

**REALIZING THE LEGAL CERTAINTY OF CALCULATING FINES  
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**Abstract**

*The Business Competition Supervisory Commission (KPPU) by the Business Competition Law (Law Number 5 Year 1999) has been given the authority to impose sanctions in the form of administrative measures, namely the imposition of administrative fines. The amount is very clearly regulated in the Business Competition Law, which is the lower limit and the upper limit. In fact, prior to the implementation of guidelines for calculating fines, many KPPU's decisions deviated from the amount of sanctions that have been regulated in the Business Competition Law. Therefore, that will raise questions about the quality of the KPPU's decision. Even worse, if the public or business actors no longer trust KPPU, because KPPU acts unfairly against other business actors. Not fair, by looking at the disparity in determining the amount of fines imposed. To minimize the foregoing, the issuance of guidelines for calculating fines is expected to overcome the disparity problem in imposing fines on the Reported Party. The issuance of this guideline does not in fact intend to limit the space and independence of the KPPU but will instead assist the KPPU's tasks.*

**Keywords:** *Business Competition Law; Calculation of Fines; Legal Certainty***INTRODUCTION**

Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition (Law on Business Competition) which was passed by the President of the Republic of Indonesia on March 5, 1999. This law has long

been awaited by the public. This law was born with a background of unhealthy and anti-competitive business practices. Conflicts of interest between those in power or at least those close to the authorities seem to control the business world in Indonesia.

This has a tremendous impact. Mo-

nopolistic practices and anti-competitive actions committed by irresponsible parties are clearly detrimental to the community. There are three reasons why monopolistic practices are undesirable, namely:<sup>1</sup> 1). That the monopoly transfers wealth from consumers to the shareholders of monopolistic companies, which is a distribution of wealth that takes place from the less fortunate to the rich; 2). That the monopoly or more broadly every condition that strengthens cooperation between competing companies, will facilitate the industrial world to carry out political manipulation in order to obtain protection in the form of laws and regulations that enable the acquisition of profits in the relevant industry sector; and 3). Related to objections to monopolistic practices, namely, that anti-trust policies aimed at increasing efficiency, are policies that limit freedom of action for large companies to develop small companies.

With the issuance of the Business Competition Law, it is expected that the conditions stated above can be eliminated or at least minimized, so that the objectives listed in Article 3 of the Business Competition Law can be fulfilled. Article

3 of the Business Competition Law states, the objectives of the formation of this law are: a). maintaining the public interest and increasing national economic efficiency as an effort to improve the people's welfare; b) creating a conducive business climate through the regulation of fair business competition so as to ensure the certainty of equal business opportunities for large businesses, medium business actors, and small business actors; c). prevent monopolistic practices and or unfair business competition arising from business actors; and d). creation of effectiveness and efficiency in business activities. Of course, implementing these objectives requires implementing instruments. In accordance with the Business Competition Law, the institution given the mandate to enforce the Business Competition Law is the Business Competition Supervisory Commission (KPPU).

As a state institution that has quite heavy tasks, the Business Competition Law also regulates the duties and authorities of KPPU.<sup>2</sup> One of KPPU's authorities is to impose administrative sanctions, as stated in Article 36 letter l of the Business Competition Law which states, KPPU's authority includes imposing sanctions in

<sup>1</sup> Hartono, A., Prananingtyas, P., & Mahmudah, S. (2016). Kajian Yuridis Terhadap Praktek Dugaan Kartel Di Bidang Industri Ban (Studi Kasus Putusan Perkara Nomor 08/KPPU-I/2014). *Diponegoro Law Journal*, 5(2), 1-14, p. 7

<sup>2</sup> Simbolon, A. (2013). Pendekatan yang Dilakukan Komisi Pengawas Persaingan Usaha Menentukan Pelanggaran dalam Hukum Persaingan Usaha. *Ius Quia Iustum Law Journal*, 20(2), 186-206, p. 189

the form of administrative actions on business actors who violate the provisions of this law. One form of administrative sanctions regulated in the Business Competition Law can be seen in Article 47 paragraph (2) letter g of the Business Competition Law which states that the administrative action referred to may be in the form of fines as low as Rp 1,000,000,000 (one billion rupiah) and as much as Rp. 25,000,000,000 (twenty-five billion rupiah). However, this regulation regarding administrative fines is not further explained in the Business Competition Law.

Before KPPU Decree Number 252/KPPU/Kep/VII/2008 Regarding the Implementation Guidelines for Article 47 of Law Number 5 Year 1999 dated July 31, 2008. KPPU as an institution that has the authority to impose administrative sanctions does not stipulate further about the mechanism for calculating fines. So that the imposition of financial penalties by KPPU against violators of the Business Competition Law is returned to the Commission Council's discretion which handles cases.<sup>3</sup> Of course this results in inconsistencies in the model, system or mechanism for calculating fines. This in-

<sup>3</sup> Bradley, M., Desai, A., & Kim, E. H. (1983). The rationale behind interfirm tender offers: Information or synergy?. *Journal of financial economics*, 11(1-4), 183-206, p. 195

consistency can be seen if we compare several decisions that have the same characteristics.<sup>4</sup> The inconsistency when examined shows that there is a very significant disparity in fines.

It is feared that this inconsistency will reduce the public or business actor's confidence in the KPPU's decision. Because these inconsistencies clearly affect the quality of decisions and public mistrust of decisions and case handling mechanisms at KPPU.<sup>5</sup> As a result, the aim of imposing sanctions that are expected to have a deterrent effect on violators of the regulations cannot be carried out due to non-compliance of the parties sentenced by the KPPU.

The main issue to be elaborated in this paper is about how the authority of KPPU in imposing administrative sanctions in the form of fines and in determining the amount of fines and their calculation mechanism.

## Method

The method used is normative juridical analysis of data using qualitative de-

<sup>4</sup> Zihaningrum, A., & Kholil, M. (2016). Penegakan Hukum Persekongkolan Tender Berdasarkan Undang-Undang Nomor 5 Tahun 1999 Tentang Larangan Praktik Monopoli Dan Persaingan Usaha Tidak Sehat. *Privat Law*, 4(1), 107-116, p. 111

<sup>5</sup> Simbolon, A. (2012). Kedudukan Hukum Komisi Pengawas Persaingan Usaha Melaksanakan Wewenang Penegakan Hukum Persaingan Usaha. *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada*, 24(3), 529-541, p. 531

scriptive methods. The object of research focuses on calculating the amount of administrative fines stipulated in Article 47 paragraph (2) letter g of the Business Competition Law which emphasizes secondary data, namely data obtained by studying various literatures related to the problem under study. This data is grouped into three parts, namely: 1). Primary legal materials, namely legal materials that have binding power, consist of Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition as well as other laws and regulations that are related to this writing; 2). Secondary legal materials, namely legal materials that provide clarity on primary legal materials consisting of books, scientific journals and other writings relating to writing; and 3). Tertiary legal material, in the form of a legal dictionary that provides clarity on primary and secondary legal materials.

## **ANALYSIS AND DISCUSSION**

### **Sanctions in the Business Competition Law**

The Business Competition Law regulates two types of sanctions, namely sanctions in the form of administrative actions regulated in Article 47 and criminal sanctions regulated in Article 48 and

Article 49. Interestingly, Article 47 which regulates sanctions in the form of administrative actions contains nuances of civil law. We can see this in the provision of Article 47 paragraph (2) letter f.

Article 47 states, (1) the Commission is authorized to impose sanctions in the form of administrative action against business actors who violate the provisions of this Law; and (2) The administrative actions referred to in paragraph (1) may be in the form of: a). Determination of the cancellation of the agreement as referred to in Article 4 through Article 13, Article 15 and Article 16 and or b). Orders to business actors to stop vertical integration as referred to in Article 14 and or c). Order to business actors to stop activities which are proven to cause monopolistic practices and or cause unfair business competition and or d). Order to business actors to stop the abuse of dominant position and or e). Determination of cancellation of the merger or amalgamation of a business of acquiring shares as referred to in Article 28 and / or Determination of payment of compensation and or g). The imposition of fines as low as Rp.1,000,000,000 (one billion rupiah) and a maximum of Rp.25,000,000,000.00 (twenty-five billion rupiah).

Article 48 states, (1) Violations of

the provisions of Article 4, Article 9 through Article 19, Article 25, Article 27, and Article 28 are liable to criminal penalties as low as Rp. 25,000,000,000 (twenty-five billion rupiah) and a maximum of Rp. 100,000,000,000 (one hundred billion rupiah), or imprisonment in lieu of a fine for 6 (six) months at the most. By pointing to the provisions of Article 10 of the Criminal Code, additional crimes can be imposed in the form of Article 48 in the form of: a). Revocation of business license; or b). Prohibition of business actors who have been proven to violate this Law to hold the position of director or commissioner for at least 2 (two) years and for 5 (five) years at the most; or c). Termination of certain activities or actions that cause losses to other parties.

Regulates the principal crimes including capital punishment, imprisonment, confinement, fine and closing. While additional crimes include revocation of certain rights, confiscation of certain items and announcement of the judge's decision. The Business Competition Law, the main criminal law regulates imprisonment and fines. Criminal confinement basically has two purposes.<sup>6</sup> First, as *custodia honesta* for offenses that

do not involve the crime of decency, namely culpa offenses and *dolus* offenses, such as one-on-one fights and simple bankruptcy. Both of these articles are punishable by imprisonment, the example is an offense that does not involve a crime of decency. Second, as *custodia simplex*, a deprivation of liberty for offense violations.

While criminal fines have a civil nature, similar to the payments required in civil cases against people who commit acts that harm others. The difference is, fines in criminal cases are paid to the state or society, whereas in civil cases to individuals or legal entities. Whereas in handling cases at KPPU, fines are paid to the state.<sup>7</sup>

With the two types of sanctions in the Business Competition Law, what about the KPPU's position. KPPU, as regulated in Article 36 letter l of the Business Competition Law which has the authority to impose sanctions in the form of administrative actions only. As for criminal sanctions, KPPU is not authorized. Authorized to impose criminal sanctions is a judge in a court hearing. Although it is not authorized to impose criminal sanctions, the KPPU's decision can be regarded as sufficient preliminary evidence for inves-

<sup>6</sup> Kansil, F. I. (2014). Sanksi Pidana Dalam Sistem Pemidanaan Menurut Kuhp Dan Di Luar KUHP. *Lex Crimen*, 3(3), 26-34, p. 30

<sup>7</sup> Simbolon, A. (2012). *Op.Cit*, p. 235

tigators to conduct an investigation. This is regulated in Article 44 paragraph (5) of the Business Competition Law.

Related to the KPPU's authority to impose administrative sanctions in the form of fines, it is interesting to study them from the perspective of administrative law. According to **Philipus M. Hadjon**, there are 4 (four) sanctions typical in the realm of administrative law. That is; *bestuurdwang* (government coercion), withdrawal of *favorable decisions* (decrees) (permits, payments, subsidies), imposition of administrative fines and imposition of forced money by the government (*dwangsom*).<sup>8</sup> According to **Hadjon**, the imposition of administrative fines resembles the imposition of a criminal sanction. Policy considerations that primarily justify a limited number of cases of state administration can turn to the imposition of fines. In the Netherlands, the imposition of forced money by state administrative bodies is a modern sanction.<sup>9</sup> KPPU itself, although authorized to impose administrative sanctions, is not a state administrative body, because the decision imposed by KPPU does not meet the requirements to be referred to as a product of the State Administration Decree. Alt-

though it is not a state administrative body, because the authority has been attributively given by the Business Competition Law, the KPPU has a strong legal standing as long as it is not determined otherwise.

### Determine the Amount of Sanction

As explained above, that the KPPU only has the authority to impose sanctions in the form of administrative measures, the next will be discussed on how to determine the amount of administrative action sanctions in the form of fines as regulated in Article 47 paragraph (2) letter g of the Business Competition Law.

In Article 47 paragraph (2) letter g the Business Competition Law regulates the amount of the fine from the lowest, which is Rp.1 billion to the highest, Rp.25 billion. In other words, the amount of administrative action sanctions in the form of fines in the Competition Law recognize the existence of lower and upper limits.

If the Business Competition Law has set lower and upper limits in the amount of the fine, then can these limits, both bottom and top, be deviated? Actually, the sound of Article 47 paragraph (2) letter g of the Business Competition Law is very clear and firmly regulates the existence of upper and lower limits. There are no

<sup>8</sup> Philipus M. Hadjon, et al, Pengantar Hukum Administrasi Indonesia, Gadjah Mada University Press, Yogyakarta, 2008, p. 245

<sup>9</sup> Ibid, p.246

fragments that can be interpreted differently. That is, in *letterlijk*, the upper and lower limits cannot be crossed. The clarity in Article 47 paragraph (2) letter of the Business Competition Law is in line with **Gustav Radbruch** who stated that various legal languages have three main characteristics, namely free from emotions, without feelings and flat as a mathematical formula.<sup>10</sup>

In line with **Radbruch**, **Montesquieu** states that the ideal state of a statute is when interpretation is not needed or very little role. This was achieved if the legislation could be set out in a clear form. There are 6 (six) dimensions of clarity according to Montesquieu, namely: First, the narrative style should be solid and simple. This implies that utterances by using expressions of grandiose and rhetoric are merely redundant and misleading. The term chosen should be as far as possible is absolute and relative, so as to open up the possibility for individual differences of opinion. Second, rules should limit themselves to actual and actual things by avoiding things that are metaphorical and hypothetical. Third, rules should not be too high, because they are aimed at people with middle intelligence: they are not exercises in the use of logic, but only simple

reasoning that ordinary people can do. Fourth, let the main problem not be confused with exceptions, restrictions or modifications, except in cases that are very necessary. Fifth, rules cannot contain arguments, it is dangerous to give detailed reasons for a regulation, because that will only open the door to disagreement. Sixth, finally above all, he must be considered with full maturity and have practical uses and should not shake things that are elementary in reasoning and justice. Weak regulations that are unnecessary and unfair will cause people to disrespect legislation and destroy state authority.<sup>11</sup>

However, in reality, in various decisions, the KPPU deviated from the lower and upper boundary rules. If examined in its decision so far, KPPU has deviated several times the provisions of Article 47 paragraph (2) letter g, especially on the lower limit. Meanwhile, for the upper limit, it was never deviated.

Some KPPU decisions that deviate from the lower limit are Case Decision Number: 1/KPPU-L/2008 relating to tender for Procurement of Medical Devices, Medical Devices and KB for Individual Health Efforts Program for Management Agency of Regional General Hospital (RSUD) Dr. Soeselo Tegal Regency 2007

<sup>10</sup> Satjipto Rahardjo, *Imu Hukum*, Citra Aditya Bakti, Bandung, 2006, hal. 87

<sup>11</sup> Satjipto Rahardjo, *Ibid*, hal. 94

Assistance Duty Fund and Case Decision Number: 6/KPPU-L/2007 concerning alleged violations of Article 22 of the Business Competition Law in Tender for Procurement of Exterminator / Mosquito Sprayers (fogging machines) in the DKI Jakarta Provincial Administration Bureau in 2006 (Fogging Case). In the Fogging Decision, the Assembly stated that the Reported Parties (Reported I to Reported V) were declared legally and convincingly proven to violate the Business Competition Law and sentenced the Reported Parties with varying amounts of fines. From the smallest, Rp.10,000,000 (ten million rupiah) to the largest, which is Rp.100,000,000 (one hundred million rupiah).

The existence of irregularities related to the amount of administrative fines that have been clearly regulated in the Business Competition Law is very interesting. Fitzgerald stated that one of the characteristics inherent in written law or law is the authoritative nature of the formulation of its regulations. However, quoting in the form of writing or *litera scripta* is really just a form of effort to convey an idea or thought. In connection with the latter mentioned people like to mention the existence of a spirit of regula-

tion.<sup>12</sup> To see the spirit of this regulation, the Business Competition Law, especially those concerning fines, it is necessary to look backward. At the time the legislators were debating the Business Competition Law.

If you look at *memorie van toelichting* (the memorandum of discussion of the law), the legislators state that the determination of high numbers (fines) has the intention or background to punish as many violators of the law as possible.<sup>13</sup> These economic weighs on consideration for the deterrent effect.

Although there are irregularities in the imposition of sanctions related to the imposition of administrative fines, especially the lower boundary deviation, the author believes that what the KPPU has done is not a violation of the law. Because, the verdict must be effective. The effective purpose here is that a decision not only has a deterrent effect, but also, the decision must be executable.

What is meant by whether or not a decision can be executed in this paper is in the approach of the amount of the fine imposed. For example, in a tender case with a tender value of Rp.3 Billion, Companies A, B and C are proven to have committed a conspiracy. If using a normative juridi-

<sup>12</sup> Satjipto Rahardjo, Ibid, p.93

<sup>13</sup> Kansil, F. I. (2014). *Op.Cit.* p. 31



cal approach alone, then for violations of Article 22 of the Business Competition Law, companies A, B and C must be convicted with an administrative fine of Rp.1 billion. In fact, the tender object in the case was only Rp.3 billion, with impossible profits reaching Rp.1 billion. If the lower limit regulation is obeyed without interpretation or other considerations, Companies A, B and C must be fined at least Rp.1 Billion. But with the project or tender value of only Rp.3 Billion, it is impossible to get a profit margin of up to Rp.1 Billion.

Although the amount of the fine can be distorted, the authors argue that in addition to the KPPU must be able to describe the reasons philosophically, the KPPU in its decision must make a reasonable calculation and in accordance with business practices that develop in the community.<sup>14</sup> Looking at the comparison of KPPU Decisions in some of the decisions above, we can find out the KPPU's inconsistencies in determining the amount of administrative fines imposed. In addition to differences in terms of the amount of fines imposed, there are differences in the mechanism of who is responsible for paying fines.

<sup>14</sup> Riva'i, M., & Erhandy, D. (2013). Kebijakan Dan Hukum Persaingan Usaha Yang Sehat: Sinergitas Kawasan ASEAN Di Era Globalisasi. *Liquidity*, 2(2), 195-204, p. 199

### **Issuance of Guidelines for Calculation of Fines**

As explained above, the authors assess the inconsistencies in the KPPU Decision can be understood if there are logical reasons and consider the effectiveness of the Decision.<sup>15</sup> Although this inconsistency can be justified, the community certainly requires the existence of legal certainty to ensure the achievement of justice. Although many legal experts state that legal certainty does not guarantee justice, the authors argue that legal certainty is more secure and closer to justice. In addition to approaching justice, legal certainty is needed in order to avoid any deviations that are used in the name of the discretion of the official authorized to impose a decision.

To minimize the inconsistency, KPPU needs to issue a guideline for calculating fines. With this guideline, each KPPU Decision can better guarantee legal certainty, because the amount of the fine to be imposed can be predicted in advance and more importantly the Decision can be more accountable. With the Guidelines for Calculation of Fines, the imposition of sanctions on the Reported Party will keep the KPPU away from negative factors in

<sup>15</sup> Hartono, A., Prananingtyas, P., & Mahmudah, S. (2016). *Op.Cit*, p. 10

every decision.

In addition, the Issuance of Guidelines for Calculation of Fines can facilitate the tasks of KPPU and other related parties. For example, the Reported Party. As discussed above, when comparing several decisions, there were several Reported Parties that were declared to be legally and convincingly proven to have violated the Competition Law and were sentenced to pay a certain number of fines jointly.

A joint sentence will eventually lead to debate. Not only on the part of law enforcers, but also on the Reported Parties. How to calculate the fine of each Reported Party. How much, how to calculate it, obviously will have an impact and difficulty in the future. Although the impression is technical, it has become very significant in terms of guaranteeing the effectiveness of a decision.

The issuance of these Guidelines for Calculation of Fines is not intended to minimize or limit the freedom of movement of KPPU in its law enforcement role. In the Guidelines for Calculation of Fines, an exemption clause or clause on matters or situations that can be considered by KPPU can also be stipulated in imposing a fine when deciding on a case.

The issuance of these Guidelines for Calculation of Fines basically has a strong

legal basis in the Business Competition Law, that is, in Article 35 letter f. Article 35 letter f of the Business Competition Law states that the duties of the Commission include compiling guidelines and or publications relating to this Law. Even if we pay attention, KPPU has made Guidelines for Article on Business Competition Law. For example, Article 22 of the Business Competition Law Guidelines are related to bid rigging. In addition, if it is traced backwards, the legislators basically had a chance to debate about how the mechanism for calculating business competition fines was dropped.

The polemic surrounding the fine and compensation that was often imposed by KPPU began to be answered. At the end of July 2008, the KPPU issued technical rules regarding fines and compensation. This regulation is stated in KPPU Decree Number 252/KPPU/Kep/VII/2008 concerning Implementation Guidelines for Article 47 of Law Number 5 Year 1999 dated July 31, 2008.<sup>16</sup>

As explained above, the provisions regarding the fine are actually regulated in article 47 of Law Number 5 of 1999. However, what is contained in the article

<sup>16</sup> Hukum Online. (2008). KPPU Terbitkan Aturan Teknis Denda dan Ganti Rugi <https://www.hukumonline.com/berita/baca/hol20026/kp-pu-terbitkan-aturan-teknis-denda-dan-ganti-rugi/> Diakses Tanggal 4 Agustus 2019

does not specify the technical calculation of fines that may be imposed by KPPU. This provision can provide legal certainty to the business world and increase the rationality of business actors not to engage in monopolistic practices and / or unfair business competition.

There are a number of provisions stipulated in these guidelines. Among them regarding determining the basic value of fines. In the attachment of KPPU Decree Number 252/2008 stated, the basic value of the fine will be related to three things. First, the proportion of sales value. Second, depending on the level of violation. Third, multiplied by the number of years of violation. Determination of the level of violations carried out on a case by case basis for each type of violation, taking into account all situations related to the case.<sup>17</sup>

Likewise, the proportion of sales value that is calculated, up to 10% of the sales value.<sup>18</sup> To determine whether the proportion of sales value considered in a case should be at the highest or lowest point on the scale, KPPU will consider various factors. Namely the scale of the company, the type of violation, the com-

bined market share of the reported parties, the geographical scope of the violation, and whether or not the violation has been carried out.

The guideline also states that horizontal price fixing agreements (fellow business actors), market sharing and production restrictions which are usually carried out in secret, as well as tender collusion are serious violations of business competition. Thus, the agreement will receive a heavy fine. For this reason, the proportion of sales value to which the violation is calculated is the highest proportion on that scale. To consider the period of violation committed by each reported party, the sum of the values mentioned above will be multiplied by the number of years of the violation. A period of less than six months will count as half a year, whereas periods of more than six months but less than one year will be counted as one year.

If the sales value of the reported parties involved in violations is similar (but not identical), the KPPU can determine for each reported base the same fine value. Furthermore, in determining the basic value, KPPU can use rounding. To determine fines, the KPPU can consider circumstances that result in an increase or reduction in the value of the base fines, based

<sup>17</sup> Tanjung, K., & Siregar, J. (2013). Fungsi dan Peran Lembaga KPPU dalam Praktek Persaingan Usaha di Kota Medan. *Jurnal Mercatoria*, 6(1), 64-85, p. 80

<sup>18</sup> Disemadi, H. S., & Roisah, K. (2019). The Enforcement of Business Competition Law by the Police of the Republic of Indonesia. *Lentera Hukum*, 6(2).

on an overall assessment. Provisions regarding the fine are not strictly rigid. Based on the reported request, KPPU can consider the ability to pay fines from the reported party in a particular social and economic context. Penalty reduction will be given if the fine can result in bankruptcy of the company.<sup>19</sup>

## CONCLUSION

In several of its decisions, the KPPU sentenced administrative fines in the amount of which differed from case to case. The difference or disparity in the amount of the fine in the decision can even be said to be quite far, even though the case characteristics are almost similar. This difference occurs because each Commission Council Member certainly has different considerations between one KPPU member and another KPPU member. While the Business Competition Law does not regulate how the mechanism for calculating fines. The amount of disparity in determining the amount of this fine certainly raises minor-pitched questions which in the end will be felt quite disturbing. The worst thing that happened due to the absence of a mechanism for calculat-

ing fines was the distrust of the public and or business actors who felt disadvantaged over the inconsistency of the KPPU in determining the amount of the fine.

The polemic surrounding the fine and compensation that was often imposed by KPPU was finally answered. At the end of July 2008, the KPPU issued technical rules regarding fines and compensation. This regulation is stated in KPPU Decree Number 252/KPPU/Kep/VII/2008 concerning Implementation Guidelines for Article 47 of Law 5/1999 dated July 31, 2008. There are a number of provisions stipulated in these guidelines. Among them regarding determining the basic value of fines. In the attachment of KPPU Decree Number 252/2008 stated, the basic value of the fine will be related to three things. First, the proportion of sales value. Second, depending on the level of violation. Third, multiplied by the number of years of violation. Provisions regarding the fine are not strictly rigid. Based on the reported request, KPPU can consider the ability to pay fines from the reported party in a particular social and economic context. Penalty reduction will be given if the fine can result in bankruptcy of the company.

<sup>19</sup> Hukum Online. (2008). KPPU Terbitkan Aturan Teknis Denda dan Ganti Rugi <https://www.hukumonline.com/berita/baca/hol20026/kppu-terbitkan-aturan-teknis-denda-dan-ganti-rugi/> Diakses Tanggal 4 Agustus 2019

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