

**Intergovernmental Group of Experts on Competition Law  
and Policy**

**Geneva, 8-10 July 2013**

**Roundtable on:  
Prioritization and resource allocation as a  
tool for agency effectiveness**

**Contribution  
by  
Indonesia**

The views expressed are those of the author and do not necessarily reflect the views of UNCTAD.

## **Introduction**

Prioritization is needed to guarantee the achievement or implementation of activities that having high impact to people's welfare as the ultimate objective of national competition law. Prioritization also needed to have such objective achieved using effective allocation of human resources, time, and budget. Prioritization also can significantly reduce internal stress and improve productivity.

Priorities were set from the national economic development planning. They are not only required the Law, but also trigger by internal needs. Should any complaint arise, it will be noted and raised during the annual review. Prioritization and strategic planning did relate in securing annual budget of the commission. It is demanded by the government that the entire state financed agency should create derivative of those mention in the national economic development plan into priorities and programs for several years ahead, including budget needed to achieve those priorities. In defining priorities, since competition policy is not a standalone policy, it still needs to consider other economic policies that may affect the implementation of competition policy and law.

## **Setting-up Priorities**

The Law No. 25/2004 concerning National Development Planning System (NDPS) explains about the necessity of Mid-term National Development Planning (MNDP) as the implementation of vision and mission by the President that being developed using Long-term National Development Planning (LNDP) 2005-2025. To this extend, all Ministries and State Independent Agencies have to develop their strategies based on the MNDP and LNDP.

KPPU as an independent commission also has to develop its strategy and policy in line with national development policy direction. KPPU's role is also stipulated in the MNDP, especially on the priority to increase purchasing power of society through increasing effectiveness of law supervision and creating competition environment. It was expected that the increased purchasing power may lead to the increase of consumption growth of 5.3% to 5.4% for the next five years.

Therefore within the next five years, KPPU will focus on strengthening its roles through competition enforcement and policy harmonization, along with institutional aspects. Specifically in obtaining such objectives, KPPU will focus their activities to four high impact sectors, namely (i) sectors that closely related to public interest; (ii) highly concentrated industry; (iii) market with price sensitive; and (iv) public infrastructure and services.

So it can be concluded that, KPPU always taken criteria from both internal and external factor. Correlation with the national economic priorities is important to make sure KPPU can contribute to the national economic development. Internal factors are also taken seriously in micro level to obtain better allocation of resources.

In addition, the Commissioner's jurisprudence is also used in determining the agency's priority. As mentioned by the competition law, the Chairperson and Vice Chairperson of the commission are elected amongst the Commissioners. Each year the Commissioners conducted a closed Commissioner Meeting to elect persons to represent them as the Chair and Vice Chair. The new appointed Chairperson and Vice Chairperson then, usually come up with their own specific priorities for the on-going year.

## **Development of Strategic Plan**

A strategic plan along with the tools to supervise the implementation (such key performance indicator) is developed. KPPU is yet to adopt a systematic prioritization in the management. We use balance score card (BSC) approach in developing our strategic plan. The approach is to find best combination (balance) of several perspectives, namely (i) stakeholders' perspective; (ii) internal business and learning process; and (iii) basic modality of institution.

The stakeholder perspective will focus on external stakeholder that related to KPPU's achievements. This perspective will consist of strategic objectives and main activities at the commission. Internal business and learning process will focus on series of activities to describe existing business process and the commission's capability in performing changes or adjustments using available internal resources to achieve the determined objectives. As for basic modality, it will focus on targets which become basic modality of the commission to support indicators by other strategic objectives.

These perspectives are manifestation of program planning process, activities, and target of achievements that will be obtained by all units for the next five years. Each unit then will plan and execute corresponding activities and budgets to secure vision and missions of the commission.

In developing the BSC based planning, the commission will conduct a trend watching in competition policy and national priorities. A SWOT analysis was then following the result of trend watching. Using both studies, the commission will reconfirm the existing vision and mission (on whether they still relevant to current situation), develop basic value of the institution and its main strategies. All of these will be translated into strategic objectives and programs or activities at the commission. Planning Bureau is responsible in developing such strategic plan, with ultimate approval from the highest decision making at the commission, Commissioners Meeting.

## **Level of Development and Setting-up Priorities**

Level of institutional development considers affect the commission in setting its priorities. Some unthinkable issues indeed, were found during the implementation or internal review. Agency's priority is one of the affected.

At the early implementation of the commission, priority was given to increasing business awareness on the existence of competition commission. Complaint must be dealt and announced to the public as soon as possible. Priority was given to law enforcement as part of advocacy. Competition advocacy and institutional development was put second. As result, number of complaint was starting to increase, while less internal regulation is produced. Even the first guideline is only established after five years of operation. Demand on additional human resources then became inevitable.

Along with the institutional experiences, the policy was shifting from heavy (intensive) enforcement to correctional measure. In 2006, a regulation which introduces corrective measure (consent decree) was launched. An on-going case then can be terminated when the reported parties agreed to stop the violation before preceding the case into final decision.

In 2008, the commission shifts the priority to quickly handle cases as soon as possible. The Secretariat (through KPPU regulation No. 2/2008) is given authority to handle "small" bid-rigging cases. It was later in 2010; the commission updated the regulation by separating the function of investigator and commissioners in handling cases. A more transparent process and balanced internal tribunal are introduced for better due process of law.

So it can be seen that, level of institutional development did affected the way agency set their priorities and activities. Therefore, it is important that agency should have flexibility in adjusting themselves toward new internal and external development without sacrificing or hampering the main objective of the agency.

Regional engagement (especially in ASEAN) is not creating challenges that may affect the agency in setting up priorities. Regional engagement by Indonesia in ASEAN to date is limited to sharing experience, knowledge, and information related to most of issues at the commission. Harmonization of regional competition law or policy has not been developed in ASEAN. Best practices from more advanced competition agencies and international organization (especially OECD and UNCTAD) are used by the commission as reference in developing its strategic plan and prioritization. The utilization will be adjusted to the commission's need and institutional setting.

### **Setting Priorities in Enforcement**

Any complaint shall be preceded with internal process to complete the complaint and clarify issues raised by the complainant. A guideline of how to submit complaint is provided by the Commission to assist complainant and save time in clarifying the issues. Should a complaint concluded as completed (and having sufficient indication as a competition issue), and then it should be followed by an investigation. There is no prioritization allowed for a completed complaint. All complaint shall be treated at same level of priority. This situation, indeed, will lead to massive complaints that should be investigated at simultaneously. Issue on human resources then will arise, since only less than a hundred of investigator is available to handle case.

Human resource allocation becomes priority by the Commission due to high number of complaints. There were several attempts by the Commission in allocating human resources (including the Commissioners) in enforcement activities. First was through KPPU Regulation No. 2/2008 regarding the Secretariat's authority in handling cases. This regulation is created mandate to investigator to handle bid-rigging cases (under IDR 10 billion) without supervision from the Commissioners leaving them to focus on the final decision. Second was through KPPU Regulation No. 1/2010 regarding Case Handling Procedure. Under this new regulation, Secretariat can investigate all cases independently and to present and defend their finding before an internal tribunal lead by the Commissioners. The reported parties are also allowed to defend themselves before the internal tribunal.

### **The Impact**

The implementation is evaluated using key performance indicators. The achievement of each activity will be measured on their progress for every month, half year, and annually. All of the evaluation process is supervised by a bureau (Internal Control) at the commission. The strategic plan and tools to evaluate the progress had assisted internal management to focus on the defined targets (which in line with the agency's objectives). It also helps the management to conduct self-evaluation of their progress, both in-term of actual output and budget, and can provide an alert on the obstacle that may halt the overall achievement. Having clear objective, priority, and activity also will bring same vision to internal and provide them with self-esteem for understanding that, even their smallest contribution will affect the overall process to achieve the agency's goals.

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