

Praktek Diskriminasi Pada Undang-Undang No. 5 Tahun 1999 dan Penangguhan Pelaksanaan Denda KPPU (Studi Kasus: Putusan KPPU Nomor 07/KPPU-I/2020 tentang Perjanjian Penjualan Kapasitas Kargo oleh Lion Air Group) = Discrimination Practice Based on Law No. 5 of 1999 and Suspension of Execution of Fines (Case Study: KPPU's Verdict Number 07/KPPU-I/2020 Concerning the Agreement for Selling Cargo's Capacity by Lion Air Group)

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Abstrak

Keppres No. 33 Tahun 2000 telah memberikan perizinan pengoperasian bagi maskapai penerbangan, sehingga memunculkan berbagai perusahaan maskapai penerbangan berjenis Low-Cost Carrier yang menawarkan jasa angkutan penumpang dan kargo. Hal ini berimbas pada peningkatan persaingan di pasar bersangkutan. Persaingan tersebut acap kali dijadikan alasan bagi pelaku usaha untuk melakukan tindakan anti persaingan untuk dapat mempertahankan penguasaan pangsa pasar bersangkutan, dimana salah satunya dilakukan melalui praktik diskriminasi untuk menghalangi atau menyingkirkan pelaku usaha pesaing. Maka, melalui Penelitian ini Penulis memiliki tujuan untuk menganalisis pembuktian praktik diskriminasi serta pelaksanaan denda yang ditetapkan oleh KPPU terhadap pelanggaran Hukum Persaingan Usaha.

Permasalahan tersebut terdapat pada Putusan KPPU Nomor 07/KPPU-I/2020, yang sejatinya mencoba membuktikan keterlibatan PT Lion Mentari, PT Batik Air Indonesia, PT Wings Abadi, dan PT Lion Express dan penangguhan pelaksanaan sanksi denda bagi Terlapor yang memang terbukti melakukan tindakan praktik diskriminasi akibat kesepakatan perjanjian pemberian kapasitas kargo eksklusif sebesar 40-ton per hari kepada PT Lion Express pada rute Bandara Hang Nadim ke Bandara Soekarno- Hatta, Bandara Halim Perdana Kusuma, Bandara Juanda dan Bandara Kualanamu. Pada pokoknya, UU No. 5 Tahun 1999 tidak mengatur mengenai penangguhan pelaksanaan denda, melainkan hanya pemberian kelonggaran proses pembayaran denda saja. Dalam menganalisis permasalahan ini, Penulis melakukan penelitian yuridis normatif melalui pendekatan kualitatif dengan memberikan pemahaman mengenai praktik penetapan kapasitas kargo, dan menganalisis syarat pembuktian Pasal 19 huruf D UU No. 5 Tahun 1999 terhadap kasus tersebut, serta memberikan saran agar pelaksanaan UU No. 5 Tahun 1999 lebih ditingkatkan danPresidential Decree No. 33 of 2000 has given operating permission for Airlines in Indonesia, which resulted in bringing out plenty of new Low-Cost Carrier Airlines that offer passenger and cargo transportation services. This matter has caused an impact on the increase of competition in the relevant market. The competition itself frequently being used as a reason for the company to conduct an anti-competition practice to maintain control of the relevant market shares, one of them is through discrimination practice in order to prevent or to eliminate competitors. Therefore, in this research, the writer aims are to analyze the proof of discrimination practices and the implementation of fines that have been settled by KPPU against the violators of competition law. The issues can be found in KPPU's Verdict Number 07/KPPU-I/2020, which are trying to prove the involvement of PT Lion Mentari, PT Batik Air Indonesia, PT Wings Abadi, and PT Lion Express and the suspension of execution of fines towards the companies that are found guilty of discrimination practice as a result of the agreement to give exclusive cargo's capacity as

much as 40-ton per days to PT Lion Express on the route from Hang Nadim Airport heading to Soekarno-Hatta Airport, Halim Perdana Kusuma Airport, Juanda Airport, and Kualanamu Airport. Fundamentally, Law No. 5 of 1999 doesn't accommodate rules about the suspension of fines execution, however, it does regulate of giving some loose in terms of how the payment process will be conducted. In the analysis of these issues, the author uses normative-juridical based research through a qualitative approach by giving further understanding about cargo capacity determination and analyzing the evidentiary requirement of Article 19 letter D Law No. 5 of 1999 on the verdict, as well as providing suggestions to enhance the implementations of Law No. 5 of 1999 and maintains a deterrent effect through the imposition of fines