



## Position on The Arrangement of Administrative Sanctions By The KPPU Institution In State Science

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### Article Info

#### Article History

Revised : 2024-09-10

Accepted : 2024-10-23

Published : 2024-10-31

#### Keywords:

Position, Special Duties, Administrative Sanctions, and Business Competition Law.

### Abstract

The position of the Business Competition Supervision Commission as a business competition court in imposing administrative sanctions (Administration Punishment) to the guilty perpetrator. Looking at the constitutional system in a state institution in Indonesia, it has its own proportional functions in law enforcement. According to Article 36 letter i of Law Number 5 of 1999 concerning Prohibition of Monopoly Practices and Unfair Business Competition that "Imposing sanctions in the form of administrative action on business actors who violate the provisions of this Law". However, according to the provisions of this rule in Article 44 paragraph (2) that "Business actors can submit objections to the District Court no later than 14 (fourteen) days after receiving notification of the decision". Types of research in legal writing will be carried out using normative legal methods (doctrinal research) or called Studi dogmatic. The research approach uses the Law approach (statue approach), case approach (cases approach), and analytical approaches (analytical approach). The research results explain that First, Constitutionally, the KPPU institution, given the task of adjudicating a report, assists the role of the judiciary in enforcing unfair business competition law. This is of course that in state administration there are still different roles in each institutional structure in Indonesia. Second, basically the role of the KPPU institution where the imposition of sanctions is administrative in the sense of carrying out supervision of the Antimonopoly Law based on the specific duties of the Law. Third, The KPPU's position as an independent institution in enforcing business competition law is Punitive which is given to business actors based on the results of the inspection. The KPPU provides administrative sanctions as a preventive measure against the reported parties who engage in unfair business competition.

## INTRODUCTION

### Background

After the Reformation occurred 2 (two) decades ago, many state institutions in Indonesia took on the role of law enforcement. The influence of institutions such as the Business Competition Supervision Commission (KPPU), the Corruption Eradication Commission (KPK), and institutions such as law enforcement agencies in certain cases. This institution was formed based on the demands of the great people to create a climate of business competition (*fair competition*) in Indonesia. These institutions, commissions, or bodies appear to carry out state (government) functions as further implementation of the state goals that have been stipulated in the constitution.<sup>1</sup>. The author looks at "*theory trias politics*"The ideal is that state

<sup>1</sup> Hendra Nurtjahjo, *July-September 2015, "Indonesian State Institutions, Agencies and Commissions (StateAuxiliary Agencies) in Indonesia: Review of Constitutional Law", Journal of Law and Development. No.3, file:///C:/Users/USER/AppData/Local/Temp/1518-2961-1-SM.pdf.*

power should be divided into three functions, namely legislative, executive and judicial<sup>2</sup>. The government system in Indonesia is a system *Presidential* that the Head of State, as an executive, has a policy in establishing institutions to enforce the law.

KPPU was formed based on factual events in the field that a lot of trading was done using a collusion system, resulting in losses for several parties as business actors. The position of the KPPU institution was based on Presidential Decree (Keppres) Number 75 of 1999 concerning the Business Competition Supervision Commission, which was formed based on the mandate of the Law. on Antitrust. The existence of the KPPU institution in Indonesia is to assist law enforcement related to unfair business competition as well as indications of trade that violates the principles of *Just Economy*<sup>3</sup>. Motivation in law enforcement in terms of unfair competition with the existence of the KPPU institution can create preventive measures (*Preventive*) upstream. This institution is limited to overseeing the implementation of the Antimonopoly Law independently and is directly responsible to the President<sup>4</sup>

The existence of a commission institution (*Commission*) like the KPPU in Indonesia refers to *state auxiliary organs* sAs a state institution in Indonesia's constitutional structure, it is motivated by public distrust (*public distrust*)<sup>5</sup>. The author sees that the existence of commission-shaped institutions such as the KPPU is a form of bitterness and difficulties experienced by society at that time *the new order*. Where massive unfair trade (*unfair competition*) carried out by business actors and resulting in consumer losses (*the privity of contract*)<sup>6</sup>. Referring to the philosophy contained in Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition that "*Economic development must be directed towards realizing people's welfare based on Pancasila and the 1945 Constitution.*"<sup>7</sup>Therefore, the KPPU institution was given administrative sanctions (*Administration punishment*) to implement supervision of this Law and create an improved climate for business competition in Indonesia.

Based on this description, the author researched and wrote a legal writing entitled "Position In The Arrangement Of Administrative Sanctions By The Business Competition Supervision Commission (KPPU) In The State Study".

### Problem Formulation

1. What is the position of the Business Competition Supervision Commission as a business competition legal tribunal?
2. How does the KPPU provide administrative sanctions in the constitutional structure in Indonesia?

<sup>2</sup> Rio Satriawan, Rony Setyawan, and Taufik Dwi Paksi, February-July 2015, "Analysis of the Position of the Business Competition Supervision Commission in the Indonesian Constitutional System", *Journal. Law. GEMA*, Year XXVII/50. <https://www.neliti.com/id/publications/61590/analisis-keudukan-komisi-pengawasan-persaingan-usaha-dalam-sistem-ketatanegaraan> .

<sup>3</sup> Diana Kusumasari, March 2011, "KPPU Has the Authority to Impose Criminal/Civil Sanctions", *Article. Law*, <https://www.hukumonline.com/klinik/detail/ulasan/cl4657/seputar-kppu-komisi-pengawas-persaingan-usaha/>.

<sup>4</sup> The substance of Article 30 paragraphs (1), (2), and (3) of Law Number 5 of 1999 concerning Monopoly Practices and Unfair Business Competition.

<sup>5</sup> Angga Martandy Prihantoro, April 2010, "The Existence of State Auxiliary Organs in the Context of Realizing Good Governance in Indonesia (Institutional Study of the Corruption Eradication Commission). *Thesis*. <file:///C:/Users/USER/AppData/Local/Temp/16508505.pdf>

<sup>6</sup> The privity of contract is "doctrine which states that business actors have an obligation to protect consumers, but this can only be done if a contractual relationship has been established between them". Explanation from the book written by Abdul Atsar and Rani Apriani, "Consumer Protection Law": "Principles of consumer position", Yogyakarta, Print: First, March 2019.p.45

<sup>7</sup> Information weighing in, "Philosophy letter a", *Law Number 5 of 1999 concerning Monopoly Practices and Unfair Business Competition*. <https://ngada.org/uu5-1999bt.html>.

3. How is law enforcement carried out by the Business Competition Supervision Commission regarding the problem of Unfair Business Competition in West Sumatra and North Sumatra?

### Research purposes

1. Knowing the position of the Business Competition Supervision Commission (KPPU) as a business competition legal tribunal in enforcing the law against unfair business competition (*unfair competition*).
2. Knowing the administration of administrative sanctions (*administration punishment*) in the structure of the constitutional system in Indonesia. This law enforcement carried out by the KPPU has the same effectiveness in providing legal action as other law enforcement agencies such as the Courts.
3. Knowing about law enforcement by the Business Competition Supervision Commission regarding Unfair Business Competition problems in West Sumatra and North Sumatra

### RESEARCH METHODS

This type of research in legal writing is normative legal research (*doctrinal research*). This research approach uses a statutory approach (*statue approach*), case approach (*cases approach*) and analytical approach (*analytical approach*). The technique for collecting legal materials will be carried out through document studies (*libraries study*) with the collection of legal materials carried out through written legal materials using *content analisis*<sup>8</sup>. The legal material analysis technique used by the author in this research is deductive reasoning (logic), namely things that are formulated in general and then draw conclusions according to the factual case being researched (Peter Mahmud Marzuki: 68)<sup>9</sup>.

### DISCUSSION

#### The Position of the Business Competition Supervision Commission as a Business Competition Law Court

In implementing its authority, the KPPU imposes sanctions in the form of administrative action on business actors who have violated the provisions based on *punitive*<sup>10</sup>. The imposition of sanctions carried out by the KPPU is based on the principles of law enforcement in the public interest, legal certainty, equality of rights, balance of rights and obligations, professionalism, appropriate participation in the public interest.<sup>11</sup> The provision of administrative sanctions by KPPU aims to achieve a positive value for the development of business competition (*fair competition*) between business actors and consumers. Constitutionally that "*The national economy is organized based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence, and by maintaining a balance of progress and national economic unity.*"<sup>12</sup>. Of course, the existence of the KPPU in Indonesia enforces healthy business competition as an implementation of the constitution.

#### 1. Position of the Business Competition Supervision Commission

The KPPU institution and the constitutional judiciary have similarities in examining, adjudicating and deciding legal cases. However, there is a difference between these two

<sup>8</sup> Research methods, "Legal Material Collection Techniques", file:///C:/Users/USER/AppData/Local/Temp/S351402014\_bab3.pdf, accessed on 25 September 2020. p. 68

<sup>9</sup> *Ibid.*, p.68

<sup>10</sup> Ivan Fauzani Raharja, May 2014, "Law Enforcement of Administrative Sanctions for Licensing Violations, *Journal. Law. Vol VII.No.II*, <https://www.neliti.com/id/publications/43468/penegakan-hukum-sanksi-administrasi-terhadap-pelanggaran-perizinan>,

<sup>11</sup> Article 4 of Law Number 25 of 2009 concerning Public Services

<sup>12</sup> Article 33 paragraph (4) of the 1945 Constitution

institutions, namely that the KPPU is actually a commission institution which is *independent* in law enforcement (*administration punishment*) however, the judiciary is an institution under the authority of the judiciary in adjudicating criminal, civil and administrative cases. That this institution is independent and is purely responsible to the president because it is based on Presidential Decree (Keppres) and Government Regulation (PP). Referring to the KPPU's position, this institution is an independent institution established based on the law<sup>13</sup>. The position of an institution will influence the role of duties and authority possessed by that institution. This is because constitutionally, a country will form an institution not just based on its nomenclature, but on its function and important role in law enforcement based on the country's goals.

Looking at the KPPU's position in state administration, it is law enforcement together with the police, prosecutors and courts to protect the entire nation in terms of a more stable country's economy. Law enforcement carried out by KPPU is based on principles *Integrated Competition Justice System*. This principle is included in the Antimonopoly Law that this agency in enforcement assists other law enforcement agencies through early prevention of actions carried out by these business actors. Concerning the effectiveness of the administration of administrative sanctions by the KPPU, as well as to improve the quality and transparency in carrying out case handling<sup>14</sup>. So, with the synergy between the KPPU and other law enforcement agencies, it will be more effective in imposing binding penalties (*binding*). The author's observation is that the KPPU is given broad authority in supervising a Law on Antimonopoly in order to go more deeply into the issue of unfair business competition (*unfair competition*). The KPPU institution in the state administration has a strong role independently in law enforcement, but only by imposing administrative sanctions (*administration punishment*). The striking difference in the administration of sentences carried out by the judiciary is that constitutionally this institution is based on the orders of the 1945 Constitution in enforcing the law in accordance with *proportional* the punishment received by the perpetrator.

## 2. Business Competition Supervisory Commission as Business Competition Law Court.

According to legal provisions, the KPPU institution that provides administrative punishment is a corridor mandated by law which functions as the imposition of administrative law and fines. However, the decision given by the KPPU is final and binding (*binding*) and can be submitted by the perpetrator or reported party if there are objections. In Article 44 paragraph (2) that "*Business actors can submit objections to the District Court no later than 14 (fourteen) days after receiving notification of the decision.*" According to the author, even though the results of the decision from the KPPU are final and binding, this will result in the ineffectiveness of the decisions that have been decided by this institution, potentially losing legal certainty.. Indeed, in essence the role of the KPPU as an institution that monitors the law is the form of sentencing, not a determination made by the judiciary as a legal execution institution. As is the case at PT. Grab Teknologi Indonesia based on KPPU decision Number 13/KPPU-I/2019<sup>15</sup> was declared null and void when the respondent submitted it to the South Jakarta District Court. The case is an example that the decision

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<sup>13</sup> Juwita Purnama Sari, 2018, "*Judicial Study of the Position and Supervisory Function of the KPPU as an Independent State Commission in the Constitutional System in Indonesia*, Thesis. Law, <file:///C:/Users/USER/AppData/Local/Temp/148619627.pdf>.

<sup>14</sup> Commission Regulation Number 1 of 2010 concerning Procedures for Handling Cases

<sup>15</sup> Rio Sandy Pradana, September 2020, "*Grab Escapes the Bondage of KPPU Fines Worth Billions*", article. Bertha. <https://ekonomi.bisnis.com/read/20200926/98/1296864/grab-lolos-dari-jejeratan-denda-kppu-senilai-rp30-miliar>

handed down by the KPPU is of a nature *final & binding* then it will be interpreted again by the panel of judges in that court.

The KPPU's obstacle to monitoring the implementation of the Antimonopoly Law in the trade sector is cartels. In the evidentiary process in law enforcement related to cartel trading, communication evidence and economic evidence must be met. *Second*, evidence becomes an obstacle in implementing sanctions or punishments for perpetrators who commit acts of loss through trading (*unfair competition*). According to the author, the relationship to law enforcement by the KPPU in cartel trading cases can have implications for the effectiveness of administrative sanctions (*administration punishment*). Where in the field, the success of a regulation depends on conditions or situations. However, KPPU has collaborated with KPK institutions (*commission of corruption eradication*) based on Number 001/MOU/K/II/2006 and a cooperative relationship is established with the Attorney General's office. With cooperation between institutions related to law enforcement regarding state losses, of course the KPPU will not experience any difficulties in handling cases such as cartel trafficking in Indonesia.

The legitimacy of the KPPU as a supervisory institution implementing the Antimonopoly Law should be more capable of resolving cartel trade problems in Indonesia. Constitutionally, the KPPU is an institution *independent* and is responsible to the President<sup>16</sup>. Even looking at the KPPU's guidelines for law enforcement in cartel trading cases, it has been regulated through "*abuse of dominant position*"<sup>17</sup>. In the statutory regulations regarding the authority of this institution, it is stated that there must be a<sup>18</sup>:

The existence of the Legislative Regulations as intended in paragraph (1) is recognized and has binding legal force as long as they are ordered by higher Legislative Regulations or are formed based on authority.

The author's analysis is that the difficulties faced by the KPPU in enforcing cartel trade laws will actually be easier and faster with the addition of special instrument provisions for handling trade cases. *cartel*. Not only that, but this institution needs to provide additional collaboration with other agencies. For example, KPPU collaborates with the Ministry of Cooperatives to protect and supervise MSME partnerships<sup>19</sup>. The government provides special authority through KPPU in an organized manner for assessment (*evaluation*) regarding actions in business competition activities in Indonesia. As for forced action (*administrative coercion*) in terminating material acts that are contrary to statutory regulations<sup>20</sup>. In principle, the KPPU needs to make recommendations to the government to provide facilities related to cartel law enforcement<sup>21</sup>. Therefore, the effectiveness of providing administrative sanctions from this institution will be stronger and in accordance with the objectives of principle *efair economy*. Regarding the effectiveness of the KPPU's

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<sup>16</sup> Article 30 paragraph (3) Law Number 5 of 1999 concerning Monopoly Practices and Unfair Competition

<sup>17</sup> Business Competition Supervision Commission Regulation Number 6 of 2010 concerning Guidelines for Implementing Article 25 concerning Abuse of Dominant Position Based on Law Number 5 of 1999 concerning Prohibition of Monopoly Practices and Unfair Business Competition

<sup>18</sup> Article 8 paragraph (2) Law Number 15 of 2019 Amendment to Law Number 12 of 2011 concerning Legislative Regulations

<sup>19</sup> Tira Santia, January 2020, "*Protect MSMEs, KPPU Cooperates with the Ministry of Cooperatives*", article. News, <https://m/liputan6.com/bisnis/read/4149553/lindungi-umkm-kppu-kerja-sama-dengan-kementerian-koperasi>

<sup>20</sup> Bahder Johan Nasution, 2020, "*Implementation of Administrative Sanctions as a Means of Controlling Restrictions on Freedom of Action for Notaries*", Journal. Law.Vol.2.No.1, <https://online-journal.unja.ac.id/RR/article/view/8657>,

<sup>21</sup> Nature Wibowo, 2020, "*Challenges of Economic Proof in Cartel Cases*", article. Webinars, file:///C:/Users/USER/AppData/Local/Temp/Materi-Webinar-Kartel\_KodratWibowo\_23July2020-1.pdf,

decision, if there are no objections, the execution can be carried out in the district court<sup>22</sup>. KPPU as the supervisory institution of the Antimonopoly Law is limited to providing administrative sanctions (*administration punishment*). This is because the KPPU is not a judicial institution, therefore, decisions from this institution need to have control from the district court over the decisions issued by the KPPU<sup>23</sup>. Institutionally, both the KPPU and the Courts are similar to state institutions between the Supreme Court and the Judicial Commission in protecting the dignity of judges as mentioned *Share Responsible*. With the role of the KPPU and the courts to emphasize the management of law enforcement in the field of business competition (*fair competition*).

Judging from the effectiveness of the administration of administrative sanctions carried out by the KPPU, this is a form of legal certainty through the justice system in enforcing unhealthy business competition. The aim of the District Court in determining a decision based on the KPPU's decision is to create justice based on principles *principle of justice*<sup>24</sup>. Based on the rule of law (*rule of law*) that there are administrative institutions and judicial institutions for the benefit of humanity. With the pattern of supervising the Antimonopoly Law by the KPPU with district courts as the institution controlling decisions, this will create law enforcement objectives in the field of business competition violations (*unfair competition*) experienced by business actors.

### **KPPU in Imposing Administrative Sanctions in the Constitution in Indonesia**

The commission board has been designed in such a way to carry out the duties of the president in law enforcement efficiently and effectively. An organ can only carry out one function, and cannot interfere in each other's affairs in an absolute sense<sup>25</sup>. In the structure of an institution in the state administration, the KPPU is an institution to carry out certain objectives (*for this special purpose*). According to the author, that institution with *for this special purpose* was formed to assist the president in monitoring the implementation of laws that have been established. This is to implement justice in a nation's economy as determined by the constitution. Institutionally, this will have an influence on the actions that will be carried out, including punishment (*punishment*) or policy (*policy*) the. The true KPPU originates from the law's order to assess the reports that have been examined until it is determined and ends with the imposition of administrative sanctions and even fines.

<sup>22</sup> Article 46 paragraphs (1) and (2) Law Number 5 of 1999 concerning Prohibition of Monopoly Practices and Unfair Business Competition

<sup>23</sup> Dewa Ayu Kade Indah Cahyani Dewi and I Made Dedy Priyanto, 2020, "Reasons for Submitting KPPU Decisions that are Not Implemented and Objections Are Not Filed by Business Actors to Investigators", *Journal. Law. Vol.8. No.3*, <https://scholar.google.com/scholar?client=firefox-b-d&um=1&ie=UTF-8&lr&q=related:muhynVpH-HhLSM:scholar.google.com/>,

<sup>24</sup> Rai Mantili and Hazar Kusmayanti, 2016, "Problematic Enforcement of Business Competition Laws in Indonesia in the Context of Creating Legal Certainty", *Journal. Law. Vol.3. Number 1*, file:///C:/Users/USER/AppData/Local/Temp/9339-16550-1-PB.pdf,

<sup>25</sup> Gunawan Tauda, July 2011, "The Position of the Independent State Commission in the Constitutional Structure of the Republic of Indonesia. *Journal.Law.Volume 6. Number 2*. [https://scholar.google.com/scholar?safe=strict&client=firefox-b-d&gs\\_lcp=CgZwc3ktYWlOAZoECAAAQRzoCCAA6BggAEBYOHjoICCEQFhAdEB46BOghEKABOgcIIRAKEKABOgOIIRAVUPooWOFMYORPaAJwAXgAgAHLAYgB7BvSAQYwLjIzLjGYAOCgAOGqAQOnd3Mtd2l6yAEIwAEB&uact=5&um=1&ie=UTF-8&lr&q=related:VfBc8iKiZyNNjM:scholar.google.com/](https://scholar.google.com/scholar?safe=strict&client=firefox-b-d&gs_lcp=CgZwc3ktYWlOAZoECAAAQRzoCCAA6BggAEBYOHjoICCEQFhAdEB46BOghEKABOgcIIRAKEKABOgOIIRAVUPooWOFMYORPaAJwAXgAgAHLAYgB7BvSAQYwLjIzLjGYAOCgAOGqAQOnd3Mtd2l6yAEIwAEB&uact=5&um=1&ie=UTF-8&lr&q=related:VfBc8iKiZyNNjM:scholar.google.com/),

## 1. Commission for the Supervision of Business Competition in the Indonesian Constitution

This KPPU institution was formed by order of law to implement laws and regulations concerning Antimonopoly and Unfair Competition. In general, these state equipment can basically be classified into:<sup>26</sup>:

- a. Institutions (organs) that originate directly from the constitution
- b. Institutions (organs) that do not originate directly from the constitution (derivatives)

In the 1945 Constitution, the formation of the KPPU institution is not explained explicitly. Rather, it refers to the provisions of the law regarding the prevention of monopolistic practices and unfair competition in Indonesia. The position of this institution refers to the national economy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence and maintaining balance.<sup>27</sup> If it is related to the KPK institution, the KPPU is the representative of the people regarding distrust in law enforcement regarding business competition carried out by law enforcement agencies in the future. *the new order*. The author has his own interpretation of institutions with nomenclature *commission*, where this institution was formed based on the state's urgency to see the people's demands to overcome problems related to human rights. After the reform began, there were many institutions like *commission* was formed to create effectiveness in law enforcement in the state and help the role of the executive to restore the trust of the Indonesian people. Where the nomenclature of the institution begins with "*commission*" which means that there is a certain goal (*for this special purpose*)<sup>28</sup> in handling special cases such as *unfair competition*. Indeed, there are differences between institutions such as the "Commission" and permanent institutions (*permanent*) and temporary (*temporary*). The legal basis is the most important element in determining whether a state institution is strong or not, considering that our country adheres to the principles of legal certainty and the supremacy of law<sup>29</sup>.

This difference can be seen from the institutions *commission*, The KPK and KPPU are both based on the orders of the law. The Corruption Eradication Commission (KPK) institution itself, in the process of carrying out investigations and/or prosecutions which are being carried out by the police or prosecutors, can be transferred.<sup>30</sup> Meanwhile, the KPPU itself can only carry out investigations when reports of unfair business competition are investigated. Of course, the role of institutions with nomenclature *commission* Based on orders from the law, they will be the same in carrying out law enforcement actions. The position is that the imposition of law by this institution violates the provisions of the Law. The weakness of the KPPU itself in law enforcement is that it does not necessarily take over from other law enforcement agencies in handling a case. Even when the results of the KPPU's decision are appealed by the reported party, this institution cannot do anything. Of course, in terms of the KPPU's role in enforcing business competition law, how effectively the Antimonopoly Law is implemented by business actors.

Talking about the supremacy of law, that Indonesia is a country of law (*constitutional state*) as the highest authority of the Republic of Indonesia. The highest power will side with the interests of the community in law. Like this KPPU institution, it was formed based on

<sup>26</sup> Gunawan Tauda, *ibid*.

<sup>27</sup> Substance in Article 33 paragraph (4) of the 1945 Constitution

<sup>28</sup> *For this special purpose* is an institution that carries out state duties for a certain period of time, explanation of the article: "KPK: Permanent Institution or Ad Hoc Institution", October 2012 article. <https://bh4kt1.wordpress.com/2012/10/03/331/>.

<sup>29</sup> KPK: Permanent Institution or Adhoc Institution, *ibid*.

<sup>30</sup> Article 10A paragraph (1) Law Number 19 of 2019 concerning Amendments to Law Number 30 of 2002 concerning the Corruption Eradication Commission

public complaints during that era *the new order* Unhealthy competition arises so that business actors feel losses due to the actions carried out by these actors. Likewise, vice versa, if the highest people's power is seen by the creation of sociological and juridical elements as a great power, then it is certain that the law is considered to make the people the dominant force compared to power.<sup>31</sup>.

## 2. Business Competition Supervisory Commission in Imposing Administrative Sanctions

Looking at the commission regulations at the KPPU institution, the author has an analysis that the law enforcement process in the trade sector is often carried out by humans individually. *Contraktual* and *Individual*. there is a doctrine *The due care theory* that business actors have an obligation to be careful in marketing products, both goods and services<sup>32</sup>. The Constitution is clear that "*the existence of legal certainty, protection and guarantees for citizens*"<sup>33</sup>. Concretely, the effectiveness of administrative sanctions (*administration punishment*) in law enforcement carried out by the KPPU is a form of prevention of unhealthy trade violations in Indonesia so that the principle of *caution* the impact can be felt by business actors (*produce*) or consumers (*consumer*). Therefore, according to the author, the KPPU institution is in its composition a business competition law supervisory institution with the authority to impose administrative sanctions and fines. As a cooperation partner (*Integrated competition justice system*) in law enforcement independently and jointly by other law enforcement agencies and institutions related to the country's economic activities.

## CONCLUSION

1. The position of the Business Competition Supervisory Commission (KPPU) in granting administrative sanctions (*administration punishment*) as an independent institution that is directly responsible to the President to supervise the implementation of the Antimonopoly Law. The position in this institution becomes an executive role in enforcing laws regarding unfair business competition (*unfair competition*) in Indonesia in the future *the new order*. The role of law enforcement by the KPPU is limited to assessing actions that indicate violations through business competition against the business actor. However, the KPPU has the authority to impose penalties on business actors and does not have legitimacy in determining actions such as the Court. In state administration, institutions with the nomenclature "*commission*" aims to carry out a special task from the government to return an unstable situation to stability. The position of the KPPU is the same as the KPK, which was formed based on the aspirations of the people regarding distrust in law enforcement in eradicating corruption. The KPPU has a role in its position as a special institution to reduce crime in increasingly complex business competition so that cooperation in administering punishments with other legal institutions can be carried out well and perfectly.
2. The administration of administrative sanctions imposed by the KPPU is a form of representation of the Indonesian people to assist legal institutions to resolve unfair business competition problems effectively. This means that law enforcement is carried out by the KPPU jointly with the Prosecutor's Office, the Courts, the Supreme Court, the Corruption Eradication Commission, and institutions in ministries related to Indonesia's economic stability. The form of sentence imposed from the KPPU's decision will be re-analyzed to obtain a determination by the Court as to the form *Principle of Justice*. This principle will not interfere with the KPPU's role as an independent institution, but rather to apply the

<sup>31</sup> Muhammad Junaidi, *January 2018, "Constitutional Law",: "Initially the Constitution is Considered as Law"*, Depok, 1st printing: PT. Raja Grafindo Persada.

<sup>32</sup> Consumer Protection Law, *Op. Cit.* p. 45

<sup>33</sup> Substance in Article 28D paragraph (1) of the 1945 Constitution

principle of *Integrated Competition Justice System* between special institutions related to business competition issues with the assistance of law enforcement agencies to legitimize the decisions to be executed. Therefore, the KPPU institution in its composition is not under the legislative, executive or judiciary, but rather acts as an implementation supervisory institution in assessing business actors who are against material elements in the Antimonopoly Law. This refers to the provisions in Law Number 5 of 1999 concerning Antimonopoly. KPPU is an independent institution and is independent of the influence of the power of other parties.

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