

Legal Protection of Consumer Rights in The Services of Sriwijaya Travel Pass Based on Law Number 8 of 1999 Concerning Consumer Protection

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ABSTRACT

Indonesia as a developing country in establishing relation with other countries require transportation services to connect one island to another and to other countries. Air transportation is one of the most time efficient, comfortable and fastest amongst other transportation. But as the increasing passenger numbers, air transportation often ignoring the quality of the service which lead to disappointment for the passenger. Sriwijaya Air is one of the Airlines that has promotion for passenger which is called 'Sriwijaya Travel Pass' program. It allows consumer whom already been registered as a member to get a privilege to fly anywhere and everywhere for a year. On October 22nd 2018 Sriwijaya Air changed the policy on the agreement and all members could not negotiate it in any way. That action is not in accordance with the Article 18 verse (1) of Law No. 8 of 1999 which is causing some disadvantages to the consumer. Sriwijaya Air should eliminate clause that contradictory with the regulation and obligated to undertake the responsibility of compensation to the consumer.

Keywords: *Consumer Protection, Consumer Rights, Travel Pass*

1. INTRODUCTION

As an archipelagic country and a developing country in establishing relations with foreign countries, Indonesia is in dire need of transportation services to connect one island to another and with other countries. One of the most convenient, fast and time-efficient transportation that is most desirable is air transportation. The role of air transportation, especially commercial airlines, is very important in economic and social development as indicated by an increase in the demand for aviation services as measured by the growth of air passengers. Therefore airline companies compete with each other to attract as many passengers as possible by offering a variety of cheaper flight rates. In this case Sriwijaya Air is one of the airline companies that often offers various flight ticket promos to all flight service users. Sriwijaya Air around the middle of 2018 made a promo called "Sriwijaya Travel Pass" which has attracted the attention of users of aviation services. However, the increase in the number of passengers was not matched by an increase in service quality.

Seen from a few months after becoming a member of the Sriwijaya Travel Pass, all members received e-mails from

Sriwijaya Air's management which contained a new policy in the form of adjustments to the allocation of seats or flight rations for members so that it was difficult to get flight tickets. The action taken by the Sriwijaya Air airline allegedly violated the provisions in the Consumer Protection Act because it did not carry out its obligations fairly to consumers as the principles of consumer protection contained in Article 2 of the Consumer Protection Act specifically regarding the principle of justice. The principle is intended so that all business actors and consumers obtain rights and implement obligations fairly. The obligation that Sriwijaya Air allegedly ignored as a business actor is contrary to the provisions of Article 7 and Article 18 paragraph (1) of the Consumer Protection Act concerning the obligations of business operators and Article 118 of the Aviation Law regarding obligations of air transport permit holders.

2. PROBLEMS

Based on the background described above, the issues that

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will be discussed in this journal are:

1. How the form of legal protection for consumers if they are harmed by Sriwijaya Air in the Sriwijaya Travel Pass service?
2. What is the settlement effort that can be taken by consumers if it has been harmed by Sriwijaya Air in the Sriwijaya Travel Pass service?

3. ANALYSIS

3.1 Forms of Legal Protection for Consumers in the Sriwijaya Travel Pass Service

Consumer protection is identical to the protection provided by law for consumer rights. Existing consumer rights begin with consumer rights which are affirmed in UN resolution No. 39/248 of 1985 concerning Consumer Protection and are realized in the Consumer Protection Act No. 8 of 1999. The Consumer Protection Act in Article 3 states that violations of consumer rights can include:

1. Violation of consumer rights to comfort, security and safety;
2. Violations of the consumer's right to choose goods and services and obtain goods and services in accordance with the exchange rate and conditions and guarantees promised;
3. Violations of consumer rights to be heard opinions and complaints on goods and services used; and
4. Violations of the obligation of business actors to guarantee the quality of goods and services produced and traded based on the provisions of the applicable quality standards of goods and services.

In addition, in the statutory regulations, several obligations that must be obeyed by business actors in carrying out their business are also regulated, as is the case with transportation companies. However, if in carrying out these obligations, violations are committed by business actors, then it is entirely the responsibility of the business actor and consumer rights must be protected. Article 8 of the Consumer

Protection Act deals with restrictions on business actors from being arbitrary to consumers, then Article 9 and Article 10 of the Consumer Protection Act regulate restrictions on business actors in offering, promoting or advertising in a manner incorrect, as well as Article 118 of Law Number 1 of 2009 concerning Aviation regulates the obligations that must be obeyed by holders of air transportation permits.

On problems that occur in Sriwijaya Air where Sriwijaya Travel Pass members actually get service offers that do not match promises or are offered uncertain promises. This can be seen from the advertisements or promotions offered by Sriwijaya Air that are different from the facilities obtained by Sriwijaya Travel Pass members. Because it turns out that after the Sriwijaya Travel Pass member fulfills their obligation to pay a certain amount of compensation to Sriwijaya Air for membership, there is a change in the number of seat allocations for Sriwijaya Travel Pass members, which was originally unlimited as long as seats were available, and caused all members to find it very difficult to get tickets.

3.2 Settlement Efforts That Can Be Taken By Consumers In Sriwijaya Travel Pass Services

In order to fight for the rights of consumers, it can be achieved by applying legal sanctions for those who violate the law, both administrative and criminal sanctions, but can also be done by filing a civil claim to the court, or settling cases through non - litigation, namely the resolution of disputes outside the court through intermediaries of other parties whose existence has been regulated in statutory regulations. Settlement of consumer disputes can be reached through the court or outside the court based on the choice of the parties to the dispute. Dispute resolution out of court as referred to in paragraph (2) does not eliminate criminal liability as regulated in the Act. If an out-of-court consumer dispute resolution effort has been chosen, a lawsuit through the court can only be

taken if the attempt is declared unsuccessful by one of the parties or by the parties to the dispute.

1. Non-Litigation Settlement Efforts

Non-litigation dispute resolution is regulated in Article 47 of the Consumer Protection Act which states that settlement of consumer disputes outside the court is held in order to reach agreement on the form and amount of compensation and / or regarding certain actions to guarantee that it will not happen again. or will not recur the loss suffered by consumers. Settlement of consumer disputes outside the court in daily life is known as alternative dispute resolution, for example mediation, arbitration, or conciliation through governmental institutions that specifically resolve consumer disputes, namely the Consumer Dispute Resolution Agency.

In choosing consumer dispute resolution outside the court, it can be done through several ways of dispute resolution, including through Alternative Problem Resolution at the Consumer Dispute Resolution Agency, Non-Governmental Consumer Protection Institution, or through the Consumer Protection Directorate or other places that have been agreed by the parties the disputes.

2. Litigation Settlement Efforts

Article 23 of the Consumer Protection Law stipulates that if manufacturers and / or distributors who are businesses that refuse and / or do not respond and / or do not meet compensation for consumer demands, consumers are given the right to sue business actors and settle disputes that arise through the Consumer Dispute Resolution Agency or by filing a lawsuit to the court in the consumer's place of residence. This is in line with Article 45 of the Consumer Protection Act which states:

a. Every disadvantaged consumer can sue the business actor through an institution tasked with resolving disputes between consumers and business actors or through the judiciary in their environment.

b. Settlement of consumer disputes can be reached through the court or at

c. outside the court based on the voluntary choice of the disputing party.

d. Settlement of disputes outside the court referred to in number (2) does not eliminate criminal liability as regulated in

e. Constitution.

f. If a consumer dispute resolution effort has been chosen outside the lawsuit

g. through the court can only be taken if the effort is stated

h. unsuccessful by one of the parties or by the parties to the dispute.

In the case of the burden of proof in the case of a consumer dispute case, then the burden of proof is reversed, which means the business actor must prove himself innocent. This is different from the burden of proof in criminal and civil cases. However, it does not rule out the possibility for prosecutors to carry out the evidence as stipulated in Article 22 of the Consumer Protection Act. Regarding the reversed proof in this consumer dispute has been regulated in Article 22 and Article 28 of the Consumer Protection Act. Article 22 refers to consumer disputes relating to criminal cases, whereas Article 28 refers more to consumer disputes relating to civil cases (in this case compensation).

Issues regarding the Sriwijaya Travel Pass can be submitted as an illegal act. As for the Sriwijaya Air's actions which unilaterally changed the contents of the terms and conditions for Sriwijaya Travel Pass members so that it is not in accordance with the promises that this violates the provisions of the legislation, especially Law Number 8 of 1999 concerning Consumer Protection.

4. CONCLUSION

Based on the description of the discussion that has been stated above, the authors draw conclusions as follows: Form of legal protection for consumers or in this case

Sriwijaya Travel Pass members who suffer losses due to failure to fulfill the promise of facilities to be provided by PT. Sriwijaya Air has been regulated in Law Number 8 of 1999 Concerning Consumer Protection. Which in Article 4 of the Consumer Protection Act explains the rights that can be obtained as a form of consumer protection. And in the Consumer Protection Act also has set obligations and prohibitions for business actors so that they are not arbitrary to consumers in order to sell and / or promote goods and / or services.

Every consumer who feels aggrieved and whose rights have been violated or has been harmed in the Sriwijaya Travel Pass service can peacefully resolve his dispute in reaching an agreement (mediation), through a dispute resolution mechanism through litigation and dispute resolution efforts through non-litigation in accordance with the provisions as regulated in Law No. 8 of 1999 concerning Consumer Protection. In addition, the way that can be done is to take legal action against the Sriwijaya Travel Pass service as follows: Report to the Consumer Dispute Resolution Agency or NGO Consumer Dispute Resolution and / or Conduct a civil claim for acts against the law or default. This remedy is as a form of legal protection for consumers.

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