

Comercialization of Airnav Indonesia as Air Navigation Provider: Is it beneficial?

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ARTICLE INFO

Keywords:

airnav Indonesia, air navigation, commercialization

How to cite:

Wirsamulia, F. (2020). Comercialization of Airnav Indonesia as Air Navigation Provider: Is it beneficial? JURNAL MEDIA HUKUM, 27(1), 133-146.

Article History:

Received: 01-05-2020

Reviewed: 23-06-2020

Revised: 26-06-2020

Accepted: 30-06-2020

ABSTRACT

The aim of the research is to analyse whether commercialization air navigation service and how Airnav Indonesia as a provider may have a benefit from it. This normative legal research uses statutory approach. The results of research show that following the transfer of authority and responsibility from PT. Angkasa Pura I and PT. Angkasa Pura II as the air navigation service provider in January 2013, the air navigation service in Indonesia entered into a new chapter which is monopolized by one company, that is "Lembaga Penyelenggara Pelayanan Navigasi Penerbangan Indonesia" (LPPNPI) or "Airnav Indonesia". By the Governmental Decree No. 77 of 2012, Airnav Indonesia was established to provide air navigation service in order to secure the aviation safety and air traffic over the Indonesia territory. Generally, air navigation service is treated as public service in many countries, however, the idea to commercialize the air navigation service has been applied in some countries. The Government should consider altering Airnav Indonesia from a public service company to be a commercial business company which may contribute to the Government's income. Commercialization of the air navigation service will provide a mutual benefit not only among stakeholders in the aviation industry, but also for aviation safety. Eventually, the Airnav Indonesia as the sole air navigation service provider in Indonesia could be a profit centre institution instead of merely a public service company.

DOI: 10.18196/jmh.20200147

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1. Introduction

Air navigation service in civil aviation is one of the important elements in the development of the aviation industry. "Navigation" means knowledge and method to determine the position and direction of an aircraft, to fly it from one place to another by using the signal observation on earth and another objects.¹ The Indonesia Civil Aviation Act 2009 provides the definition of Air Navigation, that is the process to direct an aircraft movement from one point to another point safely by avoiding any dangerous situation or obstacles.² With the high number of aircraft movements and the

¹ Martono. (2007). *Dictionary of Aviation Law and Regulation* (1st ed). Rajawali Press, p. 164.

² Article 1 (46), Indonesia Aviation Act No. 1 of 2009.

air traffic of domestic and international flight at the present time, air navigation has clearly had a significant role in securing the safety of civil aviation in Indonesia.

Article 1 Chicago Convention 1944 stated that every state has complete and exclusive sovereignty over the air space above its territory. Under this Convention, every state has a right to organize and manage the utility of its air space above its territory. For Indonesia, the country which has thousands of islands, controlling over its air space is not only essential to unite the thousand of its islands but it is also important for the security and national defense over the country. There are three basic principles regarding the air space sovereignty. *First*, every state has complete and exclusive sovereignty over the air space above its territory, *second*, every state is free to give permission or prohibition for an aircraft to enter its territory, and *third*, air space above the international sea is the free air space.³

International Civil Aviation Organization (ICAO), the United Nation's institution who has the authority to regulate the international civil aviation industry, always motivates its state members to implement the high standard of aviation safety. For this purpose, ICAO has developed standard safety audit program, that is the *Universal Safety Oversight Audit Program And Safety Performance* (USOAP), in order to audit and overview the implementation of aviation safety standard in all of its state members.⁴ The result of the audit may affect the aviation industry in each country including Indonesia. In the event that Indonesia fails to comply to the expected standard safety, it could directly impact the national aviation industry. Indonesia airlines might be banned to fly their aircrafts over the European or American continent. Clearly, this situation will deteriorate the civil aviation industry in Indonesia. One aspect of those civil aviation safety standards is how to manage and organize the air navigation properly over the air space territory.

In regards to the operation of civil aviation, Indonesia's air space consists of 2 (two) *Flight Information Region* (FIR). East side of Indonesia is centralized at Makassar (*Makassar Air Traffic Service Center/MATSC*), and West side is centralized at Jakarta (*Jakarta Air Traffic Service Center/JATSC*). Prior to 2013, MATSC was managed by PT. Angkasa Pura I (Persero) and JATSC was managed by PT. Angkasa Pura II (Persero). In addition, at some airports, their air navigation was still directly managed by the Directorate General of Civil Aviation (DGCA). Under the result of the ICAO's audit held on 2005 and 2007, ICAO recommended that the Indonesia air navigation shall be managed and organized by a single institution.⁵ In order to implement this recommendation, the Government granted the Regulation No. 77 / 2012 regarding the establishment of the Indonesia Air Navigation institution, namely, "*Lembaga Penyelenggara Pelayanan Navigasi Penerbangan Indonesia*" (LPPNPI). The form of this institution is public service company (Perum) and has the fiduciary duties to serve and organize the management of air navigation over the Indonesia territory. This state company is a non-commercial and provides the air navigation services for both civil and military flight. For the military, Airnav Indonesia cooperates with the Command of National Air Defense to protect the national sovereignty and law enforcement through the MCC (*Military Civil Coordination*) program⁶ Under the MCC program, any

³ Ruwantissa Abeyratne, R. (2012). *Air Navigation Law*. Springer Heidelberg Dordrecht, p. 22.

⁴ ICAO, 2011, Chapter 1 & Chapter 2, *Universal Safety Oversight Program Continues Monitoring Manual*

⁵ Airnav Indonesia. (2018). *Excellent Service of Airnav Indonesia.*, Kompas Penerbit Buku, p. 2.

⁶ *Ibid*, p. 14.

infraction of Indonesia's air space will be detected by Airnav Indonesia and be reported to the Indonesia Military's Air Force.

The establishment of the Airnav Indonesia shows the serious intention of the Government to establish a better system of air navigation and air traffic management. A better system of air navigation will be useful in effort to decrease the number of flight accident. Despite it is very difficult to reach zero number of accident, a better management in organizing the air navigation surely will ensure better development of the Indonesia civil aviation industry.

Airnav Indonesia must face the challenge to anticipate the rapid change of the aviation technology. In one hand, Airnav Indonesia shall maintain its knowledge regarding to the latest aviation technology, and on the other hand, Airnav Indonesia is required to meet the global demand for flight safety accordingly. Therefore, Airnav Indonesia needs to be supported by the Indonesian Government due to its significant role as the sole guardian of the Indonesian air space. Any failures by Airnav Indonesia to answer the global demand particularly in the aviation safety performance, will have a damaging effect to the aviation industry itself.

This article is going to discuss, overview and analyze the effectiveness of Airnav Indonesia as the state company who has sole authority and responsibility to provide and develop the air navigation services in Indonesia. Actually, the main purpose of the governmental regulation and establishment of the Airnav Indonesia is solely for aviation safety reason. Therefore, with the form of Airnav Indonesia as a public service company, the question is, how can the company with its limitation be able to increase its capability in answering the global demand in the future along with the increasing traffic in domestic and international flight?

2. Method

This research is analyzing the concept of business model of the Airnav Indonesia as the sole air navigation service provider in Indonesia. The method applied in this research is juridical normative. Juridical normative is a term that comes from legal argumentation which is based on the relevant regulations as the main source. The data and report used in this research were collected from Airnav Indonesia and from relevant international and national institution websites. This research method also involves literature study to observe the expert's opinion through their published books and journals in relation to their theory in analyzing the thesis of this research..

3. Analysis and Results

3.1. Airnav Indonesia, the Guardian of the Indonesia Air Space

The main issue regarding the air space control nowadays is not about the sovereignty, but more likely about the safety performance of the flight. Following the implementation of ASEAN Open Sky Policy on 1st January 2015, there is no more

limitation for the number of flight capacity among the ASEAN countries.⁷ However, under the Presidential Decree No. 12 / 2016, all airlines from the ASEAN countries are free to fly only to 5 airports, those are Jakarta Soekarno Hatta Airport, Medan Kuala Namu Airport, Surabaya Juanda Airport, Denpasar Ngurah Rai Airport, and Makassar Sultan Hasanuddin Airport.⁸ The President Director of Airnav Indonesia stated that the air space which is served by Airnav Indonesia is wider than the Indonesian territory itself. Airnav Indonesia is actually also serving the Timor Leste and Cayman Island's air space.⁹ Meanwhile, some part of the Indonesian territory are still served by the Singapore Air Navigation, those are Batam and the Natuna Island. This arrangement is based on the bilateral agreement between Indonesia and Singapore under the *Agreement Between the Government of the Republic of Indonesia and the Government of Singapore on the Realignment of the Boundary Between the Singapore Flight Information Region and the Jakarta Flight Information Region*, which was validated by the Presidential Decree No. 7 Of 1996.¹⁰

Regarding to the air navigation facilities and its standard system, Article 28 of the Chicago Convention 1944 regulates that every contracting states shall be responsible according to the best practices to:

- a. Provide, in its territory, airports, meteorological services and the navigation facilities to facilitate international air navigation, in accordance with the standards and practices recommended:
- b. Adopt and implement the appropriate standard system of communications procedure, codes, markings, signals, lighting and other operational practices and rules;
- c. Collaborate in international measures to secure the publication of aeronautical maps and charts in accordance with recommended standards.

Besides the Civil Aviation Act 2009, Airnav Indonesia also implements the international regulation which has ratified by the Government in order to serve air navigation to all flight which enters into the Indonesia's FIR.

3.2. The Establishment

Airnav Indonesia was established on September 13, 2012 under the Governmental Regulation No. 77 Of 2012. The official name of Airnav Indonesia is "Lembaga Penyelenggaraan Pelayanan Navigasi Penerbangan Indonesia" (LPPNPI). The form of this association is "Perum" means a Non Commercial State Company to conduct the air navigation services in Indonesia. Previously, the companies who operate the air navigation services were PT.Angkasa Pura I and PT.Angkasa Pura II. The handover of the operation from those companies to Airnav Indonesia was on January 16th 2012. The

⁷ ASEAN Open Skies Policy To Be Implemented in 2015

. <https://www.aseanbriefing.com/news/2015/01/02/asean-open-skies-policy-implemented-2015.html>, [Accessed on 15/10/2018, at 12.21 pm].

⁸ ASEAN LIBERALISATION: OPEN SKIES ACHIEVES FULL RATIFICATION, MAY 2016

. <http://www.hfw.com/ASEAN-liberalisation-open-skies-achieves-full-ratification-May-2016>, [Accessed on 15/10/2018, at 12.37 pm].

⁹ Ibid, p. xviii

¹⁰ Lestari, S. E. P. (2018), *Politik Hukum Navigasi Penerbangan, Konsep Penyelenggaraan Navigasi Penerbangan dalam Perspektif Hukum Udara Internasional dan Nasional*. Setara Press, p. 3.

air navigation services which provides by Airnav Indonesia are Air Traffic Services, Aeronautical Telecommunication Services, Aeronautical Information Services, Aeronautical Meteorological Services and Search And Rescue Services.¹¹ In addition, Airnav Indonesia may conduct other activities in order to support its main duties and optimizing its equipment.¹²

According to the Airnav Indonesia as a non commercial company, the success of Airnav Indonesia is measured by how this company is able to implement all regulations regarding to the civil aviation safety. These regulations are not only Governmental Regulation No. 3 of 2001 regarding the Security and Safety Flight but also the Civil Aviation Safety Regulation (CASR) under supervision by ICAO.¹³ This is in accordance with the main objective of the Airnav to provide public services concerning to the air navigation for civil aviation safety and nonprofit oriented. When commencing its operation, Airnav Indonesia took over and used all of equipment and facilities of PT. Angkasa Pura I and PT. Angkasa Pura II includes the office building. All of the equipment and facilities was deemed as Airnav's equity on a value of IDR.97.952.690.300,-¹⁴ There was no information or data regarding to the Airnav's working capital.

In accordance to the necessity of human resources, many employees of PT. Angkasa Pura I and PT. Angkasa Pura II were relocated to Airnav Indonesia especially the employees who were handling air navigation services. Therefore, at the first year of its operation, Airnav had 1.829 employees. The number of employees was increasing every year. In 2014, it became 2.149 employees, in 2015, 3.414, in 2016, 3.722, and 4.822 employees in 2018.¹⁵ This increasing shows that the necessity of human resources is very crucial particularly in personnel who have had a specific skill to operate air navigation and communication equipment in accordance with the increasing number of airports, aircrafts, passengers, and air traffic.

Although on Governmental Regulation No. 77 of 2012 says that Airnav Indonesia is a non-commercial company that focus on public services, it doesn't mean that Airnav Indonesia is prohibited to have a profit. This regulation instructs that Airnav Indonesia should be financially independent. It means, Airnav Indonesia may not rely and depend on the government assistance. As a company, generating profit is an important thing for sustainability of the company. However, excellent public service remains the major goal of the company. Company's profit cannot be payable as the dividend. According to the form of the company as "Perum", the ownership is 100% owned by the Government but there is no share in it. The annual profit cannot be payable as dividend but shall be reinvested to the businesses in order to upgrade the company's services.¹⁶ All company's revenue is for the business operation and the profit shall be invested into its business or new equipment. The capability of the company to grow its business is also measured as an indicator of the management achievement. However, any investment made by the company must obtain an approval from the Indonesia

¹¹ See Article 3 (3) Governmental Regulation No.77 of 2012.

¹² See Article 13 (2) Governmental regulation No. 77 of 2012.

¹³ Civil Aviation Safety Regulation (CASR) under supervision .

<http://www.airnavindonesia.co.id/id/page/about/type/history>, [Accessed on 11/10/2018 at 5.07].

¹⁴ See Article 14 (2) Governmental Regulation No. 77 of 2012.

¹⁵ Airnav Indonesia, 2018, *Excellent Service of Airnav Indonesia*, Kompas Penerbit Buku, p. 22.

¹⁶ See Article 10, Governmental Regulation No. 77 of 2012.

Minister of Transportation. In sum, there is no doubt that Airnav Indonesia is required to run its businesses without any financial involvement from the Government.

3.3. The Global Challenges

In regard of its establishment goal, Airnav Indonesia shall provide and manage air navigation services to all airlines that are used in the Indonesia air space. Accordingly, the Governmental Regulation No. 77 on Article 4 says that “*Air navigation services shall consider to the safety flight, nonprofit oriented, financially independent and all revenue shall be invested in order to improve the quality of the services*”. The form of “Perum” on Airnav Indonesia shows that the Government does not intend to generate income from this company. However, with this form, the management seems not to be free from intervention by bureaucrats of the government. For example, the Head of Supervisory Board (this is equal to the Board of Commissioner on a regular company) is held by the Chief of Directorate General Civil Aviation (DGCA). With this situation, conflict of interest will occur potentially due to the position of the DGAC as the regulator.

With the form of “Perum”, the management will not be flexible to run its businesses in comparison to a regular company. The company’s business plan shall be approved by the Transportation Minister in every 5 (five) years. Any deviation relating to the execution of the business plan shall obtain a prior approval from the Minister of Transportation. This bureaucracy surely will become a handicap for the management when they have to catch up with the rapid change of the aviation or navigation technology. There is no doubt that the aviation industry is developed by modern technology. Aviation and navigation technology always changes from time to time rapidly. Aircraft manufacturers will always try to find a new way to ensure that the flight safety will be better in the future. This is similar to the technology of air navigation. Therefore, Airnav Indonesia needs to be more flexible and professionally free to take a strategic business decision without any bureaucrat involvement. The limitation of Airnav Indonesia in running its business can be found at the Company’s State Act No. 19 Of 2003. At the Chapter III Article 38 of the Act which regulates about any policy taken by Perum in regards to developing the company’s businesses shall obtain a prior approval from the Minister of Transportation. On the contrary, Article 39 regulates that the Minister is not responsible for any company’s failure which impacted to financial loss of the company. This regulation clearly is very unfair and could potentially be demotivating to the management. On the other word, the business policy of Airnav Indonesia is not decided by the professional management itself but it is taken by the bureaucrat in the DGCA.

Despite in 2017 Airnav Indonesia had succeeded in increasing its security and safety performance level from 151 to 55¹⁷, in the long run, Airnav Indonesia is required not only to maintain its level but also have to achieve a better level from time to time. With this responsibility, there are some aspects which needs to be improved in order to answer the global challenge in Airnav’s businesses, those are:

3.3.1. Operational Efficiency

According to the history of its establishment, Airnav Indonesia took over the authority and responsibility as the air navigation services provider from PT. Angkasa Pura I and PT. Angkasa Pura II. Airnav Indonesia has 2 (two) main branch offices, those are

¹⁷ Airnav Indonesia (2018). *Excellent Services of Airnav Indonesia*. Kompas Penerbit Buku, p. 9.

JATSC at Jakarta, and MATSC at Makassar. Besides those main branch offices, now Airnav Indonesia has 33 branch offices and 32 supporting offices with more than 4000 personnel.¹⁸ Nowadays, Indonesia has 286 airports and some airports are under construction.¹⁹ Regarding to the development of those airports, Airnav Indonesia has to allocate its personnel to all of the airports. However, not all of those airports are in operation every day. For example, the flight traffic at some airports in Papua is very rare. In serving the public interest for air navigation, Airnav Indonesia still has to allocate its personnel at those airports. That is why the management has to efficiently manage utilizing its personnels and its equipment.

Despite Airnav Indonesia could potentially monopolize the air navigation services, the tariff of their services are still decided by the DGCA as the regulator. Airnav Indonesia does not have an authority to determine their own tariff for the services. It may be true while some expert say that there is a close connection between the necessity of efficiency and the tariff decided by the regulator.²⁰ It also can be understood since the tariff will have an implication to the fare of flight tickets. One of the expert opinions relating to the term of “*economic efficiency*” is, the best at the specific circumstance. This circumstance is referring to the minimum cost, consistency of the customer’s choices which reflected on the expenditure and distribution to the customer accordingly.²¹

Financially, at the first three years following the establishment, the performance of Airnav Indonesia was respectable especially in their capability to generate profit. This performance had impacted to the increasing amount of its equity.²² Return on Asset (ROA) and Return on Equity (ROE) at the first year was very high it was 44% and 33%. The high amount of the ROA and ROE at the first year could be understood due to the small number of its equity which was only IDR 97.8 Billion. However, in the third year, the ROA and ROE shown the normal curve that was 19%. The implication of their excellent performance in the first three year was shown in the equity of Airnav Indonesia had jumped from IDR 97.8 Billion to IDR 3.4 Trillion. Based on the Airnav Annual Report, the EBITDA (*Earning Before Income Tax Depreciation and Amortisation*) was stable at around IDR 900 billion.

3.3.2. Modernizing the Equipment

One of the important elements to achieve sustainability in air transport business is the availability and capability of the air navigation and communication equipment. Other challenge are the balance between some aspects, those are environmental, economic, social and financial.²³ Airnav Indonesia shall provide the modern equipment

¹⁸ Kantor Cabang AirNav Indonesia

. <https://www.airnavindonesia.co.id/pelayanan-navigasi>, [Accessed on 20/3/2020 at 6.06 pm].

¹⁹ 286+ Nama Bandara di Indonesia Beserta Letaknya (Lengkap 34 Provinsi)

. https://www.daftarinformasi.com/nama-bandara-di-indonesia/#Daftar_Nama_Bandara_Domestik_di_Indonesia, [Accessed on 15/10/2018, at 1.33 pm].

²⁰ Thomas Blondiau, Eef Delhay, Stef Proost, Nicole Adler, *ACCHANGE: Building Economic Models to Analyse The Performance of Air Navigation Service Providers*, Journal of Air Transport Management 56 (2016) page 19-27, [Accessed on 2/10/2018 at 1.01 pm].

²¹ Roger N Waud, Philip Maxwell, Anthony Hocking, Josef Bonnici, Ian Ward, 1996, *Economics*, Longman Australia, p. 428.

²² Annual report 2015 AirNav Indonesia. <http://e-office.airnavindonesia.co.id/Annual%20Report%20Airnav%202015.pdf>, [Accessed on 15/10/2018 at 1.45 pm].

²³ Lutte, R & Bartle, J. R. (2016). *Sustainability In The Air: The Modernization Of International Air Navigation*. Public Works Management & Policy, SAGE Publication, p. 1.

concerning its business as the air navigation service provider. In its Annual Report, ICAO said that in 2015, the number of passengers of schedule flight at around 3.4 billion, which increased in average of 6.4% than previous year. In Asia pacific, the increasing was higher at 8.5% compare to the previous year.²⁴ Similarly, the DGCA's data regarding the schedule flight passenger in Indonesia, shows that the increasing average at 15% a year.²⁵ As consequently, the growth of the passenger will affect to the growth of the air traffic accordingly.

The more denser of the air traffic the more modern equipment should be prepared. In 2016, ICAO released its program in regard of the global priority of air navigation which based on the Performance Based Navigation (PBN) Program. This program focuses on take off and landing of flight and Air Traffic Management (ATM) system.²⁶ Statistically, the most dangerous time involving aircraft is while they are taking off and landing. This ICAO's program shows its attention concerning to the safety of flight. Therefore, the availability of the air navigation equipment as ICAO's requirement should be filled.

The implementation of modern technology on navigation equipment at all airports was also instructed by the Government. In 2015, the Transportation Minister granted the Ministerial Decree No. 131 regarding the Enhancement of Air Navigation Service for Safety Flight. By this Decree, Airnav Indonesia must enhance its air navigation services on the airport which has more than 10 times aircraft movement a day. It means, Airnav Indonesia shall enhance its equipment from *Aeronautical Flight Information Service* to *Aerodrome Control Services*.²⁷ On the Aeronautical Flight Information Services, Airnav Indonesia only provides information to a pilot regarding a weather, obstacles, airport condition etc. With the Aerodrome Control Services, Airnav officer will be fully responsible, controlling and must instruct to a pilot while take off and landing.²⁸

According to the Airnav Annual Report 2015, the company already owned 194 units of communication equipment, 6 automations, 106 units navigation and 27 units surveillance equipment to support its operation.²⁹ The investment on air navigation equipment was being accelerated during the first three years since the establishment of Airnav Indonesia. Its asset value surged from IDR 97 Billion to IDR 1.4 Trillion by the end of 2015. The investment program still continues despite it seems slowly due to the bureaucracy procedure.³⁰

For the high density of air traffic such as Jakarta, the *Advance Service Movement Guidance and Control System* (ASMGCS) has been implemented in the *Air Traffic Control* (ATC). This equipment has capability to guide more precisely for any aircraft in the

²⁴ Air Navigation rept 2016.

https://www.icao.int/airnavigation/Documents/ICAO_AN%202016_final_19July.pdf, p.5, [Accessed on 14/10/2018 at: 09.46 am]

²⁵ Airnav Indonesia, Op.Cit. p. 113.

²⁶ Air Navigation rept 2016.

https://www.icao.int/airnavigation/Documents/ICAO_AN%202016_final_19July.pdf, p. 8, [Accessed on 14/10/2018 at 09.46 am].

²⁷ Article 2, Ministerial Decree of Transportation, No. 131 of 2015.

²⁸ Airnav Indonesia, Op.Cit pg.86

²⁹ Annual Report 2015. <http://e-office.airnavindonesia.co.id/Annual%20Report%20Airnav%202015.pdf>, p .11, [Accessed on 15/10/2018 at 1 .45 pm].

³⁰ Annual Report 2015 <http://e-office.airnavindonesia.co.id/Annual%20Report%20Airnav%202015.pdf>, p. 30.

movement area, such as the accuracy of distance between one aircraft and another aircraft while they are flying.³¹ Airnav also had implemented the *Automatic Dependent Surveillance Broadcast* (ADS-B). This equipment transmit its data continuously on the radio frequency and able to detect any flight within 250 nautical miles at 29.000 feet above the sea.³² For illustration, there is not all of aircraft able to fly at above 20.000 feet. It depends on the size of the aircraft. For a small aircraft, pilot observes by his visual or called as *Visual Flight Rules* and flying not higher than 5000 feet. For a big aircraft, pilot relies on the navigation instrument in the cockpit, namely *Instrument Flight Rules*. The equipment which owned by Airnav Indonesia shall be able to monitoring all kind of aircraft and provide any necessary information to pilot for safety purpose.³³

3.3.3. Human Resources Development

Regarding to the number of the human resources of Airnav Indonesia, there was increasing significantly in the first three years of its operation. In the first year, Airnav Indonesia has 1.829 personnel, then 2.149 in 2014, and 3.414 personnel in 2015, or increased 62% compare to previous year. There is no doubt that skilled personnel is a human capital for the company. In the other words, the company's operation depends on the dedicated and professional personnel in serving the air navigation services. The safety of flights is also depends on them. That's why this company shall develop its personnel prudently. The most personnel are ATC (*Air Traffic Controller*) personnel who are responsible to manage the traffic of aircrafts whether at airport area or while airborne. On April 2017, the number of ATC personnel of Airnav Indonesia was 1.441 personnel.³⁴

Theoretically, the experts have a similar opinion to explain the term of Human Resource Development. Mclean & Mclean, two professionals from USA and Canada, described the term of human resources development as a process or activity which potential to develop knowledge, skills and productivity for a team or individual, and for benefit of organization, community, state or humanity.³⁵ Jim Grieves in his book "*Strategic Human Resource Development*" described that human resource development is to ensure a working process which most efficiently and effectively to develop team work by their capability to learn and manage them self, and to develop their capability which contributes to the management improvement.³⁶ Those theories are almost the same regarding to the development of individual or team to improve their capability and their motivation. In sum, the human development shall be oriented not only on the improvement of technical capability but also on dedication and sense of loyalty.

3.4. Commercialization of Air Navigation Services

Generally speaking, many countries still apply that air navigation is a public service and should be non-commercial, and therefore, the implementation is under control by

³¹ Airnav Indonesia, Op.Cit. p.70.

³² Airnav Indonesia, Op.Cit. p. 71.

³³ Budd, L., & Ison, S. (2017). *An Introduction to Air Transport Management*. Routledge Taylor & Francis Group, p. 221-222.

³⁴ Sumber Daya Manusia. <http://www.airnavindonesia.co.id/id/page/about/type/sumber-daya-manusia>, [Accessed on 6/11/2018 at 8.52 pm].

³⁵ Hansen, C. D., & Lee, Y. T. (2009). *The Cultural Context of Human Resource Development*, Palgrave Macmillan, p. 5.

³⁶ Grieves, J. (2003). *Strategic Human Resource Development*. SAGE Publication, p. 8-9.

the government. Security and sovereignty are the main reasons to keep the air navigation still under the government's authority. However, the idea to commercialize air navigation service has been becoming common at recent time.³⁷ IATA (*International Air Transportation Association*), in the bulletin of its official websites reported that nowadays more than 40 countries has commercialize their air navigation service included Canada, Australia and United Kingdom.³⁸

United Kingdom was the pioneering country in liberalization of the air navigation services.³⁹ NATS, the United Kingdom (UK) air traffic control provider which formed in 2001, handled in each year for 2,4 million flights and 250 million passengers in UK airspace. NATS have a net profit for 82.3 million Pound sterling only for the first 3 months in 2019.⁴⁰ This profit was attributable for the NATS's Shareholders. The Shareholders of NATS are The Secretary of State of Transport, The Airline Group Limited (AG) and LHR Airports Limited (LHRA).⁴¹ Those NATS's shareholders show the collaboration between the government and the commercial airline and airport. The composition of Airline Group (AG) Limited nowadays are not only the British airlines but also airlines from other country such Deutsche Lufthansa (Germany) or USS Shernon Limited (USA).⁴²

According to the State Company Act No. 19 Of 2003, there are 2 forms of company which owned by the state. First is Perum or Public Service Company and second is Persero or Limited Liability Company. Both of them are capitalized by the state, and the equity of those companies constitute as the separate state's assets. Two forms of these companies surely have a different characteristic. The form of Perum is not divided into shares but 100% owned by the state and therefore, there is no possibility for any third party to invest, participate or place its capital into this company. Conversely, Persero is a limited liability company whether all or part of issued shares is owned by the state. This form of company is the same form with a regular company. The third parties may participate to subscribe the shares through privatization. More over, Persero may sell its shares by go public or Initial Public Offering mechanism. As the company owned by state, the related minister will act as the shareholders to represent the state in the Shareholders General Meeting. As a company, Perum and Persero are two form of company which separable from the governmental bureaucracy despite all of the shares owned by the state. Yahya Harahap said that the separation is called the Company Personality Theory.⁴³ This theory clarify that the government and the company is a different legal entity. However, due to the ownership of Perum that is

³⁷ Tomova, A. (2016). Are Commercial revenues important to today's European air navigation service providers. *Journal of Air Transport Management*, 54, p. 80-87.

³⁸ IATA, *Commercialization of Air Navigation Services Providers*, <https://www.iata.org/policy/Documents/commercialisation-ansps.pdf>, [Accessed on. 14/11/2018 at.11.42 am].

³⁹ Materna, M. (2019). Variant of Air Navigation Service Providers' Business Model. *Transportation Research Prodecia* ,40, p. 1127-1133.

⁴⁰ NATS official Websites. Financial Report and Accounts 2019. https://www.nats.aero/wp-content/uploads/2019/06/NATS7555_AnnualReport-2019_Financial.pdf, [Accessed on 27/6/2020 at 5.12 pm].

⁴¹ NATS official Websites. NATS Governance Framework. https://www.nats.aero/wp-content/uploads/2019/06/NATS7555_AnnualReport-2019_Governance.pdf, [Accessed on 27/6/2020 at 6.15 pm].

⁴² Anna Tomova, A. (2017). Two Business of Air Navigation Services Provider: The Case Study of NATS. *Transportation Research Prodecia*, 28, p. 99-105.

⁴³ Harahap, M. Y. (2011). *Hukum Perseroan Terbatas (3rd ed)*. Sinar Grafika, p. 54.

owned only by the state, the related minister have full authority in controlling the management and therefore the bureaucrat often intervene into a strategic company decision. Other handicap is when the company needs to alter its constitution. Any alteration of Perum's constitution shall be done by Governmental Decree.

Commercialization of air navigation is not prohibited. No any regulation prohibits commercialization of air navigation service by ICAO neither by the Constitution. Moreover, the Constitution mandates that all wealth resources of the nation are for the people's prosperity.⁴⁴ This mandate can be the legal argument that air space is one of the wealth resources of the nation and may be commercialized for the people's prosperity. As aforementioned, there are some countries has implemented their air navigation services commercially. This also means that Indonesia Government has an opportunity to generate income from its air space. According to the Airnav Annual Report year 2018, the financial performance of Airnav Indonesia was raising every year. In 2016, the EBITDA of Airnav was IDR 727 billion, IDR 745 billion in 2017 and IDR 803 billion in 2018.⁴⁵ This performance shows that the operation of Airnav Indonesia was very attractive for the government's income other than tax.

The idea to commercialize the air navigation services shall be followed by the change of the company's form. The form must be Persero and it makes the company will be more flexible and independently. The flexibility in taking strategic decision is very crucial for the benefit of the company. Pamela Hanrahan, Ian Ramsay and Geof Stapledon, the Senior lecturers and professor at Melbourne University stated that managing company is how the management takes a decision. Decision making in a company is involving capital structure, financial performance, or any company's activities in operating its business. The different of company's structure will be impact to the responsibility of every member of the management in such company.⁴⁶ That's why the form of Airnav Indonesia should be changed to be Persero. In addition, the involvement of bureaucrats in decision making will be reduced.

As the company who monopolize the air navigation services, it is time to separate the company's operation from a regulator involvement in order to avoid conflict of interest. The DGCA as the regulator shall concentrate more on the development of aviation industry instead of involving in Airnav's operation. With the form of Persero, it is possible for Airnav Indonesia to sell its shares through privatization or Initial Public Offering to increase its equity. The possibility to subscribe to the shares in the company for third parties should be opened, this is due to the investment in the air navigation equipment is very expensive. This third parties may be limited only to the National Airlines as one the stakeholders of Airnav Indonesia. There are some benefits if the national airlines may have an opportunity to subscribe the shares in Airnav Indonesia:

Firstly, Airnav Indonesia will be independent financially and will become one of the potential resources to contribute to the government's income. *Secondly*, Airnav Indonesia will be more comfortable to update and improve its equipment and its personnel capability in order to catch up to the rapid change of air navigation technology. *Thirdly*, the mutual benefit between Airnav Indonesia as the provider and

⁴⁴ Article 33 of the Indonesia Constitution.

⁴⁵ Laporan Tahunan AirNav Indonesia. <https://www.airnavindonesia.co.id/laporan>, [Accessed on 23/3/2020 at 11.12 am].

⁴⁶ Hanrahan et al. (2011). *Commercial Applications Of Company Law* . CCH Australian Limited, p. 10-11.

airlines as the user will be occurring and it may improve the safety awareness for both sides. *Fourthly*, it will warrant the transparency of the management in the air navigation service both operationally and financially.

4. Conclusion

Aviation safety, no doubt, is the main objective for Airnav Indonesia in running its business as the air navigation service provider. As the sole air navigation service provider in Indonesia, Airnav Indonesia shall be capable to provide an excellent service to any airline who is utilizing the Indonesia air space. The consequence of it, Airnav Indonesia must able to comply with the appropriate air navigation technology to ensure the air traffic safety. In order to enhance its capability to develop its equipment by the latest technology particularly in air navigation from time to time, Airnav Indonesia is required to be operated independently. As a business institution, Airnav Indonesia shall be free from any governmental intervention. Air navigation provider surely shall be separated from the DGCA as the regulator. Moreover, Airnav Indonesia is required to access whether national or international financial resources in order to secure its sufficient equity. . Regarding to the aim of its establishment and answer the increasing of air navigation service demand commercialization of the air navigation services may become an alternative approach to enhance Airnav's capabilities not only for generating income but also for securing the public safety. Commercialization of air navigation service is also useful for managing the transparency and to avoid any potential conflict of interest with the governmental body as the regulator. Furthermore, according to Article 458 of the Aviation Act 2009 by the end of 2024, all of Indonesia air space shall be fully controlled by Indonesia itself. It means, the fiduciary duty of Airnav Indonesia in managing and developing the air navigation services become more complex.

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