

ABSTRACT

COLLUSIVE BIDDING IN COMPETITION LAW PERSPECTIVE

Article 22 of Act No. 5 of 1999 on Prohibition of Monopoly and Unfair Competition specifies that collusive bidding is one of prohibited activities. The objectives of this dissertation are to identify *modus operandi* of collusive bidding and the method the Competition Supervisory Commission uses for analyzing cases it examines. In addition, this dissertation offers an alternative idea for revising Act No. 5 of 1999 dealing with collusive bidding, which makes the Competition Supervisory Commission more easily and more accurately in analyzing cases that lead to legal certainty.

The type of this research is a legal research. In this research, statute approach, case approach, comparative approach, and conceptual approach are employed.

There are two things found from this research. First, collusive bidding may be carried out in horizontal way, vertical way or combination of both ways. There are various *modus operandi*, which are bid suppression, complementary bidding, bid rotation, and market division. Whatever *modus operandi* is taken, it contradicts the purpose of bidding, which gives bidders equal opportunity, produces reasonable and fair price, and gets goods products. Second, the Competition Supervisory Commission uses rule of reason in analyzing and settling collusive bidding cases. This method of analysis leads to legal uncertainty. It is recommended, therefore, that Act No 5 of 1999 dealing with collusive bidding be revised in that collusive bidding defined as *per se illegal* unfair competition.

Key words: collusive bidding - rule of reason - *per se illegal*.