



INDONESIA COMPETITION COMMISSION

REPUBLIC OF INDONESIA

REGULATION OF INDONESIA COMPETITION COMMISSION

NUMBER 1 YEAR 2022

REGARDING

COMPETITION COMPLIANCE PROGRAMS

BY THE GRACE OF THE ALMIGHTY GOD

CHAIRMAN OF THE COMPETITION COMMISSION,

- Considering:
- a. whereas in order to enhance compliance with competition law, it is necessary to have guidelines so that business actors can prepare competition compliance programs at their companies in order to prevent monopolistic practices and unfair competition;
 - b. whereas based on the consideration as intended in point a, it is necessary to stipulate a Regulation of Indonesia Competition Commission regarding Competition Compliance Programs;

- In view of:
1. Law Number 5 Year 1999 regarding Prohibition of Monopolistic Practices and Unfair Competition (State Gazette of the Republic of Indonesia Number 33, Supplement to the State Gazette of the Republic of Indonesia Number 3817);

2. Decree of the President Number 75 Year 1999 regarding Indonesia Competition Commission as amended by Decree of the President Number 80 Year 2008 regarding Amendment to Decree of the President Number 75 Year 1999 regarding Indonesia Competition Commission;

HAS DECIDED:

To Stipulate: REGULATION OF INDONESIA COMPETITION COMMISSION REGARDING COMPETITION COMPLIANCE PROGRAMS.

CHAPTER I

GENERAL PROVISIONS

Article 1

Referred to herein as:

1. Law is Law Number 5 Year 1999 regarding Prohibition of Monopolistic Practices and Unfair Competition.
2. Commission is Indonesia Competition Commission as intended in the Law.
3. Business Actor is any individual person or business entity, whether incorporated or unincorporated, established and domiciled or conducting activities in the jurisdiction of the state of the Republic of Indonesia, both jointly and severally, through an agreement, administering various business activities in the field of economy.
4. Competition Compliance, hereinafter referred to as Compliance, is a form of commitment, active stance, awareness, and actions of a Business Actor so as not to violate the provisions of the Law.

5. Compliance Program is a series of activities showing a Compliance effort with the principles of fair competition, implemented and developed by a Business Actor as well as prepared in an Indonesian written document.
6. Compliance Program Evaluation is a series of activities conducted by the Commission to analyze the Compliance Programs that have been registered by a Business Actor with the Commission.
7. Day is business day.

Article 2

Compliance Programs constitute a part of company policies that is binding on all the elements within a company to run a series of business activities in accordance with the principles of fair competition.

Article 3

The objectives of this Commission Regulation are to:

- a. give an explanation of Compliance to Business Actors in preventing the occurrence of the violation of the Law;
- b. spur the running of business activities so as to be in accordance with the principles of fair competition; and
- c. provide guidelines for Business Actors to prepare and implement the Compliance Programs in their respective companies.

Article 4

The benefits of the participation of Business Actors in the Compliance Programs include:

- a. maintaining the good name and reputation of Business Actors;
- b. maintaining business ethics and organizational culture in the context of materializing good corporate governance;
- c. creating Compliance procedures;
- d. enhancing trust from investors, business partners, consumers, and/or governments;
- e. spurring Business Actors to maintain the values of fair competition; and
- f. preventing violations of the Law.

CHAPTER II

IMPLEMENTATION OF COMPLIANCE PROGRAMS

Part One

Registration of Compliance Programs

Article 5

- (1) Business Actors can register their companies for the Compliance Programs.
- (2) The registration as intended in paragraph (1) is filed in writing in Indonesian language to the Chairman of the Commission by the management competent to represent the companies.

- (3) The Business Actors as intended in paragraph (1) include:
 - a. Business Actors that have yet to possess the Compliance Programs; and/or
 - b. Business Actors that have possessed the Compliance Programs that have yet to be registered.
- (4) In the event that the Business Actors that have registered for the Compliance Programs as intended in paragraph (1) are proven in violation of the Law, they can be provided with a relief on the sanction in the form of fine that will be imposed.
- (5) Provisions regarding the format of the letter of registration as intended in paragraph (2) are included in Attachment I constituting an inseparable part hereof.
- (6) Provisions regarding the grouping of Business Actors as intended in paragraph (3) are stipulated by the Commission.

Part Two

Preparation of Compliance Programs

Article 6

- (1) The Compliance Programs include:
 - a. the code of ethics;
 - b. Compliance guidelines; and
 - c. the implementation of dissemination, extension, training, and/or other activities in the context of the implementation of the Compliance Programs in companies.
- (2) The Compliance Programs as intended in paragraph (1) can be developed in accordance with the needs of Business Actors.

- (3) The Compliance Programs as intended in paragraph (1) are prepared in accordance with the characteristics of the industry and business that are at least viewed from the following aspects:
- a. the business activity sector;
 - b. the market structure and control; and
 - c. the interaction of Business Actors with suppliers, competitors, and consumers.

Article 7

The code of ethics as intended in Article 6 paragraph (1) sub-paragraph a constitutes an internal regulation of companies containing fair competition-related ethical values, norms, and/or principles as the basis for corporate behavior in running their business activities.

Article 8

Compliance Guidelines as intended in Article 6 paragraph (1) sub-paragraph b constitute a company policy containing handbook of works and commitments for any element in companies to run business activities and interaction with stakeholders so as to be in accordance with the principles of fair competition.

Article 9

- (1) The implementation of dissemination activities as intended in Article 6 paragraph (1) sub-paragraph c constitutes a provision of knowledge of the principles of fair competition for any element in companies.

- (2) The implementation of extension activities as intended in Article 6 paragraph (1) sub-paragraph c constitutes activities for the improvement of specific and systematic understanding of the principles of fair competition to certain elements in companies.
- (3) The implementation of training activities as intended in Article 6 paragraph (1) sub-paragraph c constitutes activities for the development of competence and technical skills to apply the principles of fair competition to certain elements in companies to run business activities.

Part Three

Implementation Report on the Preparation of the Compliance Programs

Article 10

- (1) Business Actors report the implementation of the preparation of the Compliance Programs to the Commission.
- (2) The Implementation Report on the Preparation of the Compliance Programs as intended in paragraph (1) contain at least the following:
 - a. the commitment of Business Actors;
 - b. the person in charge;
 - c. risk identification;
 - d. risk mitigation;
 - e. dissemination, extension, training, and/or other activities;
 - f. supervision scheme;
 - g. internal reporting mechanism;
 - h. monitoring and evaluation;

- i. internal sanctions; and
 - j. periodic adjustments.
- (3) Provisions regarding the format of the implementation report on the preparation of the Compliance Programs as intended in paragraph (1) are included in Attachment II constituting an inseparable part hereof.

Part Four

Implementation Evaluation of the Preparation of the Compliance Programs

Article 11

- (1) The implementation evaluation of the preparation of the Compliance Programs is conducted by the Commission based on the implementation report on the preparation of the Compliance Programs as intended in Article 10.
- (2) The Commission in evaluating the implementation of the preparation of the Compliance Programs as intended in paragraph (1) holds a Commission hearing.
- (3) The Commission hearing as intended in paragraph (2) is held within 15 (fifteen) Days as from the submission of the report as intended in Article 10.
- (4) The period as intended in paragraph (3) can be extended for a maximum period of 15 (fifteen) Days.

Part Five

Stipulation of the Compliance Programs

Article 12

In the event that the Commission hearing as intended in Article 11 paragraph (2) deems necessary to make improvements, the Commission hearing returns the implementation report on the preparation of the Compliance Programs to Business Actors along with the directive on improvements.

Article 13

- (1) The Commission hearing approves the Compliance Programs set forth in a Stipulation of the Compliance Programs.
- (2) The Stipulation of the Compliance Programs as intended in paragraph (1) is pronounced in a Commission hearing in the presence of Business Actors registering for the Compliance Programs.
- (3) The Commission hearing is held by members of the Commission that has a quorum and is chaired by a presiding hearing chairperson.
- (4) The Stipulation of the Compliance Programs is valid for 5 (five) years and is extendable.
- (5) Provisions regarding the stipulation and the extending of the Compliance Programs as intended in paragraph (4) is stipulated by the Commission.

Article 14

- (1) Based on the stipulation of the Compliance Programs as intended in Article 13, there are:
 - a. amendments to policies and/or regulations;
 - b. changes within Business Actors internally and externally having an impact on the activities of the Business Actors;
and/or
 - c. requests from the Commission based on the duties and authorities in accordance with the Law having an impact on the Compliance Programs,Business Actors report to the Commission to be evaluated as intended in Article 11.
- (2) The evaluation as intended in paragraph (1) is conducted towards the Compliance Programs stipulated by the Commission and the validity period of which has yet to expire.

CHAPTER III

MISCELLANEOUS PROVISIONS

Article 15

- (1) The Commission keeps the confidentiality of data and/or information categorized as company secrets belonging to Business Actors.
- (2) The data and/or information conveyed by Business Actors to the Commission are only used for the purpose of the Compliance Programs.

Article 16

The Commission can publish the Compliance Programs of Business Actors after obtaining a written consent from the Business Actors.

CHAPTER IV

CLOSING PROVISIONS

Article 17

This Commission Regulation comes into force as of its promulgation date.

For public cognizance, hereby ordering the promulgation of this Commission Regulation by publishing it in the Official Gazette of the Republic of Indonesia.

Stipulated in Jakarta

On March 23, 2022

CHAIRMAN OF

INDONESIA COMPETITION COMMISSION,

Sgd.

UKAY KARYADI

Promulgated in Jakarta

On March 24, 2022

DIRECTOR GENERAL OF
LAWS AND REGULATIONS OF
THE MINISTRY OF LAW AND HUMAN RIGHTS OF
THE REPUBLIC OF INDONESIA,

Sgd.

BENNY RIYANTO

OFFICIAL GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2022 NUMBER 313

Issued as a true copy

INDONESIA COMPETITION COMMISSION

Head of Legal Bureau,

[Signed and stamped; stamp reads: INDONESIA COMPETITION COMMISSION

SECRETARIAT]

Ima Damayanti, S.H., M.H.

ATTACHMENT I TO
REGULATION OF INDONESIA COMPETITION COMMISSION
NUMBER 1 YEAR 2022
REGARDING COMPETITION COMPLIANCE PROGRAMS

FORMAT OF THE LETTER OF REGISTRATION FOR COMPLIANCE PROGRAMS

COMPANY'S LETTERHEAD ... (1)	
Number : ... (2)	..., (3)
Re: Registration for Competition Compliance Programs	
To The Chairman of Indonesia Competition Commission in Jakarta	
In the context of exercising compliance with Law Number 5 Year 1999 regarding Prohibition of Monopolistic Practices and Unfair Competition, I, the undersigned:	
Name	: ... (4)
National ID No./Passport No.	: ... (5)
Company	: ... (6)
Position	: ... (7)
Company Address	: ... (8)
Contact Number	: ... (9)
Email	: ... (10)
Represent the company to register for Competition Compliance Programs in our company. Our company is willing to equip the entire documents needed and conduct the series of activities in the Competition Compliance Programs.	
Thus, I have filed the registration for Competition Compliance Programs. Thank you for your kind attention.	
Yours sincerely,	
... (11)	
... (12)	
... (13)	

The Filling Out Instructions:

- (1) To be filled out with the logo/name of the company. The placement of the logo/name of the company can be tailored to the format of the respective companies.
- (2) To be filled out with the company's letter number.
- (3) To be filled out with the domicile, date, month, and year of the writing of the letter.
- (4) To be filled out with the full name of the management competent to act for and on behalf of the company in accordance with the deed of establishment/most recent amendment.
- (5) To be filled out with the national ID number in accordance with the applicable ID card for Indonesian citizens or number of valid passports for foreign citizens.
- (6) To be filled out with the name of the company in accordance with the deed of establishment/most recent amendment.
- (7) To be filled out with the position in the company of the name contained in figure (4).
- (8) To be filled out with the address of the company in accordance with the deed of establishment/most recent amendment. If the address of the company in the deed of establishment/most recent amendment differs from the company's operating address, then include the said two addresses.
- (9) To be filled out with the contact number of the name contained in figure (4) and/or the contact number of the company contained in figure (6) that can be contacted.
- (10) To be filled out with the email address of the name contained in figure (4) and/or the company contained in figure (6).
- (11) To be filled out with the signature of the name contained in figure (4).
- (12) To be filled out with the full name contained in figure (4).
- (13) To be filled out with the position contained in figure (7).

CHAIRMAN OF

INDONESIA COMPETITION COMMISSION,

Sgd.

UKAY KARYADI

ATTACHMENT II TO
REGULATION OF INDONESIA COMPETITION COMMISSION
NUMBER 1 YEAR 2022
REGARDING COMPETITION COMPLIANCE PROGRAMS

FORMAT OF THE IMPLEMENTATION REPORT ON THE PREPARATION OF THE
COMPLIANCE PROGRAMS

I. Commitment of Business Actors

Commitment of Business Actors must be possessed by the entire elements in companies to implement the Compliance Programs. The commitment is needed for establishing regulation-abiding corporate culture and ethics. A fair competition culture will become a Law-abiding organizational culture and is implemented by the entire elements in companies.

Such commitment must be proved by various rules existing in companies and the behavior of the entire elements in companies in support of the principles of fair competition starting from the highest management of companies up to the lowest employees of companies. Commitment must be proved and must be set forth in rules, policies, and/or integrity pacts signed by the management of companies. For example, a president director issues a circular letter to the management and employees within a company pertaining to the policy on compliance with the prohibition of monopolistic practices and unfair competition.

II. Person in Charge

The Compliance Programs must be ascertained that they can be implemented in an applicative fashion, therefore, there is a need for an organizational structure for the implementation of such Compliance Programs. The function of such structure is to supervise any competition-related element in companies.

The performance of the duties and functions of the implementing organizational structure of the Compliance Programs is led by a person in charge of the Compliance Programs stipulated hierarchically and adjusted to the structure of companies. The duty of the Person in Charge of the Compliance Programs is to ascertain that the Compliance Programs run properly and are traceable to the person in charge.

III. Risk Identification

The definition of risk identification is a process of finding, identifying, and recording potential violations of the Law that might take place and elements in companies that have the potential to perpetrate such violations. Such identification process constitutes a repeated process because new risks can develop and are known when business activities are run as a result of a policy change in companies' internal and external policies. Therefore, the Compliance Programs at least contain the identification of potential business violations that might take place and elements in companies that have the potential to perpetrate such violations as follows:

1. Identification of Potential Violations of the Law

Business Actors are expected capable of identifying potential violations of the Law in the Compliance Programs. Such potential violations hinge very much on the types of business and the scale of company businesses. As for several matters provided for in the Law that need to be observed are divided into:

a. Prohibited Agreements in the form of:

- 1) Agreement to jointly control the productions and/or the marketing of certain goods and/or services.
- 2) Price-fixing Agreements in the form of:
 - a) pricing agreement;
 - b) agreement that contains a price discrimination;
 - c) predatory pricing agreement; and/or

- d) agreement that contains prohibition against selling or resupplying the already purchased goods at a lower price (resale price maintenance).
 - 3) Agreement on the division of marketing regions or market allocation.
 - 4) Agreement on the boycotting on other Business Actors.
 - 5) Agreement aimed at influencing the price by arranging the production and/or the marketing of goods and/or services.
 - 6) Agreement on the formation of trust aimed at controlling production and marketing.
 - 7) Agreement on jointly controlling the purchase or receipt of supplies.
 - 8) Agreement that has linkages with a series of upstream through downstream productions of certain goods and/or services.
 - 9) Exclusive Agreements in the form of:
 - a) exclusive distribution agreement;
 - b) (product) tying agreement; and/or
 - c) agreement on pricing or discount price related to sub-points a or b.
 - 10) Agreement with foreign parties.
- b. Prohibited Activities in the form of:
- 1) Monopolistic practice activities.
 - 2) Monopsonistic practice activities.
 - 3) Market control activities in the form of:
 - a) rejecting or barring other Business Actors from conducting the same business activities;
 - b) barring consumers from establishing business relationships with competing Business Actors;
 - c) confining the circulation or sales of goods in markets; and/or
 - d) putting discrimination into practice.

- 4) Selling at a loss.
 - 5) Deceptive conducts in determining production costs and costs that become price component.
 - 6) Conducts of conspiring to:
 - a) win tenders;
 - b) obtain company secrets of competitors; and/or
 - c) hampering production or marketing of products of competing Business Actors.
- c. Abuse of Dominant Position in the form of:
- 1) determining trade conditions to prevent and hamper consumers from shifting to competing Business Actors;
 - 2) restricting markets and technological development;
 - 3) hampering other Business Actors from entering markets;
 - 4) abuse of a dual position as commissioners and board of directors;
 - 5) abuse of majority shareholding; and/or
 - 6) abuse in mergers, consolidations, and/or acquisition activities.

2. Identification of Elements in Companies that have potential to Commit Violations

The objective of such identification is to know the level of the involvement of any element in companies with regard to potential violations of the Law that might take place. The identification can be grouped into 3 (three) categories consisting of:

- a. high;
- b. medium; or
- c. low.

For example, if a business activity is identified as having a potential to violate the Law in the form of pricing, the identification of elements in companies includes:

- a. Elements in companies that are highly risky, among other things:
 - 1) the management who makes policies;
 - 2) employees in sales and marketing fields;
 - 3) employees in the procurement field;
 - 4) employees assigned to attend association meetings; and
 - 5) employees in charge or linked to the pricing
- b. Elements in companies that are mediumly risky, among other things:
 - 1) the management level who rarely gets in touch with competitors and trading partners, for instance, the management who gets in touch with companies' operational activities when conducting the procurement process;
 - 2) employees who are in other fields whose activities can support the existence of pricing, for instance, finance, communications, operational division; and
 - 3) new employees coming from other companies that constitute competitors, however, not identified as highly risky employees.
- c. Elements in companies that are lowly risky, among other things:
 - 1) employees in units that handles human resources not having relationship with other companies;
 - 2) employees who only do administrative works; and
 - 3) employees who do the selling that do not have the authority to fix prices.

IV. Risk Mitigation

Risk mitigation constitutes a planned and sustainable effort made by companies to minimize potential impacts of a business activity that is risky or that is already in violation of the Law. Such mitigation effort is made following the identification of the risks and the mapping of their category. Such risk mitigation can be conducted through various methods, among other things:

1. preparing guidelines for company Compliance including provisions regarding Compliance with the Law; and
2. preparing the dos and don'ts lists.

V. Dissemination, Extension, Training, and/or Other Activities

Dissemination, extension, training, and/or other activities concerning the principles of fair competition need to be given to all the elements in companies to enhance compliance commitments to competition law within the working units of companies, particularly those having a high risk of violating the Law.

For example, activities that can be conducted are, among other things, focus group discussions and executive forums for company management and training on the Law for marketing divisions and legal departments of companies. Such activities can contain an introduction to competition law in general and examples of most recent cases in particular.

VI. Supervision Scheme

Business Actors must ascertain that all the policies, provisions, systems, and procedures as well as business activities conducted have been in line with the provisions in the Law. Therefore, company management must follow up the Compliance Programs with effective supervision.

Companies need to prepare and apply a hierarchical structure to oversee the Compliance Programs. For instance, the boards of directors together with

companies' management abide by the Compliance Programs and are responsible for the application of the Compliance Programs within companies' working units.

VII. Internal Reporting Mechanism

Internal Reporting Mechanism is one of the important factors in the implementation of the Compliance Programs. Any element in companies must not only know and be aware of the existence of risks of the violation of the Law, but must also understand and implement the internal reporting mechanism when facing concrete issues in the shape of alleged violations of the Law. For example, an employee finds an alleged violation of the Law in the form of alleged cartel when attending an association meeting, the said employee can get in touch with the person in charge of the Compliance Programs as part of the implementation of the internal reporting mechanism.

VIII. Monitoring and Evaluation

Monitoring and evaluation constitute an important part in the implementation of the Compliance Programs to see the progress of the implementation of such compliance that runs properly and the one that needs improving.

Monitoring is needed to identify the potential for the nonrunning of the Compliance Programs early. Meanwhile, the evaluation process is used to find the conducts of the violations of the Law perpetrated by the elements in companies and/or those that are not in line with the objective of the Compliance Programs that can boost an effective implementation of the companies' internal compliance programs.

IX. Internal Sanctions

The Compliance Programs must expressly and clearly provide for that any violation action will be subject to a sanction. For that purpose, companies must provide for expressly the imposition of sanctions on the elements in companies that breach the

Law and the Compliance Programs in accordance with the sanctions internally applicable in companies and on the basis of the prevailing regulations.

X. Periodic Adjustments

The globalization, technological advances, and amendments to regulations/policies drive the complexities that need to be anticipated by Business Actors and adjustments must always be made. Therefore, it is essential to always evaluate the understanding of the elements in companies of the Compliance Programs, then gather experiences from various working units in companies that can serve as inputs and improvements to the Compliance Programs.

Business Actors are encouraged to constantly update and/or adjust the Compliance Programs periodically. Such updating and/or adjustment is constantly informed to all the elements in companies.

CHAIRMAN OF
INDONESIA COMPETITION COMMISSION,

Sgd.

UKAY KARYADI