

2017-2019 E-Commerce Roadmap

by Georgy Mishael

The President of The Republic of Indonesia has promulgated President of The Republic of Indonesia Regulation Number 74 of 2017 On the Roadmap for the National Electronic Commerce System for 2017-2019 (“**President Regulation No. 74/2017**”). The Roadmap for Electronic Commerce for 2017-2019 (“**2017-2019 E-Commerce Roadmap**”) is a document which provides guidelines and status for the preparation and implementation of trade transaction through series of devices and electronic procedures.



Based on Article 3 President Regulation No. 74/2017, the 2017-2019 E-Commerce Roadmap is intended to provide strategic direction and guidelines for the acceleration of the Roadmap for National Electronic Commerce System for 2017-2019. The 2017-2019 E-Commerce Roadmap contains objective programs and/or stakeholder activities to accelerate the development of e-commerce. The 2017-2019 E-Commerce Roadmap covers several programs such as funding, taxes, consumer protection, education and human resources, communication infrastructure, logistics, cybersecu-

rity, and the establishment of an executive agency for the 2017-2019 e-commerce roadmap.

The 2017-2019 E-Commerce Roadmap has two functions as described in President Regulation No. 74/2017. The first function is as a reference for central government and regional government to determine sectoral policy and an action plan to accelerate the implementation of a national electronic commerce system for each sector as listed in development plan documents. The second function is as a reference for stakeholders to perform their activities via the national electronic commerce system.

In order to coordinate and synchronize the implementation of the 2017-2019 E-Commerce Roadmap, as well as to conduct monitoring and evaluation of the implementation of it, a steering committee has been established by the coordinating minister of economy. The steering committee will be assisted by the executive team and the main sources. Furthermore, to assist in exercising the duties of the steering committee, the executive team and prominent, the coordinating minister for the economy shall establish the executive agency domiciled in the coordinating ministry of economic affairs, and coordinated by its secretary.



Business and Operation of Freight Forwarding Services

by Ricky Hasiholan

The Minister of Transport ("MOT") issued Regulation no. PM 49 of 2017 on the Business and Operation of Freight Forwarding Services ("Permenhub 49/2017") to encourage an investment climate that provides convenience to business undertakers in the field of Freight Forwarding Services.

Freight Forwarding is a business activity engaged in the field required for the implementation of the delivery and receipt of goods through land, railway, sea and air transportation which may include activities of: a) acceptance; b) storage; c) sorting; d) packing; e) marking; f) measurement; g) weighing; h) issuance of transport documents; i) processing of document settlement; j) booking of carrier space; k) delivery; l) distribution management; m) calculation of freight and logistics costs; n) claims; o) insurance on the delivery of goods; p) settlement of invoices and other necessary costs; q) provision of information and communication systems; r) provision of logistics services in national and international markets conventionally and/or electronically; s) the provision of e-commerce, internet technology using a satellite system that enables real-time tracking of goods; t) contractual carrier or Non Vessel Common Carrier Operators (NVOCC); and u) special courier and/or in-kind goods and services in accordance with the provisions of laws and regulations.

Freight forwarding companies can establish domestic branch offices as well as appoint and cooperate with agents abroad.

To be able to carry out freight forwarding activities, the company must have a freight forwarding license issued by: a) The local Provincial Governor for domestic transportation services; and b) Investment Coordinating Board for freight forwarding services (joint venture) and foreign investment.

A freight forwarding company which has joint venture or foreign investment status must have: a) a deed of company

from a notary authorized by the Ministry of Law and Human Rights; b) a registered certificate from the Directorate General of Taxes of the Ministry of Finance; c) a company domicile certificate issued by the competent authority; d) an investment permit from the Investment Coordinating Board with an investment of at least US \$ 4,000,000.00 (four million US dollars) and at least 25% (twenty five percent) of the authorized capital must be placed and fully paid with proof of deposit which is legal or audited by a public accounting firm; e) a certificate of ownership of an office building or proof of lease for a minimum of 2 (two) years; f) a list of companies from the Ministry of Commerce; g) a limited stay permit statement from the Ministry of Justice and Human Rights for foreign workers; h) permission to employ foreign workers from the Ministry of Manpower; and i) Indonesian citizen experts with a minimum D-III (Diploma Three) in the field of Shipping, Maritime, Aviation, Transportation, or IATA Diploma or FIATA Diploma, S-1 (Bachelor one) Logistics or certificate of professional competence in the field of Forwarder, or Supply Chain Management, or Certificate of Customs expert or Port.

A freight forwarding company that already has a business license must: a) implement the provisions stipulated in its business license; b) conduct operational activities continuously no later than 3 (three) months after the business license is issued; c) register business activities to the Port Operator and/or the Operator of Airports or other Transportation Authorities by enclosing an association membership certificate; d) submit monthly reports of goods delivery and receipt activities



to licensors and Port Operator and/or Airport Operator or other Transport Authorities no later than 10 (ten) working days in the following month; e) report in writing of its business activities annually to the licensor with a copy to the Port Operator and/or the Operator of the Airport or other Transportation Authority no later than 1 February of the current year; f) report in writing if there are any changes of data in the company's business license, including changes to the composition of the board of directors, shareholders and domicile of the company, to the licensor for adjustment; g) report in writing to the licensing officer at the opening of the branch office of the transport service company; and h) comply with the provisions of legislation.

Tariffs for freight forwarding services from sender and receiver shall be determined based on mutual agreement between service provider and service user by type, structure and tariff class by using the tariff calculation guidelines determined by the Minister.

Permenhub 49/2017 also stipulates the responsibility of the freight forwarding company to insure its goods and/or its liability (insurance liability) to reduce the risk of liability and provide a guarantee to aggrieved parties.

The Bill on Prohibition of Monopolistic Practices and Unfair Business Competition

by Monica Sonya Ginanti

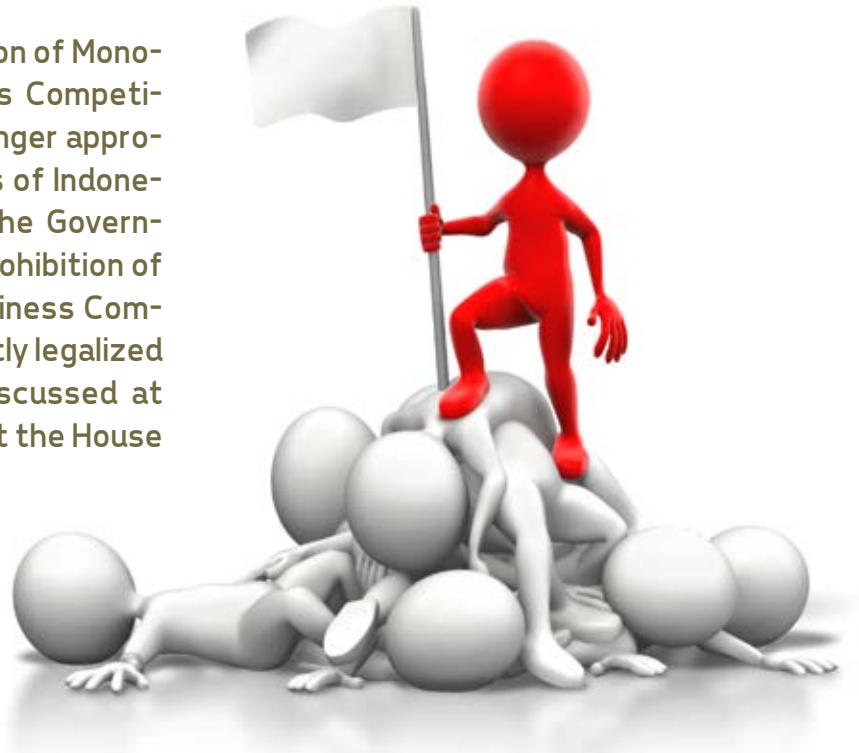
Law Number 5 of 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition (“**Law Number 5/1999**”) now no longer appropriate for the dynamic and legal needs of Indonesian citizens, has been replaced by the Government of Indonesia’s draft Bill on the Prohibition of Monopolistic Practices and Unfair Business Competition (“**Bill**”). The Bill itself is currently legalized as an initiative motion and will be discussed at first level by the Working Committee at the House of Representatives.

There are several new features in the Bill that are different from the Law Number 5/1999. The first new feature is to expand the scope of the definition of businessmen. As we know, technology is growing rapidly. Businessmen may use the e-commerce system to run their businesses which are not regulated in the Law Number 5/1999. Therefore the government expands the scope of definition of businessmen in the Bill. The next feature concerns the notification pre merger or consolidation or acquisition. The Bill regulates that merger, consolidation or acquisitions shall be follow by a notification prior to such merger, consolidation or acquisition. Being executed. It is different from that regulated by Law Number 5/1999. The provision in Law Number 5/1999 stated that a merger, consolidation or acquisition shall be notified to the Business Competition Supervisory Commission no later than 30 (thirty) days after the merger, consolidation or acquisition is executed. The third feature concerns abuse of a superior bargaining position against a partner-

ship agreement. Businessmen are prohibited from abuse of a superior bargaining position against a partnership agreement. Administrative sanctions will be imposed on those who commit violations of this rule. This matter was previously not regulated by Law Number 5/1999.

Further, the Bill also amended provisions relating to fines. Law Number 5/1999 stipulates that fines will be imposed with nominal value in the currency of the rupiah but that the fine imposed will be a minimum of 5% (five percent) or a maximum of 30% (thirty percent) of the sales value of the businessmen who commits a further violation within the duration of the sanction.. The next feature concerns the enhancement of Business Competition Supervisory Commission func-

tion. The Bill added a provision on law supremacy engaged by the Business Competition Supervisory Commission to ask for help from the Police which was previously not regulated by Law Number 5/1999. The Bill also regulates a leniency program. The leniency program in the Bill states that the Business Competition Supervisory Commission may grant clemency and/or reduction of punishment to the businessmen who acknowledge and/or report their actions. Law Number 5/1999 did not recognize this leniency program. Last but not least, the Bill stipulates that a criminal sanction will be imposed on any person who restrains, precludes, or aborts the Business Competition Supervisory Commission in carrying out its investigation and/or examination process.



OJK Issues Regulation on Sustainable Finance: Corporations Required to Report Business Action Plans

by Georgy Mishael

Under the new OJK Regulation No.51/POJK.03/2017 on the Application of Sustainable Finance for Financial Services Institutions, Issuers and Public Companies all corporations now required to report their action plans to OJK. This regulation has been issued in order to create a legal framework which specifically binds all actors operating within the financial services sector to the principle of sustainability.

POJK 51/2017 will be applied gradually to each corporation, including LJK, issuers and public companies, which will slowly be adjusted to comply with new characteristics and business complexities. In addition, the OJK will also consider the readiness of each LJK, issuer and

public company to meet the various requirements which are set out under the new regulation. Moreover, the OJK will also be encouraging business persons working in the industry to develop financial products and/or services which apply sustainable financial principles, so as to make a positive contribution to the stability of the financial system.



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