

Analysis of the Application of Article 18 of the Consumer Protection Law in Tourism Services

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ABSTRACT

The focus of this research is to reveal the extent to which the provisions of Article 18 UUPK have been implemented by tourism businesses to protect consumer rights and security. The research method uses an empirical sociological approach which uses field data as the main data source, such as the results of interviews, observations and documentation. The results provide a comprehensive picture of the practice of implementing Article 18 UUPK in the tourism services sector. These findings involve evaluating the transparency of information, security, and quality of services provided to consumers. That the main obstacles and challenges lie in human resources, and the factor of lack of awareness on the part of tourism actors. It is hoped that this in-depth study can contribute to improving policies and implementation of Article 18 UUPK, as well as increasing consumer protection in the context of tourism services.

Keywords:

Exoneration Clause;
UUPK; Tourist

INTRODUCTION

The tourism sector is currently the main attraction for development, so that every region is competing to include this sector in every development plan. In several areas, it shows that the tourism industry is able to boost the regional economy. Tourism is currently a favorite sector, so various regions compete to provide maximum tourism services. The tourism industry includes various types of services designed to meet the needs and desires of tourists. First, transportation services are a crucial part of this industry.

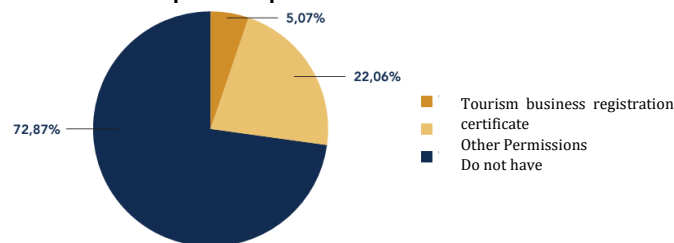
This includes flights, trains, buses, ships and local transportation services such as taxis and ride-hailing. Increased connectivity and efficiency in transportation helps facilitate tourist travel from one place to another, which is the foundation for developing tourist destinations. Apart from that, accommodation is also an important component in the tourism industry. Hotels, villas, inns, and other lodging services provide travelers with a place to stay during their travels. The development of online lodging services or homestays has also changed the dynamics of this industry by providing a wider variety of accommodation options (Bafadhal, 2021, p.12).

Apart from transportation and accommodation, tour guide services are also a key aspect of the tourism industry. Tour guides provide information, cultural insight, and guidance about the destinations visited. They can work as local guides, licensed tour guides, or through online applications that provide guide services. As technology develops, tourism services are increasingly diversified, including in the form of virtual guides and the use of virtual reality technology to enhance the tourist experience. Meanwhile, food services and shopping are also an integral part of the tourism experience, with restaurants, cafes and traditional markets providing a local touch and culinary specialty of each tourist destination. All of these elements work together to create a complete and satisfying travel experience.

These tourism services include the availability of hotels, public transportation, facilities and infrastructure, and what is no less important is legal protection for consumers (tourists). The rapid growth in the outdoor tourism sector marks a trend of increasing public interest in engaging in extreme adventure activities and high-risk natural exploration. However, amidst this stunning natural beauty, risks related to the safety and security of tourists are also increasing (Oktaviarni, 2018, p.145).

The ever-changing dynamics of the tourism industry bring its own challenges, especially regarding consumer safety and health. Various services, such as accommodation, transportation, and recreational activities, involve complex interactions between service providers, travel agents, and tourists.

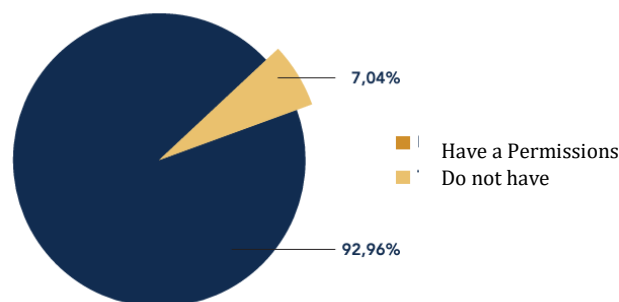
Figure 1: Percentage of Tourism Industry Businesses Based on Ownership of Operational Permits



Source: Tourism and Creative Economy Industry Statistics, Ministry of Tourism and Creative Economy/Indonesian Tourism and Creative Economy Agency

Based on the data above, most of the tourism industry and creative economy businesses do not have operational permits, namely 72.87 percent, only 5.07 percent have TDUP and 22.06 percent have other permits. This certainly affects the guarantee of security and comfort for tourists, especially with the application of standard clauses at tourist attractions.

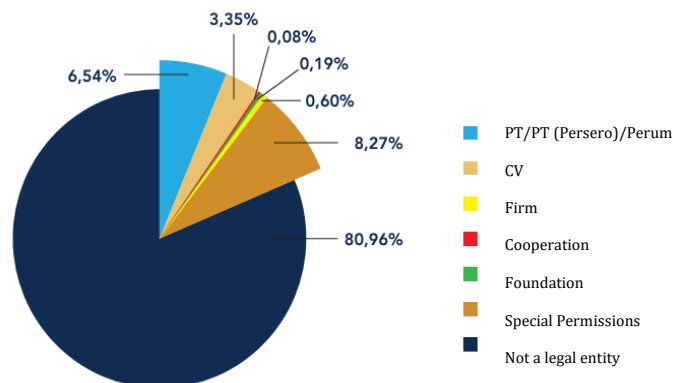
Figure 2: Percentage of Tourism Industry Businesses Based on Tourism Business Certification



Source: Tourism and Creative Economy Industry Statistics, Ministry of Tourism and Creative Economy/Indonesian Tourism and Creative Economy Agency

Currently, tourism industry business certification from the Business Certification Institute (LSU) is only owned by 7.04 percent of tourism industry and creative economy businesses, while 92.96 percent do not have certification.

Figure 3: Percentage of Tourism Industry Businesses Based on Legal Entity Status



Source: Tourism and Creative Economy Industry Statistics, Ministry of Tourism and Creative Economy/Indonesian Tourism and Creative Economy Agency

Most of the tourism industry and creative economy businesses are not legal entities, namely 80.96 percent and businesses that have special permits from authorized agencies are 8.27 percent. 6.54 percent of tourism industry and creative economy businesses have the legal entity PT/PT Persero/Perum, 3.35 percent have the legal entity CV, 0.60 percent are Firms, and 0.08 percent are cooperatives/pension funds.

The tourism industry that has permits and certification can provide more legal protection to tourists and has met the quality and safety standards set by the relevant authorities. These permits and certifications show that tourism businesses have undergone a strict assessment and inspection process to ensure that the services they provide meet established standards. This provides a guarantee to tourists that they will receive services that are safe, quality, and in line with the expectations of tourism business actors.

Tourism industries that obtain permits and certification often also have a higher level of social and environmental responsibility. They are expected to maintain environmental sustainability, pay attention to social aspects, and contribute to local development. This includes protection of cultural and natural heritage, as well as engagement with local communities. Tourists can feel safer and more comfortable when using services from tourism business actors who pay attention to social and environmental responsibility. However, in reality, based on the data above, more than 70% of tourism business actors do not have certification and tourism business permits (Statistical data from the Indonesian Tourism and Creative Economy Agency, 2023).

Tourists are too focused on paying attention to tourist ticket rates, tourist rides, and so on. In fact, protection for tourists is an important part of ensuring tourists remain safe while on holiday (Putri S, 2023, p.21). Not many tourist attractions provide this guarantee through appropriate mechanisms according to regulations. Ideally, consumer protection is characterized by providing responsibility or compensation given by business actors to their consumers. However, in reality, business actors actually make an agreement in which the clause avoids responsibility. This agreement has been provided in advance by

the business actor. This agreement contains standard clauses to regulate legal relations with tourists on tours and must be approved by consumers.

The law that protects consumers from detrimental exoneration clauses in tourism service contracts is Law Number 8 of 1999 concerning Consumer Protection (hereinafter referred to as UUPK) in Indonesia. Article 18 of this Law prohibits business actors from offering goods and/or services intended for trade from creating or including standard clauses that are detrimental to consumers. This Consumer Protection Law aims to protect consumer rights and prevent practices that are detrimental to consumers. In the case of tourism services, exoneration clauses that limit the liability of business actors for consumer loss or injury may violate the provisions of this Law.

Apart from that, in the Law on Tourism Number 10 of 2009 (hereinafter referred to as the Tourism Law), there are no special provisions discussing exoneration clauses in tourism service contracts. However, the Consumer Protection Law is still the main reference in protecting consumers from detrimental exoneration clauses.

According to article 18 UUPK standard clauses are actually permitted as long as they do not state things that are prohibited. The matter referred to as stated in Paragraph 1 letter a is that the standard clause is prohibited from transferring responsibility. The meaning contained in this clause is how to emphasize one party, which is then referred to as an exoneration clause. This clause is something that is detrimental to one of the parties, so in practice it is prohibited by law. The prohibition on exoneration clauses is clearly regulated in Article 18 UUPK. This article explains that business actors are responsible for all types of business activities, and are prohibited from transferring their responsibilities to consumers (Primantara, 2015, p.12).

In addition, consumers' awareness of their rights in the context of tourism services also plays an important role. Analysis of the application of Article 18 Paragraph 1 UUPK can illustrate the extent to which consumers are aware of their rights and the extent to which this legal provision can guarantee effective protection. By understanding this background, further analysis of the implementation of Article 18 Paragraph 1 UUPK in tourism services is expected to make a positive contribution in increasing the protection of consumer rights and the sustainability of the tourism industry as a whole (Julianti dkk, 2018, p.2).

The aspect of protecting tourists is still a neglected part. Therefore, it is important to identify the extent to which Article 18 Paragraph 1 UUPK can provide adequate protection for consumers in this context. The sustainability and reliability of tourism services is also influenced by technological advances, including increasingly dominant online booking platforms. In this case, analysis of the application of Article 18 Paragraph 1 UUPK can provide an overview of how consumer protection laws can adapt to developments in technology and digital platforms which are an integral part of the tourism industry (Amirrudin, 2023, p.10).

This research has not been carried out much because some people think that safety and comfort at tourist attractions are not well highlighted. Currently, consumer protection attention is mostly on food products, beverages and insurance services, even though tourists are also consumers.

Similar previous research was conducted by Amirudin with the title analysis of Islamic law and Law No. 8 of 1999 concerning Consumer Protection regarding the use of exoneration clauses in standard parking service agreements for the Geni Langit tourist attraction, Magetan district, which discussed the inclusion of standard clauses for parking at the tourist attraction. The inclusion of this clause causes losses to tourists and also results in reputational losses for tourist attraction managers (Adnyani, 2021, p.1).

The second research was conducted by Agum Permana in 2018 with the title legal protection for consumers regarding lost items in hotel rooms reviewed based on UUPK (Agum Permana, 2018, p.1). This research discusses the inclusion of a standard clause which makes hotels discharge their responsibility for consumer goods. The contents of the Standard Clause state that in essence all damage and loss of consumer belongings is not the responsibility of the hotel. This clearly contradicts Law Number 8 of 1999 concerning Consumer Protection article 18 paragraph 1 which states that business actors are prohibited from transferring responsibility. This clause can generally be seen on the walls of hotel buildings.

Based on the background above, the author is interested in studying and discussing in more depth the role and supervision in law enforcement of the implementation of Article 18 UUPK in tourism services and the impacts arising from non-compliance with Article 18 UUPK in tourism services in this research.

METHOD

From the background and problem formulation described above, this type of research falls into the category of empirical law. Empirical research, namely research that uses field data as the main data source, such as the results of interviews, observations and documentation. Empirical research is used to analyze law which is seen as social behavior, a pattern in people's lives that always interacts and is related to social aspects (Zainudin Ali, 2013, P.30).

This research is a legal identification to find out the law based on what applies in society. This research deals with community members who are the object of research so that there are many unwritten or unwritten regulations that live in the community. This research uses a sociological juridical approach (Zainudin Ali, 2013, P.100). Sociological juridical by studying law in everyday life in society or other social phenomena. Where this approach refers to the analysis of whether a statutory regulation can function or operate in people's lives.

Thus, synergy between the government, supervisory authorities, the community and consumers forms a comprehensive framework in enforcing the law implementing Article 18 UUPK. This not only involves formal law enforcement efforts, but also involves understanding, education, and active participation of all stakeholders to create a tourism service environment that is fair, safe, and complies with consumer protection standards.

RESULTS AND DISCUSSION

a. Role and Supervision in Law Enforcement on the Implementation of Article 18 UUPK in Tourism Services

Consumer protection also includes efforts to prevent fraudulent practices or market manipulation. These practices may include misleading advertising, internet-based fraud, or unethical business practices (Budiman,

2024, p.12). The consumer protection law provides a legal basis for taking action against business actors involved in practices detrimental to consumers. In some cases, consumer protection involves safety, security and health aspects (Barkatullah, 2019, p.42). Products sold and services offered to consumers must meet certain standards to ensure that they do not harm users. Regulatory authorities are responsible for carrying out tests and inspections to ensure that products are safe to use (Barkatullah, 2019, p.3).

Consumer protection is the main pillar in every society that is committed to implementing a fair and ethical economic system. The principles and provisions of consumer protection law form a framework designed to safeguard the rights, security and interests of consumers in various economic transactions. The tourism industry is a dynamic and diverse sector, involving a wide range of services including accommodation, transportation and recreational activities. To maintain sustainability and consumer safety, the role of the government and supervisory authorities is very important in enforcing the law implementing Article 18 UUPK.

The government's main role is to provide safety, health and environmental guidelines and standards that must be adhered to by business actors in the tourism industry. Through outreach and education, the government can ensure that business actors understand the implications of Article 18 UUPK for the services they provide (Nadhirah, 2018, p.13).

Supervision in law enforcement in the implementation of Article 18 UUPK must also be carried out effectively and efficiently. This can be done by:

1. Increasing Awareness: Relevant parties need to increase public awareness about their rights as consumers of tourism services. Socialization and education regarding Article 18 UUPK needs to be carried out regularly so that the public can report if they feel they have been disadvantaged.

2. Routine Inspection and Supervision: Supervisory bodies need to carry out routine inspections and supervision of tourism business actors. This aims to ensure that they do not use standard clauses that violate Article 18 UUPK. If violations are found, the supervisory body must provide strict sanctions in accordance with applicable regulations.

3. Cooperation between the Government and Associations: The government needs to cooperate with tourism associations in enforcing the law implementing Article 18 UUPK. Associations can provide information and data regarding business actors who violate this Article, so that the government can take appropriate action. Collaboration between the government and tourism associations has significant benefits in increasing awareness of consumer rights in tourism services. Tourism associations have direct access to their members involved in the tourism industry. With government collaboration, associations can become effective channels for disseminating information about consumer rights to their members. This allows this information to be conveyed quickly and accurately to tourism business actors. Tourism associations can play a role in receiving consumer complaints and assisting in resolving disputes between consumers and their members. With collaboration, the government can provide guidance and guidance to associations in handling complaints and disputes involving

consumer rights. This ensures that consumers receive adequate protection and that disputes can be resolved fairly and transparently.

The Head of the Tourism Department's destination sector stated that their main task and function is to supervise and provide protection to tourist attraction managers as well as tourists. These monitoring efforts include providing training to tour guides, certification and giving them the opportunity to become the best according to standards. The Tourism Department is obliged to request reports from managers regarding the safety and comfort standards of their tourist attractions (Results of an interview with Budi Susilo, Head of the Destination Division of the Malang Regency Tourism Office). Not only natural tourism but also hotels and restaurants are managed. The report along with the audit, the report will be processed. If there is an error or violation of the rules, you will be subject to a warning or even a fine. Not only is the Tourism Department alone, it certainly collaborates with many related stakeholders.

The government has a key role in ensuring the implementation of Article 18 UUPK in tourism services. This is done through supervisory and regulatory institutions such as the Ministry of Tourism, the Tourism Office at the regional level, and the Trade Supervisory Agency. One of the government's main roles is to provide counseling and education to business actors in the tourism industry regarding their obligations in accordance with Article 18 UUPK. This can be done through training, seminars and awareness campaigns. Supervisors are responsible for monitoring and evaluating business practices in the tourism industry to ensure compliance with the provisions of Article 18 UUPK. This includes field inspections, audits, and data analysis.

The supervisory authority also has the authority to take law enforcement action against violations of Article 18 UUPK. This may include administrative sanctions such as fines or revocation of business licenses, as well as legal prosecution for serious violations. The importance of cooperation between various government agencies such as the Ministry of Tourism, Ministry of Trade, police and other legal agencies to create synergy in law enforcement and supervision (Hamid dkk, 2017, p.9). Tourism associations also have an important role in enforcing the law implementing Article 18 UUPK. They can help educate their members about the importance of complying with existing rules and provide internal sanctions for members who violate this Article. Associations can also play a role in facilitating communication between business actors and consumers to resolve disputes that may arise.

Apart from the role of the government, the community and consumers also have an important role in monitoring the implementation of Article 18 UUPK. Through reporting violations and being critical of business practices that harm consumers, they can become agents of change in creating a fairer and safer tourism environment. In facing future challenges and opportunities, continuous improvement in roles and supervision is a must. The use of technology, active participation from all stakeholders, and involvement of the private sector can strengthen monitoring and law enforcement systems to protect consumers, maintain the integrity of the tourism industry, and support sustainable growth. The importance of education and understanding is not only for business actors, but also for consumers. Consumers' understanding of their rights, especially regarding safety, health and the environment, can increase

their capacity to protect themselves. Ongoing outreach and training programs are needed to increase awareness and understanding on both sides.

Consumer protection is also closely related to human rights, especially the right to life, the right to health, and the right to benefit from scientific and technological progress. Therefore, consumer protection is not only the responsibility of the government, but also involves the active role of civil society, non-profit organizations and the private sector. Thus, consumer protection is not just a legal concept, but a moral and ethical foundation in business relationships. An effective system of consumer protection creates a fair, safe, and sustainable environment for consumers, promotes business integrity, and supports sustainable economic growth.

In dealing with violations of the exoneration clause, supervisors can use various law enforcement instruments, ranging from warnings, administrative sanctions, to further legal action in accordance with applicable legal provisions. Supervisors may also involve authorities, such as arbitration institutions or courts, to resolve disputes involving violations of the exoneration clause. Overall, the supervisor's role in addressing violations of exoneration clauses is to ensure that these provisions are not unlawful, fair, and do not disadvantage weaker parties. Effective oversight is key to creating a balanced business environment and providing protection to all parties involved in an agreement or contract.

Law enforcement of the application of Article 18 UUPK in tourism services is important to protect consumer rights. The role and supervision carried out by the government, regulatory bodies, tourism associations and consumers are very relevant in maintaining the sustainability and quality of tourism services. With effective law enforcement, it is hoped that tourism services can provide a satisfying experience for consumers.

b. Impacts arising from non-compliance with Article 18 UUPK in Tourism Services

The importance of consumer protection is seen not only from an individual perspective, but also from an economic and social perspective. Consumers who feel protected will have higher trust in the market, increasing economic stability (Prasnowo, 2019, p.7). On the other hand, fair and ethical business practices support sustainable and mutually beneficial community development. The exoneration clause in Article 18 UUPK refers to a clause in agreements used by business actors to exclude or limit their responsibilities towards consumers. In the context of consumer protection, an exoneration clause is a clause that eliminates or reduces the obligations of business actors towards consumers in terms of losses arising from the products or services they provide. In other words, exoneration clauses are used by business actors to transfer the risk and responsibility for losses to consumers, so that business actors are not fully responsible for losses that consumers may experience due to the products or services they provide (Zuhadma, 2018, p.17).

However, Article 18 UUPK prohibits the use of exoneration clauses in agreements between business actors and consumers (Hutagulung dkk, 2021, p.10). This prohibition aims to protect consumers from unfair or detrimental practices in consumption transactions. With this prohibition, business actors

are expected to take full responsibility for the products or services they offer to consumers. The use of exoneration clauses that harm consumers can result in consumers losing the rights they should have, such as the right to return goods or money that has been paid. This can result in financial losses for consumers and damage their experience in using tourism services.

In Article 18 UUPK, there are several prohibitions regarding the use of exoneration clauses in agreements between business actors and consumers (Ahmadi Miru, 2016, p.119). These prohibitions include:

1. **Transfer of responsibility:** Business actors are prohibited from transferring their responsibilities to consumers. This means that business actors must take full responsibility for the products or services they offer to consumers. Tourism businesses often use standard clauses in agreements or contracts with consumers. Standard clauses are standard provisions that have been previously determined and are generally applied to all consumers. In these standard clauses, business actors can insert provisions that limit their responsibility for losses experienced by consumers. For example, they may include clauses that limit the amount of damages consumers can receive or eliminate their liability altogether. Tourism businesses can also limit their liability through insurance contracts. They can insure against risks related to their tourism services and set limits on their liability in insurance policies. By doing this, they can limit the financial risks arising from losses experienced by consumers.
2. **Refusal to return goods or money:** Business actors may not refuse to return goods or money that have been paid by consumers. In the event of a problem or dissatisfaction with the product or service, the consumer is entitled to an appropriate refund.
3. **Requirements to comply with new rules:** Business actors may not require consumers to comply with new, amended or continued rules determined unilaterally by the business actor. Consumers have the right to stick to previously made agreements.
4. **Violation of consumer protection provisions:** Business actors may not formulate standard clauses that violate other consumer protection provisions regulated in statutory regulations. For example, tourism businesses can limit their liability by setting a time limit for filing a lawsuit. In standard clauses or agreements, they can include provisions that require consumers to file a lawsuit within a certain period of time after the loss occurs. If consumers do not file a lawsuit within the specified time limit, they lose their right to hold business actors responsible.

Non-compliance with Article 18 UUPK in tourism services can have a significant impact, both for consumers and business actors in this industry. Article 18 UUPK specifically addresses safety, health and environmental aspects in services provided to consumers. In this context, non-compliance can lead to a variety of consequences involving financial loss, reputational harm, and even health and safety risks for consumers (Rachmaniyah&Wahyoeno, 2022, p.8).

The application of the exoneration clause can create legal uncertainty in terms of dispute resolution. Consumers may face difficulties in proving that businesses are responsible for the losses or injuries they experience.

Another thing that happens is that it can have serious financial impacts for business actors in the tourism industry. Violations that lead to administrative sanctions, such as fines or revocation of business permits, can cause significant direct losses. In addition, the costs of repairing or upgrading facilities to comply with established standards can also create additional financial burdens. Apart from direct risks to consumers, the impact of non-compliance with Article 18 UUPK can also have an impact on the reputation of the tourism industry as a whole. Cases of violations or incidents that occur can generate negative attention from the public, media and supervisory authorities, which can damage the image of the destination or tourism company concerned. A decline in consumer confidence can result in a decrease in the number of tourists visiting, negatively impacting revenue and growth of the tourism industry.

When there is a detrimental exoneration clause, it will certainly be an unsatisfactory experience for consumers. Threatened consumer safety and health or an environment that does not meet standards can create discomfort and disappointment. This can cause a decrease in consumer confidence in the destination or tourism service provider concerned. This impact also leads to the growth of the tourism industry. If consumers feel they are not protected and do not receive fair treatment in tourism services, they may look for other alternatives or reduce their interest in using tourism services. This can have a negative impact on the growth of the tourism industry and hinder the potential development of the tourism sector (Chusnida, 2023, p.4).

Tourism destinations that often compete with each other to attract tourist attention may experience a decline in competitiveness due to non-compliance with Article 18 UUPK. Destinations that are considered safer, healthier and committed to the environment will be more attractive to tourists who are increasingly smart and aware of their consumer rights. Non-compliance with environmental aspects in Article 18 UUPK can cause negative impacts on the local environment. Unsustainable practices, such as poor waste management or exploitation of natural resources, can damage local ecosystems and threaten environmental sustainability.

Violations of Article 18 UUPK related to health and safety aspects can result in serious risks for consumers (Lubis&Yunita, 2018, p.2). For example, non-compliance with hygiene standards in accommodation or lack of maintenance of facilities that can lead to accidents can endanger the health and safety of consumers. At a broader level, non-compliance with Article 18 UUPK can impact the local economy in tourism destinations. A decline in reputation and consumer satisfaction can reduce tourist visits, which in turn impacts the income of local businesses such as restaurants, souvenir shops and other service providers (Sanjaya, 2022, p.3).

Non-compliance with Article 18 UUPK creates uncertainty in regulations and law enforcement (Eleanora & Dewi, 2022, p.27). Businesses may face challenges in understanding and complying with changing or inconsistent regulations, creating obstacles to creating consistent and high standards in tourism services. Repeated non-compliance with Article 18 UUPK may result in business license revocation by the supervisory authority (CPIF, 2017, p.10).

This revocation could be a serious punishment and have a long-term impact on the business sustainability of business actors in the tourism industry.

Apart from economic and environmental impacts, non-compliance with Article 18 UUPK can also result in significant social impacts. Consumers who feel dissatisfied or are victims of misconduct may lose trust in the tourism industry as a whole. This can reduce motivation to return or recommend the destination to others, reduce social and cultural ties between local communities and tourists, and even cause social conflict between them. In some cases, the impact of non-compliance with Article 18 UUPK can be a serious threat to social and political stability in tourism destinations. Conflicts between business actors, local communities and supervisory authorities may occur as a result of detrimental incidents or violations. Public condemnation or demonstrations of business practices that are unethical or detrimental to consumers can disrupt public order and create political instability (Pradnyani dkk, 2018, p.6).

CONCLUSION

Based on the descriptions in the discussion described above, the author concludes as follows: In the tourism context, the Tourism Department has a key role in ensuring that tourist attractions are safe and comply with standards. They provide training, certification and supervision of business actors in the tourism sector. The government, regulatory agencies and communities must work together to create a fair and safe tourism environment. Implementing Article 18 UUPK requires continuous efforts, involving education, supervision and law enforcement to protect consumers and support the sustainable growth of the tourism industry. The importance of active community participation, use of technology, and cross-sector collaboration not only creates a strong monitoring system, but also strengthens business integrity and consumer rights.

Non-compliance with Article 18 UUPK in the tourism industry can result in serious impacts, such as financial losses, decreased reputation, health and safety risks for consumers, reduced destination competitiveness, as well as legal consequences that have the potential to harm business actors. Apart from that, the impact of non-compliance can also involve social aspects, threatening cultural ties between local communities and tourists, and can even cause social and political conflicts in tourism destinations. Consumer protection is not only a legal obligation, but also a moral and ethical foundation that supports balanced, fair and sustainable business relationships in the context of an ever-growing global economy.

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