

ABSTRAK

Perjanjian tying diatur dalam Pasal 15 ayat (2) Undang-Undang No. 5 Tahun 1999 tentang Larangan Praktek Monopoli dan Persainan Usaha Tidak Sehat. Mengingat perjanjian tying secara aktual maupun potensial dapat menghambat persaingan usaha, maka KPPU (Komisi Pegawai Persaingan Usaha) melakukan penelitian perkara inisiatif terhadap dugaan adanya perjanjian tying yang dilakukan sejumlah rumah sakit sehingga ditemukan penawaran paket Rapid Test dengan harga tinggi dan variatif. Namun penelitian ini terhenti karena tidak ditemukan cukup bukti dan unsur-unsur pasal yang belum terpenuhi. Metode penelitian yang digunakan dalam penulisan ini adalah penelitian hukum melalui pendekatan peraturan perundang-undangan dan konseptual. Penelitian ini bertujuan untuk mengetahui dampak dari pelaksanaan perjanjian tying dan upaya KPPU dalam menangani dugaan pelanggaran yang dilakukan rumah sakit. Hasil dari penelitian ini dampak pelaksanaan tying terkait Rapid Test dapat mengakibatkan adanya pembatasan akses pasar, penciptaan pasar monopoli, penyamaran praktik penetapan harga dan atau praktik jual rugi, dan merugikan konsumen atas keberagaman harga. Sehingga berdasarkan tugas dan wewenangnya, KPPU mengoptimalkan upaya pencegahan dan perbaikan dugaan pelanggaran persaingan usaha tidak sehat melalui saran dan pertimbangan terhadap penyediaan fasilitas kesehatan penunjang penanganan Corona Virus Disease 2019 (COVID-19) salah satunya Rapid Test.

Kata Kunci: Perjanjian Tying; Rapid Test; Rumah Sakit; KPPU.

ABSTRACT

The tying agreement is regulated in Article 15 paragraph (2) of Law No. 5 of 1999 on Prohibition of Monopolistic Practices and Unfair Competition. Considering that the tying agreement can actually or potentially hinder business competition, Indonesian Competition Commission (KPPU) conducted an initiative case research to the alleged tying-in Rapid Test services agreement in several hospitals that offer Rapid Test packages with high and varied prices was found. However, this research stopped because there was not enough evidence, and the elements of the articles were not yet fulfilled. The research method used in this writing is legal research through a statutory and conceptual approach to regulations. This study aims to determine the impact of implementing the tying agreement and KPPU's efforts in dealing with suspected violations committed by the hospital. The study's result, the impact of tying on the Rapid Test, may result in restrictions on market access, the creation of monopoly markets, the disguise of price-fixing and or selling and loss practices, and harm consumers for price diversity. So that based on its duties and authorities, KPPU optimizes efforts to prevent and correct suspected violations of unfair business competition through suggestions and considerations for the provision of supporting health facilities for handling Corona Virus Disease 2019 (COVID-19), one of which is the Rapid Test.

Keyword: Tying Agreement; Rapid Test; Hospital; KPPU.