

## **SUMMARY OF SCOOTERMATIC CARTEL CASE**

### **Introduction**

The Scootermatic cartel was a cartel between Astra Honda Motor (AHM) and Yamaha Indonesia Motor Manufacturing (YIMM). Astra Honda Motor is a motorbike distributor jointly owned by Indonesian conglomerate PT Astra International and Japan's Honda Motor Co Ltd., while Yamaha Indonesia is part of Japan's Yamaha Group. In 2016, the two companies controlled 97.4 percent of Indonesia's motorbike market. Motorbikes are hugely popular in Indonesia, Southeast Asia's biggest economy and their sales are a key indicator of consumption.

In addition to the dominance of the scooter market, which is very dominant from the two company, ICC also found that the price movement of Yamaha and Honda scooters went hand in hand. The increase in the price of the Yamaha scooter always follows the increase in the price of the Honda scooter.

### **The Scootermatic cartel**

The case was started from a research in 2014 which followed by an investigation on article 5(1) of Indonesian competition law, the Law No. 5/1999, suspected to be done by two multinational companies, YIMM and AHM, on the marketing of scootermatic class 110-125cc. Article 5(1) stipulates that enterprise is prohibited to establish an agreement with its competing enterprise to fix price on certain good and or service which shall be paid by consumer or customer in the same relevant market.

The relevant market to this case is marketing of the scootermatic class 110cc – 125cc in Indonesia. The Commission declared that the designation of 110cc – 125cc was in line with the concept of product definition in the applicable anti-trust theory, where a product shall be defined as narrow as it can be, and by considering product characteristics, marketing reach, and behaviour of the reported parties in question.

### **The Commission's investigation and findings**

In June 2014 The Commission formed a team of Investigators for investigating allegation of cartel conduct by Astra Honda Motor and Yamaha Indonesia. In this case, ICC investigators discovered evidence of direct "collusive" communications between the presidents and marketing executives of the two companies between 2013 and 2015. These communication evidences are as follows:

- i. Regarding the Meeting in Golf Course;

There was a meeting on the golf course between the President Director of the AHM and the President Director of YIMM during 2013 until November 2014

ii. Regarding the Email dated April 28, 2014

In 2014, the vice president of YIMM forward an email with subject email Fw: Price Issue from the President Director of YIMM to Marketing Directors, Sales Director, General Manager Marketing of YIMM.

iii. Regarding the Email dated January 10, 2015.

An email dated 10 January 2015 with subject Retail Pricing Issue sent by the Marketing Director of YIMM and sent to Vice President Director and Sales Directore of YIMM.

The Commission considered that this e-mail is an official communication tool done between top level managements of YIMM. Hence, considering the capacity of sender and e-mail recipient as well as the media used (official company's e-mail address). Other than communication evidences, ICC also provide economic analysis of excessive pricing for honda's and yamaha's scootermatic. ICC also had teleconference with JFTC to discuss some approaches in dealing with this case.

### **Conclusion**

In 2017, ICC decided that 2 (two) business actors in the Motorcycle Industry of the Automatic Scooter, namely PT. Yamaha Indonesia Motor Manufacturing (YIMM) and PT. Astra Honda Motor (AHM) were legally and convincingly violated Article 5 paragraph (1) of Law No. 5 Year 1999 regarding Price Fixing cartel in motorcycle industry of scootermatic class 110-125cc. In addition to the price fixing, the Commission also concluded that YIMM has intentionally and systematically served misleading facts to built perception which in favour of YIMM's interest. Thus the Commission has decided to imposed maximum penalties for YIMM amounting IDR 25 billion or USD 1.8 million and IDR 22.5 billion to AHM or USD 1.6 million, that had to be remitted to the state treasury.

In its appeal, the Reported Parties stated that ICC examination was not align with the principle of due process of law and violated the Criminal Code of Procedures. However, on 23 April 2019 the Indonesia Supreme Court denied this statement and affirmed ICC decision