

FIRST KPPU FINE FOR MERGER NOTIFICATION NON-COMPLIANCE

Feb 11, 2013

On 10 December 2012, The Indonesian competition regulator (KPPU) issued its first fine for a failure to comply with Indonesia's merger notification regime. Although Indonesia's merger control regime has been active since the promulgation of Government Regulation No. 57 of 2010 on 20 July 2010, the KPPU has just issued its first fine (of IDR 4.6bn, or approximately USD475,000) for a failure to notify. It is not clear yet whether the matter is under appeal. In its decision, No. 09/KPPU-M/2012, the KPPU fined PT Mitra Pinasthika Mustika for its late notification of a share acquisition in PT Austindo Nusantara Jaya Rent. This case is significant in that it is the first involving a violation of Article 29 of the Anti-Monopoly Law (Law No. 5 of 1999). Article 29 of the Anti-Monopoly Law requires the KPPU to be notified of any merger, consolidation, or share acquisition of a certain size within 30 (thirty) days. Although PT Mitra Pinasthika Mustika argued that the failure was not intentional, the KPPU stated the company's misunderstanding of the thresholds did not relieve it of the consequences of its violation of the Law.