

## ABSTRAK

Kewajiban pendaftaran perusahaan dalam program BPJS merupakan tindakan pemerintah dalam rangka memberikan jaminan sosial kepada masyarakat guna mewujudkan kesejahteraan melalui pelayanan kesehatan secara menyeluruh. Adanya kewajiban kepesertaan BPJS tersebut tidak jarang menimbulkan spesikulasi berkaitan dengan tindakan monopoli dan praktik anti persaingan usaha. Penelitian ini secara garis besar bertujuan untuk menelaah sejauh mana kewajiban kepesertaan BPJS sebagai wujud asuransi ditinjau dari hukum persaingan usaha. Permasalahan dalam penelitian ini yaitu, *pertama*, bagaimana kedudukan kewajiban pendaftaran program BPJS Kesehatan terhadap perusahaan asuransi swasta dalam perspektif hukum persaingan usaha? *Kedua*, Apakah kewajiban pendaftaran program BPJS Kesehatan dapat menimbulkan *anti-competitive practices* terhadap perusahaan asuransi swasta? Penelitian ini merupakan penelitian hukum normatif dengan pendekatan perundang-undangan dan pendekatan konseptual yang dianalisis secara kualitatif. Hasil penelitian menunjukkan, *pertama*, kedudukan kewajiban pendafatran BPJS Kesehatan bagi perusahaan merupakan tindakan monopoli yang diperbolehkan secara hukum (Konstitusional) sebab menyangkut hajat hidup orang banyak. *Kedua*, kewajiban pendaftaran kepesertaan BPJS tidak memenuhi unsur *anti-competitive practice* sebab PBJJS tidak menetapkan harga tinggi, kepesertaan diwajibkan bagi setiap orang secara bertahap dan menyeluruh dan memenuhi kriteria pengecualian dalam UU No.5/1999 berkaitan dengan prinsip *per se illegal* dan *rule of reasons* persaingan usaha.

**Kata kunci: Kewajiban Pendaftaran, BPJS, Asuransi, Persaingan Usaha**

## **ABSTRACT**

*The obligation to register companies in the BPJS program is a government action in order to provide social security to the community in order to realize welfare through comprehensive health services. The BPJS membership obligation often raises speculations related to monopoly and anti-business competition practices. This research broadly aims to examine the extent to which the BPJS membership obligation as a form of insurance is viewed from business competition law. The problems in this study are, first, what is the position of the BPJS Health program registration obligation towards private insurance companies in the perspective of business competition law? Second, can the BPJS Health program registration obligation lead to anti-competitive practices against private insurance companies? This research is a normative legal research with a statutory approach and a conceptual approach that is analyzed qualitatively. The results of the study show that, first, the position of the BPJS Health registration obligation for companies is a monopolistic action that is legally permitted (Constitutional) because it concerns the livelihood of many people. Second, the BPJS membership registration obligation does not fulfill the elements of anti-competitive practice because BPJS does not set high prices, membership is required for everyone gradually and thoroughly and meets the exclusion criteria in Law No.5/1999 related to the per se illegal principle and the rule of reasons for business competition.*

**Keywords: Registration Obligation, BPJS, Insurance, Business Competition**