



**REGULATION
OF THE COMMISSION FOR THE SUPERVISION OF BUSINESS
COMPETITION
NUMBER 2 YEAR 2008**

CONCERNING

**THE AUTHORITIES OF THE COMMISSION SECRETARIAT IN
CASE-HANDLING**

- Considering :
- a. whereas in the context of improving the effectiveness of case-handling in KPPU (Commission for the Supervision of Business Competition), it is deemed necessary to delegate the authorities of the Commission to the Commission Secretariat;
 - b. whereas for such purpose, it is necessary to stipulate the Commission Regulation regarding the Authorities of the Commission Secretariat in Case-Handling.
- In view of :
1. Law Number 5 Year 1999 concerning the 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);
 2. Decree of the President of the Republic of Indonesia Number 75 Year 1999 concerning the Commission for the Supervision of Business Competition;
 3. Decree of the President of the Republic of Indonesia Number 59/P Year 2006 concerning the

Appointment of Membership of Commission for the Supervision of Business Competition for the term of office of 2006-2011;

4. Commission Regulation Number 1 Year 2006 concerning the Procedures of Case-Handling in KPPU.

With due observance of : The Resolutions of the Commission Assembly dated February 12, 2008

HAS DECIDED

To stipulate : **THE COMMISSION REGULATION CONCERNING THE AUTHORITIES OF THE COMMISSION SECRETARIAT IN CASE-HANDLING**

CHAPTER I DEFINITIONS

Article 1

In this Regulation, referred to as:

1. Expert shall be an individual possessing expertise in the field related to the alleged violation and providing statements for the purpose of examination.
2. Commission shall be the Commission for the Supervision of Business Competition as intended in Law Number 5 Year 1999.
3. Violation shall be agreements and/or activities and/or abuse of dominant position which may result in monopolistic practices and/or unfair business competition.
4. Investigation shall be a series of activities conducted by the Examination Team to gather data and information in a certain location or place with respect to the alleged violation.
5. Preliminary Examination shall be a series of activities conducted by the Preliminary Examination Team related to the report on an alleged violation to conclude whether or not a Follow-up Examination is necessary.
6. Follow-up Examination shall be a series of activities conducted by the Follow-up Examination Team related to the existence of an alleged

violation to conclude whether or not there is any evidence of a violation.

7. Pre-Examination shall be the handling of the report, monitoring of business actors, and filing.
8. Commission Assembly shall be a meeting attended by the Chairperson of the Commission and a number of Commissioners performing the quorum.
9. Witness shall be any individual or party having knowledge of a violation and providing a statement for the purpose of examination.
10. Commission Secretariat shall be the administrative and operational technical unit assisting the Commission in the context of the performance of its duties.
11. Reported Party shall be the Business Actor and/or other parties being alleged to have committed a violation.
12. Law shall be Law Number 5 Year 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition.

CHAPTER II AUTHORITIES OF THE COMMISSION SECRETARIAT

Article 2

- (1) The Commission Secretariat shall have the authority to handle the case of an alleged violation of the Law which includes:
 - a. The handling of a tender conspiracy case, the amount of which does not exceed Rp.10,000,000,000.00 (ten billion rupiah);
 - b. The handling of other alleged violation cases upon the consent or the resolutions of the Commission Assembly.
- (2) The case of other alleged violations as intended in paragraph (1) subparagraph b, shall be based on the following considerations:
 - a. there has been sufficient evidence in the pre-examination process for the case of an alleged violation; or
 - b. a confession has been obtained from the Reported Party in the pre-examination process; or
 - c. the Reported Party has repetitive cases of alleged violations; or
 - d. the case of the alleged violation does not have major impact on the society;

Article 3

- (1) The authorities of the Commission Secretariat as intended in Article 2 paragraph (1) shall be limited to the case handling at the phase of the Preliminary and Follow-up Examinations;

- (2) The authorities as intended in paragraph (1) shall include the authorities:
 - a. to carry out an investigation and/or examination;
 - b. to summon, present, and request the statements from the Reported Party, Witnesses, Experts, and any individuals deemed to have knowledge of the violation against the provisions of the Law;
 - c. to request the statement from the Government Institution;
 - d. to obtain, examine, and/or assess letters, documents, or other evidence for the purpose of investigation and/or examination;
 - e. to receive a statement of willingness from the Reported Party to terminate the agreement and/or activity being alleged to have been violated and to give a recommendation to the Commission not to conduct a Follow-up Examination conditionally;
 - f. to request the Investigator's assistance for presenting the Reported Party, Witnesses, Experts, and any individual deemed to have knowledge of the violation who refuse to answer the summon to provide a statement and/or data.

CHAPTER III EXAMINATION TEAM

Article 4

- (1) Under the Stipulation of a Preliminary Examination, the Commission Secretariat shall conduct a Preliminary Examination to the Report on the Alleged Violation;
- (2) A Preliminary Examination as intended in paragraph (1) shall be conducted by the Team of Preliminary Examination comprising the Staff of the Commission Secretariat.

Article 5

- (1) Under the Stipulation of a Follow-up Examination, the Commission Secretariat shall conduct a Follow-Up Examination to the Report on the Alleged Violation;
- (2) A Follow-up Examination as intended in paragraph (1) shall be conducted by the Team of Follow-Up Examination comprising the Staff of the Commission Secretariat.

CHAPTER IV TRANSITIONAL PROVISION

Article 6

With regard to all cases existing prior to the stipulation hereof, this regulation shall be applied to the greatest possible extent.

**CHAPTER VI
CLOSING PROVISIONS**

Article 7

- (1) Except provided otherwise in this Commission Regulation, the provisions related to the case-handling in KPPU shall continue to refer to the Commission Regulation Number 1 Year 2006 concerning the Procedures for Case-Handling in KPPU;
- (2) This regulation shall become effective as of the date of stipulation.

Stipulated in : Jakarta
On : February 12, 2008
Commission for the Supervision of
Business Competition

Chairman,

Signed

Dr. Syamsul Maarif, S.H., LL.M