

Country Report

Organizing a Competition Authority: Is there an Optimal Way?

Indonesia Competition Commission

21
TAHUN
KPPU



Institutional Setting

Policy reform in 1998 has developed three auxiliary agencies in competition policy, corruption, and general election. Indonesian competition law provides the Indonesia Competition Commission with authority to investigating and adjudicating cases, imposing sanctions for infringements of competition law, providing advice to the Government and the public administration on competition-related issues, and reviewing M&A transaction. Later in 2008, the Law on MSME also provides the Commission with the authority to supervise partnership between MSME and large companies. In term of institutional setting, the Commission is able to manage our own organizational structure.



What's **Independent** means to ICC

Indonesia Competition Commission is an independent state auxiliary body. Independent means:

- Not under any Ministry, and report directly to the President of Indonesia. Means ICC has a strong decision power. It can coordinate with or even summon any Ministers with regard to competition matters.
- ICC can issue a Case Decision without any clearance or consultation from Minister or even the President himself. ICC Decision only can be objected to Commercial Court and Supreme Court.
- ICC can regulate its own structure and human resource, and not fall under the Ministry's rules for civil servant.
- The budget come from the state budget, portion of penalties for infringement, and any other sources.

No one size fits all when it comes to the organization of competition authority

Competition authority shall organized based on its national interest, state structure, and agency's own priority and objective.

ICC is the only authority which supervise issues related to competition law. ICC implement two laws and oversee all sector in all over Indonesia. The laws are related to Competition Law and portion of Small and Medium Enterprises (SME) Law, specifically on Business Partnership between SME with Larger Enterprises. It means:

- ICC will have an organizational structure that accommodate both laws
- ICC need to have lot of its regional offices all over Indonesia
- ICC need to optimize its work to “big fish” cases and more to case initiative
- ICC need to implement heavy public education works and better public relations strategies
- ICC need to have many formal cooperation with government, regulator, and academics to support its work.

Changes are unavoidable

The Indonesia Competition Commission has been changing our organizational structure for several times to tackle our challenges, to adjust with the changes in law and regulations including the one on merger and MSME, and to improve our due process of law. We had experienced four times of changes in the Board of Commissioners' leadership, four times of amendments in our case handling procedures, and formulating new regulations to adjust with the current changes.

Annual Budget

8.1 M

*USD

The budget comes from the state (not yet including share's of penalties collected from competition cases).

Staffs

404

The staffs are recruited by ICC (not the government) based on self-defined criteria.

Portion on enforcement

22%

Part of ICC budget goes to enforcement. Most percentage (38%) goes to salary and office operational.

The way we work is changing

The Commission is established

ICC is established in 2000 with 2 (two) directorates; investigation and administration. In 2001, the structure expanded to 4 (four) directorates (enforcement, policy, communication, and administration)



2006

First amendment in case handling

Restructuring made following new case handling procedure, and the establishment of the first representative offices.

2010

Big expansion following new proceeding

ICC expanded to 8 (eight) directorates following the new case handling procedures and new government regulation in merger control.

2014

Restructuring to meet government standard

ICC introduce the term of secretary general, and two deputies. Follow by (nine) directorates and several independent units (like internal control, IT, and Chief of Economist)

2016

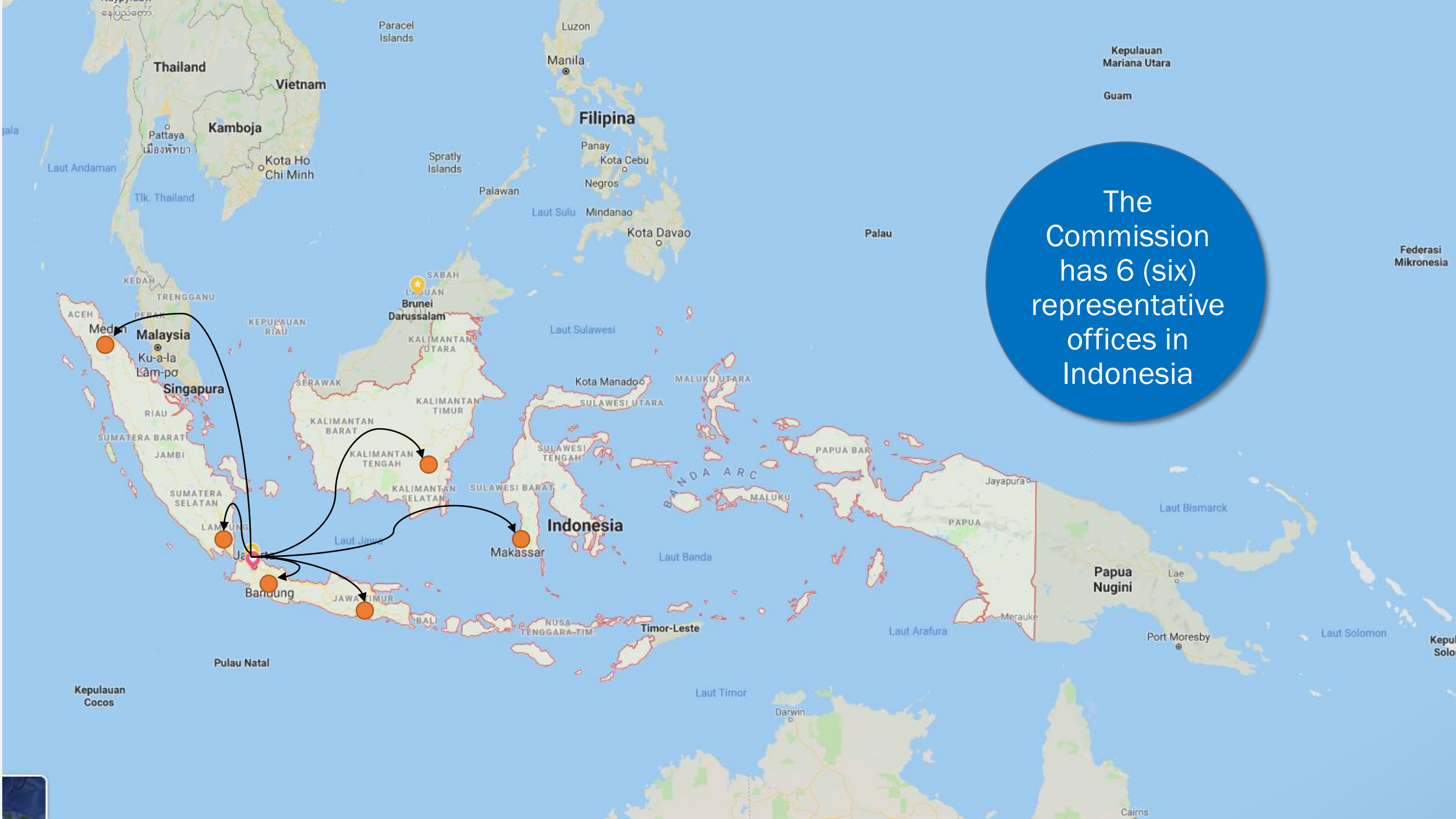
New Directorate of Partnership

New directorate on partnership supervision was formed to implement the provision in business partnership under the Law on MSME.

2019

New Directorates/Bureaus and Additional Representative Office

ICC formed the Directorate of Economy, Directorate of Advocacy, and Legal Bureau to increase the focusing of work in each units. ICC also formed an additional representative office in Bandung, West Java.



The Commission has 6 (six) representative offices in Indonesia

Optimal Way in Managing Competition Agency = Focusing our work

Focus

1

Focus on education, publicity, and advocacy programs, as well as building internal capacity and enhancing the capacity of collateral institutions, such as university, judiciary, professional associations, sectoral regulators, and the media.

Focus

2

Focus on a short list of enforcement priorities, such as the following: eliminating hardcore cartels; monitoring barriers to new business entry; studying strategic bottlenecks to competition in terms of access to key infrastructure.

Focus

3

Focus on strategies to fit and contribute to your national economic plan, and mitigating conflict with other agencies or sector regulators, and the vested private sectors' interests.

Challenges are growing as the agency grow

Remember, as the agency grow, the challenges will be escalated into (i) measuring performance and impact; (ii) demonstrating its value to the society; (iii) strategies in allocating human resources; and (iv) managing the knowledge.



Key Take Away

- 1 Regulations and individual enforcement actions must be based on the law, economic and market conditions. Enforcement must be subject to the rule of law, due process, and effective judicial control.
- 2 The enforcement system must be designed in a way that guarantees coherence and predictability for business: coherence ensures equal treatment. Predictability allows companies to plan for compliance.
- 3 An agency shall be able to freely adjust its organization structure.
- 4 The system should allow the competition authority to concentrate its limited resources on specific priorities.
- 5 The competition enforcement procedures must enable the agency to take decisions in a timeframe which is sufficient to the problem that should be remedied.
- 6 Enforcement must always go hand-in-hand with an effective communication on its benefits, for consumers and for companies.



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