Doktrina: Journal of Law

Available online <http://ojs.uma.ac.id/index.php/doktrina>

Tinjauan Hukum Persaingan Usaha Mengenai Tarif Batas Bawah Maskapai Penerbangan di Indonesia

Review of Competition Law on Tariffs Lower Limit Indonesian Airlines

Dwi Desi Yayi Tarina*, Imam Haryanto**

Fakultas Hukum, Universitas Pembangunan Nasional Veteran Jakarta, Indonesia

*Corresponding Email: tarina112@yahoo.co.id, imam.haryanto@upnvi.ac.id

Diterima: Agustus 2020; Disetujui: April 2021; Dipublish: April 2021

Abstrak

Kebijakan harga adalah hal yang tidak dapat dipisahkan dari persaingan usaha. Kebijakan harga tersebut tidak semata-mata terkait dengan upaya mempertahankan harga atau bahkan menguasai harga pada tingkat tertentu, tetapi menjadi upaya untuk menghasilkan keuntungan yang sebanding dengan kesejahteraan sosial. Sejak regulasi persaingan usaha masuk di Indonesia, dengan bertambahnya pelaku usaha maskapai penerbangan, persaingan di antara mereka menjadi lebih menguntungkan pihak konsumen. Dengan kompetisi yang tinggi dan harga yang bersaing, maskapai penerbangan khususnya maskapai penerbangan nasional menunjukkan bahwa yang menjadi sasaran maskapai penerbangan ini adalah pangsa pasar menengah. Dalam penulisan ini akan membahas mengenai penetapan tarif bawah angkutan penerbangan udara yang dikeluarkan dalam Peraturan Menteri Perhubungan Republik Indonesia dan mengenai penerapan serta dampaknya kepada konsumen dan pelaku usaha dalam aspek persaingan usaha. Hasil penelitian Penelitian Penetapan tarif batas bawah yang diatur dalam Peraturan Menteri Perhubungan Nomor 14 Tahun 2016 pada dasarnya bertentangan dengan ketentuan undang-undang persaingan usaha, khususnya tentang larangan penetapan harga sebagaimana diatur dalam Pasal 5 ayat (1). UU No. 5/1999. Dampak Peraturan Menteri Perhubungan Nomor 14 Tahun 2016 terhadap pelaku usaha penerbangan dan konsumen antara lain adalah berkurangnya kebebasan pelaku usaha dalam menentukan tarif sehingga mengakibatkan tidak tercapainya efisiensi harga.

Kata Kunci: Persaingan, Tarif, Penerbangan

Abstract

The price policy is an inseparable part of business competition. The price policy is not solely related to efforts to maintain prices or even control prices at a certain level but is an effort to generate profits that are proportional to social welfare. Since the entry of business competition regulations in Indonesia, with the increase in airline business actors, the competition between them has become more profitable for consumers. With high competition and competitive prices, airlines, especially national airlines, show that the target of this airline is the middle market share. In this paper, we will discuss the determination of the lower tariffs for air transportation issued in the Regulation of the Minister of Transportation of the Republic of Indonesia and regarding its application and impact on consumers and business actors in the aspect of business competition. Research result The stipulation of the lower limit rate stipulated in the Regulation of the Minister of Transportation Number 14 of 2016 is basically against the provisions of the business competition law, particularly about the prohibition on price-fixing as regulated in Article 5 Paragraph (1) of Law No. 5/1999. The effect of Regulation of the Minister of Transportation Number 14 of 2016 on airline business actors and consumers, among others, is that the freedom of business actors to determine their fares is reduced, this results in not achieving price efficiency.

Keywords: Competition, Fares, Flights

How to Cite: Desi Yayi Tarina, D, Haryanto, I (2021). Tinjauan Hukum Persaingan Usaha Mengenai Tarif Batas Bawah Maskapai Penerbangan di Indonesia. Doktrina: Journal of Law. 4 (1): 1-15

INTRODUCTION

Every human being has their busy activities or activities that require means of transportation that can support or help run these activities. Given that in carrying out daily activities, it is necessary to move cities, maybe even abroad. In this case, the need for transportation facilities is felt to be very necessary. The process of moving from one place to another using transportation is called transportation. Transportation plays a very important role in human life. It can be seen that transportation is essentially a movement from one place to another, whether related to things (goods) or people. The transfer itself is absolute to achieve and increase efficiency (Soekardono:1986).

Transportation is a very vital field of activity in life due to various factors (Muhammad: 1998). First, the geographical condition of Indonesia in the form of land consisting of thousands of large and small islands, and in the form of waters consisting of most of the seas and rivers, and lakes allow transportation to be carried out by land, water, and air to reach the entire country. The condition of the 3 (three) lanes of transportation is the reason for the use of modern mechanically driven transportation means. Second, the progress and smoothness of

transportation will support the implementation of development in the form of spreading development needs, equitable development, and distribution of development results from various sectors throughout the country, for example, the industrial, trade, tourism, and education sectors. Third, smooth transportation means closer distances between villages and cities. This gives an impact to work in the city, not having to move to the city, so there is no need to worry about being employed outside the city. Fourth, developments in the field of transportation encourage the development of education, in the field of modern transportation science and technology, modern transportation facilities and infrastructure, and modern transportation law, especially regarding railways, shipping, aircraft, and human resources.

Several means of transportation or transportation can be an option or alternative, namely land, air, and sea transportation (Muhammad: 1998). Land transportation is divided into 2 (two), namely road transportation and rail transportation. Road transportation for example, such as buses, trucks, and cars, while rail transportation, for example, trains, electric trams, and so on. Apart from ground transportation. There are air

and sea transportation. Air transportation is for example ships, while air transportation is for example airplanes (Kadir: 2006). Based on the three means of transportation above, humans as users of these transportation services can choose which transportation to use. The use of these transportation facilities is by the needs of each service itself.

As human mobility increases, so does the human need for transportation. Seeing this fact, business actors are in the field of transportation, especially air transportation. Business actors choose air transportation as a promising and profitable business for them. This is because business actors see that high human mobility requires people to be more efficient in time when traveling on business, visiting family, studying in other countries, or even just taking a walk. Therefore, the type of transportation chosen by humans as service users is air transportation or transportation. The advantages of traveling by air are that it is comfortable, has good service, and it is faster to reach your destination. Compared to land transportation and sea transportation, air transportation charges higher rates even though the same places or destinations that can be reached by land transportation and sea transportation,

most service users or consumers tend to use air transportation.

The air transportation service industry is an air transportation service for transporting both passengers and goods from one place to other using airplanes and involving other supporting activities. The air transport service industry is an important industry for a country (Priyadi, Aviation Industry Management Strategy: 2009). This is because the air transport service industry is a means of transportation for the wider community so that it becomes a means of exploration for areas in the air as the vertical sovereignty of a country. More than that, scheduled commercial air transport services are more important than the air transportation service industry, namely as one of the crucial means of transportation that can support economic activity and the life of the wider community.

It cannot be denied that airlines are currently very much needed by many consumers. Referring to data from the Central Statistics Agency (BPS), in 2017 the number of domestic air transport passengers (airplane passengers) reached 96.8 million passengers. The number of passengers increased from the previous year by 9.6 percent. For 2018, the number

of passengers in the January-April 2018 period reached 30.2 million people, an increase of 10.42 percent over the same period last year of 27.3 million people. After the deregulation of the airline system, barriers to entry into the air transport market have decreased. Competition in the airline industry is increasingly competitive and new airlines are constantly emerging. More and more new airlines have caused the airline's market share to fall. Then the distribution of market share becomes more even. This happened due to the success of new airlines in capturing the market share of the incumbent airlines. This strategy can create new customers by offering cheap tickets (Siregar: 2011).

This reality has led to the proliferation of air transport service providers or hereinafter referred to as airlines. With the number of airlines, there is a competition between airlines to attract service users or consumers to use their services. To attract consumers' attention, airlines usually provide discounted prices, free tickets, better service, direct prizes, and even lucky draws. The government in 2016 issued the Minister of Transportation Regulation No. 14 of 2016 concerning the Establishment of the Calculation Formulation Mechanism and

Determination of Upper and Lower Tariffs for Economy Class Passengers of Domestic Scheduled Commercial Air Transportation (Permenhub No.14 of 2016) issued by the Ministry of Transportation (Kemenhub) provides a method of calculating upper and lower tariff rates. the lower limit of the airline. The Minister of Transportation who took office when the regulation was drafted was Ignasius Jonan. Permenhub No. 14 of 2016 states that the stipulation of the airline's lower limit tariff is 30% (thirty percent) of the upper limit fare. The regulation was issued because the Ministry of Transportation as the regulator wanted to provide sufficient financial space so that airlines could provide services that were more related to the level of passenger safety. According to the Ministry of Transportation, giving low prices also affects the safety factor of flights.

However, if you pay close attention, Permenhub No. 14 of 2016 will also cause several new problems. When an airline which has a large power in the relevant market (relevant market) sets a lower tariff as a form of tariff war against other airlines, it will cause other business actors to go bankrupt. Airline business actors usually have price differences from one another. Expensive or inexpensive flight fares are due to service quality factors.

Examples are Garuda and Batik Air which implement Full Service Airlines (FSA), which are airlines that provide full service to consumers. Sriwijaya Air as an airline with medium service. Meanwhile, other airlines such as Lion Air, Citilink, and Air Asia implement Low-Cost Carriers (LCC), which are airlines that provide low services and remove some services such as catering, minimum reservations. Of the two differences, of course, will result in differences related to airline fares.

Regarding the dominant position of airline business actors, it can be said that when an airline is already "well known" and has a dominant position and then applies a lower fare, of course, consumers will choose the already "well-known" airline instead of choosing an airline. others when rates are matched. This is because there is no doubt that consumers choose airlines that have high quality and are trusted for a long time.

In business competition law, business actors (in this case airline players) freely seek to get consumers to achieve certain business objectives or companies they establish (Kagramanto: 2010), provided that such freedom does not violate the provisions of business competition law. The stipulation of the tariff below causes airline business actors to be unable to

determine the desired tariff to be offered to consumers. This is because the government provides restrictions regarding the provisions for applying prices to aviation transportation services.

If it is related to a competitive market structure, prices will be formed through the market mechanism itself without any regulation regarding tariffs, those who carry out business activities in the air transport service market only receive prices that have been determined by the market, so those who compete in the market for transportation services air will try to produce more optimally and reach a level that is efficient in production (Andi Fahmi Lubis: 2009). However, when a price is determined not through a market mechanism, competition in the air transport service business will not be able to achieve its efficiency. This is because ideally the price is determined by the market mechanism itself (Silalahi: 2007).

In the principle of competition, this regulation certainly limits airline business actors from conducting their business. Apart from being able to influence airline business actors, the application of lower limit rates also affects the interests of consumers. Also, the application of lower bound rates through Permenhub No. 14 of 2016 is not in line with the objectives of

the Business Competition Law and the purpose of the establishment of Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition (Law No. 5/1999). If an airline business actor commits a fraudulent act in applying the airline transportation service tariff, it may be subject to sanctions by the articles in Law Number 5 of 1999.

RESEARCH METHOD

Research is a scientific activity related to analysis and construction, which is carried out methodologically, systematically and consistently. Methodological means according to a certain method or way, systematic is based on a system, whereas consistent means the absence of things that are contrary to a certain framework.

Types of research

In preparing this study the authors use the method of juridical literature research is research associate normative legal laws as attempts to become the basis and guidelines for implementation in various areas of public life that regulates order and justice (Mamudji: 1995). In particular, in this case is the law relating to business competition law and its implementation is carried out by

conducting document studies and study of library materials.

Problems Approach

In this study the authors used several problem approaches. With this approach to the problem, the writer will get information about the issues to be searched for, namely:

Legislative approach;

Law No. 5/1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition;

Case Approach;

In this study, the authors use cases that occur due to the influence of the implementation of the airline lower limit tariff regulations by the Ministry of Transportation.

Conceptual Approach;

In this study, the authors use several laws and regulations to provide an explanation of the definitions related to the title of this study.

Data Source

The research used in the context of collecting data on the author is literature research in which the author uses data from various sources, including: Secondary Data, which is a library research and is carried out by making an inventory of all regulations and data that are related to the object of this writing.

Data Analysis Technique

Basically, the data obtained from the document study is data that is analyzed descriptively, namely in the form of words not numbers because of the qualitative method (Moleong: 2010). Soerjono Soekanto said that qualitative data analysis is one way of analyzing that produces analytical descriptive data, namely what the respondent states in writing or orally and also real behavior, which is researched and studied as something intact and then the data will be presented in a writing with descriptive writing type. After analyzing the data descriptively, then drawing conclusions inductively, which means the process of taking a (hypothetical) conclusion based on facts or evidence. Induction reasoning is a thought process that is based on general conclusions under certain (special) conditions. In the end the conclusion explains the facts that support the conclusion (Noor: 2011).

DISCUSSION

Determination of the Lower Limit Tariff Regulated in the Minister of Transportation Regulation Number 14 the Year 2016 in terms of Indonesian Business Competition Law

Since the entry of business competition regulations in Indonesia, with the increase in airline business actors, the competition between them has become more profitable for consumers. With high competition and competitive prices, airlines, especially national airlines, show that the target of this airline is the middle market share. This market share is the largest market share for consumers of air transport services on national flight routes. Emphasizing the price of a service does not mean simply lowering the price without going through logical and economic considerations. The most important reason is to keep considering the safety and security of consumers.

One of the main consumer protections for consumers for air transport services is also the establishment of reasonable rates. However, the problem of tariff setting is not a simple matter and is not just setting a tariff just like that, but one has to look at the determining factors that influence the high and low tariffs. Narrowly, tariffs are only a combination of various cost components which ultimately link the fare which airlines consider at least not detrimental to the company. An ideal tariff is still a question mark. Three aspects are

an element of pricing for airline business actors, namely (Suherman: 2000):

Air transport system

This aspect is very decisive in the matter of tariff setting. The air transport system is a system based on the basic policy for dealing with air transportation, which then describes the policy in the form of regulations regarding the airline system in Indonesia, the structure of flight routes, and the development of the air transport industry. One of the main policy principles regarding air transportation must be development-oriented, it must be able to function as a means of development in Indonesia. With this principle, the arrangement and pattern of guidance will be directed towards the benefits of development. Until now, Indonesia did not have a strict airline system since 1950, after Garuda Indonesia Airways was established on March 31, 1950.

Competition

The problem of competition is inherent in a multi-airline system, but it is not a liberal competition, such competition is not preferred, because it will harm the competing parties and in the end, it will harm consumers. The ideal competition is one that is regulated and fostered so that it will benefit the parties involved because it

will result in a reasonable rate, a service that follows established benchmarks, and satisfactory consumer protection. One thing that may be felt like an evil by the affected party is that in a regulated competition system there must be the possibility and authority for the government not to grant or revoke unhealthy airline operating concessions/permits, or to merge two or more airlines into one. stronger company.

Fair rates

The calculation of the tariff for an airline company is a job that requires expertise, moreover what is desired is a reasonable rate, that is, it is not detrimental to the airline but not too heavy for consumers. An ideal tariff is a tariff that can be reached by the people at large, say by 40% of the total population of Indonesia, besides being determined by factors outside the control of the airlines, namely economic conditions in general.

The level of the tariff is determined by the size of the cost. An increase in one of the cost components, for example, fuel with a 55% increase, should not lead to an overall increase in tariffs. An appropriate tariff setting must be supported by a proper, accurate financial administration that can provide figures for the costs incurred by the company for a particular

type. Between the ideal tariff and the reasonable rate lies a difference that can only be eliminated by eliminating other factors that affect the level of people's purchasing power. Some of the things that can affect the level of tariffs are overinvestment from airlines, high aircraft maintenance costs due to high spare parts prices, airline company overstaffing, ineffective work methods, and generally less quality management, which causes waste.

In general, business competition in the world of aviation is divided into two categories, namely LCC and full service. LCC is referred to as a no-frills and budget airline, meaning that it is a scheduled flight company (schedule carrier) with lower costs than airlines in general. The implementation of this LCC can reduce the drop in flight rates even up to half the price (Rahman: 2003). In contrast to full service, this can be seen from the cost which is one level higher than LCC but prefers to satisfy consumers in service and prioritize comfort and satisfaction, both of which have similarities in terms of safety, preferably either LCC or full service.

Airlines that use services in the form of LCC include Air Asia, Lion Air, Citilink, and other airlines that have low fares. Meanwhile, airlines that use full service to

their customers are Garuda Indonesia and Batik Air. However, several airlines combine LCC and full-service services, such as the Sriwijaya Air airline using medium service. The competition between LCC airlines and full-service airlines is both to attract as many consumers as possible according to their respective marketing targets because each consumer has his ability and willingness to pay (ability to pay and willingness to pay).

Consumers of air transport services themselves experienced a significant increase. This is presumably because airplane ticket rates tend to be cheaper than before the change in regulations in air transport services. Also, the increase in people's purchasing power along with the growing Indonesian economy is one of the factors that has led to an increase in the number of consumers using aviation services. The strategy of new airlines (especially flights with LCC services) that offer cheap ticket prices has triggered competition in the air transport service market to become increasingly competitive. Lion Air is an example of a new airline that is quite aggressive in offering cheap fares to consumers. At that time Lion Air tried to take advantage of the opportunity when the government lifted the lower limit tariff regulations for

airlines. By offering these low prices, Lion Air tries to attract as many middles to lower consumers as possible, most of whom are still price-sensitive (Wardiningsih: 2009).

Not wanting to lose out in competition, Garuda Indonesia is trying to expand its expansion by offering LCC services through Citilink Indonesia's airline. The airline started operating in 2011. With the LCC concept, Citilink Indonesia has operated as a cost-effective airline in the form of a Garuda Indonesia business division using several aircraft fleets, limited bandwidth management, and several routes that have focused on the development of the Garuda Indonesia brand. which is a premium airline. This has made competition between LCC airlines even tighter with Citilink Indonesia's entry into the air transport service market with LCC services. The number of airline customers is always increasing every year. The total number of airline passengers in 2017 was 96,890,664 passengers.

In the Regulation of the Minister of Transportation Number 14 of 2016, some regulations stipulate that the lower limit fare for economy class airlines is the lowest at 30% of the upper limit fare. Airline airlines are required to comply with these provisions and if there are

airlines that violate them, the airline will be sanctioned.

Judging from the business competition law, Regulation of the Minister of Transportation Number 14 of 2016 can cause unfair business competition. Violations in the business competition law can be said to occur when the elements of articles of the Antimonopoly Law are fulfilled. In Article 5 Paragraph (1) of the Antimonopoly Law, it is explained that "Business actors are prohibited from entering into agreements with their business competitors to fix prices for goods and / or services that must be paid by consumers or violations of the same relevant market."

The Ministry of Transportation as the agency overseeing the field of air transportation services feels the need to set a lower limit tariff. The background and objectives of the issuance of Regulation of the Minister of Transportation Number 14 of 2016 include:

The effect of low ticket prices on aviation safety factors;

Price wars can potentially lead airlines to ignore safety factors;

So that airlines have sufficient financial space to raise safety standards.

From the reasons above, one of the efforts to create fair business competition accompanied by an increase in airline safety standards, the Ministry of Transportation feels that it is necessary to set lower airline tariffs. As a regulator in the field of air transport services, the Ministry of Transportation has the authority to do this. Therefore Permenhub No. 14 of 2016 was published in 2016 to prevent things that are of concern to the Ministry of Transportation, especially regarding the safety of aircraft passengers.

In 2018, the Minister of Transportation Budi Karya Sumadi even wants to revise the lower limit tariff to 35% (thirty-five percent), meaning that there is an increase in the lower limit rate of 5% (five percent) from Permenhub No. 14 of 2016. According to the Minister of Transportation Budi Karya Sumadi, Permenhub No. 14 of 2016 which is currently in effect still causes a tariff war between airline business actors, so that airlines that are not able to compete will experience bankruptcy. For these reasons, the Ministry of Transportation as the regulator wants to provide protection and improvement to the community about the existence of a lower limit tariff. With the enactment of these regulations, businesses and consumers will get more benefits.

The Influence of Regulation of the Minister of Transportation Number 14 of 2016 on Airline Business Actors and Consumers

Business competition theory states that the determination of the lower limit rate will cause several losses to business actors. The lower limit tariff agreement certainly harms business actors and a fair climate for business competition (price competition) so that it is prohibited by law. The stipulation of this lower limit tariff also provides limits for business actors so that the freedom to set their prices is reduced.

Basically, in the tight business competition, it will cause efficiency. The airlines that sell ticket prices below the lower limit tariff, and this makes other airline business actors go bankrupt, the regulator is not responsible for the bankruptcy. This means that the government does not need to intervene to improve the efficiency of airlines so as not to go bankrupt. The government also does not need to set a lower bound rate on the relevant market. In this case, the government should organize a fair and healthy business competition. If there are allegations of business competition violations, the Business Competition Supervisory Commission must also restore

the unfair business competition conditions to being conducive again.

M. Udin Silalahi in his book also states that tariff fixing will have several negative impacts in the world of business competition, especially in the air transport service market by setting a price above competitive (naked agreement to eliminate competition), thus the price-fixing is any form. prohibited by business competition law (Nugroho: 2012). Determining the lower limit tariff, in this case, will provide an entry barrier for airline business actors who are efficient and able to offer tariffs that are lower than the lower limit rates. From a fairness point of view, the stipulation of the lower limit tariff may cause injustice to airline business actors who wish to enter the relevant market. For example, the lower limit rate for the route from City A to City B is IDR 200,000 (two hundred thousand rupiahs), while airlines that already have experience and a high market share set a ticket fare of IDR 250,000 (two hundred and fifty thousand rupiahs), with a very small difference from the lower limit tariff, new airline business actors will find it difficult to compete with old airlines, this can cause new airline business actors to go bankrupt because they are not allowed to carry out promotions with airplane ticket

prices lower than the tariff the lower limit in force.

In terms of justice, John Rawls's view is related to the principle of justice which the author has discussed in Chapter I states that justice must look at all human beings (in this case all airline business actors) with conditions of freedom, rationality, and equality (justice as fairness). Permenhub No. 14/2016 provides a sense of injustice for airline business actors who wish to enter the relevant market with the existence of an entry barrier. The difference between the lower bound tariff and the relatively low tariff in the field means that new airline business actors will not be able to compete with Air Asia, Lion Air, and Citilink due to the slight difference between the lower tariff and the lower limit tariff, this is due to consumer confidence in airlines that are has been operating for a long time. So that new airlines that enter the relevant market will experience bankruptcy due to failure to compete with other airlines that have been in the relevant market for a long time.

There is price-fixing by airline business actors in the context of implementing the policy in Permenhub No. 14 of 2016 causes airline business actors to dictate air transport service users and

impose the desired tariff unilaterally, where the price is above the reasonable price (Lubis: 2017). In business competition theory, price is not a reference for consumers. Each consumer can pay (ability to pay) and willingness to pay. Classes on an airplane in this case are also neglected because of several things that we can measure, such as the level of need, panic, and rush. Therefore, consumers will be forced to buy tickets even though the rates are more expensive.

In 2015, the Jakarta-Surabaya flight ticket prices were set by the Ministry of Transportation in Permenhub No. 51 of 2014 jo. Permenhub No. 91 of 2014 concerning the Establishment of the Calculation Formulation Mechanism and the Determination of the Upper Limit for Passengers on Economy Class Services for Domestic Scheduled Commercial Air Transportation, the lowest is IDR 530,800.00 (five hundred and thirty thousand eight hundred rupiahs), then in 2016, the Minister of Transportation issued Regulation No. 14 of 2016 which revokes Permenhub No. 51 of 2014 jo. Permenhub No. 91 of 2014 so that the lower limit of airline tickets is IDR 412,000.00. With the existence of lower limit tariff regulations made by the Ministry of Transportation from 2015 to

2017, airline ticket prices have increased, as a result of which consumers suffer losses every time they use air transportation services.

During the 2015-2017 period, all consumers of air transportation services experienced consumer losses. Consumers in this case should get cheaper tickets by not applying the lower limit rate through the stipulation of the lower limit rate in 2015 based on Permenhub No. 51 of 2014 jo. Permenhub No. 91 of 2014 and also Permenhub No. 14 of 2016. The loss originates from the difference in the fair price set by the airlines in 2014 and after 2014 (2015-2017) with an average value of around Rp256,500.00 (two hundred and fifty-six thousand five hundred rupiahs) per passenger. With the number of air transport service consumers from 2015 to 2017 reaching 262,774,429 passengers (Ministry of Transportation, 2017), the average number of consumer losses incurred in the 2015-2017 period is calculated using $\text{IDR } 256,500.00 \times 262,774.429$ passengers whose result is around Rp.67.4 trillion (sixty-seven point four trillion rupiahs).

The description above is a rough calculation of consumer losses which, when linked to the theory of benefit, Permenhub No. 14 of 2016 has only a few

benefits for many people, especially consumers of air transport services. The total loss of Rp.67.4 trillion should be used for things that can improve the welfare of the people at large. When related to production costs, the price of avtur in 2014 reached IDR 9,507.00 / liter (CNN Indonesia, 2018), while the avtur price in 2018 was only in the range of IDR 7,580.00 / liter (Detik Finance, 2018). So the authors can conclude that with the avtur price in 2014 which reached IDR 9,507.00 / liter, the average economy class airplane ticket price was in the range of IDR 574,453.00, while the avtur price in 2018 was only in the range of IDR 7. 580.00 / liter, the average price of an economy class airplane ticket increases to around IDR 831,000.00.

With the cheaper avtur prices in 2018, the plane tickets offered that year should at least be cheaper or lowered. However, with the existence of the Minister of Transportation Regulation Number 14 of 2016 which is in effect until now, airplane ticket prices have become much more expensive. This is not by the considerations in the formation of the Minister of Transportation Regulation Number 14 of 2016.

CONCLUSION

The stipulation of the lower limit rate stipulated in the Regulation of the Minister of Transportation Number 14 of 2016 is basically against the provisions of the business competition law, particularly about the prohibition on price-fixing as regulated in Article 5 Paragraph (1) of Law No. 5/1999. However, the Regulation of the Minister of Transportation Number 14 of 2016 can be exempted from agreements that are prohibited by Article 50 letter a. The existence of the Minister of Transportation Regulation No. 14 of 2016 which regulates the lower limit tariffs on air transport services provides a limit for airline business actors in determining the rates offered to consumers. The effect of Regulation of the Minister of Transportation Number 14 of 2016 on airline business actors and consumers, among others, is that the freedom of business actors to determine their fares is reduced, this results in not achieving price efficiency. Also, business actors wishing to enter the relevant market will find it difficult because of obstacles to entry to the relevant market (entry barrier), business actors wishing to enter will directly face airline business actors who already have high market strength and share. this is a form of injustice for new

airline business actors. Consumers will also be disadvantaged by the existence of the Minister of Transportation Regulation Number 14 of 2016 which has several negative impacts on consumers. One of these disadvantages is the increase in airline ticket rates which can put a burden on consumers so that it will affect consumer welfare.

REFERENCES

- Andi Fahmi Lubis, e. a. (2009). *Hukum Persaingan Usaha Antara Teks dan Konteks*. Jakarta: Deutsche Gesellschaft fur Technische Zusammenarbeit GTZ GmbH.
- Boediono. (2002). *Seri Sinopsis Pengantar Ilmu Ekonomi No. 1 Ekonomi Mikro*. Yogyakarta: BPFE.
- CNN Indonesia. (2018). Retrieved from Harga Avtur Pertamina Kembali Turun saat Rupiah Melemah: <<https://www.cnnindonesia.com/ekonomi/20141216112858-92-18413/harga-avtur-pertamina-kembali-turun-saat-rupiah-melemah>>
- Detik Finance. (2018). Retrieved from Penerbangan RI Masih Terkendala Harga Avtur, Ini Langkah Menhub: <<https://finance.detik.com/energi/d-4107864/penerbangan-ri-masih-terkendala-harga-avtur-ini-langkah-menhub>>
- ELIPS. (2000). *Laporan Kebijakan Persaingan Indonesia: Indonesian Competition Report*. Jakarta: Elips.
- Jhingan, M. L. (2012). *Ekonomi Pembangunan dan Perencanaan*. Jakarta: Raja Grafindo Persada.
- Kadir, A. (2006). Transportasi: Peran dan Dampaknya dalam Pertumbuhan Ekonomi Nasional. *Jurnal Perencanaan & Pengembangan Wilayah Wahana Hijau*, 122.
- Kagramanto, L. B. (2010). *Mengenal Hukum Persaingan Usaha*. Sidoarjo: Laras.
- Kementerian Perhubungan. (2017). Retrieved from Statistik Perhubungan Buku I Tahun 2017: <http://www.dephub.go.id/public/ppid_assets/files/posts/buku-statistik-1-2017-final.pdf>
- Lubis, A. F. (2017). *Hukum Persaingan Usaha: Buku Teks*. Jakarta: Komisi Pengawas Persaingan Usaha.
- Mamudji, S. S. (1995). *Penelitian Hukum Normatif*. Jakarta: Rajawali Press.
- Moleong, L. J. (2010). *Metode Penelitian Kualitatif*. Bandung: PT. Remaja Rosdakarya.
- Muhammad, A. (1998). *Hukum Pengangkutan Niaga*. Bandung: Citra Aditya Bakti.
- Noor, J. (2011). *Metode Penelitian: Skripsi, Disertasi & Karya Ilmiah*. Jakarta: Kencana.
- Nordhaus, P. A. (2004). *Ilmu Makroekonomi*. Jakarta: PT. Media Global Edukasi.
- Nugroho, S. A. (2012). *Hukum Persaingan Usaha di Indonesia: Dalam Teori dan Praktik serta Penerapan Hukumnya*. Jakarta: Kencana.
- Priyadi, S. (2009). *Strategi Pengelolaan Industri Penerbangan*. Bandung: Universitas Pendidikan Indonesia.
- Priyadi, S. (Universitas Pendidikan Indonesia). *Strategi Pengelolaan Industri Penerbangan*. Bandung.
- Rahman, M. F. (2003). Low Cost Airlines dan Perkembangannya di Indonesia. *Jurnal Manajemen Transportasi: Sekolah Tinggi Manajemen Transportasi Trisakti*, 16.
- Shapiro, R. S. (1996). *Glossary of Industrial Organisation Economics and Competition Law*. Paris: OECD.
- Silalahi, M. U. (2007). *Perusahaan Saling Mematikan dan Bersekongkol: Bagaimana Cara Memenangkan?* Jakarta: PT. Elex Media Komputindo.
- Silalahi, M. U. (2007). *Perusahaan Saling Mematikan dan Bersekongkol: Bagaimana Cara Memenangkan?* Jakarta: PT. Elex Media Komputindo.
- Siregar, A. R. (2011). *Globalisasi dan Persaingan Usaha: Arah Kebijakan Ekonomi Nasional*. Bandung: Humaniora.
- Soekardono. (1986). *Hukum Dagang Indonesia*. Jakarta: Rajawali Press.
- Suherman, E. (2000). *Aneka Masalah Hukum Kedirgantaraan: Himpunan Makalah 1961-1995*. Jakarta: Mandar Maju.
- Wardiningsih, S. S. (2009). Strategi PT. Kereta Api Indonesia untuk Menghadapi Dampak Perang Tarif Murah di Maskapai Penerbangan Indonesia. *Jurnal Ekonomi dan Kewirausahaan*, 68.