

LAW AND CONSUMER PROTECTION:**Study of the Scarcity of 3 kg LPG Gas****Consequences of Unfair Business Competition**Muhammad Anas Arifin¹, Kelik Wardiono²¹Fakultas Hukum, Universitas Muhammadiyah Surakarta (manasarifin95@gmail.com)²Fakultas Hukum, Universitas Muhammadiyah Surakarta (kw268@ums.ac.id)**ABSTRACT**

This research, which aims to describe forms of unfair business competition practices which result in a scarcity of 3kg LPG gas and protection for consumers, is based on legal research with a non-doctrinal approach. The data in this research is primary data collected through interviews with informants selected purposively, and supported by secondary data collected by literature study. Based on the results of research and discussions conducted on business actors, it was found that there were business actors who carried out unfair business competition by practicing closed agreements; as well as business actors who carry out monopolistic practices, resulting in a shortage of 3 Kg LPG Gas and causing harm to consumers.

Keywords: Business Competition, 3 Kg LPG Gas, Scarcity

INTRODUCTION

Humans need to become consumers to fulfill life's needs, namely by purchasing goods or services offered by other people.¹One item that cannot be separated from everyday life is Liquefied Petroleum Gas or what is usually called LPG. LPG is a manifestation of the government's program to convert kerosene to LPG. The aim of converting kerosene to LPG is to reduce people's dependence on using fuel because fuel supplies are running low, increase the efficiency of the government's budget for fuel subsidies considering the increasing price of fuel, and provide more practical and efficient fuel.²Apart from that, gas is an important sector in development from an economic perspective that affects the lives of many people.³

LPG is divided into 2 (two) types, namely general LPG and specific LPG. General LPG is fuel that is not subsidized, namely LPG 7 kg, LPG 12 kg. Meanwhile, certain LPG is a fuel that is specific to certain conditions and is given a subsidy, namely 3 kg LPG.⁴The kerosene to LPG conversion program also creates business opportunities for the community. Basically there are 2 (two) forms of activities in LPG gas distribution, namely upstream and downstream businesses.⁵Upstream business is a business consisting of exploration and exploitation which is carried out based on a cooperation agreement between the business entity and the implementing agency. Distribution of 3 kg LPG gas is carried out by distributors in each area appointed or formed by the Regional Government and Pertamina. Business opportunities in distributing 3 kg LPG gas create business competition for entrepreneurs.

Business competition is regulated in Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition (Law 5/1999). Competition in the national market is a very important aspect of public policy, namely as a measure of the nation's ability to compete in the

¹ Yosephine Mory Kezia Simbolon dan Rosmidah, "Perlindungan Hukum Bagi Konsumen Pengguna Gas LPG 3 Kg Menurut Undang-Undang Perlindungan Konsumen", *Jurnal Unja Zaaken*, Vol.1, No. 2 (Juni 2020), Hlm. 303.

² M. Hasan Syukur, "Penggunaan *Liquefied Petroleum Gases* (LPG): Upaya Mengurangi Kecelakaan Akibat LPG", *Jurnal Swara Patra : Maja;ah Ilmiah PPSDM Migas*, Vol. 01, No. 02. (2011)

³ Ahmad Yani dan Gunawan Widjaja, *Anti Monopoli*, (Jakarta: PT. Raja Grafindo Persada, 2006), Hlm 1.

⁴ Ibid.

⁵ Undang-Undang Nomor 22 Tahun 2001 tentang Minyak dan Gas Bumi

international market and to attract foreign investors to compete in the national market.⁶Business competition must have a legal role in it which aims to organize healthy and fair business competition and prevent unfair competition.⁷This provides consumers with the opportunity to choose various alternatives offered in trading goods and/or services.⁸This business competition is one of the ways used to achieve efficiency.

Based on Article 3 paragraph (1) of Presidential Regulation Number 104 of 2007 concerning Provision of Distribution and Determination of Prices for 3Kilogram Liquefied Petroleum Gas Gas Tubes, it is stated that the provision and distribution of 3Kg LPG gas is only specifically for households and micro businesses. This is intended so that the use of 3 Kg LPG Gas can be used appropriately for households as consumers who really need it. In the explanation of number 2 point 1 letter b Regulation of the Minister of Energy and Mineral Resources (ESDM) Number 26 of 2009 concerning the Supply and Distribution of Liquefied Petroleum Gas (LPG), it is explained that the household in question is a family from the lower economic class with an income below Rp. 1,500,000,- (one million five hundred thousand rupiah) and micro entrepreneurs who have an income of no more than Rp. 300,000,000,- (three hundred million rupiah) per year and has a business license certificate.

Unfair business competition according to Article 1 letter f of Law Number 5 of 1999 is competition between business actors in carrying out production and/or marketing activities of goods and/or services which is carried out dishonestly or against the law or hinders business competition. Articles 17 to 28 of the law also regulate four prohibited business activities, such as monopoly, monopsony, market control and conspiracy. This aims to anticipate the inability of consumers to meet their needs in the form of 3 Kg LPG gas which could also have an impact on the economy.

In fact, from the data that the author obtained through interviews with 5 3 Kg LPG gas business actors in the Regency, consisting of PT. Cemara Bangkit Sejahtera, Pangkalan Sri Mulyono, Pangkalan Romdoni, Arasya Grocery Store and Green Grocery Store found that the distribution of 3 kg LPG gas was uneven and tended not to be on target. There are indications of unhealthy business competition. From the information obtained, one of them said that the scarcity of 3 kg LPG gas could be caused by the existence of certain bases that mixed 3 kg LPG gas into 15 kg LPG gas.⁹

The large number of unofficial distributors who sell 3 kg LPG gas above the Highest Retail Price (HET) is also one of the factors causing shortages and unhealthy business competition.¹⁰Abuse of authority, unequal distribution and inappropriate targeting, causing shortages, are not in accordance with the government's objectives, namely social justice in the economic sector, which have been established by law and various existing regulations.¹¹Based on the explanation that has been described, in this case the formulation of the problem that will be the focus of the author's discussion is obtained, namely: What are the forms of unfair business competition practices which result in a scarcity of 3kg LPG Gas and protection of consumers.

RESEARCH METHODS

The research was carried out using a non-doctrinal approach, based on primary data in the form of interviews with several 3 Kg LPG Gas business actors, which were supported by secondary data in the form of documents relating to business competition and consumer protection such as articles, regulations such as Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business

⁶ Rachmadi Usman, *Hukum Persaingan Usaha di Indonesia*, (Jakarta: Sinar Grafika,2022) Hlm.7.

⁷ Susanti Adi Nugroho, *Hukum Persaingan Usaha di Indonesia*, (Jakarta: Prenada Media,2014) Hlm. 107.

⁸ Rachmadi Usman, *Op. Cit.*,(2022). Hal. 50.

⁹ Wawancara dengan Punto, di PT. Cemara Bangkit Sejahtera Kabupaten Klaten, 11 Januari 2023

¹⁰ Triola Ramadhan, Roza Liesmana, dan Roni Ekha Putera, "Pengawasan Pendistribusian Gas LPG 3 Kg Bersubsidi di Kota Padang, *Jurnal Ilmu Administrasi Publik dan Pembangunan*, Vol. 1, No.1 (Januari-Juni 2019)

¹¹ Lupiyoadi, *Manajemen Pemasaran Jasa*, (Jakarta: Salemba Empat, 2001), Hlm159.

Competition, Presidential Regulation Number 104 of 2007 concerning Provision for Distribution and Price Determination of 3Kg Liquefied Petroleum Gas.¹²Primary data obtained through in-depth interviews and observations, as well as secondary data obtained through literature study, after being processed, were analyzed qualitatively using inductive logic.

RESULTS AND DISCUSSION

Forms of Unfair Business Competition Practices Which Result in Scarcity of 3 Kg LPG Gas

Unfair business competition is regulated in Article 1 point 6 of Law Number 5 of 1999, which states that "Unfair business competition is competition between business actors in carrying out production and/or marketing activities of goods and/or services which is carried out in a dishonest or hostile manner. law or hinder business competition". In general, the types of unhealthy business competition that exist in an economy are basically: (1) Cartels (horizontal barriers), (2) Closed agreements (vertical barriers), (3) Mergers, and (4) Monopolies.

In order to find out the forms of business competition practices that cause the scarcity of 3 Kg LPG Gas, the author made direct observations in the field and interviewed business actors. From the direct observation process, the following data was obtained:

Table 1. Distribution of 3 KG LPG Gas

No	Business competition	Businessmen				
		1	2	3	4	5
1.	Cartel					
a.	Businessmen	✓	✓	✓	✓	✓
b.	Make an agreement	✓	✓	✓	✗	✗
c.	With competing business actors	✗	✗	✗	✓	✓
d.	Intended to influence prices	✓	✓	✓	✓	✓
e.	Manage production and/or marketing	✓	✓	✓	✗	✗
f.	For goods and/or services	✓	✓	✓	✓	✓
g.	Resulting in monopolistic practices	✗	✗	✗	✓	✓
h.	Resulting in unhealthy business competition	✓	✓	✓	✓	✓
2.	Closed agreement					
a.	Businessmen	✓	✓	✓	✓	✓
b.	Make an agreement	✓	✓	✓	✗	✗
c.	With other business actors	✓	✓	✓	✗	✗
d.	Loading requirements	✓	✓	✓	✗	✗
e.	The party who receives the goods and/or services	✓	✓	✓	✓	✓
f.	Resupply	✓	✓	✓	✓	✓
g.	To certain parties	✓	✓	✓	✓	✓

¹² Dimiyati dan KelikWardiono, *Metode Penelitian Hukum*, (Surakarta: Fakultas Hukum Universitas Muhammadiyah Surakarta, 2004, hlm. 9

	h.	To a certain place	✓	✓	✓	✓	✓
3.	Monopoly						
	a.	Businessmen	✓	✓	✓	✓	✓
	b.	Control over the Production and Marketing of goods and/or services	✗	✗	✗	✓	✓
	c.	Resulting in monopolistic practices	✗	✗	✗	✓	✓
	d.	Resulting in unhealthy business competition	✓	✓	✓	✓	✓

Information:

- 1 : Agent (PT. Cemara Bangkit Sejahtera)¹³
- 2 : Sri Mulyono Base¹⁴
- 3 : Romdoni Base¹⁵
- 4 : Arasya Grocery Store¹⁶
- 5 : Green Grocery Store¹⁷

Below is data that the author has summarized from 5 (five) 3 KG LPG gas business actors in Klaten Regency.

a. Agent (PT. Cemara Bangkit Sejahtera)¹⁸

PT. Cemara Bangkit Sejahtera is a 3 KG LPG gas distributor which was founded and operated in June 2020. PT. Cemara Bangkit Sejahtera partners with 35 (thirty five) bases in the Klaten Regency area, namely Jatinom 5 bases, Cawas 5 bases, Klaten Tengah above 5, Trucuk 3 bases, Ceper 3 Pagkalan, Karangnongko.

Distribution to the base every week of at least 100 gas cylinders according to a predetermined schedule. The number of tubes distributed adjusts to the amount of supply from SPBE. The distribution of 3 KG LPG is only used for households and MSMEs so that they receive supervision in the distribution process. PT. Cemara Bangkit Sejahtera has carried out outreach to the base regarding the distribution of 3 KG LPG gas and regarding the price that must be set.

According to Mr. Punto, there are forms of business competition such as the establishment of bases close to other bases with different partnerships. This also creates regional inequality in the establishment of bases. PT. Cemara Bangkit Sejahtera has never experienced difficulties in getting supplies from SPBE, but PT. Cemara Bangkit Sejahtera cannot meet the large demand for 3 KG LPG gas from the public on big holidays. To overcome the high demand for 3 Kg LPG gas with a normal supply from SPBE, PT. Cemara Bangkit Sejahtera prioritizes the distribution of 3 kg LPg gas to bases where the need is greater. The scarcity of 3 kg LPG gas can be caused by certain bases that mix 3 kg LPG gas into 15 kg LPG gas, distribution of LPG gas that is not in accordance with the designated areas, and incompatibility between parties who should get LPG gas.

b. Sri Mulyono Base¹⁹

Sri Mulyono Base was established on April 20 2020 at Dukuh Karanganyar, Mranggen Village, Jatinom District. Pangkalan Sri Mulyono is a 3 kg LPG base which is supplied by PT. Cemara Bangkit

¹³ Wawancara dengan Punto, di PT. Cemara Bangkit Sejahtera Kabupaten Klaten, 11 Januari 2023

¹⁴ Wawancara dengan Dika anak dari Sri Mulyono, di Pangkalan Sri Mulyono Kabupaten Klaten, 19 Desember 2022

¹⁵ Wawancara dengan Andri anak dari Romdoni, di Pangkalan Romdoni Kabupaten Klaten, 22 Januari 2023

¹⁶ Wawancara dengan Luthfi selaku pemilik Toko Kelontong Arasya, di Toko Kelontong Arasya Kabupaten Klaten, 15 Januari 2023

¹⁷ Wawancara dengan Fauzi selaku pemilik Toko Kelontong Hijau, di Toko Kelontong Hijau Kabupaten Klaten, 24 Januari 2023

¹⁸ Wawancara dengan Punto, pada tanggal 11 Januari 2023 di PT. Cemara Bangkit Sejahtera Kabupaten Klaten

¹⁹ Wawancara dengan Dika anak dari Sri Mulyono, pada tanggal 19 Desember 2022 di Pangkalan Sri Mulyono Kabupaten Klaten

Sejahtera based on the Letter of Appointment of a 3 KG LPG Base dated April 20 2020. The distribution area for 3 KG LPG by Pangkalan Sri Mulyono is 60% (sixty percent) to the Mranggen area such as neighboring areas and surrounding areas, the other 40% (forty percent) to the Village Duwet and Soran Village. Sri Mulyono Base receives supplies every month based on a predetermined schedule and quota. The 3 KG LPG gas supply schedule is always on time and there are often additions to the quota from the agent. The agent has informed the base about the parties who should receive 3 KG LPG gas, namely households and MSMEs.

Based on the results of the interview with Mas Dika, there is no business competition between bases because the amount of 3 KG LPG gas supply at each base has been determined by a letter of agreement. Pangkalan Sri Mulyono has never had difficulty receiving 3 Kg LPG gas supplies from agents at least once a week or a maximum of twice a week with a minimum supply of 400 3 KG LPG gas cylinders per month.

The scarcity of 3 KG LPG gas in Klaten Regency occurs on big holidays, but at Pangkalan Sri Mulyono there has never been a shortage of supply or a reduction in supply. The scarcity in question is due to higher demand by consumers on big holidays with the same amount of supply. According to Mas Dika, who has not experienced unhealthy business competition, shortages can be caused by hoarding. However, stockpiling 3 KG LPG gas can be said to be difficult, because the condition for receiving 3 KG LPG gas supplies from agents is that they must have empty 3 KG LPG gas cylinders according to the amount of supply to be received. So it will take more empty tubes to be exchanged for filled tubes.

c. Romdoni Base²⁰

Romdoni Base partners with PT. Cemara Bangkit Sejahtera since 2019. The Romdoni base is located in Dukuh Kemit, Pepe Village, Ngawen District with a distribution area for the surrounding community in the Pepe Village and Kauman Village areas. This base receives a supply of 3 KG LPG gas from the agent every week on a predetermined schedule and the quantity is 100 cylinders. The distribution of LPG gas has been determined by regulations from the government and agents, for example to the public, MSMEs, and others. Romdoni Pangkalan has tried to distribute 3 KG LPG gas in accordance with existing regulations. According to the owner, there is no unhealthy business competition between bases. Because between bases they are called partners. There is no difficulty in taking the 3 KG LPG gas supply, because you have received the specified portion from the agent. According to the owner, the shortage occurred because there were no definite rules regarding restrictions on the purchase and storage of 3 KG LPG gas in the community, because many households have more than 1 gas cylinder. Romdoni base limits consumers to selling 3 KG LPG gas cylinders, retailers are also limited to only 3 to 4 cylinders because they focus on distribution to the community around the base.

d. Arasya Grocery Store²¹

The Arasya grocery store received a supply of 3 KG LPG gas from Pangkalan Sri Mulyono. Purchases of 3 KG LPG gas to bases are limited to 10 cylinders per week. This shop provides 3 KG LPG gas for the needs of the people of Dukuh Kadipiro. According to the owner, there is business competition at the grocery store level, because in Dukuh Kadipiro there are several grocery stores that sell 3 KG LPG gas with different supply points. This results in price differences between grocery stores. According to the owner, unhealthy business competition could result in a shortage of LPG gas. This is because there are no definite regulations regarding HET at the grocery store level. So the grocery store sets its own price for the LPG gas it will sell based on the level of profit it makes. The owner experienced problems in selling 3 KG LPG gas, namely the uncertainty of supply income from one base, so he had

²⁰ Wawancara dengan Andri anak dari Romdoni, pada tanggal 22 Januari 2023 di Pangkalan Romdoni Kabupaten Klaten.

²¹ Wawancara dengan Luthfi selaku pemilik Toko Kelontong Arasya, pada tanggal 15 Januari 2023 di Toko Kelontong Arasya Kabupaten Klaten.

to exchange LPG gas to another base at a different price.

e. Green grocery store²²

The Green Grocery Store is a new grocery store in Candi Rejo. This grocery store gets a supply of 3 KG LPG gas from Pangkalan Romdoni with a maximum purchase of 10 gas cylinders every week. As a new grocery store, this shop feels that there is business competition between grocery stores. Because there are already many grocery stores in Candi Rejo that provide 3 KG LPG gas before the Green Grocery Store. Shop owners must sell 3 KG LPG gas at a lower price than other grocery stores. This is done to attract consumers to buy 3 KG LPG gas at the shop, so that the shop makes less profit. This grocery store has never experienced difficulty in finding supplies of 3 KG LPG gas. Shop owners feel that there are obstacles in the 3 KG LPG HET gas regulations at the grocery store level.

Based on the data obtained by researchers as above, if it is related to the type of unhealthy business competition it can be described as follows:

1) Cartel

Cartel-type business competition regulations are regulated in Law 5/1999. Regarding cartels, the law is regulated in Article 11 as follows:

"Business actors are prohibited from entering into agreements with their competing business actors, which intend to influence prices by regulating the production and/or marketing of goods and/or services, which could result in monopolistic practices and/or unfair business competition."

From this article, the elements contained can be drawn, namely 1) business actors; 2) make an agreement; 3) with competing business actors; 4) intend to influence prices; 5) Manage production and/or marketing; 6) For goods and/or services; 7) Resulting in monopolistic practices; and/or 8) unhealthy business competition. From these elements and the data produced by the author, it can be explained as follows:

a) Elements of business actors

In accordance with Article 1 Number 5 in the General Provisions of Law 5/1999, a business actor is "Every individual or business entity, whether in the form of a legal entity or non-legal entity which is established and domiciled or carries out activities within the jurisdiction of the Republic of Indonesia, either individually or jointly through agreements, carrying out various business activities in the economic sector." Based on data obtained by researchers, all of the 5 (five) places selling 3 Kg LPG gas have fulfilled the business actor requirements. PT. Cemara Bangkit Sejahtera is a business entity in the form of a legal entity. Pangkalan Sri Mulyono and Pangkalan Romdoni are business entities that have business permits, are managed by individuals and are under the guidance of LPG agents who carry out 3 KG LPG gas distribution activities. Arasya Grocery Store and Green Grocery Store are individuals who carry out activities in the economic sector.

b) Elements of making an agreement

In accordance with Article 1 Number 7 in the General Provisions of Law 5/1999, "Agreement is an act of one or more business actors to bind themselves to one or more other business actors under any name, whether written or unwritten."

Based on the elements of Article 1 Number 7 in the General Provisions of Law 5/1999 and data generated from business actors, only agents and dealers fulfill the elements of making an agreement while grocery stores do not fulfill them. This is because based on the provisions of Article 1 Number 7 it is said that an agreement is an act between parties binding themselves either in writing or not in writing. In this case, the Agent made an agreement with SPPBE (LPG Bulk Transport and Filling Station) as a business unit managed by PT. Pertamina to refill 3 KG LPG gas cylinders which will be distributed to various designated areas. Apart from that, the agent also made an agreement with a partner, namely the base, to provide a supply of 3 KG LPG gas for distribution to consumers. The grocery store does not fulfill the elements of the agreement because it does not

²² Wawancara dengan Fauzi selaku pemilik Toko Kelontong Hijau, Pada tanggal 24 Januari 2023 di Toko Kelontong Hijau Kabupaten Klaten.

make an agreement with anyone to provide 3 KG LPG gas and is only based on subscriptions.

c) Elements with competing business actors

In accordance with Article 11 Guidelines concerning Cartels Based on Law 5/1999, "Competing Business Actors are other business actors in the same relevant market. Competing business actors are other business actors in the relevant market." The definition of the relevant market can be seen in the Business Competition Supervisory Commission Regulation Number 3 of 2009, dated 1 July 2009 concerning Guidelines Article 1 number 10 concerning the Relevant Market. From these guidelines it is explained that the relevant market is a market that is related to a certain marketing range or area by business actors for the same or similar goods and/or services or substitutes for said goods and/or services.

Based on data obtained by researchers, there is evidence that agents and dealers do not meet the requirements of competing businesses, while grocery stores do. The agent and the base are one unit that cannot be separated, because both have a vertical relationship in the distribution of 3 KG LPG gas. So agents and bases cannot be mentioned as competing business actors. A grocery store is an individual business that stands alone so that competition can occur between grocery stores or other business actors in the same market. So grocery stores can be categorized as competing businesses.

d) The Intent element influences the price

As formulated in Article 11 of Law 5/1999, a cartel is intended to influence prices. To achieve this goal, cartel members agree to regulate the production and/or marketing of goods and/or services. Price is the cost that must be paid in a transaction for goods and services according to the agreement between the parties in the relevant market.

Based on the data obtained by researchers, everything fulfills the elements intended to influence prices. The price of 3 KG LPG gas has been determined by agreed regulations and agreements. Determination of the price of 3 KG LPG is regulated by Presidential Regulation Number. 104 of 2007 concerning the Supply, Distribution and Determination of Prices of Liquefied Petroleum Gas in 3 Kilogram Cylinders, as well as the letter of the Minister of Home Affairs of the Republic of Indonesia Number 541/07/SJ dated January 5 2015, concerning the highest retail price (HET) of 3 Kg LPG cylinders. However, in fact there are still bases and grocery stores with agreements with each other to sell 3 KG LPG gas at a higher price to make a profit. This makes agents, wholesalers, and grocery stores fulfill the element of intending to influence prices.

e) Elements of regulating production and/or marketing

In accordance with Article 11 Guidelines concerning Cartels Based on Law 5/1999, Regulating production means determining the amount of production both for the cartel as a whole and for each member. This can be greater or smaller than the company's production capacity or demand for the goods or services in question. Meanwhile, managing marketing means regulating the amount to be sold and/or the area where members sell their production.

Based on data obtained by researchers, agents and bases fulfill the elements of regulating production and/or marketing, while grocery stores do not fulfill them. Based on the Letter of the Governor of Central Java Number: 540/05641, gas distribution from agents to bases applies within one district/city of the registered agent. Agents and bases are bound by existing agreements, one of which is regarding the quantity and distribution area of 3 KG LPG gas. The number and distribution area has been determined for each agent and base. Meanwhile, grocery stores are free to sell whatever quantity and wherever they are, because they are not bound by agreements.

f) Elements of goods and/or services

In accordance with Article 1 Number 16 in the General Provisions of Law 5/1999, "Goods are every object, whether tangible or intangible, whether movable or immovable, which can be traded, used, employed or utilized by consumers or business actors" . Article 1 Number 17 in the General Provisions of Law 5/1999, "Services are any services in the form of work or achievements that are

traded in society for use by consumers or business actors". Based on the data obtained by researchers, everything meets the elements of goods and services. Agents, bases and grocery stores all sell 3 KG LPG gas which is included in the goods element category.

g) Elements resulting in monopolistic practices

In accordance with Article 1 Number 2 in the General Provisions of Law 5/1999, "Monopoly practice is the concentration of economic power by one or more business actors which results in control over the production and/or marketing of certain goods and/or services, giving rise to unhealthy business competition and can detrimental to the public interest." Based on data obtained by researchers, agents and dealers do not fulfill the elements resulting in monopolistic practices, while grocery stores do. Agents and agents cannot carry out monopolistic practices because they are bound by the rules contained in the agreements and regulations that have been established. However, grocery stores can carry out monopolistic practices because they are not bound by regulations. In fact, based on the results of research by researchers, grocery stores tend to take supplies of 3 KG LPG gas when the gas supply is lowered from the agent to the base, so that the supply of 3 KG LPG gas at the base becomes thin and moves to the grocery store. So there is economic concentration in terms of 3 KG LPG gas cylinders in grocery stores at higher prices.

h) Elements Resulting in unhealthy business competition

In accordance with Article 1 Number 6 in the General Provisions of Law 5/1999, "Unfair business competition is competition between business actors in carrying out production and/or marketing activities for goods and/or services which is carried out dishonestly or against the law or hinders business competition. ". Based on the data obtained by researchers, all of them fulfill the elements that result in unhealthy business competition. Agents and bases are bound by existing agreements, one of which is regarding the quantity and distribution area of 3 KG LPG gas. The number and distribution area has been determined for each agent and base, however there are still bases that sell 3 KG LPG gas outside the designated areas as stated in the Letter of the Governor of Central Java Number: 540/05641, distribution of gas from agents to bases applies within one district/region. city of registered agent.

Based on the research results, unhealthy business competition in the form of cartels can occur among agents. One example is an agent who designates a base that is close to another base with a different partner. Grocery stores are free to sell anywhere in their area, because they are not bound by an agreement, however grocery stores set their own prices which are higher than the base price, thus violating Presidential Regulation Number. 104 of 2007 concerning the Supply, Distribution and Determination of Prices of Liquefied Petroleum Gas in 3 Kilogram Cylinders, as well as the letter of the Minister of Home Affairs of the Republic of Indonesia Number 541/07/SJ dated January 5 2015, concerning the highest retail price (HET) of 3 Kg LPG cylinders.

2) Closed agreement

Unfair business competition in the form of entering into closed agreements is regulated and prohibited in Law 5/1999. As for article 15 paragraph (1), it is regulated that *"Business actors are prohibited from making agreements with other business actors which contain conditions that the party receiving goods and/or services will only supply or not re-supply the goods and/or services to certain parties and/or at certain places."*

So from the sound of the article the elements contained in the article can be drawn and if examined with data obtained by the author through interviews they can be explained as follows:

a. Elements of business actors

In accordance with Article 1 Number 5 in the General Provisions of Law 5/1999, a business actor is "Every individual or business entity, whether in the form of a legal entity or non-legal entity which is established and domiciled or carries out activities within the jurisdiction of the Republic of Indonesia, either individually or jointly through agreements, carrying out various business activities in the economic sector."

Based on data obtained by researchers, all of the 5 (five) places selling 3 Kg LPG gas have fulfilled the business actor requirements. PT. Cemara Bangkit Sejahtera is a business entity in the form of a legal entity that carries out business activities in the economic sector, namely the distribution of 3 KG LPG gas. Pangkalan Sri Mulyono and Pangkalan Romdoni are business entities that have business permits, are managed by individuals and are under the guidance of LPG agents who carry out 3 KG LPG gas distribution activities. Arasya Grocery Store and Green Grocery Store are individuals who carry out activities in the economic sector.

b. Elements of making an agreement

In accordance with Article 1 Number 7 in the General Provisions of Law 5/1999, "Agreement is an act of one or more business actors to bind themselves to one or more other business actors under any name, whether written or unwritten." According to KRMT Tirtodiningrat, SH, an agreement is a legal act based on an agreement between 2 (two) or more people which gives rise to legal consequences.

Based on data obtained by researchers, agents and bases fulfill the elements of making an agreement while grocery stores do not. The agent made an agreement with SPPBE (LPG Bulk Transport and Filling Station) as a business unit managed by PT. Pertamina to refill 3 KG LPG gas cylinders which will be distributed to various designated areas. Apart from that, the agent also made an agreement with a partner, namely the base, to provide a supply of 3 KG LPG gas for distribution to consumers. The grocery store did not fulfill the elements of the agreement because it did not make an agreement with anyone to provide 3 KG LPG gas.

c. Elements with other business actors

In accordance with Implementation Guidelines Article 15 Law 5/1999, "Other business actors are business actors who have vertical or horizontal relationships that are in a series of production and distribution both upstream and downstream and are not competitors."

Based on data obtained by researchers, agents and grocery stores fulfill the same requirements as other business actors, while grocery stores do not. Agents and grocers are business actors that have a vertical relationship so they can be said to be competing business actors and not competitors. Meanwhile, grocery stores do not meet the requirements of other business actors. Grocery stores are individual businesses that stand alone so that competition can occur between grocery stores or other business actors in the same market.

d. Element Contains requirements

Requirements are things that are conditions. Based on data obtained by researchers, agents and bases fulfill the requirements while grocery stores do not. The agent and the base make a partnership agreement which consists of certain conditions.

e. Elements of the party receiving goods and/or services

In accordance with the Implementation Guidelines for Article 15 of Law 5/1999, "The receiving party is the business actor who receives supplies in the form of goods and/or services from suppliers." Based on the data obtained by researchers, all of them have met the elements of the party receiving goods and/or services. The agent is the party who receives the refill supply from SPPBE, the base is the party who receives the 3 KG LPG gas supply from the agent, and the grocery store is the party who receives the 3 KG LPG gas supply from the base.

f. Elements of Resupply

Resupply according to the explanation of article 15 of Law 5/1999, is "providing supplies, both goods and services, in buying and selling activities." Based on the data obtained by researchers, all of them have fulfilled the resupply element. Agents always provide supplies to partnered bases, bases always provide supplies to consumers, and grocery stores also provide supplies to consumers.

g. Elements to certain parties

In accordance with the Implementation Guidelines for Article 15 of Law 5/1999, "Certain parties are other parties who purchase goods and/or services from parties who receive goods and/or

services from suppliers." Based on data obtained by researchers, all of them have fulfilled the elements of the party certain. Agents, bases, and grocery stores are included as certain parties because they purchase goods from suppliers.

h. Elements to a certain place

In accordance with the Implementation Guidelines for Article 15 of Law 5/1999, it reads:

"A certain place is a geographical area where goods and/or services will be traded."

Based on the data obtained by researchers, all of them fulfill the elements of a particular place. Agents, bases, and grocery stores located in a region source supplies from places in that region. For example, the agent takes supplies from SPPBE in the area.

From the data obtained and if you look at the provisions of Article 15 Paragraph (1) of the Law Number 5 of 1999 concerning Prohibition of Monopoly Practices and Unfair Business Competition, the business actors who have fulfilled the elements of a closed agreement are the Agent (PT. Cemara Bangkit Sejahtera), Pangkalan Sri Mulyono, Pangkalan Romdoni. Meanwhile, the Arasya Grocery Store and the Green Grocery Store do not fulfill several elements, including the element of making an agreement with other business actors and containing requirements.

3) Monopoly

Unfair business competition in the form of monopoly is regulated and prohibited in Law 5/1999. The monopoly regulations in this law are contained in Article 17 paragraph (1) which reads:

"Business actors are prohibited from exercising control over the production and/or marketing of goods and/or services which could result in monopolistic practices and/or unfair business competition"

From these settings, the elements contained and studied using the data obtained by the author through interviews are as follows:

a. Elements of business actors

As previously explained, based on data obtained by researchers, all of the 5 (five) places selling 3 Kg LPG gas have fulfilled the business actor requirements.

b. Elements of Control over the Production and Marketing of goods and/or services

Law 5/1999 does not define the meaning of control over production. However, controlling this production is a prohibited activity because it can result in monopolistic practices and/or unfair business competition.

Based on data obtained by researchers, agents and bases do not fulfill the elements of control over the production and marketing of goods and/or services, while grocery stores do. In fact, agents, bases and grocery stores do not exercise control over production, because they do not produce LPG gas. However, grocery stores do not completely control the marketing of goods, because grocery stores have the last stock in the distribution of 3 KG LPG gas. Grocery stores do not have binding rules regarding the distribution of 3 KG LPG gas. In essence, 3 KG LPG gas is intended for households and MSMEs. However, grocery stores sell to anyone and from any area who needs it, regardless of whether they are eligible or not.

c. Elements resulting in monopolistic practices

In accordance with Article 1 Number 2 in the General Provisions of Law 5/1999, it reads:

"Monopoly practice is the concentration of economic power by one or more business actors which results in control of the production and/or marketing of certain goods and/or services, giving rise to unhealthy business competition and can harm the public interest."

Based on data obtained by researchers, agents and dealers do not fulfill the elements resulting in monopolistic practices, while grocery stores do. Agents and agents cannot carry out monopolistic practices because they are bound by the rules contained in the agreements and regulations that have been established. However, grocery stores can carry out monopolistic practices because they are not bound by regulations. In fact, based on the results of research by researchers, grocery stores tend to take supplies of 3 KG LPG gas when the gas supply is lowered from the agent to the base, so that the supply of 3 KG LPG gas at the base becomes thin and moves

to the grocery store. So there is economic concentration in terms of 3 KG LPG gas cylinders in grocery stores at higher prices.

d. Elements Resulting in unhealthy business competition

In accordance with Article 1 Number 6 in the General Provisions of Law 5/1999, it reads:

"Unfair business competition is competition between business actors in carrying out production and/or marketing activities of goods and/or services which is carried out dishonestly or against the law or hinders business competition."

Based on the data obtained by researchers, all of them fulfill the elements that result in unhealthy business competition. Agents and bases are bound by existing agreements, one of which is regarding the quantity and distribution area of 3 KG LPG gas. The number and distribution area have been determined for each agent and base, however there are still bases that sell 3 KG LPG gas outside the designated areas. Based on research results, unhealthy business competition can occur among agents. One example is an agent who designates a base that is close to another base with a different partner. Grocery stores are free to sell wherever they are, because they are not bound by agreements, but grocery stores set their own prices which are higher than the base price.

Article 17 paragraph (1) Law 5/1999, "Business actors are prohibited from exercising control over the production and/or marketing of goods and/or services which could result in monopolistic practices and/or unfair business competition." The actions carried out by agents and agents do not fulfill all the elements of monopoly, because there are binding rules. Meanwhile, grocery stores are not completely monopolistic, but their actions are close to monopolistic behavior. This is because there are no binding regulations for grocery stores to sell 3 KG LPG gas.

Legal Protection for Consumers Due to Unfair Business Competition Practices in the Sale of 3 Kg LPG Gas Cylinders

Law is a rule that functions to regulate life in society. In carrying out its functions, the law works with law enforcement in responding to any changes that occur.²³In his book *Rhetorica*, Aristotle explains that law aims to provide justice. That the law has a very sacred and noble duty which provides what must be given to each case with its regulations. The law must also create *algemene regels* (general regulations/provisions) which aim to provide legal certainty to the community.²⁴Sajipto Raharjo said that legal protection is an effort to provide and protect various interests in society so that every interest in society does not collide with each other, so that all people in society can carry out their interests and enjoy all the rights granted by law.

Legal protection is divided into two, namely, preventive and repressive legal protection. Preventive legal protection is protection to prevent disputes from occurring, and also directs the government to be careful and all decision making is done with discretion.²⁵Preventive legal protection is protection provided by the government to prevent violations and disputes. This is done through the formation of statutory regulations with the aim of providing signs or limitations in carrying out legal actions. Repressive legal protection is the final legal protection which is a continuation of violations of preventive legal protection, in the form of penalties in the form of fines, imprisonment and other additional penalties.

Based on the provisions contained in article 1 paragraph (1) of Law Number 8 of 1999 concerning Consumer Protection, it is explained that consumer protection is any effort that ensures legal certainty to provide protection to consumers. According to Nasution, consumer protection is a part of the law that contains principles or rules that are regulatory in nature and also contain characteristics that protect the interests of consumers or the entirety of the legal principles and rules that regulate relationships and

²³Apriani, Rani, Kurniawati, Grasia, *Perlindungan Hukum Terhadap Wanprestasi Dalam Praktek Bisnis Usaha Kuliner Waralaba Di Karawang*, Jurnal Syiar Hukum Jurnal Ilmu Hukum, Vol 17, No 1 (2019) hal.16

²⁴ Muhammad Reza, "Kepastian Hukum", dalam <https://www.metrokaltara.com/kepastian-hukum/>, akses 26 November 2022

²⁵ Nola, Febryka Luthvi, "Upaya Perlindungan Hukum Terpadu Bagi Tenaga Kerja Indonesia (Tki)", *Negara Hukum*, Volume 7, No 1 (2016), hlm 40.

problems between various parties with each other. relating to consumer goods and/or services in social life.²⁶

Janus Sidabalok explained that consumer protection law is a law that regulates providing protection to consumers in order to fulfill their needs as consumers. What is regulated relates to the rights and obligations of consumers, the rights and obligations of business actors as well as ways to defend these rights and carry out these obligations.²⁷Therefore, the main purpose of enacting a legal regulation is to change or direct certain behavior and/or situations from what was previously considered problematic to an ideal situation.²⁸In other words, formation. Legislative regulations are essentially based on solving various existing problems by changing certain behavior and circumstances.²⁹

Referring to the Consumer Protection Law, there are two main requirements for consumer protection, namely, the existence of a legal guarantee (law guarantee) and the existence of legal certainty (law certificate). Law Number 8 of 1999 concerning Consumer Protection has given hope to the Indonesian people, namely the hope that consumers will receive appropriate protection for the losses they suffer as a result of consuming goods and services. Consumers have the rights stated in Article 4, including the right to comfort, security and safety in consuming goods and/or services; The right to choose goods and/or services and obtain these goods and/or services in accordance with the exchange rate and conditions and guarantees promised; promised; The right to correct, clear and honest information regarding the condition and guarantee of goods and/or services; as well as several other rights.

In Article 11 of Presidential Regulation Number 104 of 2007, it is stated that "Business entities assigned the task of providing and distributing 3 KG LPG cylinders are responsible for controlling and supervising the implementation of sales and distribution of 3 KG cylinder LPG to households and micro businesses." It is also stated in the Minister of Energy and Mineral Resources Regulation Number 19 of 2008 concerning Guidelines and Procedures for Consumer Protection in Downstream Oil and Gas Business Activities, "Every business entity holding a business license that carries out downstream oil and gas business activities is obliged to maintain quality standards oil and gas products and services provided to protect downstream oil and gas consumers." Therefore, agents and bases have responsibility for the distribution of 3 Kg LPG gas in the areas where it is supplied. Business entities must provide service mechanisms that are easy, simple and widely informed. This can be seen from the banner installed on each base or agent containing contacts.

CONCLUSION AND SUGGESTION

Based on the research results, if one examines the type of unhealthy business competition, it is concluded that: a) the five business actors, if the type of unhealthy business competition is in the form of a cartel, are all not fulfilled. This is because business actors do not fulfill all the existing elements; b) from the type of unfair business competition in the form of closed agreements, 3 business actors were found who had carried out unfair business competition in the form of closed agreements because they had fulfilled all the elements. The business actors who have carried out unfair business competition in the type of closed agreements are agents (PT. Cemara Bangkit Sejahtera), Pangkalan Sri Mulyono, Pangkalan Romdoni. Meanwhile, the Arasya Grocery Store and the Green Grocery Store do not fulfill several elements, including the element of making an agreement with another business actor and containing requirements so that it cannot be said to be carrying out unfair business competition in the type of closed

²⁶ Az. Nasution. *Hukum Perlindungan Konsumen*. (Jakarta: Diadit Media. 2014) Hlm.22

²⁷ Janus Sidabalok. *Hukum Perlindungan Konsumen di Indonesia*. (Bandung: Citra Aditya Bakti. 2006) Hlm. 45.

²⁸ Wahyu Aji Chalifar, "Konsumen dan Iklan: Studi tentang Iklan yang Menyesatkan di Facebook Twiter dan Instagram", (Universitas Muhammadiyah Surakarta, 2018), hlm. 2

²⁹ Kelik Wardiono, *Hukum Perlindungan konsumen: Aspek Subtansi Hukum, Struktur Hukum dan Kultur Hukum Dalam UU Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen*, (Yogyakarta: Ombak, 2017) hlm. 1.

agreement; c) from the monopoly type of unfair business competition, there are Arasya Grocery Store and Green Grocery Store which fulfill the elements of monopoly type of unfair business competition. Meanwhile, the Agent (PT. Cemara Bangkit Sejahtera), Pangkalan Sri Mulyono, Pangkalan Romdoni does not fulfill the elements of Control over the Production and Marketing of goods and/or services as well as the elements of Resulting in monopolistic practices so that they do not fall into the monopoly type of unfair business competition.

Legal protection for consumers in the event of unfair business competition practices, namely through the Consumer Protection Law and Regulation of the Minister of Energy and Mineral Resources Number 19 of 2008. Consumers can take legal action, namely through litigation (through the judiciary) and non-litigation (outside the court).

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