

SUBJECTIVITY DISTORTION IN E-WOM RATINGS THREATENS THE FAIR BUSINESS COMPETITION IN TOURISM IN INDONESIA

Nyoman Samuel Kurniawan ^{1*}, Ida Bagus Wyasa Putra ², Desak Putu Dewi Kasih ³, I Ketut Westra
 Law Doctoral Study Program, Faculty of Law, Universitas Udayana, Indonesia
 *Corresponding author: elkurnia@yahoo.com

Abstract

The touch of innovation due to advances in internet-based information communication technology has encouraged the tourism industry in Indonesia to develop rapidly, especially in the industrial era 4.0 which is currently heading towards era 5.0. Which is marked by the birth of various on-line applications that have unavoidably penetrated the realm of business competition. This threatens the fair business competition because the subjectivity of tourist assessments distorts the objectivity of E-WOM, which is a market controller. This research aims to find out the factors causing the distortion of subjectivity in E-WOM assessment, how is the current regulation of E-WOM in business competition law in Indonesia? And how legal arrangements need to be applied to E-WOM so that no distortion of subjectivity threatens fair business competition in the tourism sector in Indonesia, using more than one approach, including an interdisciplinary approach and the analysis of legal materials is carried out with a qualitative approach, which is exploratory and analytically descriptive. From number of factors distorting subjectivity in E-WOM assessments, the business competition factor turns out to be a reinforcing factor for the reasons for E-WOM abuse, so that clear and firm legal arrangements must be needed to prevent it from happening. Although the Business Competition Law has implicitly regulated restrictions for E-WOM, it is still necessary to have a recommended regulation into a publicly applicable rule of law, so that there is no distortion of subjectivity in E-WOM assessments that threatens the fair business competition in the tourism sector in Indonesia.

Keywords: E-WOM; Business; Law

1. INTRODUCTION

Indonesia is the world's favorite tourist destination with various tourist accommodation facilities. The touch of innovation due to technological advances in the field of internet-based information communication has encouraged the tourism industry in Indonesia to develop rapidly, especially in the industrial era 4.0 which is currently heading towards era 5.0. which is marked by the birth of various on-line applications that have unavoidably penetrated into the realm of business competition. Tourist accommodation businesses now inevitably have to pay attention to their position in the business competition map through their on-line rating, which is determined by the participation of tourists who have visited to provide input (either in the form of opinions, reviews or voting) online, regarding the level of satisfaction with the services (including services, facilities and treatment) felt. Internet-based applications for assessing the level of tourist satisfaction are known as Electronic Word Of Mouth (E-WOM), one example is TripAdvisor. E-WOM is a statement through internet media made by potential, actual, or previous customers about a product or company, either positive or negative (Prasetyo et al., 2018; Waluyo, 2002). In general, E-WOM is a communication medium for sharing information about a product or service by providing an assessment in the form of a review or voting, both positive and negative, as well as Goyettee et. al., in Surenda R. et. al., divides E-WOM into three dimensions, namely: Intensity, Valence of Opinion and Content, and defines Valence of Opinion as a positive or negative consumer opinion about products, services and brands that have two properties, namely negative and positive, including (a) Positive comments from users of social networking sites and (b) Recommendations from users of social networking sites (Surenda et al., 2022).

The more input with a high level of satisfaction provided by visiting tourists, the higher the E-WOM rating of the tourist accommodation, and vice versa and currently E-WOM is one of the most



influential factors that drive people's decisions to choose tourist accommodation services when traveling (Kudeshia & Kumar, 2017), because recommendations from other customers are considered more reliable than promotions that come from companies and can greatly influence other people's decisions to use (or avoid) a service (Lovelock et al., 2010), so that the E-WOM application has been made a kind of "*compass direction*" of which tourist accommodation to go to. In contrast, in this online assessment, there is a probability of an immeasurable and uncontrollable element of subjectivity so that the objectivity of the rating on E-WOM is likely to have been distorted by the subjectivity of Travelers. Noting the distortion of subjectivity in E-WOM that can be a loophole to be abused, E-WOM can potentially be a serious threat to fair business competition in the tourism sector. The Big Indonesian Dictionary (Kamus Besar Bahasa Indonesia - KBBI) states that distortion is the distortion of a fact, rule, and so on; deviation which in this writing is more defined as interference. Roscou Pound proposing the theory of Law Is Tools Of Social Engineering, namely that the law must be able to keep up with the flow of developments in society. So with regard to E-WOM, it is necessary to establish legal arrangements that can continue to protect the community's interests in line with developments in society which are currently moving into the era of digital online globalization. One example of hotel accommodation in Bali that uses TripAdvisor as a review media is The Westin Resort Nusa Dua Bali hotel, as follows:

Table 1. Frequency Classification Data of Guest Complaints Towards Front Office Services for the Period 2017-2020 (Pratiwi et al., 2021)

| Year | 2017 | 2018 | 2019 | 2020 | Total (person) |
|-----------------------|------|------|------|------|----------------|
| <i>Terrible</i> (*) | 5 | 6 | 7 | 2 | 20 |
| <i>Poor</i> (**) | 1 | 4 | 10 | - | 15 |
| Total (person) | 6 | 10 | 17 | 2 | 35 |
| Frequency (%) | 17% | 24% | 49% | 6% | 100% |

Based on the data above, it can be seen that E-WOM has been taken into account as a leading platform for assessing the level of tourist satisfaction with tourist accommodation at the class of The Westin Resort Nusa Dua Bali, even though the input does not necessarily reflect the facts objectively, without distortions of subjectivity such as personal interests, emotions, orders and so on, so it is interesting to discuss further about the Distortion of Subjectivity in E-WOM Assessments Threatening Healthy Business Competition in the Tourism Sector in Indonesia. Based on the explanation above, several questions arise that need to be studied further. First, what are the factors that cause the distortion of subjectivity in E-WOM assessments? Second, how is the current regulation of E-WOM in business competition law in Indonesia? Third, what are the legal arrangements that need to be applied to E-WOM so that there is no distortion of subjectivity so as not to threaten healthy business competition in the tourism sector in Indonesia?

This research aims to find out the factors causing the distortion of subjectivity in E-WOM assessments, how is the current regulation of E-WOM in Indonesia, especially with regard to business competition law and how legal arrangements need to be applied to E-WOM to avoid distortion of subjectivity so as not to threaten healthy business competition in the tourism sector in Indonesia. The expected final result of this research is to analyze and determine the legal arrangements that need to be applied to E-WOM so that subjective distortions do not occur so as not to threaten the nature of healthy business competition in the tourism sector in Indonesia. There are studies that are related to this research but have different perspectives and approaches. However, the current research focuses on analyzing and determining the legal arrangements that need to be applied to E-WOM so that subjective distortions do not occur so as not to threaten healthy business competition in the tourism sector in Indonesia in the future.

2. METHOD

This is juridical normative legal research (Abdulkadir, 2004), using more than one approach (Ibrahim, 2006), both a qualitative normative approach, a statutory approach, a conceptual approach



(Marzuki, 2009), as well as an interdisciplinary approach (Diantha et al., 2018), from the disciplines of law, marketing and information technology combined and combined to examine legal phenomena, so that this research uses a sociolegal research method, and an analytical normative writing method (Waluyo, 2002).

Analysis of legal materials is carried out with a qualitative approach, which is exploratory (Waluyo, 2002), and analytical descriptively with interpretative, systematic, evaluative, constructive, and argumentative techniques (Buku & Ali, 2011).

3. RESULTS AND DISCUSSION

3.1. Factors Causing the Occurrence of Subjectivity Distortion in E-WOM Assessment

Internet-based E-WOM applications are very helpful for the community in choosing tourist destinations and tourist accommodations to be visited by collecting on-line input from tourists who have visited there, it cannot be denied that it contains subjectivity distortion. Subjectivity distortion occurs due to various factors that the author has collected and will describe, including the following:

a. Regulatory Factors of E-WOM

The absence of legal arrangements in society will trigger abuse so that there needs to be regulation or legal arrangements, specifically to regulate the use of E-WOM in order to avoid abuse that only utilizes E-WOM for its own interests so that it will result in misleading information due to ratings that do not match the facts. Because E-WOM has become the mainstay of the community in choosing tourist destinations and tourist accommodations, it is necessary to have clear and comprehensive legal arrangements that regulate E-WOM so that certain individuals do not abuse E-WOM to benefit themselves by manipulating reviews on E-WOM so that both consciously and unconsciously this will have adverse implications for the tourism industry sector. The lack of clear and firm legal arrangements for using E-WOM can result in E-WOM being abused as a means to create "*engineered ratings*" to attract or "*lure*" the attractiveness of people who want to travel is often used by the public when doing traveling activities.

b. Business Competition Factor

Business competition is an inseparable part of the business in the field of tourist accommodation services. Business competition is a term that often appears in various literatures that write about the legal aspects of business competition. Competition comes from the English language, namely competition, which means competition itself or competitive activities, matches, and competitions. Competition is when organizations or individuals compete to achieve desired goals such as consumers, market share, required resources and including survey rankings. In the management dictionary, competition is the efforts of two or more companies, each of which is trying to "get orders" by offering the most favorable prices and or conditions. This competition can take several forms such as price cutting, advertising/promotion, variety and quality, packaging, design, and market segmentation. Business competition (especially unfair) is a reinforcing factor for the reasons for misuse of E-WOM which encourages fraudulent and manipulative actions for the purpose of profit to win the business competition itself. For example, the results of the assessment on E-WOM are not objective because there is an intervention by the manager or owner of the tourist accommodation service business who requests that the tourist visitors provide good input on E-WOM which is even given a reward, so that without thinking, tourist visitors provide good input on E-WOM.

c. Relationship Closeness Factor

The close relationship between tourist visitors and the owner, manager or employee of a tourist accommodation service business is a factor that tends to cause objectivity to be powerless against subjectivity naturally. The closeness of the relationship can come from blood relations, kinship, social networks, work relationships and many more possibilities that cause a close relationship that results in tourist visitors subjectively providing good or bad input.

d. Habit factor

There are a number of reasons that are classified as habits of tourist visitors providing input on E-WOM, namely:



(1) Lack of reading or scrutinizing questions from E-WOM, because requests to provide assessment input sent by the E-WOM system on-line are only given after the tourist has finished visiting, so tourists often provide their input without reading or scrutinizing the contents of the questions sent by the E-WOM system, resulting in an unobjective assessment of the place or tourist accommodation that has just been visited; and

(2) Just participating, because it has become a habit for most tourists to visit a tourist spot or tourist accommodation because they see references from good assessments presented by E-WOM, so when the time comes to be asked to provide input on tourist attractions or tourist accommodations that have just been visited, without thinking anymore they provide input carelessly to fill in or complete questions from E-WOM.

Given that business competition is precisely the factor that reinforces the reason for E-WOM abuse, which causes the distortion of subjectivity in E-WOM assessments, it is very necessary to have clear and firm legal arrangements immediately so that there is no abuse of E-WOM that threatens business competition in Indonesia, especially in the tourism sector.

3.2. The Current Regulation of E-WOM in Business Competition Law In Indonesia

Regulations on Business Competition Law in Indonesia are currently regulated through Law of the Republic of Indonesia Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition (hereinafter referred to as the "Business Competition Law"). Considering that this Law was established in 1999, at which time there was no phenomenon of internet utilization as it is today, then of course there was no explicit and specific regulation on E-WOM Applications. However, in principle, a number of regulations on aspects or forms of business competition can indirectly be used to regulate the presence of E-WOM Applications in the business world in Indonesia, especially in the tourism sector. Assuming that the E-WOM Application has an owner or manager, then behind the E-WOM application there is a business entity that moves for profit (profit) so that it can be concluded that there is a "business actor" behind each E-WOM application. By using the word "business actor" as an identity representing the owner or manager of the E-WOM Application, it can be found that there is a regulation of E-WOM Applications in the Business Competition Law.

In the consideration letter b of the Business Competition Law, it is emphasized on equal opportunities for every citizen to participate in the process of production and marketing of goods and or services, in a healthy, effective, and efficient business climate so as to encourage economic growth and the operation of a reasonable market economy. Thus, the E-WOM Application, which emerged decades later, should have been a real implementation of democracy in the economic field in Indonesia, with clear corridor limits as stated in the consideration letter c, which essentially emphasizes that all businesses in Indonesia must exist in a situation of fair and reasonable competition, so that there is no monopoly.

Furthermore, Article 4 on the prohibition of oligopoly, Article 12 on the prohibition of trust, Article 13 on the prohibition of Oligopsony, Article 19 on the prohibition of monopoly, Article 24 on the prohibition of conspiracy, Article 25 on the prohibition of using a dominant position, Article 26 on the prohibition of dual positions in two businesses that are closely related in the field and or type of business, all of which show that implicitly there is a legal regulation that the Business Actor who owns the E-WOM Application is prohibited from cooperating with, entering into a Cooperation agreement with, or owning other businesses engaged in the business of goods or services.

As an example as well as a complement to this writing, the following author presents the guidelines for posting input (reviews) on one of the E-WOM applications, namely Tripadvisor, as follows (Gobel, 2011; Pratiwi et al., 2021):

1. Indirect Experience

Reviews on Tripadvisor must be honest information about travelers' personal experiences with the properties listed on the tripadvisor site. Since reviews are linked to circle ratings and affect a property's position in Tripadvisor's popularity rankings, reviews should include relevant and helpful tips for other travelers and members of the tripadvisor community and should be based on first-hand experience. To ensure each review reflects first-hand experience, each user must have their own



account and may not write on behalf of another person or use another person's account to post a review, unless the tripadvisor user is writing about the experience of someone in a tour group in the same location as part of the traveler's experience.

2. Information from Other Parties

Tripadvisor ensures that travelers who provide reviews must be in accordance with personal experience, Tripadvisor anticipates and will remove the following (Diantha et al., 2018; Pribudi, 2020):

(1) Quotes or descriptions from the media, the Internet, or other guests/people who are not part of your tour group. This includes, among other things, quotes from legislation, quotes from government agencies, food ratings, or news coverage.

(2) Information you receive from third parties after you have visited the property.

The guidelines as envisioned by the Tripadvisor platform from the traveler experience are as follows (Bogia, 2021; Triandewo et al., 2023):

(1) Any information passed on to you by a staff member of the property you are reviewing.

(2) The opinions or experiences of travelers in your tour group.

(3) Small references to recommendations received from other travelers or visitors or locals, but not the media, prior to visiting the property.

(4) Refers to conversations and bookings with travel agencies, booking companies and OTAs, as travelers often associate these companies as partners of the reviewed property.

(5) The opinion, advice or diagnosis of a lawyer or doctor relating to your experience at the property.

(6) Referring to (i) facts, (ii) news coverage, (iii) public opinion, or (iv) well-known world events ("well-known" is defined as that which is known to the majority of international travelers traveling to the destination).

(7) Inadvertently mentioning another guest's experience, either (i) reported directly to you by the guest, but not witnessed by you, or (ii) reported directly to staff and witnessed by you.

Based on the guidelines cited above, there are already restrictions and internal policy settings that serve as good guidelines in providing input, but of course to keep the E-WOM application from being abused and so that it does not become a threat to fair business competition, especially in the tourism business sector, a number of further arrangements are suggested to be legal rules that do not only apply internally.

3.3. Legal Arrangements that Need to Be Applied to E-WOM to Avoid Distortion of Subjectivity so as not to Threaten Healthy Business Competition in the Tourism Sector in Indonesia

Considering that Article 11 point (2) of the Framework Convention on Tourism Ethics adopted by Resolution A/RES/722(XXIII) of the UNWTO General Assembly stipulates that tourists should have access to all available forms of communication, internal or external (Sinamo, 2009; Surenda et al., 2022), the presence of E-WOM in the world of tourism cannot be rejected and the implementation of E-WOM should be within the ethical corridor as stated in the Framework Convention.

Based on the description in the previous section, the author proposes a number of inputs to be considered as legal arrangements that need to be applied to E-WOM so that there is no distortion of subjectivity so as not to threaten fair business competition in the tourism sector in Indonesia, namely as follows (Ningsih, 2019; Sokoy, 2022):

a. Regulations regarding the independence and neutrality of E-WOM owners

1) Business actors who own E-WOM applications may not own shares in other goods and services businesses, with the exception of businesses in the field of E-WOM and supporting E-WOM applications such as application design services, E-WOM operational support equipment;

2) E-WOM application owner business actors may not enter into agreements or cooperation in any form with businesses or business actors of other goods and services, except for businesses in the field of E-WOM and supporting E-WOM applications such as application design services, E-WOM operational support equipment;



3) E-WOM application owner business actors may not be affiliated with businesses or business actors of other goods and services, except businesses in the field of E-WOM and supporting E-WOM applications such as application design services, E-WOM operational support equipment.

With the affirmation that if in the future it is found that there is a violation of the provisions mentioned above, the owner of the E-WOM application can be prosecuted legally and the E-WOM application is prohibited from operating in Indonesia.

b. Regulations on the independence and neutrality of input-giving travelers, which include (Gashi, 2021; Shabrina, 2023):

1) tourists who give input on E-WOM must declare the absence of a relationship in any form with the owner, manager or employee of the tourist accommodation service to be given an assessment;

2) tourists who give input on E-WOM must declare the absence of interests in any form with the owner, manager or employee of the tourist accommodation service to be given an assessment;

With the affirmation that if in the future it is found that there is a violation of the provisions mentioned above, then the traveler may be subject to sanctions with consideration of the applicable law in Indonesia.

c. Regulations on the obligation to verify the identity of the traveler giving input, to ensure that the traveler giving input to E-WOM is indeed a tourist who has visited or has used the tourist accommodation service to be given input assessment and the assessment may only be given once per one traveler per one visit.

d. Regulations regarding the obligation to validate the correctness of providing assessment input in a state of physical and mental health, have read and understood all questions and are ready to take responsibility for the correctness of the inputted value or answer.

e. Arrangements regarding the obligation to audit the E-WOM system to ensure no engineering or manipulation in the internal E-WOM system.

With such legal arrangements, it is expected to be able to suppress the distortion of subjectivity in E-WOM assessments that threaten healthy business competition in the tourism sector.

4. CONCLUSION AND RECOMMENDATION

There are number of factors that distort subjectivity in E-WOM assessments, including business competition factors which turn out to be a reinforcing factor for the reasons for E-WOM abuse, so that clear and firm legal arrangements are needed to prevent E-WOM abuse that threatens business competition in Indonesia, especially in the tourism sector.

Although the Business Competition Law has regulated a number of prohibitions, all of which show that implicitly there are legal arrangements that Business Actors who own E-WOM Applications are prohibited from cooperating with, entering into Cooperation agreements with, or owning other businesses engaged in the business of goods or services and based on the example of input posting guidelines (reviews) on one of the E-WOM applications, namely Tripadvisor, There are already restrictions and internal policy settings that are good guidelines for providing input, but of course to keep E-WOM applications from being abused and so as not to pose a threat to fair business competition, especially in the tourism business sector, a number of further arrangements are recommended to be generally applicable rules of law, so that subjective distortions do not occur so as not to threaten fair business competition in the tourism sector in Indonesia, including: arrangements regarding the independence and neutrality of E-WOM owners, arrangements regarding the independence and neutrality of input-giving tourists, arrangements regarding the obligation to verify the identity of input-giving tourists, arrangements regarding the obligation to validate the correctness of providing assessment input in a state of physical and mental health, have read and understood all questions and are ready to take responsibility for the correctness of the inputted value or answer and arrangements regarding the obligation to audit the E-WOM system to ensure that there is no engineering or manipulation in the internal E-WOM system.



ACKNOWLEDGMENTS

The authors would like to thank all contributors involved in this research. The authors declare no conflict of interest and no research funding or grants were received.

DECLARATION OF INTEREST

The authors declare no competing interests in this research and publication.

REFERENCES

- [1] Abdulkadir, M. (2004). *Hukum dan penelitian hukum*. Bandung: Citra Aditya Bakti.
- [2] Bogia, V. H. (2021). Implementation of Business Services Retribution Policy in Tomohon City (Study on Optimizing Retribution for Tourism Areas in Tomohon City). *Journal of Social Science*, 2(6), 850-856.
- [3] Buku, A., & Ali, Z. (2011). *Metode Penelitian Hukum*. Sinar Grafika. Jakarta.
- [4] Diantha, I. M. P., Dharmawan, N. K. S., & Artha, I. G. (2018). *Metode Penelitian Hukum dan Penulisan Disertasi*. Denpasar: Swastu Nulus.
- [5] Gashi, U. (2021). Ethics In Hotels And Restaurants In Prishtina In A Time Of Pandemics With Covid-19. *Knowledge-International Journal*, 49(5), 1133-1138.
- [6] Gobel, R. T. S. (2011). *ANALISIS YURIDIS PRESIDENTIAL THRESHOLD DALAM UNDANG-UNDANG PEMILU PRESIDEN DAN PUTUSAN MAHKAMAH KONSTITUSI UNTUK PEMILU TAHUN 2019*. UNIVERSITAS ISLAM INDONESIA.
- [7] Ibrahim, J. (2006). Teori dan metodologi penelitian hukum normatif. *Malang: Bayumedia Publishing*, 57, 295.
- [8] Kudeshia, C., & Kumar, A. (2017). Social eWOM: does it affect the brand attitude and purchase intention of brands? *Management Research Review*, 40(3), 310-330.
- [9] Lovelock, C., Wirtz, J., & Mussry, J. (2010). *Pemasaran Jasa Manusia, Teknologi, Strategi. Perspektif Indonesia*. Erlangga. Jakarta.
- [10] Marzuki, P. M. (2009). *Penelitian Hukum Empiris*. Jakarta: Kencana Prenada Media Group.
- [11] Ningsih, A. S. (2019). Implikasi Undang-Undang Nomor 5 Tahun 1999 tentang Larangan Praktek Monopoli dan Persaingan Usaha Tidak Sehat pada Pelaku Usaha Mikro Kecil dan Menengah (UMKM). *Jurnal Penelitian Hukum De Jure*, 19(2), 207-215.
- [12] Prasetyo, B. D., Febriani, N. S., Asmara, W. W., Tamitiadini, D. D., Destrity, N. A., Avina, D. A. A., & Illahi, A. K. (2018). *Komunikasi pemasaran terpadu: pendekatan tradisional hingga era media baru*. Universitas Brawijaya Press.
- [13] Pratiwi, P. D. A., Indrayani, I. G. A. P. W., & Adnyana, I. M. S. (2021). Klasifikasi Keluhan Tamu Mengenai Pelayanan Front Office di The Westin Resort Nusa Dua Bali Berdasarkan Ulasan pada Tripadvisor. *Jurnal Bisnis Hospitaliti*, 10(2), 67-78.
- [14] Pribudi, A. P. A. (2020). Community-based Approach to Sustain Batik Tourism Village Area in the Special Region of Yogyakarta (The Case of Giriloyo Village). *Journal of Social Science*, 1(4), 113-122.
- [15] Shabrina, F. (2023). Application of The Penta Helix Concept to Develop Mice Industry Creativity and Innovation. *Jurnal Ilmiah Sosial Teknik*, 5(1), 75-82.
- [16] Sinamo, N. (2009). *Metode Penelitian Hukum*. Jakarta: Bumi Intitama Sejahtera.
- [17] Sokoy, F. (2022). Economic Development of Indigenous Papuans: A Critical Analysis to Build Independent and Dignified Traditional Villages. *Journal of Social Science*, 3(6), 1233-1246.
- [18] Surenda, R., Adrian, A., Abrian, Y., & Fansurya, A. H. (2022). The Effect of E-Service Quality on Purchase Decisions With E-Wom as A Moderating Variable on 4-Star Hotels in West Sumatra. *Jurnal Pendidikan Teknologi Kejuruan*, 5(3), 76-82.
- [19] Triandewo, M. A., Prasastyo, K. W., & Azzahra, A. (2023). The Effect of Customer Satisfaction on Loyalty of the Lembang Floating Market Tourism Area. *Journal of Business Social and Technology*, 4(1), 98-109.
- [20] Waluyo, B. (2002). *Penelitian Hukum dalam Praktek, sinar grafika*. Jakarta.