

## Indications of Selling Loss of Hotel Business Personnel in Badung Regency during the COVID-19 Pandemic

Komang Satria Wibawa Putra<sup>1\*</sup>, Gusi Putu Lestara Permana<sup>1</sup>

<sup>1</sup>Universitas Pendidikan Nasional, Jl. Bedugul No.39, Sidakarya, Denpasar Selatan, Kota Denpasar, Bali 80224, Indonesia

DOI: [10.36347/sjahss.2021.v09i12.010](https://doi.org/10.36347/sjahss.2021.v09i12.010)

| Received: 16.11.2021 | Accepted: 23.12.2021 | Published: 30.12.2021

\*Corresponding author: Komang Satria Wibawa Putra

### Abstract

### Original Research Article

Predatory pricing is the action of a company setting prices below production costs with the intention of getting rid of competitors. Business actors are prohibited from supplying goods and or services by selling at a loss or setting a very low price with the intention of getting rid of their competitors in the relevant market so that it can result in monopolistic practices and or unfair competition, this is stated in Article 20 of the Anti-Monopoly Law. The purpose of this study is to examine and analyze the selling price set by several hotel business actors in Badung Regency during the Covid-19 Pandemic based on Article 20 of the Anti-Monopoly Law. There are indications as well as some hotel business actors in Badung Regency. This type of research is a type of empirical juridical research based on legal rules in examining existing social problems or facts and is associated with its implementation in society. By using 3 kinds of legal materials, primary, in the form of facts that occur in the field, secondary, in the form of anti-Monopoly Laws and other regulations, and tertiary, legal materials that support and explain primary and secondary legal materials. They practice selling at a loss by decreasing the selling price of hotel rooms, which can reach 60% of the normal price, resulting in unhealthy business competition during the Covid-19 Pandemic. In addition, there is a legal or regulatory vacuum related to the lowest standard selling price for hotel room occupancy rates which can result in the absence of legal certainty among hotel business actors and can make it difficult for supervision that the government can carry out.

**Keywords:** Predatory Pricing, Business Actor, Hotel.

Copyright © 2021 The Author(s): This is an open-access article distributed under the terms of the Creative Commons Attribution 4.0 International License (CC BY-NC 4.0) which permits unrestricted use, distribution, and reproduction in any medium for non-commercial use provided the original author and source are credited.

## I. INTRODUCTION

As a tourism icon in Indonesia, the island of Bali has the attraction to become a destination for domestic and foreign tourists. The level of domestic and foreign tourist visits to Bali Province increases every year (Pramana, Paramartha, Ermawan, Deli, & Srimulyani, 2021). Based on data obtained from the Central Statistics Agency for Bali Province, foreign tourists visiting Bali in 2019 reached 6.2 million people. However, at the beginning of 2020, the world was made

excited by the Corona Virus Disease Pandemic (Covid-19 Pandemic), which affected the decline in the number of foreign tourist arrivals in Bali Province. Based on data from the official portal page of the Bali Province Central Statistics Agency, the number of foreign tourist visits in 2020 is: ("https://Bali.Bps.Go.Id/Indicator/16/106/1/Banyaknya-Wisatawan-Mancanegara-Bulanan-Ke-Bali-Menurut-Pintu-Masuk.Html," n.d.)

**Table 1.1: Number of Foreign Tourist Visits to Bali Province 2019 and 2020**

2019		2020	
Month	Total	Month	Total
January	455.570	January	536.611
February	437.456	February	364.639
March	449.569	March	167.461
April	477.069	April	379
May	486.602	May	36
June	549.516	June	45
July	604.323	July	16

2019		2020	
Month	Total	Month	Total
August	606.412	August	12
September	590.398	September	8
October	567.967	October	63
November	497.925	November	53
December	552.403	December	150
Annual Total	6.275.210	Annual Total	1.069.473

Foreign Tourist Visits in 2020 during the Covid-19 Pandemic did not reach half the number of foreign tourists visiting in 2019. This, of course, will affect the occupancy rate of hotel rooms, especially in Badung Regency, which has more hotels than other regencies (Gössling, Scott, & Hall, 2020). The number

of hotels in Badung Regency, according to data from the Central Statistics Agency, is as follows ("https://Bali.Bps.Go.Id/Dynamictable/2017/06/05/174/Banyaknya-Hotel-Berbintang-Di-Bali-Menurut-Lokasi-Dan-Kelas-Hotel-2000-2010.Html," n.d.):

**Table 1.2: Number of Hotels in Bali Province in 2019**

County/City	2019					
	Number of Star Hotels					
	5 star	4 star	3 star	2 star	1 star	Whole Class
Jembrana Regency	0	1	3	1	0	5
Tabanan Regency	2	1	2	0	0	5
Badung Regency	62	118	158	48	8	394
Gianyar Regency	6	10	4	1	2	23
Klungkung Regency	0	0	0	0	2	2
Bangli Regency	0	0	0	0	0	0
Karangasem Regency	0	4	3	1	0	8
Buleleng Regency	2	4	11	3	0	20
Denpasar City	6	6	15	18	5	50
<b>Bali Province</b>	78	144	196	72	17	507

In 2019 the number of hotels in Badung Regency amounted to 394 units out of 507 hotels in Bali Province, or more than 75% of hotels in Bali Province are located in Badung Regency. The large number of available hotel rooms in Badung Regency coupled with a decrease in foreign tourist arrivals during the Covid-19 Pandemic can undoubtedly result in unfair business competition among hotel business actors in Badung Regency. This needs special attention by the Badung Regency government because there are indications from several upper cluster hotel business actors who sell their hotel rooms at low prices with the same service. It can result in hotels located in the lower cluster being unable to carry out their business activities (Sari, Selamet, & Purnami, 2020).

The condition of the business world is characterized by unhealthy business behavior. Business actors tend to cultivate incentives to gain market power and gain the flexibility to control prices. In creating market power, business actors take detrimental actions to their competitors, such as carrying out market restrictions, creating trade barriers to enter the market, entering into collusive agreements to regulate prices, limiting output, regulating the market, and other anti-competitive practices (Poplavskaya, Lago, Strömer, & de Vries, 2021). The term "business actor" is held in Article 1 number 5 of Law Number 5 of 1999

concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, starting now referred to as the Anti-Monopoly Law, that business actor is any individual or business entity, whether in the form of a legal entity. or not a legal entity established and domiciled or conducting activities within the jurisdiction of the Republic of Indonesia, either alone or jointly through an agreement, conducting various business activities in the economic field (*Undang-Undang Nomor 5 Tahun 1999 Tentang Larangan Praktik Monopoli Dan Persaingan Usaha Tidak Sehat*, n.d.).

Predatory pricing is the action of a company setting prices below production costs to get rid of competitors. Article 20 of the Anti-Monopoly Law of Indonesia states: "Business actors are prohibited from supplying goods and or services by selling at a loss or setting a meager price with the intention of getting rid of their competitors in the relevant market so that it can lead to monopolistic practices and or unfair competition (Santoso, 2018).

The Anti-Monopoly Law is expected to become a legal umbrella in overseeing the unfair business competition, one of which is the practice of selling at a loss. The method of selling at a loss is carried out by business actors who have a dominant

position (incumbent) in the market, setting economically detrimental prices for a relatively long period. This may result in their competitors being eliminated from the relevant market and/or hindering other business actors from entering it. (Rivandi, 2021) The Anti-Monopoly Law is expected to protect hotel business actors who are affected by the decline in hotel rates in the cluster above. Based on this background, it is necessary to study more deeply related indications of loss-selling practices by hotel business actors in Badung Regency during the COVID-19 pandemic.

## II. RESEARCH METHOD

This type of research is a type of empirical juridical research based on legal rules in examining existing social problems or facts and is associated with its implementation in society. Empirical legal research is also called sociological, legal research, law, is conceptualized as a social institution in real terms related to other social variables (Amiruddin dan H. Zainal Asikin, 2012). The problems contained in this research will be studied from the legal provisions that regulate and then relate them to the facts and facts that occur in the field. Adapun teknik analisis bahan hukum yang digunakan adalah *content analysis* (teknik analisis isi).

In this study there are 3 (three) legal materials: primary, secondary and supporting or tertiary. Primary legal materials which are facts of events in the field. Secondary legal materials are the Anti-Monopoly Law and all publications on law that are not official documents (books, journals, articles and other scientific works), while tertiary legal materials are: internet, encyclopedias, and others. Techniques for collecting legal materials by using facts that occur in the field.

Content analysis is any systematic procedure that is encouraged to examine the content of the information obtained. This analysis focuses on all primary data obtained. After obtaining the necessary data, this article analyzes the data logically, systematically and legally. Logic means that the collected data is analyzed according to the principles of deductive logic, namely drawing conclusions from a general problem to the concrete problem at hand. Systematic means analyzing data by linking together interrelated and dependent data. In addition, the data is analyzed legally, namely the applicable laws and regulations and is related to the applicable positive law.

## III. RESULT AND DISCUSSION

### Selling Prices Set by Several Hotel Business Actors in Badung Regency during the Covid-19 Pandemic Related to Indications of Loss and Selling Practices

In principle, the determination of the selling price of a product, both goods, and services, by business actors in the right of business actors. The selling price

of a product of goods or services for the same product certainly can have price differences in each business actor (Yacoub & ElHajjar, 2021). This is because, in determining or setting prices, business actors have their respective internal standards that are in accordance with the calculation between the operating expenses incurred and the profits to be achieved (Escrig-Olmedo, Muñoz-Torres, Fernández-Izquierdo, & Rivera-Lirio, 2017).

Extensive economic and legal literature has developed specific standards to determine whether a company is practicing predatory pricing or not. One of the most influential literature is the Areeda and Turner literature (Areeda & Turner, 2017); they consider that the standard of determining this practice can be seen when a company charges below its short-run marginal cost. However, because data on short-run marginal costs are challenging to obtain, they suggest using AVC (Average Variable Cost) as a proxy. The logic underlying this determination is that no firm has ever made a profit when operating in conditions where the price is lower than short-run marginal cost unless there is an interest, tactic, or strategy (Nuruddin *et al.*, 2020). Pricing below short-run marginal cost is unreasonable without long-term prospects for profit. This regulation was made based on the International Monetary Fund (IMF) instructions, which is a body established by the United Nations in the field of the Monetary Fund. Basically, the IMF assesses the economic turmoil experienced by Indonesia from 1997 to 1998 based on the number of monopolistic practices in society. Monopoly practice is the concentration of economic power by one or more business actors, which results in the control of production and/or marketing of specific goods and services to create unfair business competition and harm the public interest. And if this continues to happen without clear regulations, the economy will slowly collapse (Syahrin, 2021).

As is the case with hotel businesses in Badung Regency, Hotel business actors in Badung Regency, in determining the selling price of their room occupancy, must pay attention to the expenditure (cost) and potential revenue (income) by paying attention to the concept of Cost-Benefit Analysis (CBA). "CBA provides a method for making direct comparisons among alternative policies. Even when goals other than efficiency are important, CBD serves as a yardstick that can be used to provide information about the relative efficiency of alternative policy (Pagani & Pardo, 2017)". The essence of the concept is aimed at making efficiency for every business actor with a benchmark. The benchmark for efficiency can be based on the internal and external aspects of business actors (Suwendra, Sujana, & Irwansyah, 2020).

In addition to paying attention to internal aspects in determining the selling price of room occupancy, hotel businesses in Badung Regency also pay attention to the level of demand from consumers.

That is affected by the high season or low season period which is very common among hotel business players. This may be very difficult for hotel business actors in Badung Regency during the Covid-19 Pandemic, where the number of tourists visiting Bali Province has decreased drastically, which affects the occupancy rate of hotel rooms in Badung Regency. These situations and conditions can lead to unfair business competition among hotel business actors in Badung Regency.

Based on the results of an online interview on December 20, 2020 with I Komang Astawa, Chief Executive Officer of Astadala Hospitality. This company manages The Bene Hotel that Bene Hotel in sets the selling price of its room occupancy already has standardized pricing internally in the form of a structure rate from start to finish. Setting the lowest price to the most expensive room is the high season, low season, or peak season.

The same opinion was also expressed by 3 (three) other hotel business actors interviewed online on the same date, December 22, 2020. I Wayan Wiarta as Managing Director of Platinum Management Hospitality, as the managing company of Blue Point Bay Villas & Spa Hotel, I Made Tomy Martana Putra as Owner of Tom Inn Hotel and Made Caesar Surya Dwi Putra as Chief Executive Officer of Griya Sunset Kuta Hotel revealed that the pricing of hotel occupancy in each of the hotels they manage is based on internal factors. However, unlike The Bene Hotel, the three hotel business players made a very significant decrease in the selling price of hotel occupancy rates.

Suppose it is examined what some informants from hotel business actors in Badung Regency have done in relation to reducing hotel room occupancy rates during Covid-19. In that case, it is necessary to study the definitions and indications of the practice of selling at a loss ("Pedoman Pelaksanaan Pasal 20 Tentang Jual Rugi (Predatory Pricing).," n.d.).

Referring to economic theory, selling at a loss is a condition in which a business actor sets the selling price of goods and or services below the average total cost (AVC). The determination can be reasonable if it is above the average variable cost because business actors can still produce. Suppose the business actor makes at a price below the AVC. In that case, it can be said that the price is no longer reasonable, and then selling at a loss made by the business actor can be suspected of having a specific purpose (Amado dos Santos, Méxas, Meirño, Sampaio, & Costa, 2020).

In general, the practice of selling and losing is intended for 5 (five) main objectives, namely: ("Pedoman Pelaksanaan Pasal 20 Tentang Jual Rugi (Predatory Pricing).," n.d.)

1. Killing competitors in the same relevant market,

2. Limiting competitors by imposing a loss-selling price as an entry barrier,
3. Gain significant profits in the future,
4. Reduce losses that occurred in the past, or
5. Is a promotional price to introduce new products as a marketing strategy tool.

Based on the interviews with four hotel business actors in Badung Regency related to the determination of the selling price of hotel room occupancy, three of the four hotel business actors in Badung Regency significantly decreased hotel room occupancy rates; even there was a decrease in rates. It reaches 60% of the regular price. This situation was caused by the fact that the cluster hotels above had significantly decreased their costs.

According to I Wayan Wiarta, the number of hotel business players in the cluster above their hotels who have reduced room occupancy rates to attract domestic tourists has greatly impacted the hotels he manages. The upper cluster hotel business actors set the same hotel room occupancy prices even cheaper than the lower clusters (Nikolskaya, Pasko, Volkova, Dekhtyar, & Lebedeva, 2017).

Judging from the definition and indication of the practice of selling at a loss, the determination of the selling price carried out by hotel business actors in Badung Regency based on the interview results cannot be known whether it is below or above AVC. This is because the basis of the price-fixing of the hotel business actors is material; there is no intention from the business actors to carry out selling and loss activities. However, when viewed from the decline in prices of several hotel business actors in Badung Regency, it feels very significant, and the intent and purpose of the hotel business actors' actions fulfill their aims and objectives to obtain large profits in the future, reduce losses that have occurred in the past, or are a price promotion to introduce new products as a marketing strategy tool (Dey & Teasdale, 2015).

Meanwhile, if studied through the rule of reason approach, it is mandatory to analyze objective (economic) reasons for their negative effects on business competition conditions. If no objective reason justifies and results in unfair business competition, legal action will be taken (Volmar & Helmdach, 2018). However, if a factual basis justifies (reasonable) that the act does not result in unfair business competition, then the act is legal (Harrington, 2018).

Then, determine if a business actor indicates a loss-selling practice if the action he takes fulfills the elements of Article 20 of the Antimonopoly Law, which includes: business actor, supplying goods and/or services, setting meager prices, to get rid of or shut down competitors' businesses, and relevant market.

Based on the results of interviews with several hotel business actors in Badung Regency, the elements in the practice of selling and losing are explained as follows:

1. **Entrepreneurs**  
They are several hotel business players in Badung Regency, especially the 5-star hotel cluster.
2. **Supply**  
The supply activities carried out by several hotel business actors in Badung Regency provide services and services to consumers.
3. **Goods and/or services**  
The products sold by several hotel business players are hotel room rentals.
4. **Setting a meager price**  
Based on the results of interviews with the four informants, several high-end (5-star) hotel business actors in Badung Regency lowered prices by more than 60% of the normal price.
5. **To get rid of or kill off its competitors**  
Based on the results of interviews with the four sources, it is difficult to state that the purpose of reducing hotel room rates is to kill or get rid of competitors' businesses. However, the price decline resulted in the destruction of the ecosystem for the selling price of hotel rooms in Badung Regency during the Covid-19 Pandemic, resulting in unfair business competition.
6. **In the relevant market**  
The relevant market, in this case, is the hotel accommodation provider market in Badung Regency.

The special method usually used by the Business Competition Supervisory Commission is called *Hard Line Evidence* which must meet the following qualifications (Alfrah & Almutawa, 2017):

1. The selling and loss strategy is carried out systematically over a long period of time;
2. There is a sale and loss objective that endangers other business actors, which can be assessed by two indicators:
  - a. Elimination of competing business actors from outside the market (turning off other business competitors)
  - b. There are obstacles for new business actors to enter the market.
3. There is a consumer loss because the business actor will set a high price after the sale and loss goal is achieved to cover the loss he has suffered (recoupment).

Whereas a shallow pricing strategy, including a limit pricing strategy, is identified with the dominant business actor to protect his position by substantially cutting prices or increasing production significantly with the intention of not providing opportunities for new business actors to enter the market (McIntyre & Srinivasan, 2017). Seeing how difficult it is to prove the practice of selling at a loss, the state needs to be present

to protect the community's interests to obtain fair business competition (Néron, 2015).

In the short term, selling at a loss is very profitable for consumers, but after removing competitors from the market and inhibiting potential new competitors, the dominant business actor or incumbent business actor hopes to increase prices significantly. Generally, the price set to cover the loss is a monopoly price (which is higher (so it can harm consumers). This practice attempts to maximize profits and cover losses incurred when selling at a loss or a low price. The shallow pricing strategy, which includes the limit pricing strategy, is identified with the desire of monopolistic or dominant business actors to protect their position by substantially cutting prices or increasing production significantly. This behavior is intended so as not to provide opportunities or attractiveness to new business actors to enter the industry so that monopolistic business actors maintain their dominant position (Islami, Islami, Latkovikj, & Mulolli, 2019).

#### **Legal Protection for the Loss of Hotel Business Actors Affected by the Activities of Other Hotel Business Actors Conducting Loss and Selling Practices**

Article 7 of the Anti-Monopoly Law states, "Business actors are prohibited from entering into agreements with competing business actors to set prices below the market price, which may result in unfair business competition." This does not result in unfair business competition. The act of selling at a loss can be formulated in the Rule of Reason, a prohibited behavior that must be proven to have resulted in one or several elements of industry/sector performance declining, for example, decreasing people's/consumer welfare, efficiency, or reducing competition (less competition). An authority sheet can only carry out the Rule of Reason with an approach to evaluate the sale and loss agreement or activity and draw a conclusion whether the act of selling and losing is hindering or supporting competition between business actors (Anisah, 2020).

According to Muchsin, the forms of the state in providing legal protection to its people include Preventive legal protection (Malik *et al.*, 2021). The purpose of preventive legal protection is to prevent a violation by laws and regulations to prevent a breach and provide signs or limitations in doing something. Repressive Legal Protection. As final protection in the form of sanctions such as fines, imprisonment, and additional penalties given if a dispute has occurred or a violation has been committed (Sánchez-Medina, Díaz-Pichardo, & Cruz-Bautista, 2016).

Hotel business actors who are proven to have practiced loss-making practices that result in losses to other hotel business actors should receive legal consequences for their actions. In accordance with the

provisions of Article 47 paragraph (2) letters c, f, and g of the Antimonopoly Law, it is determined that there are administrative sanctions in the form of cessation of prohibited activities, and/or stipulation of payment of compensation, and/or a fine of at least one billion rupiahs and a maximum of twenty-five billion rupiahs.

The above provisions are a form of repressive protection, which is the absolute protection in the form of sanctions such as fines, imprisonment, and if a violation has been committed. In addition to repressive legal protection, preventive legal protection must also be strengthened. The potential for the practice of selling and losing hotel businesses in Badung Regency during the Covid-19 Pandemic was not only triggered by a lack of tourists but also due to the absence of the lowest standard price for the selling price of hotel rooms in Badung Regency.

Based on the results of a direct interview on December 23, 2020, with Ngakan Putu Triariawan as Head of the Tourism Industry Division of the Badung Regency Tourism Office, that in Badung Regency does not have the lowest standard selling price for the selling price of hotel rooms. The absence of these standards can result in a tariff war so that the selling price of hotel rooms in Badung Regency is getting cheaper, which will have an impact on an unfavorable tourism climate. The existence of a regulation that regulates the level of Regional Regulations both Provincial and Regency regarding the lowest selling price standard for the selling price of hotel rooms will certainly facilitate the role of the Badung Regency Tourism Office to carry out supervision related to tariff wars because there are already standards. However, according to Ngakan Putu Triawan, what needs to be set is only the lower limit price, with the implication that hotel businesses that provide more complete services can sell more expensive room prices, which can provide more profits.

The same opinion was also expressed by 4 (four) sources of hotel business actors who were interviewed. They agree that standardization of the lowest price is essential to minimize tariff wars that can lead to unfair business competition in Badung Regency. Therefore, the form of preventive legal protection becomes very important to prevent the occurrence of a violation which is formulated in the form of regulation (Chirico, Heponiemi, Pavlova, Zaffina, & Magnavita, 2019).

Although setting a low price can benefit consumers, the profit is only for a short period because, after a certain period, where several competing business actors are eliminated from the consumer market. They will be disadvantaged after the business actor sets a very high price, which leads to, or can be, a monopoly price. Therefore, it is necessary to understand the various characteristics of business actors who act as predators; this is due to: (Bruckner, 2019)

1. During the practice of selling at a loss, business actors will experience substantial losses. The doubts suffered by the incumbent business actor will be much greater than the loss suffered by the competitor business actor with the same efficiency level. This is due to the obligation of incumbent business actors to meet the needs of market demands at a low level that is enforced. Meanwhile, competing business actors can regulate their production to minimize losses.
2. If the nature of the industry allows new entrants to enter and exit the market quickly, predatory pricing will not occur. In the practice of predatory pricing, competing business actors will leave the relevant market and invest their assets in other industries. When the incumbent business actor raises prices, competing business actors will re-enter the industry. This condition will continue so that there will be no selling at a loss which ultimately harms consumers.
3. There will be no sunk costs, nor will the predatory pricing practice be successful. In the absence of sunk costs, incumbent business actors have no way to increase fees for newcomers. So imposing a price below the cost will not be effective. In this condition, the practice of selling at a loss will only harm the incumbent business actors because they do not apply predatory pricing.
4. A business actor who will carry out this practice is usually a large-scale or dominant business actor in the market for these goods or services. This argument arises because only big business actors are able to overcome losses, while small business actors will not.

Predatory pricing is usually prohibited not because of setting a price that is too low for the products it sells now but because business actors will try to reduce their production and increase costs in the future. Furthermore, Peter explained that this could happen if other business actors are weak and obstacles to entering the market for both new and defeated companies. Therefore, if business actors practice predatory pricing but do not reduce their production and do not increase prices, then predatory pricing that is contrary to the law may not occur (Cheng, 2020).

The legal basis for the Business Competition Supervisory Commission (KPPU) procedure is the Anti-Monopoly Law and Commission Regulation (Perkom) No. 1 of 2010. In general, the investigation and examination of cases at the KPPU is based on; a. reporting report; b. Report of the complainant with a request for compensation; and c. Commission Initiative. In terms of predatory pricing, KPPU not only waits for the report from the complainant but can also use the commission's initiative. KPPU uses its initiative to carry out monitoring and supervision in advance of industry related to business competition issues, including predatory pricing. KPPU summons the

relevant business actors in the monitoring to obtain information and collect the necessary data. In practice, KPPU has difficulty obtaining data that can be used to analyze and find indications of whether a company implements a predatory pricing policy in its business activities. Therefore, in 2017 KPPU has applied for a revision of Law No. 5 of 1999 through the DPR to amend several articles, especially regarding the authority of the KPPU to collect information and data in the context of the evidentiary process business competition violations. The data and information used as evidence in handling cases at KPPU originate from; a. Study results; b.

News in the media; c. Monitoring results; d. Incomplete reports; e. Results of hearings conducted by the commission; f. Findings in the examination; and g. Another reliable source. The KPPU Assembly in examining and deciding a business competition case, shall use the examination evidence in the form of a. Witness testimony; b. Expert testimony; c. Letters and or documents; d. Instruction; and e. Description of business actors. In the KPPU's procedural law, witness statements have the most substantial evidentiary power in business competition cases. The KPPU can also apply the criteria for finding predatory pricing, the same as the ECJ, when examining cases, using the statements of economists supported by statements from legal experts. Meanwhile, information from business actors (reported) has the weakest evidentiary power (Fuoli, van de Weijer, & Paradis, 2017).

The presence of law in society is to integrate and coordinate conflicting interests, which can be resolved by limiting and protecting these interests. These conflicting interests, of course, in this context are the interests between hotel business actors, which must be resolved by law by limiting and protecting these interests (Nooren, van Gorp, van Eijk, & Fathaigh, 2018).

The existence of a legal regulation that regulates the standard of the lowest selling price for hotel business actors, especially in Badung Regency, will undoubtedly be able to improve the climate of hotel business competition in Badung Regency. These regulations can be in the form of Regional Regulations to have legal certainty and have provisions for criminal sanctions.

#### IV. CONCLUSION

Based on the research results, it was found that there were indications as well as some hotel business actors in Badung Regency who practiced selling at a loss by decreasing the selling price of hotel rooms, which could reach 60% of the normal price. It may make result in unhealthy business competition during the Covid-19 Pandemic. There is a legal or regulatory vacuum related to the standard of the lowest selling price for hotel room occupancy rates, which can result

in the absence of legal certainty among hotel business actors and can make it difficult for the government to supervise.

#### REFERENCES

- Alfraih, M. M., & Almutawa, A. M. (2017). Voluntary disclosure and corporate governance: empirical evidence from Kuwait. *International Journal of Law and Management*, 59(2), 217–236. <https://doi.org/10.1108/IJLMA-10-2015-0052/FULL/PDF>
- Amado dos Santos, R., Méxas, M. P., Meiriño, M. J., Sampaio, M. C., & Costa, H. G. (2020). Criteria for assessing a sustainable hotel business. *Journal of Cleaner Production*. <https://doi.org/10.1016/j.jclepro.2020.121347>
- Amiruddin dan H.Zainal Asikin. (2012). *Pengantar Metode Penelitian Hukum*. Jakarta.: PT Raja Grafindo Persada.
- Anisah, S. (2020). The Use of Per Se Illegal Approach in Proving the Price-Fixing Agreements in Indonesia. *Jurnal Media Hukum*, 27(1), 99–120. <https://doi.org/10.18196/JMH.20200145>
- Areeda, P., & Turner, D. F. (2017). Predatory Pricing and Related Practices Under Section 2 of the Sherman Act. *Dominance and Monopolization*, 277–314. <https://doi.org/10.4324/9781315257433-10>
- Bruckner, M. A. (2019). Preventing Predation & Encouraging Innovation in Fintech Lending. *SSRN Electronic Journal*. <https://doi.org/10.2139/SSRN.3406045>
- Cheng, H. F. G. (2020). An economic perspective on the inherent plausibility and frequency of predatory pricing: the case for more aggressive regulation. *Https://Doi.Org/10.1080/17441056.2020.1770478*, 16(2–3), 343–367. <https://doi.org/10.1080/17441056.2020.1770478>
- Chirico, F., Heponiemi, T., Pavlova, M., Zaffina, S., & Magnavita, N. (2019). Psychosocial Risk Prevention in a Global Occupational Health Perspective. A Descriptive Analysis. *International Journal of Environmental Research and Public Health* 2019, Vol. 16, Page 2470, 16(14), 2470. <https://doi.org/10.3390/IJERPH16142470>
- Dey, P., & Teasdale, S. (2015). The tactical mimicry of social enterprise strategies: Acting 'as if' in the everyday life of third sector organizations. *Http://Dx.Doi.Org/10.1177/1350508415570689*, 23(4), 485–504. <https://doi.org/10.1177/1350508415570689>
- Escrig-Olmedo, E., Muñoz-Torres, M. J., Fernández-Izquierdo, M. Á., & Rivera-Lirio, J. M. (2017). Measuring Corporate Environmental Performance: A Methodology for Sustainable Development. *Business Strategy and the Environment*, 26(2), 142–162. <https://doi.org/10.1002/BSE.1904>
- Fuoli, M., van de Weijer, J., & Paradis, C. (2017). Denial outperforms apology in repairing organizational trust despite strong evidence of guilt. *Public Relations Review*, 43(4), 645–660. <https://doi.org/10.1016/J.PUBREV.2017.07.007>

- Gössling, S., Scott, D., & Hall, C. M. (2020). Pandemics, tourism and global change: a rapid assessment of COVID-19. *Journal of Sustainable Tourism*.  
<https://doi.org/10.1080/09669582.2020.1758708>
- Harrington, J. E. (2018). DEVELOPING COMPETITION LAW FOR COLLUSION BY AUTONOMOUS ARTIFICIAL AGENTS. *Journal of Competition Law & Economics*, 14(3), 331–363.  
<https://doi.org/10.1093/JOCLEC/NHY016>
- <https://bali.bps.go.id/dynamictable/2017/06/05/174/banyaknya-hotel-berbintang-di-bali-menurut-lokasi-dan-kelas-hotel-2000-2010.html>. (n.d.).
- <https://bali.bps.go.id/indicator/16/106/1/banyaknya-wisatawan-mancanegara-bulanan-ke-bali-menurut-pintu-masuk.html>. (n.d.).
- Islami, X., Islami, V., Latkovikj, M. T., & Mulolli, E. (2019). Barriers hindering the entry of new firms to the competitive market and profitability of incumbents. *Management : Journal of Contemporary Management Issues*, 24(2), 121–143.  
<https://doi.org/10.30924/MJCM1.24.2.9>
- Malik, F., Abduladjud, S., Sudika Mangku, D. G., Rai Yuliartini, N. P., Suta Wirawan, I. G. M. A., & Angga Mahendra, P. R. (2021). Legal protection for people with disabilities in the perspective of human rights in Indonesia. *International Journal of Criminology and Sociology*.
- McIntyre, D. P., & Srinivasan, A. (2017). Networks, platforms, and strategy: Emerging views and next steps. *Strategic Management Journal*, 38(1), 141–160. <https://doi.org/10.1002/SMJ.2596>
- Néron, P. Y. (2015). Rethinking the Ethics of Corporate Political Activities in a Post-Citizens United Era: Political Equality, Corporate Citizenship, and Market Failures. *Journal of Business Ethics* 2015 136:4, 136(4), 715–728.  
<https://doi.org/10.1007/S10551-015-2867-Y>
- Nikolskaya, E. Y., Pasko, O. V., Volkova, I. A., Dekhtyar, G. M., & Lebedeva, O. Y. (2017). Boosting the competitiveness of hotel business operators in current conditions. *Journal of Environmental Management and Tourism*.  
[https://doi.org/10.14505/jemt.v8.8\(24\).18](https://doi.org/10.14505/jemt.v8.8(24).18)
- Nooren, P., van Gorp, N., van Eijk, N., & Fathaigh, R. (2018). Should We Regulate Digital Platforms? A New Framework for Evaluating Policy Options. *Policy & Internet*, 10(3), 264–301.  
<https://doi.org/10.1002/POI3.177>
- Nuruddin, S. S., Ardika, W., Kristianto, Y., Mahagangga, G. A. O., Suryawan, I. B., & Sendra, I. M. (2020). Portrait of tourism object in Bongan Tabanan Bali Village: Cultural studies perspective. *Utopia y Praxis Latinoamericana*.  
<https://doi.org/10.5281/zenodo.3808892>
- Pagani, M., & Pardo, C. (2017). The impact of digital technology on relationships in a business network. *Industrial Marketing Management*.  
<https://doi.org/10.1016/j.indmarman.2017.08.009>
- Pedoman Pelaksanaan Pasal 20 tentang Jual Rugi (Predatory Pricing). (n.d.).
- Poplavskaya, K., Lago, J., Strömer, S., & de Vries, L. (2021). Making the most of short-term flexibility in the balancing market: Opportunities and challenges of voluntary bids in the new balancing market design. *Energy Policy*.  
<https://doi.org/10.1016/j.enpol.2021.112522>
- Pramana, S., Paramartha, D. Y., Ermawan, G. Y., Deli, N. F., & Srimulyani, W. (2021). Impact of COVID-19 pandemic on tourism in Indonesia. *Current Issues in Tourism*.  
<https://doi.org/10.1080/13683500.2021.1968803>
- Rivandi, R. (2021). INTEGRATED MARKETING COMMUNICATION AND COFFEE SHOP CONSUMER PURCHASE DECISION IN SURAKARA CITY. *International Journal of Economics, Business and Accounting Research (IJEBAR)*, 5(2).  
<https://doi.org/10.29040/IJEBAR.V5I2.2289>
- Sánchez-Medina, P. S., Díaz-Pichardo, R., & Cruz-Bautista, M. (2016). Stakeholder Influence on the Implementation of Environmental Management Practices in the Hotel Industry. *International Journal of Tourism Research*. <https://doi.org/10.1002/jtr.2056>
- Santoso, B. (2018). Predatory Pricing in the Telecommunication Business Advertisement in Indonesia. *IOP Conference Series: Earth and Environmental Science*. <https://doi.org/10.1088/1755-1315/175/1/012184>
- Sari, T., Selamat, K., & Purnami, S. (2020). Analisis SWOT Dalam Pengembangan Agrowisata di Desa Pelaga Kecamatan Petang Kabupaten Badung. *WACANA EKONOMI (Jurnal Ekonomi, Bisnis Dan Akuntansi)*. <https://doi.org/10.22225/we.19.1.1575.1-9>
- Suwendra, I. W., Sujana, I. N., & Irwansyah, M. R. (2020). *Acceleration Strategy of Bali's Tourism Sector Amid COVID-19 Pandemic*. <https://doi.org/10.2991/aebmr.k.201212.022>
- Syahrin, A. (2021). Health Protocol Certification for tourism business due to Covid-19 outbreaks in Bali. *Jurnal of Geography of Tropical Environment*.
- *Undang-Undang Nomor 5 Tahun 1999 tentang Larangan Praktik Monopoli dan Persaingan Usaha Tidak Sehat*. (n.d.).
- Volmar, M. N., & Helmdach, K. O. (2018). Protecting consumers and their data through competition law? Rethinking abuse of dominance in light of the Federal Cartel Office's Facebook investigation. <https://doi.org/10.1080/17441056.2018.1538033>, 14(2–3), 195–215.  
<https://doi.org/10.1080/17441056.2018.1538033>
- Wedaningsih, L. S., Vipriyanti, N. U., ... Partama, I. G. Y. (2021). Mapping the Employee Layoff of Star Hotels in Denpasar City: An Effort to Reduce the Impacts of the Covid-19 Pandemic. *SOSHUM : Jurnal Sosial Dan Humaniora*.  
<https://doi.org/10.31940/soshum.v11i1.2304>
- Yacoub, L., & ElHajjar, S. (2021). How do hotels in developing countries manage the impact of COVID-19? The case of Lebanese hotels. *International Journal of Contemporary Hospitality Management*.  
<https://doi.org/10.1108/IJCHM-08-2020-0814>