

CHAPTER ONE

INTRODUCTION

A. Background

At the beginning, the society uses the conventional way to use public transportation and currently they change their habits as there is switch to communications technology for ordering online public transportation.¹ In the transportation sector, the transport services transformation of conventional service into online service is part of the technology innovation.² The competition in the business world is prevalent. However, the competition between conventional taxi and online taxi service appears to be an unbalanced competitive. The imbalance appears from the tariff, tax imposed, *keur* test and parking pool. These advantages of online taxi service finally slide away the existence of conventional taxi.³

In term of the tariff matter, online taxi service is cheaper because the tariff is based on the distance that is drawn in a straight line on the digital map, while conventional taxi more based on the truly distance in the field. On the other side, online taxi service carries no tax, no *keur* test and other things. Meanwhile, conventional taxi still must pay taxes and other official levies.

¹ Witriatri Anindhita *et al.*, "Analisis Penerapan Teknologi Komunikasi Tepat Guna Pada Bisnis Transportasi Ojek Online" Prosiding Seminar Nasional INDOCOMPAC Komunikasi, Budaya dan Media, (May, 2016), 714.

² Ahsani Amalia Anwar, "Online Vs Konvensional: Keunggulan Konflik Antar Moda Transportasi Di Kota Makassar", *Jurnal Etnografi Indonesia*, II (December, 2017), 223.

³ Rohani Budi Prihatin, "Konflik Sosial Transportasi Konvensional Versus Transportasi Berbasis Online", *Social Welfare Short Info Magazine*, IX (April, 2017), 10.

Some observers regard this tariff war as a predatory pricing system that is not healthy and is appropriately regulated by the Government as the regulator. The final price factor in consumer level is the one of main cause that is taxi online cheaper than conventional taxi.⁴

Another thing that becomes the advantage of online taxi service is the operator does not need parking pool. The vehicle fully becomes the responsibility of the driver or online taxi owners. Different from the conventional taxi company that buys or rent a land for park their vehicle on the night, for conventional taxi this is something that must be considered in the final prices charged to consumers.⁵

From the passenger security matter, online taxi service is more secure, where the level of crimes still relatively low. Consumers can directly see the identity of the driver and the car plate on vehicle of online taxi service. In addition, the payment can be done by cash way and non-cash way with relatively cheaper price. So, it can save time and make consumers easier in payment without waiting for a long time. For that, people appraise that online taxi service as more secure, comfortable, faster and cheaper than the conventional taxi.⁶

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

After a long discussion, finally, the Government through the Minister of Transportation specifies the Regulation of the Minister of Transportation (*Permenhub*) No. 26/2017 as a revision against Regulation of Minister of Transportation No. 32/2016 about the Implementation of the People Transportation by Public Transportation Which Not in Route.⁷

However, Hengki Angkasawan as Head of Communications and Public Information of the Minister of Transportation explained that in the Verdict of the Supreme Court, there are some articles from the result of trial which stated that The Regulation of Minister of Transportation No. 26/2017 is contrary with the higher legislation and does not have a legal binding power.⁸ He detailed at least there are 14 points in the Regulation of Minister of Transportation No. 26/2017 which is considered contrary with the higher law such as Law No.20/2008 about Micro, Small, Medium Enterprises and Law No. 22/2009 about Traffic and Road Transportation. As decided by the Supreme Court, the 14 points has been stated does not have a binding legal power, and commanded the Minister of Transportation to revoke the articles related to 14 points in that regulation of the minister.⁹

Addressing this matter, the Minister of Transportation enacts The Regulation of Minister of Transportation No. 108/2017. However, it turns out

⁷ *Ibid.* Pg. 11.

⁸ Kisar Rajaguguk, *MTI Nilai Putusan MA Soal Taksi Daring Meresahkan*, August 22th, 2017, <http://www.mediaindonesia.com/read/detail/118749-mti-nilai-putusan-ma-soal-taksi-daring-meresahkan/> (19.26).

⁹ *Ibid.*

that these rules are re-applied by Daniel Lukas Rorong; Herry Wahyu Nugroho; and Rahmatullah Riyadi. As a result, the Supreme Court removes these rules that complicate the online transportation.¹⁰ There are several articles which according to Supreme Court are repeated loading of norm material that has been canceled by The Verdict of Supreme Court No. 37 P/HUM/2017 on June 20, 2017. Thus, Supreme Court decided these articles were not valid and these articles did not apply to public.¹¹ These articles also considered contrary with the higher legislation, such as Article 4 and Article 5 of Law No. 20/2008 about Micro, Small, and Medium Entrepreneurs.¹²

Based on the explanations above, the researcher chooses the title of “The Verdict of Supreme Court No. 37/P/Hum/2017: A Study of Unfairness Business Competition between Conventional Taxi and Online Taxi Service in Indonesia” because there is a possibility of indication of unfairness business competition that has been found within the Regulation of Minister of Transportation No. 26/2017 which arises the problems between the conventional taxi service providers and online taxi service providers. In addition, this regulation also can be harmful to the society as a consumer as stated in the Verdict of Supreme Court No. 37 P/Hum/2017.

¹⁰ Sumut Pos, *MA Kembali Cabut Aturan Transportasi Online*, September 13th, 2018, <https://sumutpos.co/2018/09/13/ma-kembali-cabut-aturan-transportasi-online/> (23.07).

¹¹ Trio Hamdani, *MA Cabut Permen 108, Ini Aturan Taksi Online yang Bakal Hilang*, September 13th, 2018, <https://finance.detik.com/berita-ekonomi-bisnis/d-4209472/ma-cabut-permen-108-ini-aturan-taksi-online-yang-bakal-hilang/> (23.10).

¹² M. Adam Samudra, *Angin Segar Buat Transportasi Online, MA Cabut Permenhub Nomor 108 Tahun 2017*, September 13th, 2018, <https://www.gridoto.com/read/01270337/angin-segar-buat-transportasi-online-ma-cabut-permenhub-nomor-108-tahun-2017?page=all#!%2F/> (23.15)

B. Problems Formulation

Based on the background that are already explained, the researcher formulates the research questions under the title “The Verdict of Supreme Court No. 37 P/Hum/2017: A Study of Unfairness Business Competition between Conventional Taxi and Online Taxi Service in Indonesia”, are as follows:

1. How are The Regulation of Minister of Transportation No. 26/2017 formulation and The Verdict of Supreme Court No. 37 P/HUM/2017 cancellation argumentation?
2. How are the regulation comparison between conventional taxi and online taxi in The Regulation of Minister of Transportation No. 26/2017 and The Regulation of Minister of Transportation No. 108/2017 based on the unfairness business competition law perspective?

C. Scopes of Analysis

Based on problems formulation that had been determined, the researcher formulates the scopes of analysis, such as:

1. The Regulation of Minister of Transportation No. 26/2017 formulation and The Verdict of Supreme Court cancellation argumentation in overview.
2. The regulation comparison between conventional taxi and online taxi in The Regulation of Minister of Transportation No. 26/2017 and The Regulation

of Minister of Transportation No. 108/2017 based on the unfairness business competition law perspective.

D. Purposes of Research

Based on problems formulation that had been identified, the purposes of the research are such as:

1. To answer how are The Regulation of Minister of Transportation No. 26/2017 formulation and The Verdict of Supreme Court No. 37 P/HUM/2017 cancellation argumentation.
2. To answer how are the regulation comparison between conventional taxi and online taxi in The Regulation of Minister of Transportation No. 26/2017 and The Regulation of Minister of Transportation No. 108/2017 based on the unfairness business competition law perspective.

E. Advantages of Research

Based on the objective of research that had been determined, the researcher found the advantages of research related to this proposal writing. Such us:

1. Theoretical Advantage

The Verdict of the Supreme Court No. 37 P/Hum/2017 becomes the basis reference relating to unfairness business competition between conventional taxi and online taxi service in Indonesia.

2. Practical Advantage

The result of this research used as consideration in crucial issue especially relating to unfairness business competition between conventional taxi and online taxi service in Indonesia.