



REGULATION OF THE INDONESIA COMPETITION COMMISSION

NUMBER 3 YEAR 2020

REGARDING

THE RELAXATION OF LAW ENFORCEMENT OF MONOPOLISTIC PRACTICES
AND UNFAIR BUSINESS COMPETITION AS WELL AS SUPERVISION OF THE
IMPLEMENTATION OF PARTNERSHIPS IN THE CONTEXT OF SUPPORTING
THE NATIONAL ECONOMIC RECOVERY PROGRAM

BY THE GRACE OF THE ALMIGHTY GOD

CHAIRMAN OF THE INDONESIA COMPETITION COMMISSION,

Considering : a. whereas in order to support the national economic recovery and the implementation of Law Number 2 Year 2020 regarding the Stipulation of Government Regulations in Lieu of Law Number 1 Year 2020 regarding the State Finance Policy and the Stability of Financial System for Handling the Pandemic Corona Virus Disease 2019 (COVID-19) and/or in the context of facing Threats that endanger the National Economy and/or the Stability of Financial System to become a Law, it is necessary to optimize efforts to prevent and rectify alleged

- violations of monopolistic practices and unfair business competition in the context of recovering the national economy;
- b. whereas in the context of supporting the performance of the duties of the Committee for Handling the Corona Virus Disease (COVID-19) and the National Economic Recovery based on Presidential Regulation of the Republic of Indonesia Number 82 Year 2020 regarding Committee for Handling the Corona Virus Disease (COVID-19) and the National Economic Recovery, it is necessary to relax law enforcement in accordance with the duties and authorities of the Indonesia Competition Commission;
 - c. whereas based on the considerations as intended in points a and b, it is necessary to stipulate a Regulation of the Indonesia Competition Commission regarding the Relaxation of Law Enforcement of Monopolistic Practices and Unfair Business Competition as well as Supervision of the Implementation of Partnerships in the Context of Supporting the National Economic Recovery Program.

In view of : 1. 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);

2. Law Number 20 Year 2008 regarding Micro, Small, and Medium Enterprises (State Gazette of the Republic of Indonesia Year 2008 Number 93, Supplement to the State Gazette of the Republic of Indonesia Number 4866);
3. Law Number 2 Year 2020 regarding the Stipulation of Government Regulation in Lieu of Law Number 1 Year 2020 regarding the State Finance Policy and the Stability of Financial System for Handling the Pandemic Corona Virus Disease 2019 (COVID-19) and/or in the context of facing Threats that endanger the National Economy and/or the Stability of Financial System to become a Law (State Gazette of the Republic of Indonesia Year 2020 Number 134, Supplement to State Gazette of the Republic of Indonesia Number 6516);
4. Government Regulation Number 57 Year 2010 regarding Mergers or Consolidations and Acquisitions of Company Shares that May Result in Monopolistic Practices and Unfair Business Competition (State Gazette of the Republic of Indonesia Year 2010 Number 89, Supplement to the State Gazette of the Republic of Indonesia Number 5144);
5. Government Regulation Number 17 Year 2013 regarding the Implementation of Law Number 20 Year 2008 regarding Micro, Small, and Medium Enterprises (State Gazette of the Republic of Indonesia Year 2013 Number 40, Supplement to the State Gazette of the Republic of Indonesia Number 5404);

6. Presidential Decree Number 75 Year 1999 regarding Indonesia Competition Commission as amended by Presidential Regulation Number 80 Year 2008 regarding Amendment to Presidential Decree Number 75 Year 1999 regarding Indonesia Competition Commission;
7. Presidential Decree Number 12 Year 2020 regarding the Stipulation of Non-Natural Disasters of the Spread of the Corona Virus Disease 2019 (COVID-19) as a National Disaster;
8. Presidential Regulation Number 82 Year 2020 regarding Committee for Handling the Corona Virus Disease 2019 (COVID-19) and the National Economic Recovery (State Gazette of the Republic of Indonesia Year 2020 Number 178);
9. Regulation of the Indonesia Competition Commission Number 4 Year 2012 regarding Guidelines for the Imposition of Fines for Late Notifications of Mergers or Consolidations and Acquisitions of Company Shares;
10. Regulation of the Indonesia Competition Commission Number 1 Year 2019 regarding Procedures for Handling Cases of Monopolistic Practices and Unfair Business Competition;
11. Regulation of the Indonesia Competition Commission Number 3 Year 2019 regarding Assessment of Mergers or Consolidations, or Acquisitions of Company Shares that May Result in Monopolistic Practices and/or Unfair Business

Competition (Official Gazette of the Republic of Indonesia Year 2019 Number 1130);

12. Regulation of the Indonesia Competition Commission Number 4 Year 2019 regarding Procedures for the Supervision and Handling of Partnership Cases (Official Gazette of the Republic of Indonesia Year 2019 Number 1212);
13. Regulation of the Indonesia Competition Commission Number 1 Year 2020 regarding Electronic Case Handling;

HAS DECIDED:

To stipulate : REGULATION OF THE INDONESIA COMPETITION COMMISSION REGARDING THE RELAXATION OF LAW ENFORCEMENT OF MONOPOLISTIC PRACTICES AND UNFAIR BUSINESS COMPETITION AS WELL AS SUPERVISION OF THE IMPLEMENTATION OF PARTNERSHIPS IN THE CONTEXT OF SUPPORTING THE NATIONAL ECONOMIC RECOVERY PROGRAM.

CHAPTER I

GENERAL PROVISIONS

Article 1

Referred to herein as:

1. Law shall be Law Number 5 Year 1999 regarding Prohibition of Monopolistic Practices and Unfair Business Competition.
2. Government Regulation shall be Government Regulation No. 57 Year 2010 regarding Mergers or Consolidations and Acquisitions of Company Shares that May Result in Monopolistic Practices and Unfair Business Competition.
3. Commission shall be Indonesia Competition Commission as intended in Law Number 5 Year 1999 regarding Prohibition of Monopolistic Practices and Unfair Business Competition.
4. Commission Meeting shall be the highest decision-making organ presided over by the Chairman of the Commission and/or the Vice Chairman of the Commission and attended by the majority of the Commission Members.
5. Coordination Meeting shall be the meeting between the Commission and the Secretariat of the Commission presided over by the Chairman of the Commission or the Vice Chairman of the Commission or a Member of the Commission assigned to coordinate the performance of the duties of the Commission Secretariat.
6. Business Actor shall be any individual or business entity, whether in the form of a legal entity or non-legal entity established and domiciled or conducting activities in the jurisdiction of the Republic of Indonesia, either jointly or severally by virtue of an agreement, to conduct various business activities in the field of economy.

7. Relaxation of Law Enforcement of Monopolistic Practices and Unfair Business Competition as well as Supervision of the Implementation of Partnerships, hereinafter referred to as Relaxation of Law Enforcement, shall be the policy of the Indonesia Competition Commission in optimizing preventive and corrective efforts of alleged monopolistic practices and unfair business competition as well as the implementation of partnerships in the context of the national economic recovery.
8. Dominant Position shall be a condition in which a Business Actor has no significant competitors in the relevant market in relation to the controlled market share, or a Business Actor has the highest position among its competitors in the relevant market in terms of the financial capacity, ability to access supplies or sales as well as the ability to adjust the supply or demand to certain goods or services.
9. Merger shall be a legal action taken by one or more business entities to merge itself/themselves with other existing business entities which causes the assets and liabilities of the merging business entities to be transferred due to the law to the surviving business entity and subsequently the status of the business entities merging themselves ceases because of the law.
10. Consolidation shall be a legal action taken by two or more business entities to merge themselves by way of establishing a new business entity which due to the law obtains the assets

and liabilities from the merging business entities and the status of the merging business entities ceases because of the law.

11. Acquisition shall be a legal action taken by a business actor to acquire the shares and/or assets of a company which results in the transfer of the control of the company and/or the assets of the company.
12. Notification shall be a written notice through a form that must be made by a business actor to the Commission pertaining to the Merger, Consolidation, or Acquisition of Company shares and/or assets following the legally coming into effect of the Merger, Consolidation, or Acquisition of company shares and/or assets.
13. Partnership shall be cooperation in business links, either directly or indirectly, on the basis of the principles of mutual need, mutual trust, mutual strengthening, and mutual benefit that engage micro, small and medium business actors with large business actors and/or that engage micro and small business actors with medium business actors.
14. Warning shall be a letter issued by the head of the work unit in charge of the supervision of the Partnerships or the head of the work unit in charge of the law enforcement based on a decision of the Commission Meeting which contains a warning to a Reported Party to rectify the alleged violations committed.
15. Day shall be business days.

Article 2

The scope of this Commission Regulation shall include the following provisions:

- a. criteria and forms of the Relaxation of Law Enforcement;
- b. the putting into effect of the Relaxation of Law Enforcement, in order to support the National Economic Recovery Program.

CHAPTER II

OBJECTIVE AND PRINCIPLES

Article 3

The objective of this Commission Regulation shall be to support the economic recovery program by protecting, maintaining, and enhancing the economic capacity of Business Actors in running their businesses.

Article 4

This Commission Regulation shall be implemented on the basis of the following principles:

- a. the principles of social justice;
- b. as much as possible for the welfare of the people;
- c. supportive of Business Actors;
- d. the putting into effect of the norms of policy in a prudent manner, as well as good, transparent, accelerative, fair, and

accountable governance in accordance with the provisions of laws and regulations; and

- e. not giving rise to a moral hazard.

CHAPTER III
CRITERIA AND FORMS
OF THE RELAXATION OF LAW ENFORCEMENT

Article 5

- (1) In the context of supporting the National Economic Recovery Program, the Commission shall put into effect a Relaxation of Law Enforcement against the implementation of the procurement of goods and/or services financed by using the State Revenues and Expenditures Budget or the Regional Revenues and Expenditures Budget.
- (2) The procurement of goods and/or services as intended in paragraph (1) shall meet the following criteria:
 - a. in the context of meeting medical needs and/or the provision of supporting facilities for handling the Corona Virus Disease 2019 (COVID-19), such as:
 - 1. the procurement of drugs;
 - 2. the procurement of vaccines;
 - 3. the construction of emergency hospitals for handling the Corona Virus Disease 2019 (COVID-19);

4. the designation of hotels or buildings in the context of isolation and handling of the Corona Virus Disease 2019 (COVID-19); and/or
 5. the procurement of medical needs and/or other supporting facilities in the context of handling the Corona Virus Disease 2019 (COVID-19).
- b. in the context of the distribution of social assistances and social safety nets of the Government to the public.

Article 6

- (1) The Commission may put into effect a Relaxation of Law Enforcement against planned agreements, activities and/or use of a Dominant Position aimed at handling the Corona Virus Disease 2019 (COVID-19) and/or enhancing the economic capacity of Business Actors in running their businesses.
- (2) The relaxation as intended in paragraph (1) shall be granted by the Commission following the filing of written applications by Business Actors to the Commission cq. the Deputy for Law Enforcement.
- (3) Based on the applications as intended in paragraph (2), the Commission will grant the following relaxations:
 - a. permitting the entering into of the agreements, the conducting of the activities and/or the use of the Dominant Position;

- b. permitting the entering into of the agreements, the conducting of the activities and/or the use of the Dominant Position under certain conditions; or
 - c. rejecting the written applications for planned agreements, activities and/or use of the Dominant Position.
- (4) The applications as intended in paragraph (2) may be filed through emails to the following email address: komisi@kppu.go.id or sent in person to the Commission office.

Article 7

The Commission shall put into effect a Relaxation of Law Enforcement in the form of the addition of the calculation period of the Notification obligation to 60 (sixty) Days against delayed Notification obligation of a Merger, Consolidation, or Acquisition of company shares and/or assets as from the legally coming into effect of the Merger, Consolidation, or Acquisition of company shares and/or assets.

Article 8

The Commission shall put into effect a Relaxation of Law Enforcement in the form of the addition of the implementation time for each written Warning to 30 (thirty) Days against the supervision of the implementation of Partnerships.

CHAPTER IV
THE PUTTING INTO EFFECT OF RELAXATION
OF LAW ENFORCEMENT

Article 9

- (1) The head of the work unit in charge of law enforcement shall analyze the planned agreements, activities and/or use of the Dominant Position as intended in Article 6 to be reported in a Coordination Meeting by no later than 7 (seven) Days following the acceptance of the written application.
- (2) Decision on the Relaxation of Law Enforcement based on a written application as intended in paragraph (1) shall be decided in a Commission Meeting.
- (3) Decision on the Relaxation of Law Enforcement as intended in paragraph (2) shall be decided in a Commission Meeting by no later than 14 (fourteen) Days as from the acceptance of the application.
- (4) In the event that following the lapse of the 14 (fourteen)-day period, the Commission has yet to issue a Decision on the Relaxation of Law Enforcement as intended in paragraph (3), the application shall be deemed as approved.

CHAPTER V
TRANSITIONAL PROVISIONS

Article 10

At the time this Commission Regulation takes effect:

- a. the procurement of goods and/or services that meet the criteria in Article 5;
 - b. the agreements, activities and/or use of a Dominant Position that meet the criteria in Article 6;
 - c. the delayed Notification of Merger, Consolidation, or Acquisition of company shares and/or assets; and
 - d. the implementation of written warning of Partnerships,
- that are underway and have yet to enter a Hearing of the Commission Panel, the provisions of the Commission Regulation that are in favor of Business Actors shall apply.

CHAPTER VI

CLOSING PROVISIONS

Article 11

At the time this Commission Regulation takes effect:

- a. Regulation of the Indonesia Competition Commission Number 4 Year 2012 regarding Guidelines for the Imposition of Fines for Delayed Notification of Mergers or Consolidations and Acquisitions of Company Shares;

- b. Regulation of the Indonesia Competition Commission Number 1 Year 2019 regarding Procedures for Handling Cases of Monopolistic Practices and Unfair Business Competition;
 - c. Regulation of the Indonesia Competition Commission Number 3 Year 2019 regarding Assessment of Mergers or Consolidations, or Acquisitions of Company Shares that May Result in Monopolistic Practices and/or Unfair Business Competition (Official Gazette of the Republic of Indonesia Year 2019 Number 1130);
 - d. Regulation of the Indonesia Competition Commission Number 4 Year 2019 regarding Procedures for the Supervision and Handling of Partnership Cases (Official Gazette of the Republic of Indonesia Year 2019 Number 1212); and
 - e. Regulation of the Indonesia Competition Commission Number 1 Year 2020 regarding Electronic Case Handling,
- shall remain in effect, insofar as they do not contradict with the provisions herein.

Article 12

This Commission Regulation shall come into effect on its stipulation date.

Stipulated in Jakarta

On November 9, 2020

CHAIRMAN OF THE INDONESIA COMPETITION
COMMISSION,

KURNIA TOHA