Between saving Garuda and all Indonesian airlines

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The COVID-19 pandemic has hit the global aviation industry. It is uncertain when international flights may return to normal due to border closure all over the world. Some airlines turned to domestic routes to keep themselves afloat, including in Indonesia.

Before the pandemic, the domestic flight market in Indonesia was a lot more dominant than its international counterpart's at around 97 million versus 31 million passengers in 2017 – and such a ratio has remained unchanged. This fact might become the main driving force for the recovery of the national aviation industry, especially with the right strategy.

Currently, national headlines are talking about Garuda's massive, piling debt. The public is concerned that the sky-high debt might lead to the flag carrier's bankruptcy, as in the case of Merpati Nusantara airline in 2014.

The State-Owned Enterprises (SOE) Ministry is currently reviewing four options to rescue the flag carrier. First, through a provision of loans or an equity injection. This option might potentially leave Garuda with even bigger debts in the future. Second, through the bankruptcy protection line in order to smooth out the restructuring plan.

The last two options are to establish a new national airline in the middle of Garuda's restructuring process and the liquidation of the flag carrier itself. This would mean relying on other private airlines for domestic connectivity for some time.

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Till the next flight: An airport ground staff member guides a Garuda Indonesia Boeing 777-300 ER plane upon arriving at the Garuda Maintenance Facility in Soekarno Hatta International Airport in Banten on June 19, 2015. The national flag carrier is facing a debilitating crisis in the wake of the COVID-19 pandemic.

In fact, the pandemic has hit both our national and private airlines hard. All of them are in a critical state, and unfortunately, there has been no news in terms of saving the private airlines. Indonesia is more than just the island of Java, with all its privileges of connectivity. The government owes it to private airlines that have helped connect the mid and eastern parts of Indonesia with their pioneer flights. Choosing only to save Garuda is a discriminatory choice, and it might even lead to more trouble in the future.

Another alternative that has not been discussed is removing the restrictions for foreign investment in aviation, but with certain requirements. It takes a lot of capital and risk-taking to enter this industry, as infamously summarized by Richard Branson, the owner of Virgin Atlantic, who said: "If you want to be a millionaire, start with a billion dollars and launch a new airline."

Issues pertaining to foreign ownership or investment are always sensitive, but if no proper equity injections can be given to Garuda and other private airlines on time, we need to be realistic. There is no reason to sacrifice flight safety just to tinker with the aircraft maintenance funds.

There are two sides to discussing the said sensitive option, namely internal factors and external factors. In terms of internal factors, Indonesia, alongside Brunei Darussalam, Malaysia, Myanmar, Singapore, Thailand and Vietnam, have the highest restriction for foreign ownership of national airline shares: 49 percent. This is partly done to ensure the airline's nationality.

For illustration, Law No. 1/2009 on aviation justifies the implementation of the cabotage in Indonesia. Only airlines with Indonesian nationality (PK registration) are allowed to conduct intercity commercial scheduled flights in Indonesia, for the sake of securing the domestic flight market for national airlines only.

To get around the ownership issue, several airlines established a branch airline in the target country. Several examples are Lion Group (Indonesia) with Malindo Air (Malaysia) and Thai Lion Air (Thailand); VietJet Air (Vietnam) with Thai VietJet Air (Thailand); and the biggest one so far is AirAsia Group (Malaysia), with its subsidiaries in Indonesia, Thailand and the Philippines. However, this strategy needs a large amount of capital. In addition, foreign investors must operate a certain number of aircraft and face the fact of not becoming the controlling shareholder.

Indonesia's omnibus Job Creation Law has indeed removed the requirement to own a certain number of aircraft — from a minimum of 10, five of which are owned and five are leased – as the prerequisite to establish a scheduled commercial airline. Previously, this particular requirement in Indonesia was the highest among ASEAN countries, with Singapore requiring three operational aircraft, Thailand requiring two and Malaysia one.

The omnibus law will not necessarily cause a surge in new airlines. Investors are currently faced with uncertainty in the aviation industry amid a lack of government subsidies or they are perhaps more interested in investing in airports, which are apparently more resistant to the pandemic's impacts compared to airlines.

If the status quo pertaining to Garuda's nationality as the flag carrier should be preserved, then the requirement stating 51 percent of its shares must be owned by an Indonesian entity can be left untouched. But it is also important to think about the survival of other airlines through the easing of restrictions on foreign ownership, at least for a certain period of time – only during the pandemic. This urgency is real, considering that private airlines do not have privileges that Garuda enjoys. Employees whose livelihoods rely on those private airlines deserve to be saved.

Then, speaking of external factors, the presence of more than 50 percent of foreign investment in private airlines might create a condition for the loss of the rights of several international routes. Bilateral and multilateral air service agreements commonly require effective control, proven through the majority ownership of shares and airlines with the same nationality.

As an illustration, the merger of Air France and KLM had to undergo a complicated ownership and control structure that ended up in both halves of the shares being owned by the Netherlands and France, so the airlines did not lose their rights to international routes.

The abovementioned yet sensitive option, the objective of which is to ensure national connectivity, can be presumed to be the correct option. The external factor ensures that foreign investment is only for reviving the domestic aviation industry, with rewards lasting for a certain period of time. The government and all stakeholders must consider this sensitive alternative with a cool head for a win-win solution.