

Mapping of Investigator's Basic Competence in Industrial Competition

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Abstract. The birth of the concept of competition in a perfectly competitive market will increase the level of efficiency and productivity of the industry. The behavior of competition will also provide benefits for consumers because they can enjoy the quality and competitive prices. However, this condition is not always obtained because of the practice of collusion between authorities and other parties who control both on the supplier and distributor side. The only institution that oversees this practice in Indonesia is the KPPU. However, often the KPPU will not be able to find and handle this anti-competitive practice case because it does not have strong human resources. Therefore, this research will describe and analyze qualitatively the competencies that must be possessed by investigators to assess various agreements that contradict business competition law in Indonesia. From the results of interviews and focus group discussions, it was found that to improve the quality of human resources of KPPU investigators, five basic competency categories must be possessed by investigators, namely the ability to assess business activities and abuse of dominant position; the ability to assess whether a company merger, consolidation, takeover; assess the impact of government policies and provide recommendations based on policy assessments carried out; the ability to litigate cases in district courts and supreme courts. The four competencies must be possessed by business competition investigators in the framework of preventing and cracking down on perpetrators who carry out monopolistic practices and unfair business competition.

Keywords: Competency, Industry Competition, KPPU, Investigator

1. Introduction

Unfair business competition arises because of a conglomeration in which businesses are controlled by certain families or groups. This monopolistic practice and unfair business competition have removed the role of small and medium business actors. These business actors have even caused economic structures that are not good for the national economy and even tend to get protection through the law. This will lead to monopolistic practices and cartels in various industrial fields such as cement, glass, wood, and paper cartels, as well as price-fixing for cement, sugar, rice, determining market access for timber, motor vehicles, cloves, wheat flour, aircraft industry. and the car becomes the object of a carved business actor. The practice of monopoly begins with the practice of collusion or

collusion between the authorities and businessman. This is believed to be the cause of the slow efforts of the government and industry in carrying out efficiency and increasing industrial productivity as an indirect effort to improve the welfare of society. Also, the toughest challenge for the national industry is opening up global markets through the signing of the ASEAN free trade agreement and its WTO commitments. As a consequence of the free trade agreement, goods, and services.

from other countries flooded the domestic market. Thus, businesses must deal with business actors from other countries in conditions of imperfect business competition. Large business actors can control domestic economic activities with actions such as cartels, abuse of dominant position, mergers/takeovers, and so on. The emergence of conglomeration and a small group of strong entrepreneurs who are not supported by a true entrepreneurial spirit is one of the factors that cause economic resilience to be very fragile and unable to compete which then demands the government to examine and reorganize business activities in Indonesia, to create a climate of fair business competition, and the avoidance of concentration of economic power on monopoly and unfair business competition which is detrimental to society, which is contrary to the ideals of social justice [17,18].

Prevention and law enforcement of antitrust practices and unfair business competition in Indonesia have been spelled out in Law No. 5 of 1999 concerning the prohibition of monopolistic practices and unfair business competition. The principle of Law No. 5 of 1999. Through this law, it has been agreed that the one who will run and enforce business competition law is the Institution of the Business Competition Supervisory Commission (KPPU). In carrying out its duties and functions, the KPPU Institution consists of 9 commissioners and is assisted by the secretariat general, Deputy for prevention, and Deputy for Law Enforcement as a support system in enforcing fair business competition. The KPPU organization is an independent institution that is independent of a government authority or other parties related to business competition issues. In addition to overseeing the implementation of Law No. 5/1999 concerning the prohibition of monopolistic practices and unfair business competition, based on Law no. 20 of 2008 concerning Micro, Small, and Medium Enterprises in conjunction with the Republic of Indonesia Government Regulation Number 17 of 2013 concerning the implementation of Law No. 20 of 2008 concerning MSMEs, KPPU was also given the authority to oversee partnerships.

One study on KPPU was obtained from the results of a study of the Indonesian Center for Law and Policy Studies in 2009 concerning stakeholder perceptions of KPPU's performance [16]. This study conducted a survey and interview of 300 KPPU stakeholders and concluded that there were 65% belief in the objectivity of the KPPU's decision, 29% claimed not to trust the KPPU's decision and 6% did not provide answers to questions. That result can make KPPU proud, especially since most business actors involved in the case at KPPU still recognize the objectivity of KPPU's decision. The survey results also noted that 71% of respondents who had litigated at the KPPU trusted the KPPU's decision. The remaining 22% still do not trust. This figure is balanced by the answers of respondents who have never been involved in litigation at KPPU, namely 30.15% said they did not believe, but 64% claimed to believe (Indonesian Center for Law and Policy Studies, 2009). From the results of the research, the people who work at KPPU

need to increase the investigator's competence in carrying out the mandate of Law Number 5 of 1999 and high integrity to carry out the tasks that oversee the implementation of the Act, so that organizational ethics, the trust level of support is needed concerning KPPU, self-development in realizing KPPU as an independent business competition oversight body and consistency to solve every problem fairly and on time [16,17].

Considering that the KPPU as the only institution that handles law enforcement in the field of business competition, it is necessary to have high employee competence, especially for investigators as the initial spearhead of a case or case. Investigators are commission secretariat employees who are assigned by the commission to carry out investigative activities or read reports of alleged violations to the preliminary examination, submit evidence, and submit conclusions at further examinations.

The source of the case handled by the investigator consists of reports from the public, and cases originating from the KPPU initiative. Cases originating from the public or industry can proceed to the research and investigation process while cases originating from the KPPU initiative consist of results from the commission's study of industrial behavior and the results of studies and research which are then proceed to investigations by investigators.

The success of a KPPU case handling is greatly influenced by the professionalism of an investigator so that the competencies possessed by the investigator need to be formulated on an ongoing basis so that organizational strength can be maintained in handling cases that are so complex, let alone the challenges of industry behavior going forward to continue to develop along with technological developments and globalization. Besides, they also understand how anti-competitive practices that need to be done to fraudulently maintain business viability while investigators' abilities both in terms of quantity and quality are still minimal. The challenge going forward is also the KPPU's effort to dismantle large cross border cases involving other parties including the government so that the investigator will be strengthened in terms of competence, professionalism, independence, credibility, morality, transparency, responsibility and commitment to avoid abuse of power. Therefore, because of the task of the investigator in carrying out the three main functions, it is necessary to identify and map the investigator's competence at the KPPU. With this mapping it is expected that in the recruitment process and the education and training process of investigators the investigator's competence can be fulfilled [17,18].

2. Research Methodology

The research method used in this study is qualitative research. Qualitative research is a design that involves an emphasis on examining meaning and process, not on calculations in terms of quantity, frequency, or quantity. Qualitative research designs are best suited for this study where phenomena can still be explained, the nature of the research is broad or not general, the aim is the deep narrative theory or lack of prior knowledge or theory development. or nothing. This design can produce a lot of data about several cases and allows a significant level of detail through interviews, in-depth observations, and detailed explanations of the situation. Besides, the great strength of the qualitative research

approach is to try to describe the overall experience in a comprehensive and meaningful way [1,2,3,4,5,6].

2.1 Data and Data Sources

The data from the study is divided into two, namely primary data from interviews and secondary data from HR investigator data at the Business Competition Supervisory Commission. Data were collected using in-depth semi-structured interview methods and documentation to collect secondary data. The benefit of a semi-structured interview is that the interviewer controls the process of getting information from the person being interviewed, and can pursue new instructions that emerge during the interview process [7,8,9,10,11].

2.2. Interview

This study uses a semi-structured interview method. The researcher considers that this method is flexible because it allows researchers to ask new questions during the interview. this method requires special interview skills. In implementing this method the researcher prepares an interview guide first and then explores other questions by paying attention to the informants' answers. Thus, the interviewer can get the interview to speak honestly to ensure the interviewer gets in-depth information about the topic being discussed [12,13,14,15]. The list of informants in this study was carried out by commissioners, KPPU's Structural Officers, Training Instructors, Investigators, and Training Implementing Units as explained in table 1.

Table 1. List of Informants

No	Responden	amount
1	Commissioner	9
2	KPPU's structural officer	5
3	Training Instructor	4
4	Investigator	9
5	Education and Training Implementation Unit	2
TOTAL		29

During the interview process, an audio recorder is used. Interview data were also collected through written notes made by researchers with permission from each informant. Records were made during the interview, which consisted of individual responsibility accounts in their organizations, their experiences of the commitment of the commissioners and investigators. During the interview phase, researchers identify their own biases and try to maintain an open mind in the face of unexpected information that arises during the interview.

2.3. Competency Mapping

Competency mapping is carried out through focus group discussions attended by commissioners, HRD, KPPU Structural Officers, Training Instructors, Investigators, and Training Implementing Units. The benchmarking process is carried out to obtain investigator competencies that are relevant to the scope of work performed, and challenges that are likely to be found in the field in facing increasingly sophisticated business actors in carrying out monopolistic practices and unfair business competition [16,19,20,21].

2.4. Data Analysis

Data analysis begins by mapping competencies based on the functions of the investigators in the business competition law. Results Competency mapping obtained through focus group discussions is divided into levels of training that must be passed to get a reliable investigator. After that, making a roadmap for developing the quality of KPPU investigator training for the period 2020-2040 [17,19,20,21].

3. RESULT

From the results of focus group discussions and in-depth discussions with various sources. The preparation of basic competencies for investigators is not negotiable. As the front guard in charge of assessing agreements, Investigators are required to increase their understanding of the science of law and competitive economics. In line with these objectives, the Training Unit conducts the compilation of basic competency maps and has been agreed on in the KPPU regulations. Under the business competition law, there are three key functions of KPPU employees in the functional positions of investigators and/or business competition analysts, namely:

1. Assessing agreements, business activities, and or actions of business actors, whether there is an abuse of a dominant position, which can lead to monopolistic practices and or unfair business competition. Where these key functions have two main functions, namely:
 - 1.1. assess the agreement, which can lead to monopolistic practices and or unfair business competition.
 - 1.2. assess business activities and abuse of dominant position which may result in monopolistic practices and or unfair business competition.
2. Assessment of merger, consolidation, the takeover of the company. This key function has one main function, which is to assess whether mergers, consolidations, takeovers of companies do not lead to potential monopolistic practices and unfair business competition.
3. Assessing government policies relating to the practice of monopoly and or unfair business competition. The main function of this key function is to assess the impact of government policies and provide recommendations based on policy assessments made.

The investigator's function in assessing agreements that can lead to monopolistic practices and or unfair business competition. In mapping the basic competency map that must be possessed by investigators divided into five categories, namely:

1. Preparing materials for alleged violations. To prepare material for alleged violations of Law No.5 Year 1999, Investigators must have basic competence to compare the

forms of agreements and distinguish written agreements from unwritten agreements, namely

- a. Investigators must be supported by qualified knowledge about the aspects of business competition law and must understand the rules that exist in electronic transaction laws, civil law, treaty law, forms of agreements, and signaling in written agreements.
 - b. Investigators must be able to explain the basic concepts of demand (supply) and supply (supply), as well as explain the behavior of businesses in producing goods and or services. Basic understanding of microeconomics is needed because the behavior of business actors in the market is based and driven by economic motives.
2. Formulate alleged violations. To formulate alleged violations of Law No.5 Year 1999, Investigators must have basic competencies, i.e.
- a. Investigators must be able to collect evidence and evidence, be able to calculate the elasticity of demand, compare various market structures, determine the relevant market, and be able to calculate the market structure using the formula CR_n and HHI.
 - b. The investigator can identify the elements of the articles in the business competition law, map the industry and identify the scope of the relevant market, identify the elements of the articles and evidence needed, and establish the initial evidence as a basis for the formulation of alleged violations.
3. Determine the alleged violation. To determine the alleged violation of Law No.5 Year 1999, Investigators must have basic competencies, i.e.
- a. Investigators can calculate market power, compare unilateral behavior with cooperation, and investigators must be able to identify the stages of handling business competition cases.
 - b. Investigators know the concepts and history of business competition law, business competition law in various countries, the concept of market power, the relationship between market structure and market power, the types of anti-competitive behavior, the concept of differences in criminal and civil law, business competition law, the prosecution in business competition law, and knowledge of sanctions and fines in business competition law.
4. Compile reports of alleged violations. To prepare reports of alleged violations of Law No.5 Year 1999, Investigators must have basic competencies, i.e.
- a. Investigators must be able to process data with econometrics methods, present data and information, write official scripts, and skills in writing minutes.
 - b. Investigators know the concepts and calculations of statistics and econometrics; various presentation methods; office software applications; technical scriptwriting techniques, minutes, and reports; drafting techniques, news reports, and conclusions.
5. Arranging decisions. To prepare a decision on violation of Law No.5 Year 1999, the Investigator must have basic competencies, i.e.
- a. Investigators must be able to write decisions and avoid the risk of mistakes in making decisions.
 - b. For the cessation process, KPPU's Investigators must know the drafting technique of the minutes and reports and conclusions; decision drafting techniques, objection responses, cassation memory, and PK memory; formal and material legal concepts; due process of law concept; and knowledge of the types of risk of

errors in decisions.

Based on the 5 key functions and basic competencies, the level of training that will be carried out in fulfilling and achieving the desired competencies is determined into 4 levels, namely orientation training; Basic training 1 and basic 2; Advanced training 1 and advanced 2; and managerial training. The competency mapping matrix, main functions, and training gaps to be carried out by the UP Training and Training Commission is explained in the matrix as follows:

Table 2. Investigator Functional Training Competency Mapping Matrix

Key Function	The main function	Competency Unit	Element of Competency	level of training		
Valuing agreements, business activities and or actions of business actors, whether there is an abuse of a dominant position, which can lead to monopolistic practices and or unfair business arrangements	Valuing agreements, which can lead to monopolistic practices and or unfair business competition	Prepare materials for alleged violations	Get an agreement that is the object of research (written and unwritten)	BASIC 1		
			Identifying the substance of the agreement (the parties, the thing that was promised, the validity of the agreement, etc.)	BASIC 1 / BASIC 2 / CONTINUED 1		
				Formulate alleged violations	Identifying the parties, the agreement, the validity of the agreement, and other substantive matters in the agreement	BASIC 1
					Identify the elements of the article and the necessary evidence	BASIC 2
					Mapping the industry and identifying the relevant market scope	BASIC 2 / CONTINUED 1
					Prepare preliminary evidence as a basis for the formulation of	BASIC 2 / CONTINUED 1

	alleged violations	
	Understand the principles of business competition in HPU	BASIC 1
Determine the alleged violation	Classify the types of violations based on the articles in the HPU	BASIC 1 / BASIC 2
	Understand the business competition law	BASIC 2 / ADVANCED1 / ADVANCED 2
	Management and presentation of data	BASIC 1 / BASIC 2
Compile reports of alleged violations	Write clarification reports, investigations, alleged violations, and investigators' conclusions	INDUCTION / BASIC 1
Arranging decisions, objection responses, appeal cassation, reconsideration memory (PK) and decision execution	Prepare decision materials, objection responses, cassation memories, and PK memories	BASIC 2
	Compile decisions, objection responses, appeal cassation, and PK memory	BASIC 2

To realize the education and training program at the Basic, Basic 1 and Basic 2 Training levels, the KPPU formed the UP Training through business competition supervisory commission regulation (Perkom) No. 1 of 2018 concerning the second amendment to the regulation of the business competition supervisory commission that stipulates the existence of a unit implementing education and training (UP DIKLAT). UP DIKLAT was established because of the importance of continual improvement of competence both for KPPU employees in general and the quality of investigators that must continue to be developed by the development of business actors' behavior that continues to develop in line with advances in industrial technology.

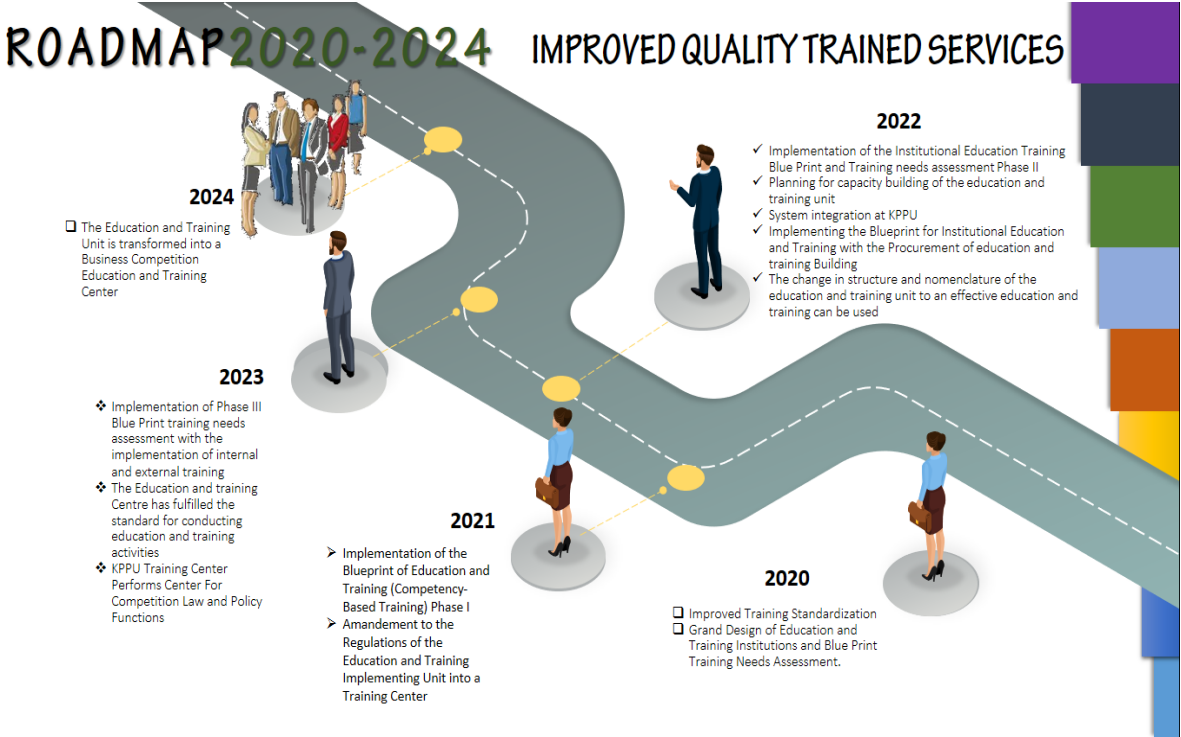


Figure 1. Roadmap for Investigator Training [17]

Since its establishment, UP Diklat has carried out various activities including, Trainer of Trainer Training; Functional Training of Business Competition Investigators (Basic Level 1) which is the implementation of Phase 1; Basic Phase 2 Functional Training 1. Furthermore, the Education and Training Agency has also made a Roadmap for the period 2020-2024. The Agenda for the Investigator Training and Training Unit as outlined in the Roadmap for the Business Competition Oversight Commission for the 2020-2024 Period includes; in 2020 development of education and training units, the development of education and training modules for investigators, and to meet the needs of human resources requires opening two competitive service units to improve the quality and quantity of human resources; whereas in the period 2021 to 2024, the KPPU continued to add business competition service units so that the KPPU service unit consisted of 1 Head Office, 11 Regional Offices and 23 KPPU Competition Service Office Offices, all of these units needed the quantity and quality of human resources with the total needs of the Year Employees 2024 of 1011 employees. The Plans and Targets of the Training and Education Unit in this Roadmap will carry out various programs including; in 2020 there will be an increase in standardization of education and training, the

making of a grand design of education and training institutions and a blueprint training needs assessment; in 2021 in the form of implementation of education blueprints and changes in the regulations of education and training implementing units to become training centers; in 2022 it will implement phase 2 blueprints; in 2023 the pudiklat is targeted to become a center for competition law and policy; in 2024 the education and training unit will become a center for education and business competition training.

4. CONCLUSION

The basic competencies that must be possessed by investigators are divided into five categories, namely:

1. To prepare material for alleged violations of Law No.5 of 1999, the Investigator must know legal aspects of business competition and must understand the rules of the rules in electronic transaction law, civil law, treaty law, forms of agreement, and signaling in a written agreement; Investigators must be able to explain the basic concepts of demand (demand) and supply (supply), as well as explain the behavior of businesses in producing goods and or services.
2. To formulate the alleged violation of Law No.5 of 1999, the Investigator must have the ability to collect evidence and evidence, be able to calculate the elasticity of demand, compare various market structures, determine the relevant market, and be able to calculate the market structure with the formula CR_n and HHI.
3. To determine the alleged violation of Law No.5 Year 1999, the Investigator must have the ability to calculate market power, compare unilateral behavior with cooperation, and the investigator must be able to identify the stages of handling business competition cases;
4. To prepare reports of alleged violations of Law No.5 Year 1999, Investigators Investigators must be able to process data using the econometrics method, present data, and information, write official scripts, and skills in writing minutes; Investigators know the concepts and calculations of statistics and econometrics;
5. To prepare a decision on violation of Law No.5 Year 1999, the Investigator must be able to write the decision, and avoid the risk of mistakes in making the decision; KPPU investigators must know the drafting technique of the minutes and reports and conclusions; decision drafting techniques, objection responses, cassation memory, and PK memory; formal and material legal concepts; due process of law concept; and knowledge of the types of risk of errors in decisions.

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