

Tender Rigging in the Procurement of Cryo-Electron Microscopes (Cryo-EM) and Transmission Electron Microscopes (TEM) at BRIN (Case Study Decision: 02/KPPU-L/2024)

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Abstract. *This study discusses the practice of tender rigging in the procurement of Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM) at BRIN based on Case Decision Number 02/KPPU-L/2024. The purpose of this study is to analyze the form of tender rigging violations that violate the provisions of Article 22 of Law No. 5 of 1999 and examine its impact on business competition, business actors, the state, and research development in Indonesia. The research method used is normative juridical with a statute approach and a case approach with qualitative data analysis methods. The results of the study indicate the existence of vertical collusion between the tender committee, namely the Working Group and the PPK with business actors, namely PT Buana Prima Raya as the tender winner and PT Multi Teknindo Infotronika as the sole agent for the product. The tender rigging was characterized by the arrangement of technical specifications that favored certain brands, discrimination by unilaterally withdrawing support from PT Transformasi Sejahtera Indonesia as the lowest bidder, and the increase in procurement and contract prices without going through a transparent competition mechanism. The resulting impacts included the creation of artificial competition, state financial losses, hampered innovation in the research sector, and a decline in national competitiveness in mastering high technology. This research emphasizes the need for strict oversight and a fair resolution mechanism so that the tender system in Indonesia can operate transparently and accountably.*

Keywords: Brands; Procurement; Tender; Transmission.

1. Introduction

In this modern era, economic development in Indonesia is increasingly rapid. As a country's economy develops, its trading system will develop, seeking maximum profits, leading to the emergence of numerous business competitors in the market (Rahmawitri & Hutabarat, 2020).

Business competition is one of the drivers of economic growth and a prerequisite for businesses to compete in a healthy and transparent market, where businesses are free to enter and exit the market, determine prices and quality, and develop their businesses without hindrance from other businesses. Furthermore, healthy business competition can encourage businesses to continue growing by introducing new innovations, increasing trade efficiency, and continuously improving the quality of their products, as competition encourages businesses to strive to outdo each other (Soepadmo, 2020). However, the high level of competition in the market will cause businesses to resort to various fraudulent means, triggering unfair business competition that is detrimental to businesses, consumers, and even the state (Fachri & Joesoef, 2021).

The enactment of Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition aims to create healthy businesses free from collusion, corruption, and nepotism that cause losses to business actors, consumers, and the state. This regulation regulates several prohibitions such as monopoly, monopsony, market control (dominant position), and collusion. Unfair business competition can impact not only other business actors, but also society and the national economy (Santosa et al., 2023). One of the collusions prohibited in Law No. 5 of 1999 is tender collusion. Based on Article 22 of Law No. 5 of 1999, tender collusion is a conspiracy between business actors and other parties in determining the winner of a tender. Article 22 also emphasizes the prohibition against all forms of collusion in tenders that risk giving rise to unfair business competition practices.

Law No. 5 of 1999 states that the principles that must be considered in the implementation of tenders are: 1) transparency; 2) appreciation of money; 3) effective and open competition; 4) fair negotiation; 5) accountability and assessment process; and 6) non-discrimination (Rachmadi, 2013). However, it is not uncommon for business actors involved in tenders to use unfair competition methods, because law and social reality often run side by side in an unstable manner, thus opening loopholes for certain interests (Suyanto, 2022). The elements of tender violations in Article 22 of Law No. 5 of 1999 have been amended in Constitutional Court Decision Number 85/PUU/2016, which is characterized when two or more business actors work together in a planned manner to manipulate and win the tender for their personal gain. This action directly closes opportunities for other business actors (Anggara, 2024).

Government institutions often procure goods or services through tenders to build state infrastructure and facilities. The tender process is conducted transparently and competitively, involving private parties or state-owned enterprises that meet the qualifications stipulated in the procurement of goods and services. Procurement of goods and services through tenders is expected to result in high-quality state infrastructure and facilities, timely implementation, and in accordance with established qualifications or standards. Thus, the development of state infrastructure and facilities can provide optimal benefits to the community and the state, and can improve the national economy through the development of modern infrastructure and facilities.

However, in fact, the implementation of procurement of goods and services through tender

mechanisms often finds fraud in the form of collusion between fellow business actors, tender committees, or providers of goods or services, which is a form of violation in business competition as regulated in Article 22 of Law No. 5 of 1999. One of the cases of violation of Article 22 of Law No. 5 of 1999 concerning the Prohibition of Tender Collusion, namely in the Decision of Case Number 02/KPPU-L/2024 regarding the determination of the tender winner in the procurement of Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM) laboratory research equipment at the Deputy Work Unit for Research and Innovation Infrastructure, at the National Research and Innovation Agency (BRIN).

In the case of Decision Case Number 02/KPPU-L/2024 which originated from a public report that there was a practice of tender collusion in Cryo-EM, Transmission Electron Microscope (TEM) Room Temperature for Life Science and Transmission Electron Microscope (TEM) for Material Science by the National Research and Innovation Agency (BRIN) for the 2022 fiscal year. Actually, the purpose of holding the procurement of high-tech laboratory equipment was for collaboration with industrial parties in the health sector such as medicine and food, which required product testing and development. However, in the tender process for the procurement of Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM), a conspiracy was found between the two companies, PT Buana Prima Raya as the tender winner and PT. Multi Teknindo Infotronika as the sole agent for the product, as well as the involvement of the Working Group (Pokja) and the Commitment Making Officer (PPK) as the tender committee for the procurement of Cryo-Electron Microscope and Transmission Electron Microscope (TEM) in arranging the specifications of the tender selection documents, in order to win one of the tender participants.

In the Decision of Case Number 02/KPPU-L/2024, the perpetrators were proven to have violated Law No. 5 of 1999 with the practice of vertical tender rigging, namely the collaboration between business actors (PT Multi Teknindo Infotronika and PT Buana Prima Raya) with the tender committee (Pokja and PPK) to determine the tender winner. In addition, starting from the tender planning process, it was directed at a particular brand and only one distributor, namely Thermo Fisher Scientific production equipment owned by PT Multi Teknindo Infotronika. As a result of these actions, the lowest bidder, namely PT Transformasi Sejahtera Indonesia, was disqualified without clear reasons and basis. Thus, the act of tender rigging on the Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM) created pseudo-competition in the tender process.

Tender rigging actions in procurement Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM) have an impact on business competition, namely directly inhibiting business competition by closing the opportunity for other business actors, especially PT Transformasi Sejahtera Indonesia as the lowest bidder to become the tender winner. In addition, the act of tender collusion in the procurement of Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM) has a further impact on state financial losses because it failed to obtain the lowest price offer. In this condition, the practice of tender collusion is detrimental to other tender participants who have met the established

requirements and criteria (Rahmadhani & Anggaraini, 2025). Therefore, tender collusion causes the loss of healthy business competition between business actors which results in state losses, if cases of tender collusion continue to recur it will hamper the development of research and innovation technology in Indonesia.

Several previous studies have discussed tender rigging, covering a variety of topics and cases. This provides a broad overview of various violations in procurement of goods and services through tenders. The first study, written by Reda Manthovani in 2023, was entitled "Criminal Law Analysis of Unfair Business Competition in Tender Rigging Practices: Case Study of KPPU Decision (Number: 35/KPPU-I/2020)", using normative juridical methods. In this study, the focus is on the position of the tender committee's criminal acts in the KPPU decision on tender collusion, the form of tender collusion violations that violate Article 22 of Law No. 5 of 1999, and this study discusses the suitability of the theory of legal certainty with the Decision of Case Number 35/KPPU-I/2020 (Manthovani, 2023).

The similarity between previous research and the author's research is that both discuss the form of violation in tender cases based on Article 22 of Law No. 5 of 1999. However, there are differences and updates in previous research with the author's research, namely in the case raised by the author more recently involving the procurement of laboratory research equipment, namely the Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM). This indicates the potential for the development of broader tender conspiracy practices in Indonesia. In addition, the author's research focuses more deeply on discussing the form of tender conspiracy violations that violate Law No. 5 of 1999, which has not been discussed by previous researchers such as the involvement of sole agents and organizers, discrimination against other business actors, and the existence of engineering document specifications to win certain tender participants.

The second study written by Muhammad Iqbal, et al. In 2025, entitled "Legal Protection for Parties Harmed by Tender Rigging" using the normative juridical method. In this study, the focus is on referring to Case Decision Number 08/KPPU-L/2023 concerning the Peureulak-Lokop Road improvement project in Aceh and Case Decision Number 17/KPPU-L/2022 concerning the revitalization of the Jakarta arts center Taman Ismail Marzuki. In previous studies, discussing legal protection for parties harmed by tender rigging in the procurement of goods and services by covering the role of the KPPU in handling tender rigging cases and the form of legal protection for parties harmed in tender rigging cases. In addition, previous research discussed indications of tender collusion contained in the Business Competition Supervisory Commission (KPPU) panel hearings by focusing on indications of tender collusion contained in KPPU decisions and institutional regulations (Iqbal et al., 2025).

The similarity between previous research and the author's research lies in the theme raised, namely tender collusion, which refers to Law No. 5 of 1999. The difference between previous research and the author's research lies in the object of study, the focus of the impact of tender collusion, and the related institutions. Previous research focused on infrastructure projects, such as roads and arts revitalization. Meanwhile, the author's research focuses on the

procurement of high-tech research equipment, namely the Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM) at BRIN. Thus, this research has updates and fills the gap in research regarding tender collusion in the procurement of high-tech research equipment, which has a major risk to technological development in Indonesia.

The third study, written by Dave David Tedjokusumo in 2023, entitled "Tender Rigging Practices in the Procurement of Revetment and Landfill Construction Packages at the Port," uses a normative juridical method. This study analyzes a tender rigging case related to the procurement of revetment and landfill construction packages at the Popoh Tulungagung Fishery Port, examining it from a competition law perspective. It also outlines the impact of the tender rigging based on KPPU Decision Number 25/KPPU-I/2020. The similarity between the previous study and the author's research is that both discuss the impact of tender rigging. The fundamental difference between the previous study and the author's research lies in the case objects analyzed and the focus of the study. The previous study took the case of revetment construction and landfill construction and focused more on the conflict of norms in Government Regulation Number 44 of 2021 and the unclear administrative sanctions. Meanwhile, the author's research takes the procurement of high-tech research equipment, namely the Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM), as its object. It refers to Law No. 5 of 1999, discussing the types of violations and the impact of such tender collusion. Therefore, the author's research provides updates in terms of research objects and a different focus from previous research (Tedjokusumo, 2023).

Based on the three previous studies, there are updates in the author's research, especially from the research object. Therefore, this study has urgency in business competition in Indonesia, especially in tender collusion for the procurement of goods and services for high-tech laboratory equipment. In the tender collusion for the procurement of Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM), it shows that there is still a large opportunity for unfair competition in the high-tech laboratory equipment sector. This study seeks to examine in depth how the form of tender collusion violations that violate the provisions of Law No. 5 of 1999 and the impact of tender collusion in the procurement of Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM).

This study focuses on the tender conspiracy mechanism in the procurement sector of laboratory research equipment involving goods providers, tender participants, and tender organizers, this is a difference from previous studies that analyze more about tender conspiracy in the procurement sector of development infrastructure. Thus, it is hoped that the results of this study can provide useful updates as input for the government to further improve the tender supervision and regulation system, to be more transparent and fair so as not to harm business actors, consumers, and the state. Therefore, the researcher is interested in writing a scientific article with the title "Tender Conspiracy in the Procurement of Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM) at BRIN (Case Study of Decision: 02/KPPU-L/2024)".

2. Research Methods

This research used a normative juridical method. Normative juridical research was legal research conducted through library research or secondary data, namely by identifying various laws and regulations and literature relevant to the case under study (Ali, 2021). It focused on sources derived from laws and regulations related to the case under study, judges' decisions, and court rulings. The approaches applied in this research were a statute approach focusing on the legal provisions of Article 22 of Law No. 5 of 1999 and a case approach by examining case number 02/KPPU-L/2024 concerning tender rigging. These two approaches were used to deepen considerations and provide appropriate legal decisions to address concrete and factual legal issues (Jonaedi et al., 2018).

The research data is sourced from secondary data, normative legal research includes three types of legal materials, namely primary legal materials in the form of Law No. 5 of 1999, secondary legal materials in the form of legal literature, scientific journals, and relevant previous research. In addition, using tertiary legal materials in the form of legal dictionaries and legal encyclopedias. Data collection techniques to support the research, using library research by reading, reviewing, and examining legal literature, laws and regulations, KPPU decisions, and scientific articles relevant to the legal problems of the research related to tender collusion in the procurement of goods or services. Furthermore, the data is analyzed qualitatively using descriptive methods. Descriptive qualitative analysis aims to explore the meaning contained in a particular problem or event through descriptive data processing (Hasan et al., 2025). The descriptive qualitative analysis is carried out by describing, reviewing, and interpreting legal materials to answer legal problems related to the practice of tender collusion in the procurement of Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM).

3. Results and Discussion

3.1. The Forms of Tender Rigging Violations in the Procurement of Cryo-Electron Microscopes (Cryo-EM) and Transmission Electron Microscopes (TEM)

In economic and developmental development, the government frequently procures goods and services to build state facilities and infrastructure. The government builds facilities and infrastructure to optimize public welfare and increase equitable development (Wibowo, 2022). As the primary actor in the procurement of goods and services, the government is obligated to implement systems and procedures to achieve good governance in order to increase efficiency and effectiveness. Businesses must also cultivate a sense of competition, as procurement of goods and services is highly competitive. Therefore, the implementation of Good Corporate Governance is essential to foster a healthy business climate by prioritizing its basic principles, such as fairness, transparency, accountability, and responsibility (Hermansyah, 2008). Therefore, its implementation becomes a binding responsibility for business activities (Hutauruk & Hutabarat, 2021).

Procurement of goods and services through tenders held by the government, based on Law No. 5 of 1999 is a price offer submitted to complete a project, provide needed goods, or provide services. The systematic implementation of tenders in the procurement of government goods and services in Indonesia has been regulated in Presidential Regulation Number 16 of 2018 concerning Procurement of Government Goods or Services and its amendments, namely Presidential Regulation Number 12 of 2021. The design of this tender system functions to ensure that tender principles such as transparency, accountability, healthy competition, and efficiency in the use of state budgets are implemented by tender committees and business actors.

However, in some cases, tender committees, owners of goods or services, and tender participants often commit fraud by colluding to win a particular tender. The primary function of a tender is to provide businesses with the opportunity to offer the cheapest goods or services with the best quality (Simarmata & Firah, 2023). Therefore, tender rigging prevents the tender organizer from obtaining the best bid for a particular procurement (Nugroho, 2014). Colluding to win a tender is a form of unfair business competition that violates Article 22 of Law No. 5 of 1999 and constitutes an artificial monopoly because it is created by collusion practices for the benefit of a single group (Sudiarto, 2021). One of the cases is the Decision of Case Number 02/KPPU-L/2024 regarding the determination of the tender winner for the procurement of laboratory research equipment, namely Cryo-EM, Transmission Electron Microscope (TEM) Room Temperature for Life Science and Transmission Electron Microscope (TEM) for Material Science at the Deputy Work Unit for Research and Innovation Infrastructure, National Research and Innovation Agency.

In Case Decision Number 2/KPPU-L/2024 regarding the tender conspiracy in the procurement of Cryo-EM, Transmission Electron Microscope (TEM) Room Temperature for Life Science and Transmission Electron Microscope (TEM) for Material Science by the National Research and Innovation Agency (BRIN) for the 2022 budget year (tender code 71311760) worth IDR 299.7 billion. It started from a tender for the procurement of high-tech laboratory equipment specifically designed to ensure stable cryogenic temperatures for 24-72 hours in the sample room. This tender was held with the aim of opening up opportunities for collaboration with industry, R&D, research institutions in the fields of health, medicine and food that require testing and product development within the laboratory scope. However, from the beginning of the tender process there was fraud in it which should have been carried out openly with a healthy competition process. In this case, the tender committee (PPK and Pokja), goods provider (PT. Multi Teknindo Infotronika), and tender participant (PT. Buana Prima Raya) colluded to secure PT. Buana Prima Raya's victory.

In the Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM) tender conspiracy, several forms of violations were committed by the perpetrators that caused unfair competition. It started with BRIN holding a meeting before the tender with representatives of Thermo Fisher Scientific and representatives of PT. Multi Teknindo Infotronika to discuss and discuss the plan to procure laboratory equipment for vaccine

development and protein databases at BRIN. Then, PT. Multi Teknindo Infotronika offered equipment, namely the Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM) of the Thermo Fisher Scientific brand. Thus, bargaining took place between BRIN and PT. Multi Teknindo Infotronika and a mutual agreement was reached. To follow up on the procurement process, a technical team was formed to assist in selecting the PPK and Pokja to become the implementing committee for the procurement of the Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM).

Thus, the first form of violation identified in this tender collusion case was the preparation of technical specifications for the tender procurement that were directed at a particular brand, namely Thermo Fisher Scientific. This began with discussions and bargaining over the prices of Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM) equipment by BRIN and PT Multi Teknindo Infotronika, which was suspicious. This was further strengthened when the Deputy for Research and Innovation Infrastructure at BRIN formed a technical team to prepare the configuration of laboratory equipment required by BRIN. The results of the equipment configuration were submitted to the PPK, in the form of a Work Reference Framework (KAK) that referred to the Thermo Fisher Scientific brand and was accompanied by a product reference price. This violation occurred because the procurement of equipment depended on a particular brand, thus closing the opportunity for other brands to become objects of the tender.

The second form of violation, the PPK followed up on the Terms of Reference (TOR) by establishing the Thermo Fisher Scientific brand criteria as the procurement technical specifications, then submitted to the Working Group as the person responsible for the tender implementation. In addition, the PPK still chose and wrote in the official memo to carry out the procurement using the tender method. Even though it was very clear that the technical specifications were determined by aiming at a particular brand. On the recommendation of the PPK, the Working Group implemented the tender method for the procurement of the Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM). This was evident, from all participating tender participants offering products from the same distributor, namely PT. Multi Teknindo Infotronika. This, including violations because it creates pseudo-competition with other distributors, which indicates the manipulation of the tender system through the misuse of the tender mechanism to commit fraud, thus contradicting the principles of transparency and fairness in tenders.

The third form of violation, identified the occurrence of discriminatory practices against other tender participants. The discriminatory action occurred after the evaluation of tender participants, PT. Multi Teknindo Infotronika as the sole distributor of the product revoked support for goods to PT. Transformasi Sejahtera Indonesia as the tender participant who offered the lowest price compared to other tender participants and had the potential to become the tender winner. The reason for the revocation of support stated by PT. Multi Teknindo Infotronika was because PT. Transformasi Sejahtera Indonesia gave a bid price that was too low and was considered unreasonable which caused economic losses for PT. Multi

Teknindo Infotronika. However, there were irregularities in the revocation, because PT. Multi Teknindo Infotronika only revoked PT. Transformasi Sejahtera Indonesia. In fact, there were 3 (three) participants who submitted bids that were lower than the price offered.

In addition, the withdrawal of support was not carried out in a timely manner, because it was only carried out after the evaluation process was completed, the withdrawal should have been carried out at the time of opening the tender document or during the evaluation. Due to the withdrawal of support, the Working Group announced the winner of the tender, namely PT. Buana Prima Raya. Here, it appears that the Working Group has discriminated against PT. Transformasi Sejahtera Indonesia, because the Working Group carried out the withdrawal based on the withdrawal of the distributor's support letter or PT. Multi Teknindo Infotronika, which the Working Group should have carried out a process of reviewing legal and administrative documents with an evaluation of technical qualifications, not only evaluating the price offer, because the Working Group explained that the withdrawal of the lowest bidder, because PT. Transformasi Sejahtera Indonesia failed to show a letter of support for its ability which included a letter of agency service, warranty, and after-sales according to the tender document. In addition, the Working Group doubted the price of PT. Transformasi Sejahtera Indonesia's offer, but did not doubt the price of PT Buana Prima Raya's offer, even though both prices were lower than the distributor's price.

It has been revealed that PT. Multi Teknindo Infotronika favors PT. Buana Prima Raya because it already has a business relationship before this tender procurement is carried out. In fact, PT. Buana Prima Raya and PT. Multi Teknindo Infotronika have been proven to have negotiated by promising a price reduction if PT. Buana Prima Raya succeeds in winning the tender. This clearly shows the existence of discrimination to win the party that has been determined from the beginning, namely PT. Buana Prima Raya. Preferential treatment of one of the tender participants by cheating other participants has violated the principle of unfair business competition which should be carried out in an honest, transparent, and competitive process (Simamora, 2017).

The fourth violation involved the perpetrators increasing the procurement and contract price without going through a transparent competition mechanism to secure the victory for one of the participants. This violation was considered a violation because it occurred during the tender process without undergoing a re-tender or review process, which opened the opportunity for other tender participants to participate in the additional procurement. Consequently, the contract value substantially increased the project value from the initial estimate, benefiting PT. Buana Prima Raya. This indirectly strengthens the suspicion that the tender winner was determined during the tender planning stage.

The collusion in this tender process has been systematically and purposefully arranged by PT. Multi Teknindo Infotronika and PPK, so that it can run well and effectively because there is support from Pokja as a procurement official who has the responsibility, intentionally ignoring the obligation to evaluate the procurement preparation documents. These violations include: (1) not reviewing technical specifications that lead to a particular brand, (2) not reviewing

tender packaging, and (3) determining the selection method and qualification evaluation without considering the complexity of the product being procured. Therefore, the collusion carried out by the perpetrators is included in the vertical tender conspiracy. Vertical tender conspiracy is a form of conspiracy that involves the tender committee or users of goods and services or distributors who collaborate with one of the tender participants (Lubis et al., 2017). Thus, in this case it fulfills the elements of vertical conspiracy which are prohibited in Article 22 of Law No. 5 of 1999.

In the rule of reason approach, an action must be proven by evaluating the impact that occurs due to a violation of fair business competition (Ibrahim, 2026). This is reinforced by Article 22 concerning several matters that must be analyzed in tender conspiracy cases. In this context, it is explained that to analyze tender conspiracy cases, it is necessary to investigate whether there are fraudulent practices or methods that violate legal provisions in their implementation (Fitriani, 2021). Therefore, in cases of tender conspiracy in the procurement of Cryo-Electron Microscopes (Cryo-EM) and Transmission Electron Microscopes (TEM), the rule of reason approach uses because it requires in-depth analysis and evidence to determine that a violation has occurred in the tender process.

Based on the case of tender rigging in the procurement of Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM), initially it required a rule of reason theory approach. Over time, the rule of reason theory approach hampers the effectiveness of the legal approach taken by the KPPU because it must be proven whether the impact of the tender rigging is detrimental or not. As a result, many tender rigging perpetrators cannot be punished, so that many tender rigging cases in Indonesia affect the market structure and the economy. Therefore, in the practice of examining tender rigging cases by the KPPU, a Per Se Illegal theory approach is required, because the KPPU does not need to examine the impact of tender rigging on the market structure to prove the violation. Therefore, the revocation of the guidelines of KPPU Regulation Number 2 of 2010 concerning the guidelines for Article 22 of Law No. 5 of 1999 is the best step to update the rules to suit global developments.

In Case Decision Number 02/KPPU-L/2024, several tender committees, such as the Working Group (Pokja) and the Procurement and Procurement Committee (PPK), were found to have been involved in collusion in the tender process. This contradicts the General Principles of Good Governance as stipulated in Law No. 30 of 2014, which includes the principles of prudence, accuracy, justice, impartiality, and proportionality, which serve as the moral and ethical foundation for all government actions (Pamungkas & Manulang, 2023). However, in this case, the Working Group and the Procurement and Procurement Committee ignored the General Principles of Good Governance by committing fraud and discriminating against other tender participants. This violation not only harms the integrity of the tender process but also has the potential to reduce public trust in transparency, prudence, fairness, and accountability in the procurement of goods and services carried out by the government.

3.2. The Impact of Tender Rigging in the Procurement of Cryo-Electron Microscopes (Cryo-EM) and Transmission Electron Microscopes (TEM)

The dynamics of a nation's economic development are evident in healthy competition between business actors, as it is a key pillar of national development. Healthy competition can encourage innovation, effectiveness, the creation of something new, and quality products or services at competitive prices (Paramitha et al., 2025). However, many business actors engage in unfair competition, one example of which is collusion in the procurement process for goods and services through tenders. Article 22 of Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition states that business actors are prohibited from colluding by arranging or determining tender winners. This is prohibited because it can undermine healthy competition mechanisms, ultimately leading to pseudo-competition between business actors.

The tender-rigging case in the procurement of Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM) at BRIN is a real-life example. Through KPPU Decision Number 02/KPPU-L/2024, it was revealed that the tender winner was determined by the tender committee and product distributor from the early planning stage. The perpetrators of the conspiracy were PT. Multi Teknindo Infotronika as the sole distributor of the product, the Working Group and the Public Procurement Committee (PPK) as the tender committee, and PT. Buana Prima Raya as the tender winner. In this case, the tender procurement process was conducted openly, the Working Group as the tender committee had announced the tender using the Electronic Procurement Service (LPSE), also known as e-procurement. However, the process from the initial planning stage to the determination of the tender winner was carried out by closed agreement. Therefore, based on KPPU Decision Number 02/KPPU-L/2024, this collusive practice has had several significant impacts on other business actors and caused state losses, including:

a. The first impact caused by the tender conspiracy in the procurement of Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM) is the emergence of pseudo-competition because the technical specifications of the procurement have been determined since the planning stage by directing only one brand, namely Thermo Fisher Scientific. This results in other business actors not having the same opportunity to compete in participating in the procurement. Therefore, the judge considered that the preparation of specifications that refer to a particular brand has fulfilled the elements of tender conspiracy as stated in Article 22 of Law No. 5 of 1999 which has been amended in the Constitutional Court Decision Number 85/PUU-XIV/2016 regarding prohibited acts.

b. The second impact of the tender conspiracy case in the procurement of Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM) is that it causes discrimination to other tender participants, especially PT. Transformasi Sejahtera Indonesia which failed to become a tender participant due to the unilateral withdrawal of support from the sole distributor of the product, namely PT. Multi Teknindo Infotronika. In fact, PT. Transformasi Sejahtera Indonesia has the potential to be the winner with the lowest bid that

has been declared complete and meets the requirements and benefits the state. However, the determination of the winner from the beginning of the planning by the perpetrators caused the elimination of other tender participants. This is strengthened by the judge's consideration by assessing the existence of intensive communication and discussion between the sole distributor of the product, the tender committee (Pokja and PPK), and the tender winner, namely PT. Buana Prima Raya before the tender process began, which indicates the existence of a vertical tender conspiracy by determining the price arrangement, product brand, and tender winner.

c. The third impact of the tender conspiracy in the procurement of Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM) is in the form of state financial losses because it includes the impact on the state economy with the loss of healthy competition by closing and hindering the opportunity for the lowest bidder, namely PT. Transformasi Sejahtera Indonesia, to become the tender winner. The judge's decision assessed that this tender conspiracy had a real impact on state financial losses because the tender participant with the lowest bid was eliminated, the state lost the opportunity to get the most efficient price with the best quality in the procurement of these goods.

d. The fourth impact of the tender conspiracy cases in the procurement of Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM), namely inhibiting the creation of new innovations, especially in the research sector because the purpose of procuring Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM) is to obtain the best tools to support research and innovation as well as the development of independent mastery of technology in the field of molecular biology, especially structural biology, by opening up opportunities for collaboration with industry, R&D, research institutions and health stakeholders. In this collusion practice, it is not based on the best technological and innovation competition in determining the tools, but only on closed agreements that benefit certain parties. In addition, in the consideration of the Panel of Judges that the utilization of Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM) tools has not been optimally optimized as a whole and has caused significant losses in the use of these tools, this is proven by ELSA user data obtained from the Information and Documentation Management Officer (PPID) of BRIN. This situation is reinforced by testimony from a witness from the Technical Team, who revealed that the highest utilization occurs only for TEM, while Cryo-EM still has a knowledge gap, given the sample preparation required by researchers and the lengthy procedures involved. Therefore, a single brand specification will block the entry of suppliers offering more innovative equipment, thus hindering the achievement of the procurement objectives.

Based on the four impacts of the KPPU decision Number 02/KPPU-L/2024 concerning tender collusion in the procurement of Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM), researchers categorize the impacts into 2 (two) parts, namely the social side and the economic side. Referring to point 4 (four) of the impacts of the KPPU decision Number 02/KPPU-L/2024, the social impact is causing a decline in human resource

development in the science and high technology sector. The existence of fraud by directing certain brand specifications in the procurement of research equipment causes the quality of the resulting research to be less than optimal because other sole agents who have very good technological equipment are hampered because they have been directed to only certain brands. This is not in line with the objectives of Law No. 5 of 1999 letter b, namely to create a conducive business climate and certainty of equal business opportunities. Thus, it has a direct impact on the quality of research in Indonesia, because researchers do not have access to maximum quality equipment to produce international quality research. The long-term impact is that Indonesia is losing qualified researchers who are a key pillar of national technological development. Indonesia is increasingly lagging behind developed countries in terms of mastery of advanced technology, particularly in the fields of molecular biology, materials science, R&D, and nanotechnology, which rely heavily on cryo-electron microscopes and transmission electron microscopes (TEMs), which have high-resolution electron microscopy capabilities.

In addition to the discovery of social impacts, researchers have found economic impacts based on the impact of KPPU decision Number 02/KPPU-L/2024 in points 2 (two) and 3 (three). The economic impact of tender collusion in the procurement of Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM), namely it can result in state budget losses because the prices issued in the procurement of goods are not seen from a competitive and efficient market. Price efficiency of procurement of goods in tenders must maximizing output through optimal utilization of inputs, thus avoiding waste of the state budget and producing products with economic value (Tedjokusumo, 2023). The practice of tender rigging for high-tech equipment results in significant economic losses in the long term, namely hampering development in the high-tech sector, causing inflation, and creating instability in the market (Yotona, 2024). This is not in line with the objectives of Law No. 5 of 1999 letter a, which emphasizes increasing the efficiency of the state economy and the welfare of the people, as the main goal of business competition regulation. Thus, the state loses the opportunity to obtain high-tech equipment with optimal quality, resulting in the inefficient use of the limited research budget. Long-term impacts will occur if cases of tender rigging practices for high-tech equipment continue to increase, causing a disruption in development and the development of research and innovation in Indonesia. Thus, the community will live in misery due to the disruption of development and the economy, as well as the loss of public trust in government procurement of goods through tenders.

Judging from all the impacts of the tender conspiracy, it is very inconsistent with the main objectives of Law No. 5 of 1999. As a result, the government must allocate additional funds for stricter supervision, audit implementation, litigation processes, and the implementation of sanctions given to perpetrators of fraud, which overall requires a budget from the government (Kamal, 2022). Therefore, after considering the magnitude of the impact on the state, other participants, and the community. The judge decided that PT. Buana Prima Raya (Reported Party I), PT. Multi Teknindo Infotronika (Reported Party II), Pokja (Reported Party III), and PPK (Reported Party IV) were legally proven guilty and violated Article 22 of Law No. 5 of 1999, and PT. Buana Prima Raya (Reported Party I) must pay a fine of Rp. 1,000,000,000.00 (one billion

rupiah) and PT. Multi Teknindo Infotronika (Reported Party II) was fined Rp. 28,000,000,000.00 (twenty eight billion rupiah) as an administrative fine.

The judge's decision was deemed legally correct because it imposed administrative fines on the tender riggers, the amount of which was sufficient to deter the perpetrators. However, when analyzed from a justice perspective, this decision was still not entirely fair to other tender participants, especially PT. Transformasi Sejahtera Indonesia, which suffered direct losses due to the loss of the opportunity to become the tender winner due to the unilateral withdrawal of support for uncertain reasons influenced by the conspiracy of the perpetrators. The judge's decision should not only focus on administrative fines for the perpetrators, but also provide compensation or recovery mechanisms such as civil damages for the injured tender participants.

Furthermore, obstacles to law enforcement can be caused by weaknesses in Article 22 of Law No. 5 of 1999, which is often considered to hamper the performance of the KPPU because it imposes a very high burden of proof and opens up room for multiple interpretations regarding who can be categorized as a "business actor" or "other party" in a tender. In the rule of reason approach, the court is required to consider factors including the background of the action, the reasons behind the action, and the perpetrator's position in the action. After considering these factors, an action can be found to be a violation or not (Citrawan, 2017). Thus, obstacles often occur in law enforcement even though indications of collusion are clear (Hukumonline, 2020). Regulations regarding tender rigging in Indonesia must be emphasized with the concept of preventive efforts, not only focusing on post-violation sanctions (Trade, 2024). Therefore, Article 22 of Law No. 5 of 1999 must be immediately revised and replaced with regulations that are more effective in tackling the practice of tender rigging and strengthening the role of the KPPU in supervising business competition.

4. Conclusion

Based on the results of the research, the practice of tender rigging in the procurement of Cryo-Electron Microscope (Cryo-EM) and Transmission Electron Microscope (TEM) at BRIN has been proven to have violated Article 22 of Law No. 5 of 1999, by involving tender participants, goods suppliers, and tender committees which is included in vertical tender rigging. In addition, the perpetrators also violated the basic principles of procurement of goods/services as stipulated in Presidential Regulation Number 16 of 2018 in conjunction with Presidential Regulation Number 12 of 2021, specifically the principles of transparency, accountability, fair competition, non-discrimination, and respect for value for money. Forms of violations committed by the perpetrators include engineering technical specifications directed at a particular brand, namely Thermo Fisher Scientific, discrimination by unilaterally revoking support for the lowest bidder who has the potential to win the tender, and increasing the contract value without going through an open competition mechanism. As a result, this practice creates pseudo-competition, harms state finances, hinders innovation in the field of research, and reduces national competitiveness in mastering high technology. Therefore, there is a need to increase supervision of each tender process, revise the guidelines in Article 22 to

be more effective in ensnaring perpetrators of collusion, and implement compensation or redress mechanisms, such as civil lawsuits, for injured tender participants. This ensures that the procurement of goods and services through tenders in Indonesia is transparent, fair, and accountable, supporting national development and the economy.

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