



Dynamics of Aviation Business Competition in Indonesia: Legal Challenges and Safety Aspects

Nisfa Salsadillah¹, Adhy Riadhy Arafah²

Faculty of Law, Universitas Airlangga, Surabaya, Indonesia.

*Corresponding author : nisfa.s25@gmail.com

Submitted : 16-02-2025

Accepted : 13-05-2025

Reviewed : 23-04-2025

Published : 09-07-2025

Abstract

Background: This paper explores the critical role of the aviation industry in facilitating the transportation of goods and passengers in an archipelagic country like Indonesia. As a fast, efficient, and economical alternative for inter-island and interregional transport, aviation has become indispensable. However, the growing competition among national airline companies has led to significant challenges, with some carriers suffering losses and even facing bankruptcy.

Methodology: A normative legal research approach is employed to examine the legal framework governing business competition in the aviation sector, as well as aviation safety regulations. The study further analyzes Indonesia's obligations as a member of the international community, particularly its commitments under the International Civil Aviation Organization (ICAO).

Objectives: To analyze the intersection between aviation safety and competition law in Indonesia, identifying legal challenges and ensuring fair business practices among national airline operators.

Findings: The research finds that unhealthy business competition among national airline companies has led to legal disputes and interventions by the Indonesian Competition Commission (KPPU). These include findings of violations under Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. Such practices have not only harmed competing businesses but also threatened the sustainability of the aviation industry.

Originality/Novelty: This study provides a legal perspective that integrates competition law and aviation safety regulations, an area that is often treated separately in academic discourse. It also contributes to the understanding of how Indonesia's dual obligations—to maintain market fairness and ensure international aviation safety standards—can be harmonized through effective legal mechanisms.

Keywords: aviation safety; aviation business; unfair business competition.

Abstrak

Latar Belakang: Tulisan ini membahas peran penting industri penerbangan dalam mendukung pengangkutan barang dan penumpang di negara kepulauan seperti Indonesia. Sebagai moda transportasi alternatif yang cepat, efisien, dan ekonomis untuk perjalanan antar pulau dan antar daerah, penerbangan memiliki posisi strategis. Namun, meningkatnya persaingan di antara maskapai nasional telah menimbulkan tantangan serius, termasuk kerugian besar yang dialami oleh beberapa perusahaan hingga dinyatakan pailit. **Metodologi:** Penelitian ini menggunakan pendekatan hukum normatif untuk mengkaji kerangka hukum yang mengatur persaingan usaha di sektor penerbangan, serta ketentuan mengenai keselamatan penerbangan. Analisis juga dilakukan terhadap kewajiban Indonesia sebagai bagian dari masyarakat internasional, khususnya sebagai anggota International Civil Aviation Organization (ICAO). **Tujuan:** Untuk



menganalisis keterkaitan antara keselamatan penerbangan dan hukum persaingan usaha di Indonesia, serta mengidentifikasi tantangan hukum dalam menciptakan praktik bisnis yang adil di antara pelaku usaha maskapai penerbangan nasional. **Temuan:** Hasil penelitian menunjukkan bahwa praktik persaingan usaha yang tidak sehat di antara maskapai penerbangan nasional telah menimbulkan berbagai sengketa hukum dan intervensi oleh Komisi Pengawas Persaingan Usaha (KPPU). Beberapa kasus dinyatakan melanggar ketentuan dalam Undang-Undang Nomor 5 Tahun 1999 tentang Larangan Praktek Monopoli dan Persaingan Usaha Tidak Sehat. Praktik-praktik ini tidak hanya merugikan pelaku usaha lain, tetapi juga mengancam keberlanjutan industri penerbangan nasional. **Kebaruan/Orisinalitas:** Kajian ini menawarkan perspektif hukum yang mengintegrasikan antara hukum persaingan usaha dan regulasi keselamatan penerbangan—dua aspek yang umumnya dibahas secara terpisah dalam kajian akademik. Penelitian ini juga memberikan kontribusi dalam memahami bagaimana Indonesia dapat menyeimbangkan kewajiban menjaga persaingan usaha yang sehat dengan pemenuhan standar keselamatan penerbangan internasional melalui mekanisme hukum yang efektif.

Kata Kunci: keselamatan penerbangan; bisnis penerbangan; persaingan usaha tidak sehat.

A. Introduction

The aviation industry has a crucial role in transporting goods and passengers. The very rapid growth of the aviation industry is inseparable from the high demand and needs from the market. As an archipelagic country that is recorded to have more than 17,000 islands,¹ Indonesia certainly needs an air transportation mode for mobility from island to island, as well as becoming a driver of the community's economic sector.² Viewed from various aspects, air transportation has a strategic role and function, especially considering the fact that air transportation is the only fast and efficient alternative transportation for inter-island and inter-regional transportation, especially for remote areas outside Java.³

The rapid development of the aviation industry in Indonesia was marked by the increase in the number of airlines in the period 1999 – 2005.⁴ Some of the airlines that were established in this period include Lion Air (1999), Sriwijaya Air (2003), Wings Air (2003), Transnusa (2005), Air Asia (2005), Susi Air (2004), Star Air (1999), Aviastar (2003), Batavia Air (2002), Citilink (2001), Jetayu Airlines (2000).⁵ The surge in the number of airlines is the result of the deregulation in the aviation sector implemented by the

¹ Anton Setiawan, "Indonesia.Go.Id - These are 63 New Islands in Indonesia," 2024, <https://indonesia.go.id/kategori/editorial/8865/ini-63-pulau-baru-di-indonesia?lang=1>.

² Purnawan Adi Wicaksono et al., "Model for Determining the Requirement of Aircraft N219 on Non-Pioneer Routes in Indonesia," *IOP Conference Series: Earth and Environmental Science* 195, no. 1 (2018), <https://doi.org/10.1088/1755-1315/195/1/012032>.

³ E. Saefullah Wiradipradja, *The Law of Air Transport from Warsaw 1929 to Montreal* (Bandung: Qibla Buku Utama, 2008), 18.

⁴ Andhi Pahlevi Amin, "Analysis of the Influence of Flight Fares, Number of Flights and Per Capita Income in Increasing the Number of Passengers," *STRATEGI Business Journal* 22, no. 1 (2013): 49–66.

⁵ Muhammad Idris, "List of 11 Indonesian Airlines That Went Bankrupt, Garuda Followed? All Page - Kompas.Com," 2021, <https://money.kompas.com/read/2021/10/27/083715826/daftar-11-maskapai-penerbangan-ri-yang-bangkrut-garuda-menyusul?page=all>.

government in the early 2000s as a result of the monetary crisis in 1998.⁶

The deregulation of aviation provides leeway for entrepreneurs to form new airline companies. This was done by the government by canceling the entry and operating licenses of aircraft through Presidential Decree Number 33 of 2000 and authorizing new airlines to operate heavy routes.⁷ Therefore, as long as the aircraft meets emission standards and quality, airlines are free to choose the type of aircraft to be operated regardless of age. In addition, although the aircraft is still in the negotiation stage, the government allows airlines to fly with only two aircraft in their operations by the Decree of the Minister of Transportation Number 11 of 2001 concerning the Implementation of Air Transportation.

The aviation deregulation policy encouraged the birth of low-cost carrier followed by a reduction in some services that are usually provided by full-service airlines, such as the provision of food during the flight, the narrowed seat spacing to accommodate more passengers, and a single class of service.⁸ The reduction of some of these services cuts the production and operational costs of airline companies, so that it can provide much cheaper ticket prices.

As a result, competition in the aviation industry has increased rapidly. Not a few of these airline companies eventually went bankrupt due to losses, such as Adam Airlines, Batavia Airlines, and Mandala Airlines.⁹ Various factors cause these airlines to be unable to survive in competition. Bad financial and organizational management also contributed to the airlines suffering losses until they were declared bankrupt. As an industry that has great risks but produces not too much profit, and is a capital-intensive business with current conditions that are still stagnant,¹⁰ the aviation industry in Indonesia seems to ignore the safety aspect.¹¹ High operational costs are one of the reasons why the aviation industry earns relatively little profits but with great risks.

Article 15 of the Regulation of the Minister of Transportation Number 20 of 2019 details some of the operating costs required by aircraft for a single flight, which ultimately triggers very fierce, even unhealthy, competition between business actors. Law Number 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition seeks to regulate matters such as cartels and pricing by an airline or even certain airline groups.

⁶ Tiarto Tiarto, "The Implication of Airlines Deregulation in the End of the 20Th Century on Industrial Development of Commercial Air Transport Schedule in Indonesia," in *Conference on Global Research on Sustainable Transport (GROST 2017)*, vol. 147, 2018, 335–46, <https://doi.org/10.2991/grost-17.2018.29>.

⁷ Tiarto.

⁸ Indra Setiawan et al., "Aviation Deregulation and Performance of Scheduled Commercial Airlines," *Journal of Transportation & Logistics Management (JMTRANSLOG)* 2, no. 1 (2015): 1, <https://doi.org/10.54324/j.mtl.v2i1.130>.

⁹ Idris, "List of 11 Indonesian Airlines That Went Bankrupt, Garuda Followed? All - Kompas.Com page."

¹⁰ Typhoon Yuniarto, "Indonesia's Aviation Industry Journey - Kompas.Id," 2021, <https://www.kompas.id/baca/paparan-topik/2021/12/13/perjalanan-industri-penerbangan-indonesia>.

¹¹ Titik Anas dan Christopher Findlay, "Indonesia: Structural Reform in Air Transport Service APEC Policy Support Unit," 2017, 22–25, https://www.apec.org/docs/default-source/Publications/2017/6/Indonesia-Structural-Reform-in-Air-Transport-Service/217_PSU_Indonesia_Air-Transport_Final.pdf.

The national aviation industry, which is currently controlled by certain airline groups, has an impact on the control of flight routes that have high economic value. This can be seen from the data on the number of national airlines that are recorded to operate in Indonesia, namely 91 airlines, but only ten percent (10%) are known to the public because they serve large routes.¹²

Some 'fat' flight routes are indicated to be controlled by large airline companies. As for small airlines, more flights to routes that have the potential to be safety-prone, especially in inland areas or other pioneer areas that also have few passengers.¹³ The control of the above operational area causes airlines to only be able to operate certain types of aircraft with the majority of small aircraft types. On the other hand, the lack of facilities at airports in remote areas is also caused by the government focusing more on large airport facilities with strategic routes. The control of strategic routes by certain airlines results in unfair business competition practices that are detrimental, both for operating airlines and consumers in Indonesia. In addition, the significant difference in safety facilities at remote and pioneer airports with large airports also has an impact on unfair business competition which also illustrates that the rate of air transportation accidents is generally dominated by small airlines serving remote and pioneer routes.

This paper is prepared using a normative legal writing approach, where the topic of this paper uses an analysis that is guided by several legal principles, legal principles, or legal principles that are interrelated with the substance of general and special laws and regulations so that they can answer existing legal issues related to aviation safety and its relation to business competition in the Indonesian national aviation industry.¹⁴

B. Discussion

1. Keselamatan Pesawat Udara Sipil Ditinjau Dari Hukum Nasional dan Internasional

The International Civil Aviation Organization (ICAO) is a specialized body under the auspices of the United Nations (UN) that plays a role in formulating and disseminating international aviation safety standards.¹⁵ ICAO's aviation policies are outlined in Annexes and guides that cover various aspects of aviation, one of which is aviation safety which consists of aircraft design, flight operations, to crew training.¹⁶

The implementation of this standard aims to create uniformity in aviation safety practices around the world, so that every flight achieves an optimal level of safety, regardless of the route or operator.¹⁷ International cooperation and commitment to compliance with these

¹² Ministry of Transportation, "List of Airlines & Aviation Organizations - Directorate General of Civil Aviation," 2025, <https://hubud.kemenuh.go.id/hubud/website/maskapai-organisasi>.

¹³ Ministry of Transportation, "Air Transport Statistics in 2022," 2022, 18.

¹⁴ Peter Mahmud Marzuki, *Legal Research*, 16th ed. (Prenadamedia Group (Kencana Division), 2024), 182.

¹⁵ Ananda Zahra Salsabil and Arif Fakhruddin, "The Influence of Safety Culture, Safety Management System and Flight Traffic Guidance Factors on Aviation Safety at Perum LPPNPI Matsc Branch," *VISA: Journal of Visions and Ideas* 4, no. 2 (2024): 861, <https://doi.org/https://doi.org/10.47467/visa.v4i2.2115>.

¹⁶ ICAO, "State of Global Aviation Safety," *ICAO Safety Report 2019 Edition*, 2019, https://www.icao.int/safety/Documents/ICAO_SR_2019_final_web.pdf.

¹⁷ Hasim Purba, "Realizing Aviation Safety by Building Legal Awareness for Stakeholders through the Application of Safety Culture," *Journal of Law Samudra Keadilan* 12, no. 1 (2017): 95–110.

rules are expected to encourage the aviation industry to continue to improve safety and reduce the number of accidents, including by utilizing and implementing the latest technologies, improving operational procedures, and better training for all relevant personnel.

As understood, aviation accidents have the potential to damage the image of air transportation service companies in the eyes of the public. However, accidents in flight operations can be caused by various things, such as inadequate infrastructure facilities, adverse weather conditions, human error, and procedural errors. Therefore, the implementation of this standard is important to maintain operational quality in the air transportation industry in order to provide a guarantee of comfort and safety to passengers.¹⁸ International rules on aviation safety are regulated known as Standard and Recommended Practices (SARPs) and the 1944 Chicago Convention on International Civil Aviation¹⁹ as a strong legal basis for the implementation and supervision of compliance with aviation safety standards by ICAO member states. Audits and oversight are carried out by ICAO through programs such as the Universal Safety Oversight Audit Programme (USOAP) to ensure that member countries implement safety regulations that are in accordance with international standards.²⁰

There are a number of Annexes to the Chicago Convention detailing aviation safety standards and procedures. These annexes cover important aspects of aviation safety, from aviation personnel certification, aircraft airworthiness, flight operations, to the investigation of aviation accidents and incidents. Each Annex serves as a guide for member states in developing and implementing aviation safety regulations at the national level.²¹ The annexes to the Chicago Convention include:

- 1) Annex 1: Personnel Licensing
Contains certification and training standards for aviation personnel, including pilots, aircraft technicians, and other ground personnel. This Annex sets out the qualification, experience, and exam requirements for obtaining an aviation license.
- 2) Annex 2 - Rules of The Air
Contains the rules related to flight visually and flight using instruments.
- 3) Annex 3 - Meteorological Service for International Air Navigation
Contains provisions on meteorological services for international navigation and notification of meteorological observations from aircraft.
- 4) Annex 4 - Aeronautical Charts
Contains regulations on the specification of aeronautical maps used in international flights.
- 5) Annex 5 - Units of Measurement to be Used in Air and Ground Operation
Contains provisions regarding the units of measurement used in flights.
- 6) Annex 6: Operation of Aircraft

¹⁸ Dong Min Seo, "A Comparative Study on the Effective Implementation of the Mandatory IMO Member State Audit Scheme: A Case Study of the Republic of Korea" (World Maritime University, 2010), 38, https://commons.wmu.se/cgi/viewcontent.cgi?article=1429&context=all_dissertations.

¹⁹ Adhy Riadhy Arafah et al., *Introduction to Air Law: Developments and Selected Issues* (Airlangga University Press, 2022), pp. 8–9.

²⁰ Edie Diabe, "An Assessment of The Effect of the 1944 Chicago Convention on the Air Carrier ' S Duty of Airworthiness Under the Carriage of Goods," *Commonwealth Law Review Journal* 8, no. 2022 (2022): 267–91.

²¹ Nainggolan et al.

- Contains provisions regarding flight operations, including requirements for aircraft operation, flight procedures, flight safety management, and aircraft maintenance.
- 7) Annex 7 - Aircraft Nationality and Registration Marks
Contains general requirements for aircraft registration and identification.
 - 8) Annex 8: Airworthiness of Aircraft
Establish technical standards to ensure the aircraft has safe conditions to fly and aircraft maintenance is carried out regularly.
 - 9) Annex 9 – Facilitation
Contains provisions regarding the standards of airport facilities that will support the smooth and entry of passenger and cargo aircraft at the airport.
 - 10) Annex 10 - Aeronautical Communications
Contains provisions on standard procedures, systems, and communication equipment.
 - 11) Annex 11 - Air Traffic Service
Contains about the procurement and supervision of air traffic, flight information and notification services and warnings about dangerous conditions
 - 12) Annex 12 - Search and Rescue
Contains provisions on the organization and empowerment of facilities in support of the search for missing aircraft.
 - 13) Annex 13: Aircraft Accident and Incident Investigation
Provide a framework for conducting thorough investigations into aviation accidents and incidents with the aim of identifying their causes and preventing similar incidents from occurring in the future.
 - 14) Annex 14: Aerodromes
Contains provisions regarding the design, operation, and maintenance of the airport. This Annex sets the standards of airport infrastructure, including runways, lighting systems, and other ground facilities to ensure flight safety during takeoff to landing.
 - 15) Annex 15 - Aeronautical Information
Contains methods to collect the means of disseminating information needed in in-flight operations.
 - 16) Annex 16 - Environmental Protection
Contains provisions regarding environmentally friendly certificates, supervision of noise caused by emissions from air engines.
 - 17) Annex 17 – Aviation Security
Contains provisions regarding the protection of international civil aviation safety from unlawful acts.
 - 18) Annex 18 - The Safe Transport of Dangerous Goods by Air
Contains rules regarding signs, how to pack, and transport dangerous cargo.

In addition to the Annexes of the Chicago Convention above, Indonesia regulates provisions related to aviation safety through national laws and regulations, which are the implementation of ICAO recommendations and the implementation of the Chicago Convention at the domestic level as tangible actions from the government as a member

of ICAO to create an aviation industry climate that prioritizes safety and is a commitment to comply with international rules. The Indonesian national laws and regulations include:

1) Minister of Transportation Regulation Number 21 of 2015 concerning Aviation Safety Standards

This regulation governs safety requirements and procedures that must be met by all parties in the civil aviation industry in Indonesia, including flight operators, airports, and aviation personnel which cover aspects of aviation safety, such as aircraft certification and airworthiness, licenses and qualifications of aviation personnel, standard operational procedures, and risk management and aviation safety management systems.

The issuance of this regulation aims to ensure that all flight operations meet high safety standards, minimize the risk of accidents and incidents, and protect the safety of passengers, crew and the public. This regulation contributes to improving the safety and reliability of civil aviation in Indonesia, as well as ensuring compliance with international standards set by ICAO.

2) Minister of Transportation Regulation Number PM 45 of 2017 concerning the Tenth Amendment to the Minister of Transportation Regulation Number KM 25 of 2008 concerning the Implementation of Air Transportation

This regulation introduces adjustments and improvements to existing provisions, covering technical, operational, and service aspects to passengers. Some of the important things that are regulated include licensing requirements for airlines, provisions regarding flight routes, air freight rates, and standard operating procedures for airlines.

These changes also include improvements in aviation safety and security standards, as well as the airline's obligations to provide compensation and services to passengers, including in situations of flight delays or cancellations. This regulation aims to ensure that air transport operations in Indonesia comply with international standards, protect passenger rights, and encourage improved service and safety in the national aviation industry.

3) Minister of Transportation Regulation Number 33 of 2022 concerning Civil Aviation Safety Regulations Section 119 concerning Certification of Aircraft Operation for Air Transport Activities

This regulation regulates the requirements and procedures that must be met by aviation operators in obtaining certification to operate aircraft for air transportation activities in Indonesia. These regulations cover various aspects related to operational safety, maintenance, and risk management in the operation of aircraft for commercial activities, including passenger and cargo flights. The matters regulated in this regulation include aircraft airworthiness requirements, flight personnel qualifications, standard operational procedures, and flight safety management.

This regulation aims to ensure that every airline operator operating in Indonesia adheres to high aviation safety standards and meets the requirements set to protect the safety of passengers, crew, and the general public and support the sustainability of the national aviation industry.

2. Safety Aspects in Aviation Industry Competition

The imposition of flight fares is an issue that continues to grow along with the dynamics of the aviation industry and government policies. Airline fares are not only affected by economic factors such as operating costs, fuel prices, and market demand, but also by government regulations that aim to maintain a balance between the interests of airlines and consumers.

In recent years, flight fare adjustments have often been made to address the financial challenges faced by airlines, especially in the context of the post-pandemic recovery that has had a significant impact on the global aviation industry.²² In addition, the imposition of flight ticket fares also reflects efforts to improve service quality and flight safety. Governments and aviation authorities play an important role in setting fair and transparent fare policies, to ensure that consumers get value that matches the price they pay. Discussions about airfare fares often include aspects of industry sustainability, competition between airlines, and the accessibility of air travel for people from different walks of life. Thus, the regulation of flight ticket fares is one of the key elements in supporting the growth and stability of the aviation sector in the midst of rapid economic and technological changes.

Flight fares are the prices that passengers have to pay to use flight services with various variations depending on various factors, including the flight destination, booking time, type of flight class, and season of travel.²³ Ticket fares typically include a variety of basic fees, such as ticket prices, airport taxes, fuel charges, passenger service charges, as well as additional charges if any, such as fees for extra baggage or exchange rate selection.²⁴ The Decree of the Minister of Transportation Number 142 of 2022 concerning the Upper Limit Tariff for Economy Class Passengers of Domestic Scheduled Commercial Air Transport is the implementer of the Regulation of the Minister of Transportation Number 20 of 2019 concerning Procedures and Formulations for the Calculation of the Upper Limit Tariff for Economy Class Passengers of Domestic Scheduled Commercial Air Transport. The new regulation introduces a more flexible tariff setting mechanism by taking into account factors such as avtur prices, currency exchange rates, occupancy rates, and seasons.

The role of the government in determining fares was changed from just setting an upper limit fare to setting an upper and lower limit tariff, giving room for airlines to set prices between the two limits. This regulation also strengthens the mechanism of supervision of the application of tariffs by airlines, giving the Ministry of Transportation the authority to take action against violations. These regulatory changes have positive impacts, such as more reasonable fares for consumers, healthier competition between airlines, and a better balance of the aviation industry. However, there are also potential negative impacts, such as fare increases on certain routes and seasons, uncertainty for consumers who need time to adapt to the new fare system, and potential misuse of the fare setting mechanism by airlines.

²² Yaghoub Abdi et al., "Firm Value in the Airline Industry: Perspectives on the Impact of Sustainability and Covid-19," *Humanities and Social Sciences Communication* 10, no. 1 (2023): 1–24, <https://doi.org/10.1057/s41599-023-01644-8>.

²³ Ankita Panigrahi et al., "Flight Price Prediction Using Machine Learning," *International Research Journal of Modernization in Engineering Technology and Science* 3, no. 06 (2021): 1785–89, <https://doi.org/10.55041/ijrsrem25823>.

²⁴ Emiri Otsuka and Namgyu Kang, "Usability of Booking a Flight Ticket Using Airline Applications on Smartphones," *Human-Centered Design and User Experience* 114 (2023): 281–88, <https://doi.org/10.54941/ahfe1004245>.

While there is no direct and simple relationship between fares and flight safety, there is a potential correlation that is influenced by how airlines manage operational costs and investments in safety. Higher fares generally allow airlines to be better at ensuring maintenance, training, and investment in safety technology, which can ultimately have a positive impact on aviation safety. Conversely, in a highly competitive market, if fares are too low, airlines may be forced to reduce operating costs, which can impact the quality of aircraft maintenance and staff training, potentially affecting safety.

In addition to the imposition of airline fares, there are other variables that trigger business competition problems in the aviation world that can correlate with the safety aspect, namely slot time. Slot time According to Article 1 of the Regulation of the Minister of Transportation Number 57 of 2016 concerning the Implementation of Airport Flight Time Availability Allocation (Slot time) "Slot time is the allocation of flight time availability at the airport". Slot time for air freight companies has economic value in determining revenue, so time slots have the potential to be traded, even though air freight companies do not have the right to own time slots.²⁵ The most important thing for the government to consider is that slot time is a "tool" to maintain a healthy level of business competition, both between national air transport companies, as well as between national and foreign air transport companies.²⁶

This is because slot time is a special allocation given by the aviation authority to the airline, the slot time must be submitted by the airline first through a system by Airnav Indonesia. Of course, the provision of time slots requires special requirements so that automatically the aviation authorities will give certain considerations in providing time slots.²⁷ However, currently, in Indonesia, the provision of time slots has not taken into account the risk of unfair business competition or domination by certain airlines. The use of slot time by airlines to control market share in the sector has an impact on the losses of competitors such as other airlines as well as on consumers who use air transportation services. As an illustration, airline 'A' gets a slot time on the Jakarta – Surabaya route at 07:00 and 07:30, there are some times at both hours when tickets are not sold out. As a result, airline 'A' will then combine flights on one schedule, namely at 07:30 or scheduled at 07:00, which not only harms consumers because they have to change their departure time, but can also harm competing airlines who want a slot time on one of these schedules and cannot fly because it has been filled.²⁸

The merger of flight schedules causes one of the time slots to be wasted with no flights. This illustration explains that slot time has the potential to be something that can affect competition between airlines. The use of slot time, which is often detrimental to consumers and competitors of other airlines, has never gone through an evaluation process by relevant authorities. The practice carried out by airlines as illustrated still often occurs, making competition between airlines unhealthy. The fulfillment of busy airport slots by large airline companies has an impact on the opportunities owned by small airlines to obtain strategic routes and slot times at airports that are crowded with passengers. Time slot setting is closely related to the abuse of dominant positions by certain airlines often occurs from the many cases of combining flight schedules.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Heeyeon Lee et al., "An Auction-Based Airport Slot Reallocation Scheme Considering the Grandfather Rights of Airlines," *Journal of Air Transport Management* 118, no. November 2023 (2024): 102612, <https://doi.org/10.1016/j.jairtraman.2024.102612>.

²⁸ Jennifer Angela and Pande Yogantara S, "Legal Protection for Consumers Due to Unilateral Changes in Air Transportation Ticket Flight Schedules," *Kertha Journal of Desa* 11, no. 7 (2023).

In such a situation, the Government needs to take an approach to test market dominance by recording the market share owned by each aviation business actor in the aviation market. Then an analysis of the amount of market control is carried out to determine whether there is a dominant position by certain parties.²⁹ Considering that the number of aircraft accidents in Indonesia is currently dominated by airline companies operating in remote or pioneer areas.

3. Learning from ICC Decision Number 15/ICC- I/2019

The market dominance position is regulated in Article 25 Paragraph (1) of Law 5/1999 which reads:

Business actors are prohibited from using dominant positions either directly or indirectly to:

- a. establishing trade conditions with the aim of preventing and/or preventing consumers from obtaining competing goods and or services, both in terms of price and quality; or
- b. market limiting and technology development; or
- c. inhibit other business actors who have the potential to become competitors to enter the market concerned.

Competition between air transportation companies in Indonesia is still at the level of tariff competition, not service. This is inseparable from the proliferation of airline companies in Indonesia, especially in the early 2000s when the Indonesian aviation industry entered a liberalization stage where the government freed some airlines to stand and operate as *Low Cost Carriers* (LCCs) to reach the middle market.³⁰ However, this gave birth to a state of war of domination that was invisible but felt by aviation service users where passengers could not avoid it.³¹

Reflecting on the case that has been heard by ICC, the control of the duopoly between the Lion Air group and the Garuda Indonesia group is one example of unfair business competition cases in ICC case Number 15/ICC-I/2019.³² These two powerful groups of national airlines dominate most of the national aviation market. As a result of this market dominance, ICC decided to create a duopoly that gave birth to unfair competition. In this case, Lion Air and Garuda Indonesia have taken a number of actions that are detrimental to customers and rival airlines.³³

Lion Air and Garuda Indonesia carried out a number of controversial tactics in an effort to maintain their market dominance. One is unfair pricing, where the two airlines charge fares that are disproportionate to the actual cost by abusing their position of market

²⁹ Lucianus Budi Kagramanto, *Getting to Know the Law of Business Competition (Based on Law No. 5 of 1999)*, Revision (Sidoarjo: Laros, 2015), 213.

³⁰ Max Hirsh, "Emerging Infrastructures of Low-Cost Aviation in Southeast Asia," *Mobilities* 12, no. 2 (2017): 259–76, <https://doi.org/10.1080/17450101.2017.1292781>.

³¹ Hemi Pamuraharjo, *Indonesian Aviation Law Implementation of Air Transport Provisions* (Yogyakarta: Phonenix Publisher, 2021), 321.

³² Mochammad Januar Rizki, "Found Guilty by ICC in Plane Ticket Case, This is Lion Air's Response," *hukumonline.com*, 2020, <https://www.hukumonline.com/berita/a/diputus-bersalah-oleh-kppu-dalam-kasus-tiket-pesawat--ini-respons-lion-air-lt5ef44d0491cd9/>.

³³ Ryan Firdiansyah Suryawan and Juliater Simarmata, "Legal Aspects in Business Alliances and Strategic Partnerships Between Airlines," *Journal of Law, Politic and Humanities* 4, no. 1 (2023): 36–44, <https://doi.org/10.38035/jlph.v4i1.359>.

dominance. This is detrimental to consumers, who are often forced to pay higher ticket prices without adequate choices, as well as smaller competitors who find it difficult to compete in a dominated market.

In addition, discrimination against rival airlines is also carried out by the Lion Air group and the Garuda Indonesia group who refuse to cooperate with other airlines in fuel purchases, aircraft rentals, or the use of airport facilities are examples of this practice. This not only makes it harder for smaller competitors to expand, but it also distorts the rules of commercial competition, which are supposed to be based on the perfection of goods and services.³⁴ PT. Garuda Indonesia and Lion Air Group are also indicated to be carrying out a cartel as stipulated in Article 11 of Law 5/1999 which reads as follows: Business actors are prohibited from making agreements with their competitors that intend to influence prices by regulating the production and/or marketing of goods and/or services, which may result in monopolistic practices and/or unfair business competition.

Cartels are basically carried out by groups of business actors in the same line who are supposed to compete in the market but they actually work together in setting the price that must be paid by consumers. The concentration of economic power in this commercial aviation line is controlled by PT Garuda Indonesia and Lion Air Group to control the market.³⁵ Of course, this is unfair business competition because it makes other business actors not have the freedom to determine their ticket rates due to cartels and can be detrimental to the public interest.

In addition, the parties above are also indicated to set prices as stipulated in Article 5 regarding the pricing of Law No. 5 year 1999 which reads:

- 1) Business actors are prohibited from making agreements with their competitors to set prices for goods and or services that must be paid by consumers or customers in the same market.
- 2) The provisions as intended in paragraph (1) do not apply to:
 - a. an agreement entered into in a joint venture; or
 - b. an agreement based on applicable law.

Therefore, there are major obstacles in maintaining strong and fair commercial competition in the Indonesian aviation sector, as evidenced by the duopoly case between the Lion Air group and the Garuda Indonesia group. To address unhealthy practices that may arise in situations like this, firm and sustained action is needed. In the hope of ensuring that business competition in the aviation sector remains fair and maximizes profits for all stakeholders, including customers, competitors, and the aviation industry as a whole, with strong law enforcement and ongoing oversight of regulatory violations.³⁶

³⁴ Kuntjoroadi Wibowo and Safitri Nurul, "Analysis of Competitive Strategies in Commercial Aviation Business Competition," *Administrative and Organizational Sciences* 16, no. 1 (2009): 45–52, <https://doi.org/10.20476/jbb.v16i1.603>.

³⁵ R M Permadani, "Juridical Analysis of Price Fixing Agreements in the Practice of Airline Ticket Price Cartels by Several Airlines in Indonesia (Study of the Decision of the Business Competition Supervisory Commission Number 15/ICCU-I/2019)," *JJurnal Law and Community Al-Hikmah* 5, no. 1 (2024): 30–36, <http://jurnal.uisu.ac.id/index.php/alhikmah/article/view/9084>.

³⁶ Joseph M J Renwarin, "The Influence of Aviation Industrial Environment and Market Orientation on Competitive Strategy and Its Effects on Aviation Business Performance (Study on Aviation Industry in Indonesia)," *Journal of Internet Banking and Commerce* 22, no. 3 (2017): 1–23.

The importance of collaboration between governments, regulators, and airport authorities. Indonesia's aviation industry cannot grow sustainably, maintain balance and fairness in business competition, or provide the greatest benefits to society and the national economy without close collaboration and synergy from all relevant stakeholders.³⁷ Aviation safety is also highly maintained with the rules governing business competition, as outlined in the Regulation of the Business Competition Supervisory Commission Number 1 of 2022 concerning the Business Competition Compliance Program. Airlines are also incentivized to integrate safety as a fundamental aspect of their operations through strong and fair commercial competition. They are responsible for ensuring that their aircraft is always in good condition, performing regular maintenance, and adhering to applicable aviation safety protocols.

C. Conclusion

Aviation Safety is a state obligation under the provisions of international aviation law. Indonesia as an ICAO member country has an obligation to implement SARPs in all its national aviation activities. Even though Indonesia has met USOAP compliance standards, it still needs to be studied and anticipated in ensuring flight safety standards for certain flight routes, especially for remote or pioneer flight routes. Until now, competition in aviation business for national routes and slot time has not been a special concern from policy makers. Learning from the duopoly case between the Garuda Indonesia group and the Lion Air group in ICC Decision Number 15/ICC-I/2019, the government as a policy maker needs to review the potential for market dominance with a certain model. The regulation of the provision of flight time slots and the relation to the application of ticket fares must be visible to the government which can potentially affect flight safety aspects for certain routes.

Reference

- Abdi, Yaghoub, Xiaoni Li, and Xavier Càmarà-Turull. "Firm Value in the Airline Industry: Perspectives on the Impact of Sustainability and Covid-19." *Humanities and Social Sciences Communication* 10, no. 1 (2023): 1–24. <https://doi.org/10.1057/s41599-023-01644-8>.
- Amin, Andhi Pahlevi. "Analisis Pengaruh Tarif Penerbangan, Jumlah Penerbangan Dan Pendapatan Perkapita Dalam Meningkatkan Jumlah Penumpang." *Jurnal Bisnis STRATEGI* 22, no. 1 (2013): 49–66.
- Anas, Titik, and Christopher Findlay. "Indonesia: Structural Reform in Air Transport Service APEC Policy Support Unit," 2017. https://www.apec.org/docs/default-source/Publications/2017/6/Indonesia-Structural-Reform-in-Air-Transport-Service/217_PSU_Indonesia_Air-Transport_Final.pdf.
- Angela, Jennifer, and Pande Yogantara S. "Perlindungan Hukum Terhadap Konsumen Akibat Perubahan Sepihak Jadwal Penerbangan Tiket Transportasi Udara." *Jurnal Kertha Desa* 11, no. 7 (2023).
- Arafah, Adhy Riadhy, Ardyta Pramudya Wardani, Kharisma Kusuma Wijaya, Alfan Zakiyanto, and Erlisa Akhlakul Karimah. *Pengantar Hukum Udara: Perkembangan Dan Isu-Isu Terpilih*.

³⁷ Huta Disyon et al., "A Review of Business Competition Law on the Alleged Monopoly Practice of Avtur Sales in Indonesia," *Journal of Business Competition* 3, no. 2 (2023): 163–74, <https://doi.org/10.55869/kppu.v3i2.111>.

- Airlangga University Press, 2022.
- Diabe, Edie. "An Assessment of The Effect of the 1944 Chicago Convention on the Air Carrier ' S Duty of Airworthiness Under the Carriage of Goods." *Commonwealth Law Review Journal* 8, no. 2022 (2022): 267–91.
- Disyon, Huta, Garnita Amalia, and Illona Novira Elthania. "Tinjauan Hukum Persaingan Usaha Terhadap Dugaan Praktik Monopoli Penjualan Avtur Di Indonesia." *Jurnal Persaingan Usaha* 3, no. 2 (2023): 163–74. <https://doi.org/10.55869/kppu.v3i2.111>.
- Hirsh, Max. "Emerging Infrastructures of Low-Cost Aviation in Southeast Asia." *Mobilities* 12, no. 2 (2017): 259–76. <https://doi.org/10.1080/17450101.2017.1292781>.
- ICAO. "State of Global Aviation Safety." *ICAO Safety Report 2019 Edition*, 2019. https://www.icao.int/safety/Documents/ICAO_SR_2019_final_web.pdf.
- Idris, Muhammad. "Daftar 11 Maskapai Penerbangan RI Yang Bangkrut, Garuda Menyusul? Halaman All - Kompas.Com," 2021. <https://money.kompas.com/read/2021/10/27/083715826/daftar-11-maskapai-penerbangan-ri-yang-bangkrut-garuda-menyusul?page=all>.
- Kagramanto, Lucianus Budi. *Mengenal Hukum Persaingan Usaha (Berdasarkan UU No.5 Tahun 1999)*. Revisi. Sidoarjo: Laros, 2015.
- Kementerian Perhubungan. "Statistik Angkutan Udara Tahun 2022," 2022.
- Lee, Heeyeon, Jihyeok Jung, and Deok Joo Lee. "An Auction-Based Airport Slot Reallocation Scheme Considering the Grandfather Rights of Airlines." *Journal of Air Transport Management* 118, no. November 2023 (2024): 102612. <https://doi.org/10.1016/j.jairtraman.2024.102612>.
- Marzuki, Peter Mahmud. *Penelitian Hukum*. 16th ed. Prenadamedia Grup (Divisi Kencana), 2024.
- Nainggolan, Sudirman H, Sutiarnoto Sutiarnoto, and Chairul Bariah. "Pengaturan Penerbangan Sipil Internasional Menurut Hukum Internasional Yang Melintasi Antar Negara." *Sumatra Journal of International Law* 2, no. 3 (2014): 164515.
- Otsuka, Emiri, and Namgyu Kang. "Usability of Booking a Flight Ticket Using Airline Applications on Smartphones." *Human-Centered Design and User Experience* 114 (2023): 281–88. <https://doi.org/10.54941/ahfe1004245>.
- Pamuraharjo, Hemi. *Hukum Penerbangan Indonesia Implementasi Ketentuan- Ketentuan Angkutan Udara*. Yogyakarta: Phonenix Publisher, 2021.
- Panigrahi, Ankita, Rakesh Sharma, Sujata Chakravarty, Bijay K. Paikaray, and Harshvardhan Bhojar. "Flight Price Prediction Using Machine Learning." *International Research Journal of Modernization in Engineering Technology and Science* 3, no. 06 (2021): 1785–89. <https://doi.org/10.55041/ijrsrem25823>.
- Perhubungan, Kementerian. "Daftar Maskapai & Organisasi Penerbangan - Direktorat Jenderal Perhubungan Udara," 2025. <https://hubud.kemenuhub.go.id/hubud/website/maskapai-organisasi>.
- Permadani, R M. "Analisis Yuridis Perjanjian Penetapan Harga Dalam Praktek Kartel Harga Tiket Pesawat Oleh Beberapa Maskapai Di Indonesia (Studi Putusan Komisi Pengawas Persaingan Usaha Nomor 15/KPPU-I/2019)." *Jurnal Hukum Dan Kemasyarakatan Al-Hikmah* 5, no. 1 (2024): 30–36. <http://jurnal.uisu.ac.id/index.php/alhikmah/article/view/9084>.
- Purba, Hasim. "Mewujudkan Keselamatan Penerbangan Dengan Membangun Kesadaran Hukum Bagi Stakeholders Melalui Penerapan Safety Culture." *Jurnal Hukum Samudra Keadilan* 12, no. 1 (2017): 95–110.

- Renwarin, Joseph M J. "The Influence of Aviation Industrial Environment and Market Orientation on Competitive Strategy and Its Effects on Aviation Business Performance (Study on Aviation Industry in Indonesia)." *Journal of Internet Banking and Commerce* 22, no. 3 (2017): 1-23.
- Rizki, Mochammad Januar. "Diputus Bersalah Oleh KPPU Dalam Kasus Tiket Pesawat, Ini Respons Lion Air." *hukumonline.com*, 2020. <https://www.hukumonline.com/berita/a/diputus-bersalah-oleh-kppu-dalam-kasus-tiket-pesawat--ini-respons-lion-air-lt5ef44d0491cd9/>.
- Salsabil, Ananda Zahra, and Arif Fakhruudin. "Pengaruh Faktor Safety Culture, Safety Management System Dan Pemandu Lalu Lintas Penerbangan Terhadap Keselamatan Penerbangan Di Perum LPPNPI Cabang Matsc." *VISA: Journal of Visions and Ideas* 4, no. 2 (2024): 861. <https://doi.org/https://doi.org/10.47467/visa.v4i2.2115>.
- Seo, Dong Min. "A Comparative Study on the Effective Implementation of the Mandatory IMO Member State Audit Scheme : A Case Study of the Republic of Korea." World Maritime University, 2010. https://commons.wmu.se/cgi/viewcontent.cgi?article=1429&context=all_dissertations.
- Setiawan, Anton. "Indonesia.Go.Id - Ini 63 Pulau Baru Di Indonesia," 2024. <https://indonesia.go.id/kategori/editorial/8865/ini-63-pulau-baru-di-indonesia?lang=1>.
- Setiawan, Indra, Dewi Nusraningrum, and Yosi Pahala. "Deregulasi Penerbangan Dan Kinerja Perusahaan Penerbangan Niaga Berjadwal Di Indonesia." *Jurnal Manajemen Transportasi & Logistik (JMTRANSLOG)* 2, no. 1 (2015): 1. <https://doi.org/10.54324/j.mtl.v2i1.130>.
- Suryawan, Ryan Firdiansyah, and Juliater Simarmata. "Legal Aspects in Business Alliances and Strategic Partnerships Between Airlines." *Journal of Law, Politic and Humanities* 4, no. 1 (2023): 36-44. <https://doi.org/10.38035/jlph.v4i1.359>.
- Tiarto, Tiarto. "The Implication of Airlines Deregulation in the End of the 20Th Century on Industrial Development of Commercial Air Transport Schedule in Indonesia." In *Conference on Global Research on Sustainable Transport (GROST 2017)*, 147:335-46, 2018. <https://doi.org/10.2991/grost-17.2018.29>.
- Wibowo, Kuntjoroadi, and Safitri Nurul. "Analisis Strategi Bersaing Dalam Persaingan Usaha Penerbangan Komersial." *Ilmu Administrasi Dan Organisasi* 16, no. 1 (2009): 45-52. <https://doi.org/10.20476/jbb.v16i1.603>.
- Wicaksono, Purnawan Adi, Nia Budi Puspitasari, and Marissa Fajarina Retnaningtyas. "Model for Determining the Requirement of Aircraft N219 on Non-Pioneer Routes in Indonesia." *IOP Conference Series: Earth and Environmental Science* 195, no. 1 (2018). <https://doi.org/10.1088/1755-1315/195/1/012032>.
- Wiradipradja, E. Saefullah. *Hukum Transportasi Udara Dari Warsawa 1929 Ke Montreal*. Bandung: Kiblat Buku Utama, 2008.
- Yuniarto, Topan. "Perjalanan Industri Penerbangan Indonesia - Kompas.Id," 2021. <https://www.kompas.id/baca/paparan-topik/2021/12/13/perjalanan-industri-penerbangan-indonesia>.