctions as intended in paragraph (2) letter c in the form of:
- a. written warning;
 - b. recommendation for temporary dismissal as a member of KPPU;
 - c. recommendation of honorable dismissal as a member of KPPU; or
 - d. Recommendations for permanent dishonorable dismissal of KPPU members.
- (4) Temporary dismissal as intended in paragraph (3) letter b shall be for a maximum period of 90 (ninety) days and stipulated by KPPU Decision.
- (5) Recommendations as intended in paragraph (3) letter c and letter d are proposed by KPPU to the President.

Article 55
(Article 59 DRAFT OF LAW)

Further provisions regarding the formation, membership and procedure of proceedings of the hearing of the honorary assembly is regulated in KPPU Regulations.

CHAPTER X
BUDGETING

Article 56
(Article 60 DRAFT OF LAW)

KPPU's budget comes from the State Revenues and Expenditures Budget and other legitimate and non-binding sources in accordance with the provisions of the laws and regulations.

CHAPTER XI
ASSESSMENT OF MERGER OR CONSOLIDATION OF BUSINESS ENTITY,
ACQUISITION OF SHARES, ACQUISITION OF ASSETS, OR
ESTABLISHMENT OF JOINT VENTURE

Article 57
(Article 31 DRAFT OF LAW)

- (1) Plans for consolidation of or plans for a merger of business entity, plans for acquiring shares, plans for acquiring assets or plans for joint venture establishment that result in asset values and/or sales value exceeding certain amounts, must be notified to KPPU before merger or consolidation of business entities, acquisition of shares, acquisition of assets, or the establishment of joint ventures become effective juridically.
- (2) Provisions regarding the determination of the limits of asset values and/or the sales value and procedures for notification as intended in paragraph (1), are regulated in Government Regulation.

Article 58
(Article 32 DRAFT OF LAW)

- (1) Entrepreneurs who violate the provisions of Article 57 are subject to administrative sanctions in the form of:
 - a. refusal of merger or consolidation of business entities, acquisition of shares, acquisition of assets or establishment of joint ventures;
 - b. cancellation of merger or consolidation of business entities, acquisition of shares, acquisition of assets or establishment of joint ventures that are not through KPPU's approval;
 - c. imposition of fines of maximum 25% (twenty five percent) of the value of Entrepreneur transactions for violations of merger or consolidation of business entities, acquisition of shares, acquisition of assets or establishment of joint ventures not through the approval of KPPU; and/or
 - d. publication of the parties on the black list of Entrepreneurs.
- (2) Further provisions regarding administrative sanctions as intended in paragraph (1) are regulated in Government Regulation.

Article 59

- (1) The notification as intended in Article 57 must be accompanied by:
 - a. analysis of planned merger or plan for consolidation of business entities;
 - b. analysis of plans for acquisition of shares;
 - c. analysis of plans for asset acquisition; or
 - d. analysis of joint venture formation plans.
- (2) Further provisions regarding analysis as intended in paragraph (2) shall be regulated in KPPU Regulations.

Article 60
(Article 62 DRAFT OF LAW)

An assessment of the plan for consolidation or plan for the merger of a business entity, the plan for the acquisition of shares, the plan for the acquisition of assets, or the plan to form a joint venture, shall be conducted by the Commission Assembly.

Article 61
(Article 63 DRAFT OF LAW)

An assessment of the plan for consolidation or plan for merger of business entity, plan to acquire shares, plan to acquire assets, or plan for joint venture establishment, as intended in Article 60 shall be conducted by no later than 25 (twenty five) work days as of the application obtained registration number from KPPU.

Article 62
(Article 64 DRAFT OF LAW)

The results of the assessment of the notification of the plan for consolidation or plan for the merger of the business entity, the plan to acquire the shares, the plan to acquire the assets, or the plan to form a joint venture as intended in Article 60 shall be stated in the KPPU Decision.

Article 63
(Article 65 DRAFT OF LAW)

Further provisions regarding procedures for evaluating business entity mergers or consolidations, acquisition of shares, acquisition of assets, or establishing joint ventures are regulated in KPPU Regulations.

CHAPTER XII
PROCEDURES FOR HANDLING CASES

Part One
Report

Article 64
(Article 66 DRAFT OF LAW)

- (1) Anyone who is aware of the alleged violation of the Prohibition of Monopolistic Practices and Unfair Business Competition can report in writing to the chairperson of the KPPU.
- (2) The report as intended in paragraph (1) shall at least contain:
 - a. identity of the reporter, reported party, and witness;
 - b. clear and complete information about alleged violations;
 - c. evidence of alleged violations; and
 - d. signature of the reporter.
- (3) KPPU must keep the identity of the reporter confidential as intended in paragraph (2) letter a.

Part Two
Report Clarification

Article 65
(Article 67 DRAFT OF LAW)

- (1) Clarification of report as intended in Article 64 shall be carried out to examine the completeness, correctness and conformity of the administration of the report, and assess the absolute competence of KPPU on the report.
- (2) Provisions regarding the report as intended in paragraph (1) shall be regulated in KPPU Regulations.

Part Three
Investigation Initiative

Article 66
(Article 70 DRAFT OF LAW)

- (1) KPPU may initiate an inquiry based on data or information on alleged violations of the Prohibition of Monopolistic Practices and Unfair Business Competition without preceded by a report as intended in Article 64 paragraph (1).
- (2) Further provisions regarding the initiative of investigation as intended in paragraph (1) are regulated in KPPU Regulations.

Part Four
Leniency

Article 67
(Article 71 DRAFT OF LAW)

KPPU can provide leniency in the form of remission or reduction of administrative sanctions in the form of fines for Entrepreneurs who acknowledge and/or report their actions that are suspected of violating the provisions of Article 5, Article 9, Article 11, and/or Article 16.

Article 68

- (1) Remission of administrative sanctions in the form of fines for Entrepreneurs as intended in Article 66 of 100% (one hundred percent) of the calculation of administrative sanctions in the form of fines imposed.
- (2) Reduction of administrative sanctions in the form of fines for Entrepreneurs as intended in Article 67 shall be in the form of:
 - a. reduction of 50% (fifty percent); or
 - b. reduction of 30% (thirty percent), from the calculation of administrative sanctions in the form of fines imposed.
- (3) Remission of administrative sanctions in the form of fines as intended in paragraph (1) or reduction of administrative sanctions in the form of fines as intended in paragraph (2) shall be given based on requests submitted by Entrepreneurs to KPPU.

Article 69

Remission of administrative sanctions in the form of fines as intended in Article 68 paragraph (1) shall be given if Entrepreneur fulfills the following conditions:

- a. become the first applicant to acknowledge, report, and submit all information and evidence related to activities suspected of violating the provisions of Article 5, Article 9, Article 11 and/or Article 16 before the investigation by KPPU begins;
- b. submit information and evidence to the KPPU, which is not yet known and/or owned by KPPU when the application is submitted and significantly helps before the commencement of an investigation by the KPPU of an act suspected of violating the provisions of Article 5, Article 9, Article 11, and/or Article 16;
- c. carry out all the obligations stipulated in this Law which are charged to him as an applicant for leniency; and
- d. does not carry out coercion or instigation to other Entrepreneurs to be involved in violations and/or become initiators of violations.

Article 70

Reduction of administrative sanctions in the form of a fine of 50% (fifty percent) as intended in Article 68 paragraph (2) letter b, shall be given if Entrepreneur fulfills the following conditions:

- a. become the second Petitioner who acknowledges, reports, and submits all information and evidence related to activities suspected of violating the provisions of Article 5, Article 9, Article 11 and/or Article 16 before the investigation by KPPU begins;
- b. submit information and evidence to KPPU, which is not yet known and/or owned by KPPU when the application is submitted and significantly helps before the investigation by KPPU begins for an act suspected of violating the provisions of Article 5, Article 9, Article 11, and/or Article 16;
- c. conduct all the obligations stipulated in this Law which are charged to him as an applicant for leniency; and
- d. does not carry out coercion or instigation to other Entrepreneurs to be involved in violations and/or become initiators of violations.

Article 71

The reduction in administrative sanctions in the form of a fine of 30% (thirty percent) as intended in Article 68 paragraph (2) letter b, shall be given if the following requirements are met:

- a. become the third Applicant who acknowledges, reports, and submits all information and evidence related to activities suspected of violating the provisions of Article 5, Article 9, Article 11 and/or Article 16 before the investigation by KPPU begins;

- b. submit information and evidence to KPPU, which is not yet known and/or owned by KPPU when the application is submitted and significantly helps before the investigation by KPPU begins for an act suspected of violating the provisions of Article 5, Article 9, Article 11, and/or Article 16;
- c. conduct all obligations stipulated in this Law which are charged to him as an applicant for leniency; and
- d. does not carry out coercion or instigation to other Entrepreneurs to be involved in violations and/or become initiators of violations.

Article 72

- (1) After the investigation begins, Entrepreneurs can apply for leniency.
- (2) Entrepreneurs who submit applications for leniency after the investigation begins are entitled to a reduction in administrative fines of 30% (thirty percent) if they fulfill the following requirements:
 - a. Entrepreneurs as the Applicant of Leniency shall be Entrepreneurs who are under investigation.
 - b. submit information and evidence to KPPU, which is not yet known and/or owned by KPPU when the application is submitted and significantly assists the investigation by KPPU of actions suspected of violating the provisions of Article 5, Article 9, Article 11, and/or Article 16;
 - c. conduct all obligations stipulated in this Law which are charged to him as an applicant for leniency; and
 - d. do not carry out coercion or instigation to other Entrepreneurs to be involved in violations and/or become initiators of violations.

Article 73

Entrepreneurs who apply for leniency must:

- a. be cooperative according to commitment with KPPU throughout the process of investigation and/or examination of the case;
- b. terminate his involvement in the violation immediately after submitting a request for leniency, unless the KPPU instructs otherwise to maintain the integrity of the examination;
- c. not damage, falsify and/or hide evidence of violations; and
- d. not disclose the facts and/or contents of the application for leniency.

Article 74

- (1) Remission or reduction of administrative sanctions in the form of fines as intended in Article 68 and Article 72 shall be given through the stipulation of the KPPU.

- (2) Determination of leniency can be canceled by KPPU if Entrepreneurs who submit applications for leniency violate one of the provisions as intended in Article 72.

Article 75

Further provisions regarding the procedure for applying for leniency are regulated by KPPU Regulations.

Part Five Investigation

Article 76 (Article 72 DRAFT OF LAW)

- (1) The investigation as intended in Article 65 and Article 66 shall be a series of activities carried out by KPPU to obtain sufficient evidence of alleged violations of this Law.
- (2) Investigations that have sufficient evidence as intended in paragraph (1), shall be continued into the trial phase.

Part Six Evidence

Article 77 (Article 72 paragraph (2) DRAFT OF LAW)

- (1) The evidence as intended in Article 76 includes:
- a. witness statement;
 - b. expert opinion;
 - c. letters and/or documents;
 - d. indications; and/or
 - e. information from the reported party.

Part Seven Commission Council

Article 78 (Article 73 DRAFT OF LAW)

- (1) To conduct the assessment as intended in Article 60 and to conduct the trial as intended in Article 76 paragraph (2) a Commission Council is formed.
- (2) The Commission Council as intended in paragraph (1) shall consist of at least 3 (three) KPPU members and one of them shall be the chairperson of the Commission Council.

- (3) The formation of the Commission Council as intended in paragraph (1) and the Commission Council membership composition as intended in paragraph (2) shall be stipulated in the KPPU meeting.

Article 79
(Article 74 DRAFT OF LAW)

- (1) The Commission Council Session is in principle open to the public.
- (2) The Commission Council may declare the Commission Council session closed in terms of:
- a. the request of the reported party using leniency;
 - b. witness request; or
 - c. inspection of confidential documents.
- (3) The Commission Council Session shall be conducted in 4 (four) stages:
- a. preliminary examination;
 - b. follow-up examination;
 - c. assembly meeting; and
 - d. reading the verdict.
- (4) In the hearing examination the Commission Council is authorized to:
- a. summon and request information from the reported party and/or witness;
 - b. summon and request experts' opinion;
 - c. request and obtain letters and/or documents;
 - d. assess evidence; and
 - e. conduct local checks related to alleged violations.

Article 80
(Article 75 DRAFT OF LAW)

The Commission Council Session as intended in Article 79 paragraph (3) is recorded in the minutes of the Commission Council meeting signed by the Commission Council.

Part Eight
Examination of the Commission Council

Paragraph 1
Preliminary examination

Article 81
(Article 76 DRAFT OF LAW)

- (1) The Commission Council determines the preliminary examination schedule.
- (2) The Commission Council calls the reported party to attend the preliminary examination with a valid and proper summons.
- (3) Preliminary examination shall commence by no later than 10 (ten) work days as from the stipulation of the establishment of the Commission Council as intended in Article 79 paragraph (3).
- (4) Preliminary examinations shall be conducted within a maximum period of 30 (thirty) work days as of the commencement of the Commission Council session.

Article 82
(Article 77 DRAFT OF LAW)

- (1) In the preliminary examination the investigator submits a report on the results of an investigation which contains the alleged violations charged to the reported party.
- (2) In the preliminary examination, the reported party can submit:
 - a. response to suspected violations;
 - b. witness;
 - c. expert; and/or
 - d. letters and/or other documents.
- (3) The response of the reported party to the alleged violation as intended in paragraph (2) letter a, contains the acceptance or rejection of the report on the results of the investigation.

Article 83
(Article 78 DRAFT OF LAW)

- (1) In case the reported party accepts the report on the results of the investigation as intended in Article 82 paragraph (3), the Commission Assembly may consider issuing a stipulation of behavior change.
- (2) Stipulation of behavior changes as intended in paragraph (1) shall be determined in the Commission Council meeting.
- (3) Stipulation of behavior changes as intended in paragraph (2) in the form of orders of:
 - a. cancellation of the Contract which is prohibited;
 - b. termination of prohibited activities;
 - c. termination of abuse of Dominant Position;
 - d. termination of abuse of dominant bargaining positions; and/or

e. payment of administrative fines.

- (4) The Reported Party must carry out the stipulation of behavior change as intended in paragraph (3) as of the Commission Council issues the stipulation.
- (5) The Commission Council monitors the implementation of behavior change as intended in paragraph (3) within a maximum period of 120 (one hundred and twenty) work days as intended in paragraph (4) since the Commission Council issued the stipulation.
- (6) The Reported Party provides periodic reports in accordance with the stipulation of the Commission Council within the period as intended in paragraph (5) to KPPU.
- (7) In case the reported party has carried out change in behavior within the period as intended in paragraph (4), the Commission Council issues a decision to terminate the Commission Council session.
- (8) In case the reported party does not carry out a change in behavior, the Commission Council determines further examinations.

Article 84
(Article 79 DRAFT OF LAW)

- (1) Stipulation of behavior change as intended in Article 83 paragraph (3) shall be given only 1 (one) time.
- (2) Stipulation of behavior changes as intended in Article 83 paragraph (2) does not apply to alleged violations of the provisions of Article 5, Article 9, Article 11, and Article 16.

Article 85
(Article 78 paragraph (7) DRAFT OF LAW)

In case the reported party rejects the report on the results of the investigation, the Commission Council determines to conduct further inspections.

Paragraph 2
Interlocutory Decision

Article 86
(Article 80 DRAFT OF LAW)

The Commission may issue interlocutory decisions to suspend the prohibited Contract, prohibited activities, abuse of Dominant Position, and/or abuse of the dominant bargaining position under this Law.

Paragraph 3
Further Inspection

Article 87
(Article 81 DRAFT OF LAW)

- (1) The Commission Council determines the schedule for further inspection as intended in Article 79 paragraph (3) letter b.

- (2) Further inspection shall be conducted within a maximum period of 60 (sixty) work days from the date of stipulation of further inspection and can be extended for a maximum period of 30 (thirty) work days.
- (3) The extension of the period of further inspection shall be determined by the Commission Council.
- (4) The Commission Council calls the reported party, witnesses and/or experts in the further inspection with a valid and proper summons.
- (5) Before the further inspection ends, the Commission Council provides an opportunity for the reported party and/or investigators to submit written conclusions.

Paragraph 4
Commission Council Meeting

Article 88
(Article 82 DRAFT OF LAW)

- (1) Commission Council Meeting shall be held to take decisions based on the results of further inspections.
- (2) Commission Council shall conduct the Commission Council Meeting within a period of maximum 30 (thirty) work days as from the date of stipulation of the Commission Council meeting.
- (3) Results of the Commission Council meetings are contained in KPPU's decision.
- (4) In case there is a member of the Commission Council having a different opinion from the majority of the members of the Commission Council at the time of the Commission Council meetings, the different opinions of the member of the Commission Council are written down and are an integral part of the KPPU's decision.

Paragraph 5
Hearing of the Verdict

Article 89
(Article 83 DRAFT OF LAW)

- (1) The Commission Council notifies the reported party of the time and place of hearing of the verdict of KPPU.
- (2) The hearing of the verdict as intended in paragraph (1) shall be conducted by no later than 5 (five) work days after the end of the Commission Council meeting period.
- (3) The Commission Council reads out the KPPU's decisions in a trial that is declared open to the public.
- (4) KPPU's decision at least contains:

- a. the header of the decision which reads "FOR JUSTICE BY THE GRACE OF ALMIGHTY GOD";
 - b. the identity of the party suspected of committing a violation;
 - c. suspected violation;
 - d. assessment of evidence in the trial;
 - e. consideration;
 - f. Article violated; and
 - g. decision.
- (5) The decision of KPPU is signed by the Commission Council.
 - (6) A copy of the decision as intended in paragraph (4) and paragraph (5) shall be submitted to the reported party.
 - (7) KPPU must announce the decision as intended in paragraph (4) through print and electronic media.

Part Nine Implementation of Decision

Article 90 (Article 84 DRAFT OF LAW)

- (1) The Reported Party is obliged to conduct decision of KPPU since a copy of the KPPU's decision is received.
- (2) The Reported Party may submit an objection to decision of KPPU by no later than 14 (fourteen) work days after copy of the decision of KPPU is received.
- (3) The Reported Party that does not submit an objection within the period as intended in paragraph (2), is considered to have accepted the decision of KPPU.
- (4) In case the reported party does not file an objection as intended in paragraph (3), the decision of KPPU has a permanent legal force.

Article 91

The decision of KPPU that has permanent legal force shall be implemented by the District Court.

Article 92 (Article 85 DRAFT OF LAW)

- (1) The Reported Party is obliged to conduct the decision of KPPU by no later than 60 (sixty) work days as of the decision of KPPU has permanent legal force as intended in Article 90 paragraph (4).

- (2) In case decision of KPPU has permanent legal force as intended in Article 90 paragraph (4) is in the form of fines that must be paid to the state treasury and not conducted by the parties, shall become the state's receivables.
- (3) KPPU submits the state receivables as intended in paragraph (2) to the state receivables agency in accordance with the provisions of laws and regulations.

Article 93
(Article 86 DRAFT OF LAW)

Further provisions regarding the procedure for handling cases are regulated by KPPU Regulations.

CHAPTER XIII
LEGAL EFFORT

Article 94
(Article 87 DRAFT OF LAW)

Objections to decision of KPPU as intended in Article 90 paragraph (2) shall be submitted to the District Court.

Part One
Objection

Article 95
(Article 88 DRAFT OF LAW)

- (1) The District Court is obliged to examine the objection of the reported party within a maximum of 14 (fourteen) work days since intended objection is received.
- (2) The District Court is obliged to give a decision within a maximum period of 45 (forty five) work days as of the beginning of the trial.
- (3) Objections can be submitted if the party submitting the objection has paid 10% (ten percent) of the value of the penalty imposed on the party as contained in the Decision of KPPU as deposit money.
- (4) In the case of an objection, KPPU is a party.

Part Two
Cassation

Article 96
(Article 88 DRAFT OF LAW)

- (1) The party who objects to the District Court Decision, can file an appeal to the Supreme Court within a maximum of 14 (fourteen) work days as of the hearing of the verdict.
- (2) In case there are parties who are not present at the hearing of the verdict, then the deadline as intended in paragraph (1) shall be calculated from the receipt of the notification of the decision.
- (3) The Supreme Court must give a decision by no later than 60 (sixty) work days from the date the request for cassation is received.

- (4) In case the legal proceedings of the reported party are received and the decision has permanent legal force, the value of the fines paid as intended in Article 88 paragraph (3) shall be returned to the reported party and rehabilitated by no later than 14 (fourteen) work days.

Article 97
(Article 88 paragraph (8) DRAFT OF LAW)

Further provisions regarding legal proceedings shall be regulated in the Supreme Court Regulation.

CHAPTER XIV
PROHIBITION

Article 98
(Article 89 DRAFT OF LAW)

Everyone is forbidden to intentionally either directly or indirectly prevent, deter, or frustrate KPPU's efforts in conducting the investigation process as intended in Article 76 and/or the examination as intended in Article 81, Article 82, Article 83, and Article 87.

CHAPTER XV
CRIMINAL PROVISIONS

Article 99
(Article 90 DRAFT OF LAW)

- (1) Anyone who intentionally prevents, obstructs, or frustrates the process of investigation and/or examination conducted by KPPU as intended in Article 98 directly or indirectly, shall be convicted with a maximum imprisonment of 6 (six) months or a maximum fine of Rp120,000,000.00 (one hundred twenty million rupiahs).
- (2) Corporations that intentionally and unlawfully, prevent, obstruct or frustrate the process of investigation and/or examination conducted by KPPU as intended in Article 98 directly or indirectly, are convicted with a fine of a maximum of Rp1,200,000,000. 00 (one billion two hundred million rupiah).

CHAPTER XVI
OTHER PROVISIONS

Article 100
(Article 91 DRAFT OF LAW)

This law does not apply to:

- a. Contracts and/or activities aimed at implementing applicable laws;
- b. Agreement on the stipulation of technical standards for products of goods and/or services that do not curb and/or hinder competition;

- c. Agreement in the context of agency;
- d. Research cooperation agreement to increase or improve the living standards of the general public;
- e. International agreements that have been ratified by the Government of the Republic of Indonesia;
- f. Agreements and/or activities aimed at exports that do not disturb the needs and/or supply of the domestic market;
- g. Entrepreneurs belonging to micro and small businesses; or
- h. cooperative business activities specifically aimed at serving its members.

Article 102
(Article 92 DRAFT OF LAW)

Monopoly and/or concentration of economic power related to the production and/or marketing of goods and/or services that control the livelihood of the public and production branches which are important for the state are regulated by law and organized by state-owned enterprises, business entities owned by the region, village-owned business entities, and/or agencies or institutions formed or appointed by the central government.

CHAPTER XVII
TRANSITIONAL PROVISIONS

Article 103
(Article 93 DRAFT OF LAW)

- (1) Handling of alleged cases of Monopolistic Practices and Unfair Business Competition that are being investigated, examined, or in the process of legal remedies, is still conducted based on Law Number 5 Year 1999 regarding Prohibition of Monopolistic Practices and Unfair Business Competition (Republic of Indonesia State Gazette Indonesia Year 1999 Number 33, Supplement to the State Gazette of the Republic of Indonesia Number 3817), until obtaining a decision which has permanent legal force;
- (2) Decision of KPPU that has permanent legal force that are in the form of payment of fines to the state treasury that have not been paid by the parties based on Law Number 5 Year 1999 regarding Prohibition of Monopolistic Practices and Unfair Business Competition (State Gazette of the Republic of Indonesia Number 33 Year 1999, Supplement to the State Gazette of the Republic of Indonesia Number 3817) becomes the state's receivables; and
- (3) With the promulgation of this Law, the regulation of KPPU employees is regulated based on laws and regulations in the field of State Civil Apparatus.

CHAPTER XVIII
CLOSING PROVISIONS

Article 104
(Article 94 DRAFT OF LAW)

The laws and regulations mandated by this Law must be established by no later than 1 (one) year from the promulgation of this Law.

Article 105
(Article 95 DRAFT OF LAW)

When this law comes into effect:

- a. all laws and regulations which consist of implementing regulations of Law Number 5 Year 1999 regarding Prohibition of Monopolistic Practices and Unfair Business Competition (State Gazette of the Republic of Indonesia of 1999 Number 33, Supplement to the State Gazette of the Republic of Indonesia Number 3817), shall remain valid as long as not contradictory to this Law; and
- b. KPPU members who are currently serving under Law Number 5 Year 1999 regarding Prohibition of Monopolistic Practices and Unfair Business Competition (State Gazette of the Republic of Indonesia Number 33 of 1999, Supplement to the State Gazette of the Republic of Indonesia Number 3817) continue to conduct their authority and duties until the end of their tenure.

Article 106
(Article 96 DRAFT OF LAW)

With the promulgation of this Law, Law Number 5 Year 1999 regarding Prohibition of Monopolistic Practices and Unfair Business Competition (State Gazette of the Republic of Indonesia Year 1999 Number 33, Supplement to the State Gazette of the Republic of Indonesia Number 3817), shall be declared null and void.

Article 107
(Article 97 DRAFT OF LAW)

This Law shall come into effect on the date of its promulgation.

For public cognizance, this law shall be promulgated by its placement in the State Gazette of the Republic of Indonesia.

Promulgated in Jakarta
on ...
PRESIDENT OF THE REPUBLIC OF INDONESIA,

JOKO WIDODO
Legalized in Jakarta
on ...

MINISTER OF LAW AND HUMAN RIGHTS OF THE REPUBLIC OF INDONESIA,
YASONNA H. LAOLY