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LEGAL FRAMEWORK FOR THE POST-PANDEMIC TOURISM IN BALI

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ABSTRACT- Tourism can only thrive when customers feel welcome. Especially in the time of the restart of the tourism industry after the pandemic, there may be an opportunity for the Indonesian tourism industry to correct undesirable developments in the past in order to promote a type of tourism that is sustainable, honest and effective. This concerns economic and strategic marketing decisions, such as addressing specific target groups for tourism services, but also legal framework conditions. Corresponding legal framework conditions can be found particularly in consumer protection law and competition law, but also in the hierarchy between Indonesian federal law and local law. From the point of view of a foreign observer, the paper would like to highlight some legal aspects that could be important for a rebalancing of tourism.

Keywords: Bali, Legal Framework, Post-Pandemic Tourism

I. INTRODUCTION

Tourism is ambivalent. It is supposed to promote cultural exchange. Thus, one reason for the relatively long period of peace in Europe could also be the openness to the foreign, which was promoted by tourism. In this sense, tourism has contributed to a globalised culture, albeit - regrettably - partly only in the direction from North to South and not always vice versa due to differences in purchasing power of the citizens. On the other hand, a certain type of tourism also stands for damage to the environment and to social and cultural structures. This is not only true for ´discount tourism´ and ´party tourism´, but also for upscale tourism, which can lead to the displacement of local social structures or lacks the desirable integrative aspect, namely when tourism locations are located far away from the life of local citizens and ´tourist ghettos´ are created. Tourism then cannot fulfil its task as a mediator of Indonesian cultures. This is particularly important for Bali as the centre of classical Hindu culture in Indonesia, but also for regions that are yet less developed for tourism, such as Lombok or Flores.

The legal and social environment is decisive for the direction in which tourism develops as one of the most important economic factors in Bali and Indonesia. Other destinations have experienced that a certain type of tourism promotion has had a long-term unfavourable effect on the social climate. For example, Mallorca, a Spanish island in the Mediterranean, had since the 1970s increasingly become a destination for party tourists from northern Europe - especially from Germany and the United Kingdom. Although this only affected some parts of the island (S'Arenal, Magaluf), in the last years before the pandemic it led to increased resistance from the local population in view of numerous excesses by guests and environmental problems. This has led to various measures that have the

common goal of solving the problems that have arisen and making the island attractive as a holiday region for tourists with higher quality expectations. For example, a 'sustainable tourism tax' was introduced in 2016 and restructuring of localities used for tourism was undertaken. It remains to be seen whether the return of tourists to the region will reverse these plans in order to generate fast income or whether the forced pause caused by the pandemic will be used to try to restart a different form of tourism than before.

In Indonesia, too, there are tendencies to specifically restructure tourism regions in order to make them more attractive for certain customer groups. One example is the promotion of halal tourism. However, an economic disadvantage of a cross-regional halal tourism that is not focussed on specific regions can be the fact that corresponding destinations could become unattractive for tourists who do not belong to Islam and that the tourism industry thus narrows the addressable market for tourism services significantly. Even if proponents of a corresponding tourism concept point out that for non-Muslim tourists, tourism with halal products is attractive because the MUI halal certification generally guarantees a healthy food diet (Jaelani, 2017), it generally contradicts the broad global view of tourism that certain products of the travellers' everyday life cannot be consumed precisely during their holidays. In my opinion, it is therefore unlikely that halal tourism would be suitable as an overarching concept for reforming the entire Indonesian tourism industry. For regions that are not explicitly subject to halal tourism, a clear concept for the integration of cross-cultural tourism that is equally attractive for non-Muslim and western tourists as well as environmentally and socially compatible seemed to be missing until the beginning of the pandemic. This also applies to Bali. One of the reasons for this could be the perception of the Indonesian tourism industry that Western tourists form a homogeneous cultural group and also the attempt to achieve a balancing act between cultural tourism and ´party-tourism´. In fact, many tourists from Europe seem to be mainly interested in cultural experiences due to the long travel distance while party tourism may be more preferred for tourists who travel to Bali from closer distances. Places like Kuta can be shocking for tourists who have prepared themselves for the complex culture of the island. In the medium term, the Indonesian tourism industry will have to decide which way to go in post-pandemic tourism.

On August 10, 2020 the Governor of Bali, Bapak Wayan Koster, explained the legislative purpose of the Regulation No 28 of 2020 concerning Bali Tourism Governance, which is to ensure the quality and sustainability of Bali Tourism in accordance with the regional development vision "*Nangun Sat Kerthi Loka Bali*" (2020). Especially important in this context are two vision goals of this vision, which also belong to the aspect of business ethic and fair market behavior especially in the tourism industry;

1. "*Mengembangkan sumber daya manusia yang berdaya saing tinggi yaitu berkualitas dan berintegritas: bermutu, profesional dan bermoral serta memiliki jati diri yang kokoh yang dikembangkan berdasarkan nilai-nilai kearifan lokal Krama Bali*." ("*Develop highly competitive human resources, namely quality and integrity: quality, professional and moral and have a strong identity that is developed based on the values of local wisdom of Krama Bali*.") and
2. "*Mengembangkan sistem keamanan terpadu yang ditopang dengan sumber daya manusia serta sarana prasarana yang memadai untuk menjaga keamanan daerah dan Krama Bali serta keamanan para wisatawan.*" ("*Develop an integrated security system that is supported by human resources and adequate infrastructure to maintain regional security and Balinese manners as well as the safety of tourists*.")

For the originally tourism related businesses Regulation No. 28/2020 seeks to give a legal framework to ensure business legality and the fulfilment of business standards. It is important that these goals in the future are not only monitored and enforced carefully but also widened to other business branches in Bali which are not only focussing on tourists

such as regular taxi services. In this context it should be pointed out, that already the existing Indonesian legislation on consumer protection and unfair competition could be a valid instrument for an improve of the safety and ethic of the service industry in tourist destinations such as Bali. The mentioned decision to strengthen a quality, nature- and culture-based tourism which is taking into account also the safety of the tourists depends on how the legal framework in Indonesia and namely in Bali should be designed. In this context, I would like to point out some selected legal aspects which, in my view, will be relevant for the promotion of such tourism: These aspects arise from consumer protection law, from antitrust law and from industrial property law, namely trademark law. Indirectly, questions of state organisation law also seem to arise, especially with regard to the relationship and hierarchy of the sources of law among each other. This also raises the difficult question of the systematic location of Adat in the Indonesian legal system.

I would like to take as an example here business practices that take place in tourism sectors, namely in Bali, and try to evaluate it from a legal point of view and assess its significance for the consistency of the Indonesian legal system. In doing so, it cannot be overstated that consistency of law and law enforcement is one - if not the most important - essential factor for the functioning of law as a social governance tool. The design of a consistent and consistently enforced commercial law is, in my opinion, a determinant aspect for the positive development of tourism in Bali and Indonesia as a whole.

It seems that a practice of misleading taxi customers about the taxi company they use violates both consumer rights guaranteed by law. In addition, Law No. 8/1999 imposes obligations on providers in the interest of consumer protection, from which consumer rights can also be derived. In particular, Art 7 No 1 Law 8/1999 should be mentioned here, which obliges providers to conduct their business activities in accordance with good faith, as well as to provide true, clear and honest information regarding the condition of the service. Also relevant in this context is Art 382bis Penal Code, which contains a kind of general clause on misleading business acts to the detriment of individuals or the public, and Art 1365 Civil Code, which theoretically allows for compensation for damages in the case of violations of unfair competition law rules. Finally, Art 8 f) Law No 8/1999 can also be relevant: According to this, providers are prohibited from offering services that do not correspond to the promises made in the product information, in advertising or in sales promotions. Finally, the importance of true information about offered products in the context of consumer communication is also made clear by Art 17 No 1 and 3 Law No 8/1999: No 1 prohibits the deception of consumers about aspects of the product, for example about the quality or the price. If consumers are misled by the use of confusable product labels into believing that they are boarding a metre taxi of another company, this may also constitute deception about the quality and price of the transport product actually used.

a. Law against unfair competition

The use of business identifiers or trademarks that are easily confused by consumers is also a problem of competition law that goes beyond the aspect of consumer protection but is nevertheless closely related to it. In this context, the systematic location of consumer protection law in commercial law should be pointed out. Consumer protection law can be viewed from two systematically different perspectives;

1. From the perspective of *contract law*. The contractual equivalence relationship leads to justified expectations of the contracting parties regarding the fulfilment of the contract. If these are not fulfilled in whole or in part, the question of compensation arises. The buyer of goods can demand proper goods. If he does not receive these, then secondary claims arise, for example for subsequent delivery, rectification or repayment, which can be facilitated in favour of the consumer in the B2C situation (see Sec 474-479 German Civil Code, BGB). Consumers who buy products on online platforms from professional sellers cannot evaluate the products before the purchase. Therefore, they can be allowed to send the product back within a certain period (see Sec 355 German Civil Code).

Although this is counted as consumer protection law, it is ultimately consumer protecting contract law, which is related to the individual interest of the consumer (Koos, 2017).

2. From the *social-functional* or the *competition-functional* perspective: the consumer is not protected with regard to his individual interest, but out of a *social law or economic policy legislative interest*. Consumer protection in this sense can be understood as part of the norms to promote social justice (Koos, 2017) or as part of the protection of competition. In the latter sense, the consumer protection law of the European Union is to be understood, which was finally harmonised for all EU member states in the Unfair Commercial Practices Directive (Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market, 2005). According to this, consumers are to be protected (collectively) in their role for the competitive process as identifiers of the best offer in the market in their sovereignty of choice. For Indonesia, recently my colleague Shidarta and me have proposed a similar system *de lege ferenda* (Shidarta & Koos, 2019).

Indonesian competition law, as far as it is not concerned with consumer protection, focuses on antitrust case groups, namely abuse of dominant market power or agreements restricting competition, in Law No 5/1999 concerning the prohibition of monopolistic practices and unfair business competition. This is primarily market regulation law rather than market conduct law. Groups of cases that may fall within the scope of consumer protection law, which is understood as competition-functional law, are partially covered by Law No 8/1999 on consumer protection, although without a clear systematic distinction between social-functional consumer protection law and individual-interest related consumer protection law. Nevertheless, the significance of the market phenomena mentioned in this context goes beyond the mere infringement of consumer interests: protection of competitors is also affected here at least to the same extent. The open imitation or replication of the competitor's taxis in the aforementioned is undoubtedly intended to deceive potential customers about the provider of the taxi service and is also likely to exploit the appreciation, especially of tourists, for the referred established taxi companies operating in a standardised manner. This is a need for regulation under competition law that goes beyond the mere intellectual property rights protection of signs under trademark law and comes into play above all when such IP-protection of signs is not (or no longer) possible by applying the trademark law. This may also be the case, for example, if the concept of confusability of non-identical but similar signs within the trademark law is interpreted too narrowly by courts.

The systematic background to these rules is the principle of *freedom to imitate* that applies in German law. In principle, it is not prohibited under German law to imitate another's performance if special IP-protection, for example protection under trademark law, patent law, design law or copyright, does not exist or no longer exists for the performance. Outside of existing monopolisation through IP-rights, the imitation of another's entrepreneurial performance can only be prohibited if certain *special unfairness reasons* can be found in the individual case when offering corresponding goods or services. In particular Sec 4 No 3 lit a and lit b AAUC are relevant for the design discussed here. The imitation of certain service providers known in the market by using distinctive signs, colouring or confusable names leads to avoidable deception about the service provider on the part of those seeking the service (lit a). In addition, the imitative design of the service vehicles serves precisely to benefit from the recognition and good reputation of the imitated company among customers, especially those who have little knowledge of the market conditions. Therein lies a transfer of image to the imitating company.

II. RESEARCH METHOD

In this legal research, the legal research used refers to normative law research. As (Soekanto, 2012) opinion, legal research is a scientific activity based on certain methods, systematics and thoughts, which has the aim of studying one or several general symptoms

of certain laws by analyzing, conducting in-depth examinations of the legal facts and then seeking a solution to the problems.

III. RESULT AND DUSCUSSION

a. Consistency of law-making and law-enforcement

The extent to which there is a problematic regulatory gap in the Indonesian competition law for such groups of cases cannot be decided here. Ultimately, a tourism industry that promotes trust could most likely already be enforced with the means of the existing Indonesian consumer protection law and contribute to an even more attractive tourism. However, Indonesian consumer protection law also suffers in part from the fact that the organisational structures for enforcing the standards do not always appear to be effective or are missing (Shidarta & Koos, 2019). Thus, a problem is not primarily in the area of substantive law. Rather, Indonesian consumer protection regulations are quite modern and functional. Arguably, one of the main difficulties, as discussed above, lies in the consistency of law-making and law-enforcement. In an as yet unpublished paper that I had the privilege of presenting at a recent conference in Bangladesh (Koos, 2021), I pointed out some factors that I believe are relevant for effective legal design in consumer protection, taking into account social and cultural characteristics of a society;

b. Integration of local values into the business law and the dualism of the Indonesian legal system

Adaptations and amendments of the consumer protection law and of the unfair competition law should take into account cultural and economic characteristics of the society. This applies in particular to the adoption of foreign-inspired legal designs. Consumer protection law could be less effective in a certain cultural environment if it is not sufficiently embedded in the traditional understanding of law. This aspect is much more important in Indonesia than it seems at first glance. Indonesia is not only a state with strong autonomies in the provinces, but also has a unique dual legal system in which state law at the levels of federal law, provincial law and local law stands alongside traditional law of the Indonesian ethnic groups, the Adat, and collides in individual cases. For Bali, this seems to be reflected in the past in the fact that certain restrictions on the activities of companies seem to have been imposed partly with reference to Adat. An example of the conflict between local law and Indonesian state business law may be the ban of Uber in 2016, which was also justified by Uber's lack of consideration for local conditions in Bali. There are examples of pickup or drop-off prohibitions for non-local transport companies in Bali that refer to Adat. However, an indication, that the conflict between the conventional taxi services industry and the disruptive acting online transportation services may actually not have its roots in *local traditions* (and therefore limitations of such businesses may not be able to be reasoned by local values but only by reasons of negative effects to the fair competition, see below) can be seen in the legislative approaches to regulate online transportation services by the Indonesian government (see for an overview (Fajar, Mutiarin, & Setianingrum, 2020)) and also in the limitations to such services in other countries in Southeast-Asia and in other parts of the world.

In strong cultural identities such as Bali, the collision of interpretations of Adat rules with legal norms of the Indonesian state law could rather lead to a downgrading of the enforcement and application of state law in the respective region. To make matters worse, the hierarchy of norms between the various legal sources of Indonesian law among themselves and Adat does not seem to be clearly regulated in the constitutional law. It is true that Art 18 of the Indonesian Constitution emphasises the special characteristics of traditional rights and thus guarantees Adat its own significance in the legal system. However, a clear presentation of the hierarchy of norms in the legal system is missing. An indication of a certain hierarchy between Adat and state law can be found in agricultural law (Art 5 Law No 5/1960 concerning basic regulations on agrarian

principles) and in forestry law (Law No 41/1999 regarding forestry). Adat is recognised here but it must harmonise with state law (see Art 5 Law No 5/1999: "*...sepanjang tidak bertentangan dengan kepentingan nasional dan Negara, yang berdasarkan atas persatuan bangsa, dengan sosialisme Indonesia serta dengan peraturan-peraturan yang tercantum dalam Undang-undang ini dan dengan peraturan perundangan lainnya...*"). It is therefore likely to be in a relationship of subsidiarity to state law. The fundamental claim of primacy of state law over other co-existing legal systems also corresponds to the view of Indonesian legal scholars like (Hartono, 1991). Referring to Griffiths' formulation of a "*weak legal pluralism"* (Griffiths, 1986), in which co-existing legal systems subordinate themselves to a dominant formalistic national law, it can be stated that the Indonesian legal system follows this model (Buana, 2016). The difficulties of Indonesian legal pluralism and a consistent integration of Adat are certainly due to the methodological difference between living traditional law and the legal positivist basis of Indonesian state law, in addition to the lack of a clear constitutionally defined hierarchy of legal sources (Buana, 2016). Another problem that may directly affect the will to consistently enforce state law in certain situations is a certain general identity crisis of Indonesian law. To date, the maturation of an independent Indonesian legal system suffers from the internal conflict with the colonial legacy of existing state law and the lack of a consistent overarching legislative concept. This is seen by Indonesian scholars as a major reason why the systematic positions of customary law, islamic law and western law within national law are not clearly defined and, in particular, a clear hierarchical determination of the various legal sources in relation to national law is lacking (Shidarta, 2013). In addition, even the question of the legal nature and the systematic position of the post-colonial Adat does not seem to be fully clarified in Indonesian legal scholarship. This, interestingly, may be precisely an obstacle to a grand overall concept of the legal development in Indonesia (Shidarta, 2013). According to Bono Budi Priambodo, a sharp distinction must be made between Adat laws in the sense of local customary law on the one hand and the Adat law as a source of "abstract normative" aspects for the development of an independent Indonesian law (Priambodo, 2018). If this is not to be exhausted in a cultural-political programme statement, extensive academic research would be required on what the actual Indonesian-cross-cultural elements of the Adat law are in distinction to local customary law. Only those cross-cultural common aspects seem to be suitable as a basis for the formation of an Indonesian national law *sui generis*. Only then would an unambiguous systematic classification of Adat law be possible. This requires a major scholarly effort, the challenges of which are clearly illustrated by the historic 'Pandektenrecht' of the 19th century (see Windscheid, 9th ed. 1906) for the preparation of the German Civil Code (´*Bürgerliches Gesetzbuch*´), which required an extensive inventory of German particular laws in relation to Roman law in order to develop a national civil law codification. At present, the integration of Adat law in state law does not seem to have been fully achieved (Shidarta, 2013). As an interim result, it would be possible to state that in conflicts between national Indonesian law and the invocation of 'Adat' by local institutions, there is subsidiarity of Adat, at least insofar as it is understood in the sense of customary law and not as a part of the integrative basis of Indonesian state law sources.

Some Indonesian literature points out that local traditional values can have a negative influence on tourism development. For Bali, Sara I Made et al. examined the role of `Desa Adat' in the development of tourism in Bali and found a current contradiction between local values and global values (Sara, Suman, Sasongko, & Santoso, 2015). For the future development of tourism in Bali, they advocate a stronger *compromise between global and local values*, given the great importance of global values in tourism.

However, a strong collectivist approach of local customary law, which is aimed at protecting evolved local social structures, could also collide with the enforcement of state economic law. A certain conflict of goals becomes clear when considering competition

law. The protection of small local suppliers, which is the ultimate goal of invoking customary law, is problematic as an aspect of competition law, at least if it is not actually intended to eliminate already existing competitive disadvantages in order to restore the functionality of the market. It is thus rather to be seen as a locally protectionist intervention in free competition in the collective interest of a culturally determined group. The regulation of competition and the preservation of fair market conditions between all providers - including supra-regionally operating providers - is then in conflict with the protection of local providers. The collectivist character of Adat, focused on the protection of cultural group´s interest, versus the rather universal – supra-regional - character of state economic law could ultimately be a basis for this systematic conflict of regulation goals. As a result, this may lead to a loss of effectiveness of state economic law, because the formal subsidiarity of local customary law vis-à-vis national economic law is difficult to enforce in fact within the respective region.

c. Monitoring and consistent law enforcement

Laws must be flanked by effective monitoring functions and an effective law enforcement system. Consumer protection law becomes mere ´lip service´ if it is not uniformly and consistently enforced. Even more than antitrust law, the protection of consumers against deception is an *objective of state law* in the interest of the economic conditions and also in the interest of social justice (Koos, 2015). This objective cannot easily be eliminated by referring to the protection of local stake holders. The Indonesian consumer protection system may have institutional deficits here (Shidarta & Koos, 2019). Law enforcement must be consistent. Inconsistency leads to a wide lack of respect for the law. The consequence of inconsistency of the law would be an open discrepancy between the formal legal situation and the *´factuality of the law´* which can be the reason for a growing loss of trust in the effectivity of the law system. Simply said: it may be a more pragmatic and better way for a legal system to keep protection levels to a certain extent lower and then enforce the law in this level consequently than to transfer from other law systems a very high legislative protection level into the national law without – for cultural or structural reasons – having the institutional or social basis of a consequent enforcement of this protection law. In this respect, for some protection rules, a decision must first be made as to the extent to which corresponding standards are actually desired by a society and to which extent standards *can* be realistically fulfilled given a certain cultural and economic surrounding. If legal norms cannot be implemented in practice, legal practitioners may be forced, as it were, to circumvent the rules, to interpret them extensively or break them openly. This leads to disadvantages for those legal practitioners who continue to observe the legal norm. On the one hand, this leads to a problem of the constitutional principle of equal treatment. Above all, however, *negative incentives* are set, which can ultimately either lead to the *erosion of compliance* with the law in general or - with strong state control and sanctioning of violations - have other negative effects. Legal rules should not force citizens to inconsistent application. Non-compliance with the state law in states with strong local autonomies and cultural influence in the local administration can be seen in the same line with non-compliance of individuals, especially in societies which can be characterized as strong collective.

As an example of this aspect in the Indonesian situation, we can look at certain food hygiene regulations. If we look to Singapore, we find a strictly regulated hygiene system that has resulted in street food being largely concentrated in certain areas. For a country like Indonesia with a rich street food culture, there are two options if a legislature wanted to introduce a comparable internationally adapted food hygiene law;

1. The state consistently implements a strict food law inspired by other countries. This could lead to a profound change in the living culture of the population, because consistency means that not only stationary restaurants, but also small street food entrepreneurs are bound by such rules and may be banned from the streets. To stay

with the example of Bali, this may also not be conducive to tourism, where a traditional food culture is one of the most important factors in attracting western tourists. Adherence to overly strict hygiene regulations, which work well for western countries, might not be economically feasible for such entrepreneurs.

2. The state introduces appropriate standards, but then applies them in a "pragmatically discriminatory" way and regularly refrains from inspecting small street food businesses. If this is not done in a legally compliant manner, e.g. by clearly defining justified exceptions within the legal regulation, the regulation becomes inconsistent. With regard to the aspect of cultural adaptation, the formulation of certain justified exceptions and certain feasible requirements for defined small entrepreneurs would be desirable in the Indonesian legal situation.

   Transferred to the example of Bali, this means that if there is a preference for local small businesses and this is seen as part of the protection of local business structures and local culture, then it should be checked whether there is really a basis in the cultural background of the region and not just a purely economically motivated protectionist measure. Of course, Indonesian state law could define rules for the protection of small businesses, but then it should be clearly defined within state law legislation. Moreover, the consequence of accepting such exceptions should not be a lowering of consumer protection, which means that the monitoring of local business by local authorities may need to be strengthened. Economic protection of local business structures cannot be understood as tolerating scam practices. Tolerating regular fraud practices would set the goal of a balance of local values, local social structures and tourism industry and global values into a bad light and finally it can make it fail at all.

Freedom of competition and local values

From the point of view of the *antitrust law*, it may be examined whether and to what extent certain protectionist interventions, such as prohibition of pick up for certain taxi companies at airports in order to give free operating local service suppliers an advantage or restrictions for online taxis in public areas are conform with the rules of the Indonesian Law No 5/1999 on the prohibition of monopolistic practices and unfair business competition. Here it should just be mentioned, that in 2017 the Indonesian Supreme Court was already ruling on certain protective legislative restrictions to ride-hailing services, qualifying them as illegal due to impediment of competition (Indonesian Supreme Court, 2017). The closure of airport arrival zones as the main traffic facility of a region for certain conventional or online taxi services gives a unilateral advantage to local drivers, which seems to be justified by the protection of local business structures. In fact, this justification, however, may not be enough for a limitation of the protection of a healthy competition and it also may not be helpful for the protection of the interest of the consumers. Here it should be stressed, that disruptive innovation – as which online transportation has to be qualified – is inevitable and not anticompetitive just because of the disruption effect (Fajar, Mutiarin, & Setianingrum, 2020). Disruption is a consequence of innovation and innovation is a necessary phenomenon in a non-static society (Fajar, Mutiarin, & Setianingrum, 2020). It gives benefits to consumers and the society if it is not going against important goals of the social or public order.

At this point the main discussion aspect can be identified: is the protection or the partial monopolization (in the example of the exclusion of non-local service providers from operation in infrastructurally important areas) of local service suppliers generally an issue of public order in the meaning of the competition law? Can agreements preventing the market entrance of supra-local acting service suppliers be qualified as agreements which are exempted from the prohibition of anticompetitive agreements (compare Sec 2 of the German Act against Restraints of Competition)? Regarding the *relation between local values and state competition law* several questions can be examined;

1. How far are local values a legal aspect for the acceptance of limitations to the free competition and the freedom of market actors within the state antitrust law?

2. If local values alone can limit the freedom of the competition protected by state law: How can a clear differentiation be made between exceptions of the prohibition of market limitations by reason of local values and exceptions of the prohibition of market limitations by public order in the meaning of the state law?
3. Which role is the aspect of consumer protection and consumer interest playing within the system of freedom of competition and its exceptions (based on local values or on public order)?

Market closures with the effect of preventing any free competition cannot be the right instrument to prevent disruptive changes in the market, if they lead to an open deterioration of the consumer interest and of the consumer safety which also is an original goal of the state competition law and consumer protection law. Especially in Bali the protection of consumers is part of the vision of the Balinese government for the development of the tourism industry in the interest of the Balinese economy and society. Regarding certain limitations of the competition conditions for supra-local acting conventional taxi services which are not using disruptive technologies, a justification which is conform with the state competition law is even more difficult to find as it cannot be argued, that those services have an effect to the market which is not conform with the public order. The mere interest to protect local small service suppliers may not be a valid aspect for the limitation of the free competition.

IV. CONCLUSION

It seems a rather trivial understanding that the safety of guests and their protection is a crucial aspect of the reputation of the host destination. Tourists' experiences in Bali are among the most important promotional factors for the Indonesian tourism industry and should not be underestimated in its impact to the success of the national tourism sector. Individual experiences of travellers are nowadays widely disseminated via the internet. A tourist who comes once may come back many times, it cannot be said that an individual's experience does not play a big role in the reputation of a holiday destination. The Balinese Governor, Bapak Wayan Koster stressed in his explanation that tourists visiting Bali are ´quality tourists´, namely respecting cultural values, traditions and local wisdom, being environmentally friendly, staying longer, shopping more, empowering resources (Ensuring the Quality and Sustainability of Bali Tourism in Accordance with the Vision of Nangun Sat Kerthi Loka Bali. The Governor of Bali Issues Governor Regulation Number 28 of 2020, 2020). The Balinese tourism industry is therefore making certain demands on the tourists visiting the island in the future in order to improve the quality of the destination and developing a more sustainable and culture integrated tourism. This agenda itself is an essential part of a cultural related business policy in Bali. However, this agenda would only be taken seriously by the market actors and the demanders if also the legal environment meets the needs and requirements of ´quality tourists´. Consistent law enforcement is therefore a factor that is important for the effectiveness of the Indonesian legal system as a whole but also for the development of a thriving high quality tourism industry in Bali after pandemic. Thus, the reference to ´Adat´ and the cultural related protection of local service providers in some cases of the business in Bali should be more carefully examined for its possible counterproductive effects.

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