



Business Competition in Hospitality Services in Jayapura City

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Abstract

The development of business world has brought the business player to the very tight competition to gain consumer, including in hospitality services. This research will use quantitative approach in seeing the law as empirically observable social phenomenon. Hence, between two types of legal research used, namely juridical research which is legal research on examining the laws and regulations along with the expert opinion in the fields of Commercial Law, Business Competition Law and also Consumer Protection, while empirical legal research conducted to support the normative legal research. The result of this research shows the impact on the hospitality services business competition empirically seen from the emergence of 5 Star hotels with all the facilities that have large capital although they do not have any expertise to manage the hospitality services business. As a result, several hotels that have been operating for a longtime and cannot compete are threatened to close due to heavy losses of their activities.

Keywords: *Hospitality Services Business; Business Competition*

Introduction

The development of business world has brought the business player to very fierce competition to gain consumer (Arie Siswanto, 2002). Various approaches had been taken to gain the sympathy of the society both through the improvement of the facilities and the high technology facilities, as well as the improvement of human resource development. Competition to provide the best for consumers has placed the consumer as the decision maker. The increasing number of similar business operating with various products/services offered, the more society is able to make a choice according to their needs.

These days, the marketing success of a company is not only judged by how many consumers they obtained, but also on how they maintain their consumer. In marketing, it is known that after the consumer has decided based on satisfaction and dissatisfaction, the consumer will lie on the relationship between the consumer expectation and the achievement them receive from the product/services. If the product/services do not meet the consumer expectation, the consumer will feel dissatisfied, so that in the future the consumer will not make a repeat purchase on that. On the other side, if the product/services exceed the consumer expectation, the consumer will feel satisfied and will make a repeat purchase. Along with the environmental changes occurring and the change in human behavior to often travel far from home, it is increasingly encouraging the demand on hospitality services. The growing demand for hospitality services usage today is encouraging entrepreneur in hospitality service to offer their

advantages. These advantages are expected to be considered by the hospitality service users to stay in their hotel (Agus Sulastiyono, 2008).

The desire of hospitality services to provide the best performance to their consumers, it is necessary to identify the determinants of the quality of the service from the consumer's perspective. Therefore, research is needed to identify those services determinant that are important for the target market and to estimate the valuation given by the target market toward the company based on these determinants. By analyzing the consumer responses toward those variables, the hospitality service company can assess which variable are not accordance with the consumer expectations (Agustinus Darsono, 2011). It is undeniable that the hotel business is develop rapidly and efficiently. However, efficient is not a simple and absolute word. Many meanings contain therein. These meanings are elaboration from various kind of signs, either formed as the rule of law or only in the form of "code of ethics". The rapid development of the hotel service business is sometimes not matched by the "creation" of the supervisors' signs, and in the end it will not be profitable at all.

The presence of the Law No. 5 of 1999 Concerning the Prohibition of Monopoly Practice and Unfair Business Competition is a tool of social control and a tool of social engineering. As a tool of social control, this law seeks to protect the public interest and prevents monopoly practices and/or unfair businesses among the business actors (Sugiyono, 2009; Emmy Pangaribuan Simanjuntak, 2004; Hawin, 2003). In line with the public interests as mentioned above, the interest of business actors to compete fairly in carrying out their business activities is not the only interest, but the scope of the regulations is also for the consumers which also governed by the Law No. 8 of 1999 Concerning on Consumer Protection (Eddy Pelupessy, 2010; Ahmadi Miru& Sutarman Yodo, 2007). The unlimited consumer with varies level of consumer causes the businessman carry out to do the marketing activities and the distribution of hospitality services product with the most effective ways in order to reach these very diverse consumers. Therefore, various approaches are sought so they may have an impact, including some circumstances that could lead to negative action, even not commendable action that start from bad faith. In addition, the bad impact commonly takes place such as the bad quality of the services and unclear information, even misleading in conducting a promotion.

Methodology

This research is normative juridical research to examine laws and regulations, as well as the expert opinions in the field of commercial law, business competition, and consumer protection. This research then includes with non-legal material to describe the law as social institution in which it will be seen how legal instruments working to another legal instruments in the governance of society as consumers of hospitality services in Jayapura City (Bambang Sugono 2001; Ronny Hanitijo Soemitro, 1988).

Results

Identifying the Hospitality Services Business in Jayapura City

An important essence of the implementation on fair business competition is the competition of market participant in meeting the consumer needs. In this case, the business competition is a process where this business people are forced to become an efficient company by offering choices of products and services at lower prices. The competition is only possible if there are two or more business actors offering products and services to the costumer in a market. To win the heart of consumer, the business actors are trying to offer an attractive product and services, both in terms of prices, quality, and services. The combination of those three factors could be used to win the costumer heart by performing innovation, the

application of an appropriate technology, and management ability to give the company resources to win the competition. If not, this business will be eliminated naturally from the market.

Unsuccess hotel business will be seen from the level of occupancy of their rooms. If the hotel continuously to have a below average room occupancy, they do not have to worry because they still have days within one year to improve their sales of its business. Any action that they need to do now if the occupancy room reaching 100% that mean there are no more rooms to be sold in that day, this is the best time to increase sales on other types of hotel products, except hotel rooms, such as food and beverages, pool, sports, recreation and so on. In such of circumstances, it is necessary to take event more vigorous measure to influence the guests who are staying overnight so they want to spend their money not just for the room, but also the other products.

At a certain time, it is often seen that there is a hotel with a high-level room occupancy. However, if it observed more closely, most of the guest is rarely use those other facilities that has been provided by the hotel, such as the guest who do not want to buy the food and the beverage, both in the hotel restaurant or the food and beverages services, or the room services. If such things occur, the Sales Manager and the Food and Beverages Manager with their staff should immediately take actions to find out the reason. There are two possibilities such thing happened, first is likely caused by the quality of the product that is not accordance with the guest desired, both the tangible product and the intangible product. If the first possibility is not the case, then the second possibility is the lacking of a concrete action to persuade the guests that stay in the hotel to take the advantage that the hotel has provided. Persuading activities of the guests to be interested in buying are called the promotional activities. The most appropriate promotional activities can be carried by a promotional presentation on person-by-person or with a group of guests who are carried out inside or outside the hotel. In addition, those special activities are created by designed a great method to support the personal selling such as the brochures distribution, special packages, and so on.

Those promotional activities as mentioned above are the most suitable method to anticipate the sluggish hotel condition, where the hotel occupancy rates are high, but the numbers of food and beverages, or *out-let* sales is low. There also other sales activities that need promotion such as advertisement, which are non-personal sales presentation, and delivered in mass to the audience of potential buyers. The Advertisement is usually done through newspaper, magazine, television, radio, direct mail delivery, and billboard. Other sales activities are the public relation, which is a communication or relationship between the hotel and various society is carried out specifically to sell hotel products. In addition, publicity activities are also an activity to spur the request that do not carry out privately and this activity are usually not directly funded by those who use the publication. In general, the publicity is needed to repeatedly many times.

Based on the interviews with the respondent, it can be concluded that guest satisfaction can be achieved from the quality of the product and the suitability of guest perceptions of hotel products. The guest perceptions on the product can be built from their knowledge, experience, and also the level of the guest need for the product that the hotel provide. To what extent the available products have been understood, experienced, and needed by the guest, the guest will project their perception on these products. Thus, this satisfaction is the matter of perception.

In the last few years, the hotel service business showed a very significant increase. Based on the result of the observations in the field, there are approximately 63 hotels in the city of Jayapura. After the entry of large companies in hotel service business, the business competition between hotels is getting tougher. To overcome this competition, hotel owner is trying to develop their hospitality management system in a more professional manner, so that this situation encourages the creation of business creativity in hotel sector. One of the empirical evidences is the establishment of a new hotel that has implementing the concept of marketing in totality. Based on the portfolio data supported by the respondent in the hotel

business services in Jayapura that the hotel business generally earn profit in the range between 15% to 40%, with quite high profits in the hotel business, many investors are interesting to enter the hotel business. As the result, several hotels that have been standing for a long time are threatened to close due to heavy losses of the hotels. Those examples as stipulated show that the hotel business has a high level of profit and the same time it also has a high risk. Hence, to avoid the failures in the hotel business, the hotel management need to be handled/managed by the reliable personnel.

The competition needs to be maintained to creating an efficiency either for the consumer or for the company (including the hospitality service). The competition will encourage every company to carry out its business activities as efficiently as possible in order to sell its services at the lowest possible price. This efficiency of every hospitality company will also create an efficiency for the consumer in Jayapura. The competition between fellow hoteliers in Jayapura recently shows a trend where the new hotels that is no longer meet the eligibility standards as hotels with all-modern rooms. This is because many second-floor shophouses have been modified in such way to be a hotel because of the need for lodging for athletes on XX PON 2020 in Jayapura. For those hotels that have just been renovated from shophouses, it is necessary to be questioned the readiness of the hotel housekeeping department which is the responsibility of the hoteliers in preparing the facility such as:

- a. Guestroom;
- b. Corridor;
- c. Restaurant and party location;
- d. Office space;
- e. Guest toilet;
- f. Employee toilet;
- g. Employee counters;
- h. Garden inside and outside the room; and
- i. Parking yard.

The task of the hotel housekeeping are as follows:

- a. Creating a clean, attractive, comfortable and safe hotel environment;
- b. Providing a good service to guest to the guest will feel satisfied when visiting or staying at the hotel;
- c. Preparing, arranging, and maintaining hotel rooms; and
- d. Responsible for maintaining cleanliness in all corner and hotel rooms.

The presence of housekeeping staffs in the hotel is very important for the hotel guests and the hotel management. The existence of hotel administration officers will stimulate the guest to feel comfortable staying at the hotel. As the result of the condition, it can make a greater income for the hotel because of the revenue coming from the room rent. Based on the observation in the field, most of the hotel which were originally a shophouses do not have a housekeeping structure, but only the hotel management.

One of the most consideration in the competition between hotel business is the use of advertising media to promote the hotel. Sometimes the advertisement used by the Marketing Department of a hotel to promote the hotel is misleading the user or the consumer. What they show on the advertisement is not in accordance with the actual situation of the hotel. Basically, the consumer does not know all types of services so that people really need information on what services products are on the market. To get this information, advertisement is used both on printed media and electronic media. Aside from being an informational tool, advertisement is also the media that is needed to implement their products and increasing the number of sales. It is realized or not, the advertisement seems to be trusted to boost the sales by most of the entrepreneurs who have a large budget on promotional activities. The question that arise is what exactly is the definition of advertising? Of course, without reducing the business objective to

provide oriental concern for business actors, advertising must also be seen as an information that not only benefits for the producers (hoteliers), but also does not harm consumers. It means that advertising in all its form binds the parties involved in the manufacturing process. Therefore, the information that needed by the consumer (society) must be conveyed by the hoteliers in appropriate ways including the room rental rates, the available facilities, and other information that can help consumer (hotel guests).

The importance of information about the quality of the hotel products that offered is, expected to protect the consumer (hotel guest) from the advertising practices that contain fraud element. From the legal aspect, it is necessary to identify who is responsible on the legal liability of the fraud advertisement that is not the same on the real situation or the misleading advertisement. Should the hoteliers or advertising companies or both companies be responsible of such kinds of the misleading advertisement? Many parties especially the practitioners/intellectuals of education consider the institution from the advertisement activities as immoral, parasitic and untrue glorifying value due to influencing people to buy services that they do not need or services they cannot afford. However, the advertising critics person tend to make a very fundamental mistake, they blame the tool (advertising), not the maker (i.e. the people who made and use the advertising). There is nothing wrong with the advertisement as an institution, advertising is completely neutral. It can be possessive depending on the people who believe it, but it is the advertisers who misuse the advertisement, intentionally or not. There are advertisements in local print media that show pictures of a hotel with a large interior combining to all-modern architectural arrangement, but the fact show that the size of the room is not so extensive with not-so-modern architecture. There also advertisement show spacious parking facility and complete food menu, but in the real show that the parking space are narrow and there is no restaurant. It is only a room for breakfast.

Advertising in general has its main goal to introduce, sell, or increase the sales of the products and or services (hospitality services) that are announced. The legal status of advertising as a promise/element of an agreement (including agreements between fellow business people) provides the legal implication of advertisement as a media to develop the legal activities from the advertisement as a media to develop the commercial/business economy in particular and developing economy of the nation and state in general. Moreover, the position of such advertisement becomes an antidote from the parties that is involved in the advertising business on conducting their business with good intentions and faith. Preventing a facility that is manipulated into a media to run an unfair business competition which will not only harm those who are a targeted (targeted consumer), but also the entrepreneurs who carrying out the advertising activities in an honest way.

As one form of service, the quality of advertisements varies greatly. These are influenced by the qualifications, quality, and the good faith of the parties including the hotel business. These parties include:

1. The advertising companies, which is a company that sell advertising services for the products or services.
2. Advertising media, which is every mass communication, in form of printed media (such as newspaper, magazine, and tabloid) including outdoor media such as pamphlets and banners.
3. Advertisers, which is every legal entity (company) and individual advertises products or services.
4. Consumers, which is every user and enthusiast of a product or services, including hospitality service.
5. The government as the supervisor on the good and clear in the advertisement business and hospitality (in this case is the Business Competition Supervisory Commission).

The legal norms relating to this relationship and legal issues between the hotel business and their consumers are on the Civil Code, The Commercial Law, and the Law No. 8 of 1999 Concerning on Consumer Law Protection, and the Law No. 5 of 1999 Concerning the Prohibition of Monopoly Practices and Unfair Business Competition. For consumer, the information regarding the needs of hospitality

services is a basic need, before the consumer use their source of funds (salary, price, honor, or any other name) to make a transaction about the hospitality services. Those transactions are intended on a leasing law and other about consumer with the hoteliers. The containing information cis needed by the consumer involving the availability of the services, the quality of offered services, the room price, facilities and the guarantee of comfortable from the hoteliers. This information is generally provided and made by the business man with the aim to introduce their hotel and/or to increase their market that has been and/or want to be further achieved.

Jayapura, as the capital of Papua Province, now has 17 five-stars hotels (with 5 floors buildings and above) and 45 Mawar Hotels (having hotel building with 1 to 4 floors). The number of the hotel is quite a lot, even though there are very few tourist attractions and trade centers that can be used for these hotels. With the existence of the National Sport Events (PON XX event) in Papua Provinces, it is the only benchmark for business to invest their money in building a hotel, which is in the end it will create an unfair competition post PON XX event. Those competition amongst Mawar hotels will be a trend in the future. In fact that Mawar hotel that has been operated for a long time must be closed because they cannot compete with the new five-star hotels.

The large-capital entrepreneurs who own more than one star-rated hotel are now moving on to build a mawar hotel standard. This could lead to the market monopoly which is prohibited by the Law No. 5 of 1999. Indeed, everyone have their freedom to do a business, but it is limited by the law. The portrait of having more than one star-rated hotel only in big cities such as Jakarta, Surabaya, Bandung, and Makassar because of the need for office, commercial, and tourism activities.

The role of Business Competition Supervisory Commission in the legal acts of market monopoly is needed to avoid an unfair business competition between the fellow hotelier in the economy system. It is very important to become one of the instruments to implement a market economic system. Various successful development can be seen from the perspective of macro and micro economic indicator that can be seen from the business sector that experiencing rapid progress as well as in the hospitality services industry. However, the condition of those progress is not balanced with the set of laws that regulate the competition between them. Many of this business actors sometimes applies their political powers and bureaucracy to win the business competition. In addition, not a few among officials or political elite who enter the business activities so often in carrying out their political policies based on their personal or group interests, there is no exception in Jayapura, where a small micro-business shopping centers are transformed into a hospitality business.

The Hoteliers Responsibility Towards the Consumer in Jayapura City

The expectation of hotel guests is the level of suitability of hospitality service that is desired with the reality of the services received. This suitability level is the result of the assessment that conducted by the guest based on their knowledge. To get the pictures about the fulfillment of the wishes or desires of the guest, it is necessary to know the meaning of service quality. The service quality is something complex that consist of five dimensions which is: Reliability, Responsiveness, Empathy, Real, and/or Visible.

It is noticed that the guest dissatisfaction is caused by the gaps in the perceptions that created by the hotel management and the perceptions made by the guest about the services. There are five gaps that happened in the services quality which is, the gap caused by the mismatch of the service perception created by the management and perception that made by the guest; the gap caused by the inability of management to formulated the level of service quality targets and translate them into jobs specifications to achieve those goals; the gap due to the services specifications that have been determined by the management and are not implemented properly; and the gap due to a differences between the services received by the guest with what the guest promised. It can be caused by the communication either

external or internal, and the accumulation of existing gaps, as well as the results in discrepancies between guest expectations and the reality.

The hospitality service model is a service model that is a unity of three elements namely the service products, the behavior and the attitude, and the environment. Those three elements must able to meet the needs (physical, social, and psychological needs) and the guest goals. Creating a strategy with a high complexity of service can be called a focused strategy, which can provide an opportunity for the hotel to penetrating the market more broadly. Restructuring the position of the hotel in the competitive area is not only limited to change of one dimension only (for example the level of comfort or the level of complexity) in the process of structuring, but changes can also be made using a combination of both dimensions. Therefore, the form, types, and the nature of service can be mixed according to the market desire. The complexity of the problem as mentioned previous is included in the responsibility of the hotel service business operators to the consumer as the hotel service user. The scope of the responsibility of hoteliers can be seen in Article 20 to Article 28 of the Consumer Protection Law and also can be affected by the existence of the breach of contract as stipulated in the Civil Code (Implementation of Article 1365 of the Civil Code).

Based on the search of study documents, there is a concern about the case of advertisement user as a media to promoting certain hotel service business that do not correspond to the actual reality. There is also confusion in the food and beverages menu that is served by the restaurant also the direct serving in the hotel room as the request of the hotel guest. All of this case can harm the consumer of the hotel service user. The hoteliers can be asked their liability for compensation, which generally only possible for claim the compensation based on the breach of contract and claims for compensation based on unlawful acts.

In applying the different provisions in the private law, there is an essential difference between the claims for compensation based on the breach of contract and on unlawful acts. If the claim for compensation based on the breach of contract then the consumer and the hotelier are bound by the agreement. Accordingly, the injured third party (not as a party to the agreement) does not receive compensation with the breach of the contract reason. In a liability based on breach of contract, the obligation to pay compensation is nothing other than the application of clause in the agreement, which is legal provision for both parties. Therefore, it is not the law that determine whether compensation must be paid by the hoteliers, but both parties has determined the condition and the amount of the compensation that should be paid, and what has been promised is binding as the law for those who made it.

Unlike the claim for compensation based on the agreement due to the occurrence of breach of contract, claim for compensation based on the unlawful acts does not need to be preceded by an agreement between hotelier and the hotel service user or consumer, even though there is never been an agreement between the hoteliers and the consumer. Thus, the third party could sue for compensation. To be able to claim the compensation, the loss must be the result of the unlawful acts. This means that the claim the compensation must be fulfilled: (1) there is an unlawful act; (2) there are losses; (3) there are a relationship between the unlawful act and the losses; and (4) there are a mistake.

In determining the amount of compensation that must be paid basically, it is hold on the principle that the compensation must be paid wherever possible make the loss party returned to its original position if the losses is not happen or in the other words the compensation in the actual position if the agreement is carried out in the good or bad conduct of unlawful. Therefore, the actual compensation without regard to the elements not directly related to the loss. To minimize the demand of compensation by the consumer of hotel service hoteliers, it must create a healthy business climate to enhance the level of welfare of the society as the consumer through the efficiency of hotel business. In terms of the business efficiency, consumers are no longer burdened by the high cost in obtaining hospitality service needs. Therefore, it should be considered that it is necessary to develop an awareness of hospitality service business that

consumer are their business partners need to be maintained and empowered. Every decision from the hoteliers must pay attention to the existence of their guest as consumer.

Conclusion

It can be concluded that the identification of hospitality services business creates an impact of competition in hospitality services business. It is empirically illustrated by the emergence of 17 star-rated hotel with all modern facilities and 46 mawar-rated hotel which most of them are newly renovated from a shophouses that do not have complete facility. The misleading advertising media to promote the mawar-rated hotel must not be done to avoid an uncompetitive competition. The responsibility of hoteliers to the consumers if there has been a loss from the guest due to the mistake made by the hotel management. This error can be interpreted as a compensation based on the breach of contract or unlawful acts as regulated in Article 20 Paragraph (1) of the Consumer Protection Law and Article 1365 Civil Code, which consists of the application of the theory of legal protection and the theory of legal responsibility.

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