

Between Modern Store with Franchise Methods and Traditional Market

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ABSTRACT: The positive impact of development in the economic field has a very significant effect on developments in the world of commerce, especially trade using the franchising method. We can see this with the mushrooming of franchise businesses such as Indomart, Alfamart in urban areas and even now they have penetrated into suburban areas. The rapid flow of globalization has triggered a shift in the lifestyle of most people, especially the younger generation, to no longer choose traditional markets as a place to shop. prefer shopping at modern stores such as Indomart, Alfamart etc. which provide facilities and service methods that are more attractive than traditional markets. The management model used by mini market businesses is franchising, you can see that starting from a place of business that has the characteristics of both the same colour and design to the arrangement of goods and even the uniforms of employees who serve customers. The development of the modern shop business with this franchise model will have a significant impact on the development of traditional markets if there is no regulation from the government as the policy maker, especially for the establishment permit. Limiting the number with a clear radius will be able to protect the sustainability of traditional markets, as well as the need for guidance on the development of traditional markets so that between modern markets such as Indomart, Alfamart and others with traditional markets will be able to run and develop in a balanced way.

KEYWORDS: Modern store, Franchise, Traditional Market

I. INTRODUCTION

The development of the economy as a result of increased development, especially in the economic field, has had an impact on the trade sector. One of the concrete manifestations that is happening in society, especially in urban areas, is the proliferation of modern shop businesses with franchising methods as a form of modern market. Even now, the business is no longer centralized in urban areas but has penetrated into rural areas. Conditions like this occur not only because of the impact of increased development in the trade sector, but are also triggered by shifts in people's lifestyles as a result of globalization. People, especially the younger generation, are no longer happy to shop for their needs at traditional markets, which are incomplete, but are more interested in shopping for their needs at modern stores, such as mini markets. Mini Markets that we know in our environment include Indomart, Alfamart and many other names. The fundamental difference between modern shops and traditional markets lies in the services provided, the duration of the shopping time is longer, some even provide 24-hour service every day. Besides that, price offers often provide discounts, cleanliness of shopping areas and also other facilities provided, such as ATM that can with draw cash. Apart from all that, shopping at a modern store like that gives a feeling of comfort because it is equipped with air conditioning facilities, so that the shopping space is not hot. The arrangement of goods is also a factor that makes it easier for buyers to find the items they need because they have been placed according to the type and benefits of each. In its development, the modern shop also provides the facilities needed by the community, such as a place to pay for electricity, PAM, etc., so that in one go, several needs can be obtained at the same place [1].

Model franchise is not only from the increasing number of outlets but also from the management including service methods, arrangement, completeness of types of goods and other types of services making Indomart etc. more developed compared to traditional markets which tend to be monotonous both from in terms of the goods being marketed and the determination of prices which are sometimes not the same between one stall and another, also because the seller's service methods are still traditional as well as the place which is less comfortable both in terms of cleanliness, arrangement according to the type of goods and safety factors in a traditional market environment which not well secured.

Indomart and Alfamart are some examples of modern store names that use a franchise system. We can see this starting from the model of the place of business, the paint of the outlets, the styling model and even the types of goods sold between one outlet and another are almost the same [2].

With the increasing number of modern shops in the community, it has an effect on the development of traditional markets. While the traditional market is a meeting place for traders so that it will affect the economic life of the community. Because in traditional markets it is not only a meeting place for traders with middle and upper capacity but also a place for businesses of the lower middle class [3]. Traditional markets are not only a place for selling or buying, but also provide benefits for service

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providers such as porters, carrying groceries, parking, etc [4]. So that in traditional markets there are actually multiple interests that can be served.

Departing from such conditions, the government should consider the issuance of permits for the establishment of new modern store outlets, related agencies as stakeholders so that the sustainability of traditional markets is maintained. Departing from the description of the background above, several problems can be formulated in order to obtain a solution that does not favour one of them but becomes a way out so that a balance occurs which can minimize the gap that occurs.

The formulation of the problem is: 1). What are the factors that cause the development of modern stores with the franchise method to be more developed when compared to the development of traditional markets? 2). What solutions must be made so that there is a balance between the development of modern shops with the franchise method and the development of traditional markets?

II. RESEARCH METHOD

The approach method used in writing this scientific work is normative juridical, namely the method used to solve problems in this study by analysing secondary data first and then proceeding with analysing primary data which is used as supporting data. The Normative Juridical Approach prioritizes secondary data which includes primary legal materials, secondary legal materials and tertiary legal materials. Primary data was obtained on the object of research by conducting interviews as well as making observations, namely by observing services etc. at modern shops using the franchise method and then also observing activities in traditional markets. This observation is also intended to complement the data obtained both secondary data and primary data, so that in the end it can be concluded whether there is an influence which then causes a positive and negative correlation about the existence of modern shophouses with the franchise method on business development in traditional markets. Interviews to obtain primary data which will be used as supporting data to answer the formulation of the problem raised were conducted with business actors, both modern store operators using the franchise method and business actors in traditional markets as informants.

III. DISCUSSION

¹Factors that cause the development of modern shops with the franchise method are more developed than the development of traditional markets. Before discussing the first formulation of the causal factors so that the development of modern stores with the franchise method is more developed when compared to the development of traditional markets, it is necessary to first understand the definition and regulation of franchising.

At first, arrangements regarding franchise developed in practice, especially in countries that adhere to the common law system. business contracts Franchise that contains various clauses refer to the principles of contract law, such as the principle of party autonomy, freedom of contract, fairness and the principle of good faith.

Article 1 paragraph (1) of the Minister of Trade Regulation Number 71 of 2019 concerning Franchise Management explains that:

"Franchise is a special right owned by an individual or business entity to a business system with business characteristics in order to market goods and or services that have been proven successful and can be utilized and or used by other parties based on a franchise agreement".

Franchise or what is known in Indonesia as Franchise is not well known in the Indonesian legal literature, because the Franchise does not exist in the culture or business traditions of the Indonesian people. The entry of the franchise into the cultural fabric of Indonesian society is due to the influence of globalization in all fields. Advances in technology and transportation due to advances in science have caused the distances between the hemispheres to become closer and closer as if there were no more barriers. Therefore, something that was previously unknown somewhere, is now easy to obtain, as well as the entry of several foreign products with a franchise into the cultural fabric of Indonesian society.

Felix O. Soebagio in his book *Ok. Saidin* cites the opinion of Dominique Voillemont who says that, franchising is defined as a way of conducting business cooperation between two or more companies, one party acting as and the other party franchisee.² franchisor as a business system that is distinctive or has business identification characteristics in the field of trade or services, in the form of types of products and forms that are cultivated, corporate identity (logo, design, brand even including company employee clothing), marketing plans and operational assistance.³

The formulation given by Rooseno Harjowidigdo is more directed at placing franchise or franchise within the framework of the object law system, emphasizing its material aspects. The object referred to here is a business that is already unique and has business identification characteristics in the field of trade. The objects referred to here are objects that are immaterial in nature, namely in the form of intellectual property rights. Its manifestation can be seen in logos, designs, brands (but not the brand rights), clothing and appearance of its employees and so on.

¹ Soerjono Sukanto dan Sri Mamuji, 2006, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, Cetakan ke delapan, PT Raja Grafindo Persada, Hal: 12.

² Dominique Voillemont, dikutip oleh Felix O Soebagio, diterjemahkan oleh OK. Saidin, 2013, *Aspek Hukum Kekayaan Intelektual*, Raja Grafindo Perkasa, Jakarta, Hal: 514.

³ *Ibid*, Hal:514.

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While OK Saidin in his book entitled Legal Aspects of Intellectual Property Rights says there are 4 (four) elements of material rights contained in the context of franchise law, namely:

1. The right to do business in certain businesses, usually these rights are protected based on trade secrets;
2. The right to use business identification as well as identification characteristics, in the form of trademarks or service marks;
3. The right can be transferred to another party with a license, namely the use of management plans and assistance in addition to other immaterial material rights objects which are kept confidential, the form of which can be in the form of food, beverage or other products.
4. There is a right for the franchisor to get achievements in the license agreement, for example in the form of royalties.

Article I paragraph (3) of the Regulation of the Minister of Trade states that:

"Franchise giver is an individual or business entity that gives the right to use and or use the Franchise owned by the Franchisee".⁴

In the provisions of Article 1 (4) of the Minister of Trade it is also stated that the recipient of a franchise is an individual or business entity that grants the right to use and or use the franchise owned by the franchisee. Franchising can be held in all regions of Indonesia. The granting of a Franchise from the owner to the recipient must be carried out in a written agreement with due observance of Indonesian law, and if the agreement is written in a foreign language, it must be translated into Indonesian.

After discussing the franchise business with regard to the understanding of all the provisions that must be obeyed when transferred to other parties, then what must be known is the factors that are the cause so that the development of modern stores with the franchise method is more developed when compared to market developments. traditional.

Several factors cause modern shops with the franchise method be to more developed than traditional market developments. Talking about the causal factors, it can be divided into two, namely:

1. External factors and.
2. Internal factors.

External factors that influence modern shops to develop more when compared to traditional markets are due to the times and technological developments, which cause distance to disappear as a positive effect of globalization. What happens in the northern hemisphere will be accessible in the southern, western and eastern hemispheres, and vice versa. Technological developments with all the effects and excesses can be known and applied also in any part of the world. That distance is no longer a barrier, because of advances in technology.

These external factors also affect the internal factors of consumers. The development of the times in this era of globalization also has an impact on the behaviour of consumers, especially changes in the lifestyle of some people today, especially the younger generation. The younger generation, commonly referred to as the millennial generation, is more interested in shopping at modern stores such as Indomart, Alfamart, Superindo, etc. As written in the background, among the reasons consumers choose modern stores with a franchise model is because shopping at such places provides more convenience and makes it easier for consumers to find the items they need, in addition to the payment method, it can also be through E-Banking. accessed from consumer accounts.

Conditions like this are of course inversely proportional to the sales model in traditional markets, even though for certain consumers shopping at traditional markets provides uniqueness with a different colour. In traditional markets, buyers can look for primary needs such as food ingredients and also various kinds of snacks. etc. In traditional markets, buyers are usually able to bid on the price offered by sellers for their wares, in traditional markets, potential buyers can also see how sellers and buyers meet in the market who make transactions with each other from various segments of society. Such an atmosphere gives a different colour and impression when compared to when consumers make shopping transactions at modern stores. Of course, the two sales models between modern shops and traditional markets are equally attractive with different characteristics. The two market models provide different but equally attractive values and impressions.

From the results of interviews that the author conducted with consumers buying from the two market models, namely modern markets with modern shops that use the franchise method and interviews that the authors conducted with consumers in traditional markets, they gave different answers to the reasons for their choice of shopping in the two market models. Because indeed the two models cannot be juxtaposed for the same reason, but both of them have the same attractiveness from a different point of view.

2. Solutions for a balance between franchise development and the development of traditional market businesses

Franchise is a special right that is owned by an individual or business entity against a business system with business characteristics. in order to market goods or services that have been proven successful and can be utilized by other parties based on franchising. From these provisions it can be concluded that legally a franchise can be given from the owner to the recipient to take advantage of the rights to the business system by agreement. Franchising as a special right to a business system must meet the criteria as stipulated in Article 2 (2) of the Minister of Trade Regulation Number 71 of 2019 concerning the Implementation of Franchising, namely:

1. Has business characteristics.
2. Proven to have provided benefits.
3. Have standards for the service of goods and or services offered that are made in writing;

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4. Easy to teach and publish.
5. There is continuous support, and
6. Intellectual Property Rights (IPR) that have been registered.

⁴ Ibid, Hal. 515.

The franchise agreement is made in writing by taking into account Indonesian law.

The franchise agreement contains clauses (Article 5 PP Number 42 of 2007 concerning Franchising), as follows:

1. Names and addresses of the parties.
2. Types of Intellectual Property Rights.
3. Business Activities.
4. The rights and obligations of the parties.
5. Assistance, facilities, operational guidance, training and marketing provided by the franchisor to the franchisee.
6. Business area.
7. The term of the agreement.
8. Procedure for payment of compensation.
9. Ownership, changes in ownership and rights of heirs.
10. Dispute resolution; and
11. Procedures for extending, terminating and terminating the agreement.

From the provisions of Article 5 of the PP it is clearly implied and stated that everything related to the granting of special rights to the business system must be stated in writing, and if the agreement is written in a foreign language, it must be translated into Indonesian.

Article 6 of the PP also stipulates that the franchise agreement may contain a clause regarding the granting of rights for the franchisee to appoint another franchisee, but it is required that the franchisee who is given the right to appoint another franchisee, must own and operate 1 (one) place himself. franchise business. This statement provides an understanding that a franchisee can give his rights to the business system to another party on condition that he owns and operates at least 1 (one) franchised place of business.

The franchisor has the obligation to provide a franchise offer prospectus to the prospective franchisee at the time of making the offer, where the prospectus must contain at least:

1. Data on the franchisor's identity.
2. The business legality of the franchisor.
3. History of business activities.
4. Organizational structure of the franchisor.
5. Financial reports for the last 2 (two) years.
6. Number of businesses places.
7. List of franchisees; and
8. Rights and obligations of franchisors and recipients.

In addition to having to provide an offer prospectus to prospective recipients when making an offer, the franchisor is also required to provide guidance in the form of training, management operational guidance, marketing, research and development to franchisees on an ongoing basis. The offer prospectus as described in Article 1 (7) of the Minister of Trade Regulation Number 71 of 2019 is a written statement from the Franchisor which at least explains identity, legality, history of activities, organizational structure, financial reports, number of places of business, list of Franchisees, rights and the obligations of the Franchisor and the Franchisee, as well as the Intellectual Property Rights (IPR) of the Franchisor. Before the franchise offer prospectus is offered to potential recipients, the prospective franchisor must register the offer prospectus with the Minister by attaching documents containing copies of the franchise offer prospectus and a copy of business legality. After an agreement has been made between the franchisor and the franchisee, the franchisor is also required to register the agreement. The registration of the franchise agreement must be accompanied by a copy of business legality, a copy of the franchise agreement, a copy of the franchise offers prospectus and a copy of the company owner or management card. The registration can be done by the franchisor himself or can be represented by another party authorized by the franchisor. The minister referred to here is the minister administering affairs (Pasal 1 Ayat 12 Permendag No. 71 Tahun 2019).

The Minister will issue a Franchise Registration Certificate after all the requirements as stipulated in Article 12 Paragraph (1) letters and b namely copy of the prospectus of the franchise offer and business legality. This Certificate of Franchise Registration

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(STPW) is valid for a period of 5 (five) years and if the franchise agreement has not expired, the STPW can be extended for another 5 (five) years. The application process and issuance of STPW is free of charge.

The development and evaluation of franchising is carried out by the Government and Regional Governments, while supervision of the implementation of franchising is carried out by the Minister, henceforth the Minister will delegate the authority to implement the guidance and evaluation of the implementation of franchise activities to the Directorate General of Domestic Trade, and then the Director General of Domestic Trade will delegate the authority to carry out the guidance and evaluation to the Director of Business Development and Distribution Actors (Pasal 21 (1), Ayat (2) dan Ayat (3) Permendag Nomor 71 Tahun 2019 tentang Penyelenggaraan Waralaba. The Implementation of Franchise. For Franchisors, Advanced Franchisors, Franchisees and Franchisees Continuation is required to have a Registration Letter (Surat Tanda Pendaftaran Waralaba which is abbreviated STPW).

STPW applications are submitted through the OSS Institution (Non-Ministerial Government agency that organizes government proposals in the field of investment coordination). STPW is issued by the OSS Institution for and on behalf of the Minister or Regent/Mayor (Pasal 11 (2) Permendag Nomor 71 Tahun 2019). Guidance, evaluation and supervision of the implementation of the Franchise is carried out by the Government and Regional Governments. The government referred to in the provisions of this Permendag is the Minister. In practice, the Minister will delegate the authority to carry out the guidance and evaluation of the implementation of the franchise activities to the Directorate General of Domestic Trade, and then the said Director General will delegate the authority to carry out the guidance and evaluation as intended to the Directorate of Business Development and Distribution Actors. The evaluation referred to in this Permendag is carried out based on the annual report of business activities submitted by the Franchise operator and the results of verification to the company's location.

Franchisor, Continuing Franchisor, Continuing Franchisee who violates the provisions will be subject to sanctions as regulated in the laws and regulations. The sanctions imposed are in the form of administrative sanctions, namely written warnings given by the Director of Business Development and Distribution Actors. This administrative sanction is given a maximum of 3 (three) times with a grace period between each warning of a maximum of 14 (fourteen) days. One thing that must also be a concern for the Franchisor, Franchisee and other parties related to the operation of the Franchise is, if within 14 (fourteen) days after being given a written warning, the Franchise administrator still does not carry out the obligations as written in the warning letter will be subject to further administrative sanctions in the form of revocation of SIPW by officials in accordance with statutory provisions.

In the description above, it has been widely mentioned that the rise of the modern store franchise business is heavily influenced by shifts in the lifestyle of modern society as a result of globalization in almost all fronts. This globalization has also led to easy access for the community to meet both primary and secondary needs, especially those related to food needs.

The modern store model with the franchise method is one of the business systems that is an alternative to following the lifestyle of today's modern society, because this system provides an opportunity for business people to develop their business using modern methods starting from the types of goods sold, the arrangement of products in the outlets, sales system to the management of business management. In contrast to the modern shop model with the franchise method, business is carried out in traditional markets which are still an alternative for people to shop. The reason why consumers still shop at traditional markets is because shopping at traditional markets has its own interesting art. Shopping at traditional markets is one of the cultural heritage traditions of our Indonesian ancestors.

Philosophically, the market is a meeting place for many people with all differences, from different economic and social backgrounds, different languages, different cultures, etc. who come to the same place to get their necessities of life. It is there in the market that they interact so that communication takes place to fill each other up, share knowledge with one another, for example, in contexts related to fulfilling their subsistence needs, especially primary needs such as the need for nine basic commodities, etc. Until now, traditional markets are still very far reaching to fulfill the primary needs of the community, and are also a place for money circulation due to trading activities both on a large scale, medium and small scale, so of course a policy is needed from the government as a public authority to regulate further into regulations that are can reach the interests of various parties.

On the one hand, we cannot escape modernization because of the swift currents of globalization that require us to be able to keep up with other countries, especially now with the MEA (Asian Economic Community) which allows for a free market so that products from abroad will enter. can no longer be stopped, it is necessary to have regulations that protect the interests of domestic products by means of professional management in all aspects so that there is a balance between the development of modern shops with this franchise method and the development of traditional markets which are the hallmark of Indonesian culture.

Undang-Undang Nomor 5 Tahun 1999 tentang larangan Praktek Monopolui dan Persaingan Usaha Tidak, against the backdrop of not yet creating business opportunities that would enable people to become more capable and participate in development in various economic sectors. One of the reasons was due to government policies at that time which imprecise so that the market becomes distorted. Such conditions are a manifestation of unfair business competition. The implementation of the national economy should refer to the mandate of Pasal 33 UUDNRI Tahun 1945 and show a very monopolistic pattern. The law was issued to reorganize business activities in Indonesia, so that the business world can grow and develop in a healthy and proper manner,

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create a climate of fair business competition, and avoid concentration of the economy on certain individuals or groups such as monopolistic practices and unfair business competition which are detrimental to society. contrary to the ideals of social justice. In the context of implementing this Law, the Business Competition Supervisory Commission (KPPU) was formed as an independent institution that is free from the influence of the government and other parties. This commission has the authority to supervise business competition and is authorized to impose administrative sanctions, while criminal sanctions fall under the jurisdiction of the judiciary.

IV. CONCLUSIONS

Modern Stores with the franchise method are businesses that use the franchise model in their management. Franchise. or Franchise is a special right owned by a person or business entity to a business system with certain characteristics that can be given to another person or other business entity by agreement. The agreement must be made in writing taking into account the legal provisions in Indonesia, and if the agreement If it is written in a foreign language, it must be translated into Indonesian. This franchise may not leave the provisions governing trade in Indonesia. In other words, this provision provides protection for the traditional economy, because in reality it is the economic movement that occurs in traditional markets that can reach all levels of society, starting from the scale of trading in large turnover to small turnover carried out by traders and buyers from both the middle and upper strata of society and middle down. There are also several factors that cause modern stores with a franchise model to be more developed compared to traditional markets, namely external and internal factors. External factors are related to the changing times and the swift currents of globalization and technological advances which also significantly affect the lifestyle of the consumer society, while internal factors depart from the consumer society due to economic factors, level of education etc.

The development of a modern shop business using the franchise method requires more detailed arrangements, especially with regard to permits, etc. This is intended for traditional markets so that there is a balance in their development and equitable distribution of the economy in all segments of society.

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