

The Impact of Online Transportation Towards Conventional Motor Transportation: Indonesia Perspective

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Outline:

1. Background
2. The inception of online transportation in Indonesia;
3. Government policy and response;
4. The Impact of Online Competition Towards Conventional Motor Transportation;
5. Online vs. Conventional Transportation Review Under Law No. 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition;



1. Background – how the story grows.....

a. Human and transportation: pose strong relation.

Transportation is known as one of human necessities;



b. Indonesia public transportation has not yet met the public expectation in terms of services, safety and availability. Individual seek alternative through private transportation (cars, motorcycle, bike, taxis) and less interest to use buses or train/public transportation unless no other choices available). The existing condition can be seen in big cities such as Jakarta, Surabaya, Medan etc as well as other regions – common problem;



c. Ojek was introduced for public use in 1968 in central Java, in the form of bicycle, later transform to Japanese-made 90cc motor cycle.



d. There is never any regulation concerning Ojek as “public transportation”, until it was challenged.

2. The Inception of Online Transportation in Indonesia

- a. The development of communication technology, information and multimedia led to business innovations including transportation.
- b. For example: previously in Indonesia BlueBird group, a conventional taxi company dominate the taxi market for decade. Today, taxi services are dominated by online transportation.
- c. The Indonesia perspective: Gojek Online, a phenomena that shaken various region in Indonesia. Gojek or any other form of online transportation determined to have destroyed the conventional Ojek.
- d. Despite the uncertainty and struggle, Ojek remain silently exist and try to endure the downslope of its presence.



3. Government Policy and Response

- a. Initially online transportation did not have either legal entity (required by law) nor public transportation business permit;
- b. Social jealousy arise towards the online transportation due to declining income of Ojek conventional transportation drivers;
- c. Minister of Transportation sent a letter UM.302/1/21/ Phb /2015 to the Chief of Police concerning prohibition of online transportation which stated that the operation of motorcycle transportation are not comply with Law Number 22 Year 2009 concerning Road Traffic and Transportation and Government Regulation No. 74/2014 concerning Road Transportation;
- d. The injunction to online transportation to operate trigger the protest almost in all Indonesia region. Both public and online transportation drivers reacted (not Ojek) to the order and stated that they believe online application-based transportation services help them in terms of transportation and daily activities, while for drivers: ultimate solution for income generating and job opportunity.
- e. Minister of Transportation regulation No. 26 /2017 concerning the Implementation of Transportation of Persons with Motorized Vehicles Not in Route is one of many attempt to regulate the confusion whether to legalized or to refuse? It was challenged and brought to Supreme Court for review and being revoked. Minister of Transportation then issued Regulation No. 108/2017 effective on Nov. 1st, 2017 as a response to Supreme Court decision No: 37P/HUM/2017 .

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Jumat, 18/12/2015 10:25

Larang Gojek, Kebijakan Menhub Jonan Jadi Guyongan

Reporter: Aditya Panji, CNN Indonesia



Menteri Perhubungan Ignasius Jonan. (Dok. Kementerian Perhubungan)

Jakarta, CNN Indonesia -- Media sosial hari ini diramaikan oleh kebijakan Menteri Perhubungan Ignasius Jonan yang melarang operasional layanan Gojek, GrabBike atau Uber dan GrabFood. Ada yang menanggapi secara serius dengan melontarkan kritik pedas, tetapi ada juga yang mengekspresikan diri dengan candaan.



3. Government Policy and Response

- a. The debate on online vs. conventional transportation brought to Constitutional Court twice as the highest institution interpreting the question of law Number 22 Year 2009 concerning Road Traffic and Transportation.
- b. The petitioner was drivers with taxi technology base application arguing that should be included as one type of road transportation. The Constitutional Court decision No.97/PUU-XV/2017 on 31 May 2018 decline the petition argued that the panel determined the online taxi is included as one type of road transportation. Online order is merely a mode or type of placing an order.
- c. The petitioner was user and driver of online motorcycle argued that due to Minister Regulation No.108/2017 discriminated the status of online motorcycle drivers not included in Article 47 (3) with the potential of loosing income. This is relevant to few ban to operate in few regions (Bogor/Depok/Bekasi). Constitutional Court decision No. 41/PUU-XVI/2018 on 28 June 2018 decided to decline the petition deemed that motorcycle which converted as mode of transportation is not included, as public safety standard must apply accordingly to all types of public transportation.
- d. It is noted that during all of this process, there is no discussion about Ojek conventional transportation existence, while online transportation motorcycle/taxi remain in its normal operation.

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4. The Impact of Online Competition Vs. Conventional Motor Transportation

- a. Ojek conventional drivers are mostly unemployed – making Ojek driver is an ultimate job available.
- b. Are we on the same market competition? Ojek conventional drivers deeply impacted because of the online transportation entry to their customers.
- c. Despite all judicial review in the Supreme Court and the Constitutional Court, condition doesn't get better nor change for both Ojek and Gojek drivers.
- d. Ojek conventional drivers hardly receive formal assistance from the government in terms of motorcycle leasing or loan to obtain better smartphone as investment to enter the online market
- e. No certainty yet, as the situation could be erupted simply by small trigger. This is the most social concern bear by both types of drivers



Driver Gojek dan GrabBike Sweeping di Taman Anggrek

Sri Cahya Lestari - 22 Maret 2016 16:26 wib

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[Illustrasi—DEMO PENGEMUDI OJEK DI MAKASSAR:](#)

Sejumlah pengemudi ojek yang tergabung dalam Persatuan Pengemudi Ojek Makassar menggelar aksi unjuk rasa di Makassar, Sulawesi Selatan, Kamis (3/12)—Antara/Abrilawan Abbe

Metrotvnews.com, Jakarta: Puluhan

Tue , 22-11-2016



5. Online Transportation vs. Conventional Transportation Review Under Law No. 5 Tahun 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition

- a. Indonesian Commission for the Supervision of Business Competition (KPPU) KPPU measures the issue through its Regulation Number 3 of 2009, concerning Guidelines for the Implementation of Article 1 number 10 on question of the Relevant Market;
- b. Article 35 (e) Law No. 5/1999, KPPU is given the task to provide advice and considerations on Government policies without necessarily having immediately to make this polemic a case of unfair business competition;
- c. KPPU roles: producing the tool kit/tools check on the Draft Regulations of the Legislation/Draft Policy Regulations in the economic sector. The tool kit is known as Competition Checklist or Business Competition Policy Checklist. Should be tested on any regulations issued by different government institution relate to online transportation which affected competition;
- d. The latest issue is Grab Uber asset acquisition, cross border transaction, ASEAN competition enforcement network (ACEN)



Conclusion

- a. Innovations in technological developments have an impact on the lives of consumers and triggered polemics of the conventional Ojek and online transportation in Indonesia.
- b. There is unclear regulation on the online motorcycle although it has been a judicial review in the Constitutional Court. As a consequence, there is a polemic on this issue
- c. KPPU has the authority to provide policy advice to the Government and should not be taking the polemic as competition cases.

Recommendation

- a. The government must immediately re-arrange (deregulate) existing legislation comprehensively to provide fair competition between conventional transportation and online transportation.
- b. Government to provide a special approach for the conventional motorcycle drivers in order to resolve the social impact of the online transportation.
- c. KPPU needs to examine further related to the existence of substances that are not appropriate or not in line with the principles of fair business competition in all existing regulations relating to aspects of transportation both conventional and online.

Thank You
Terima Kasih

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