

# Legal Protection of the Parties in Franchise Agreement: Business Contract Analysis of Pick Cup Drink Franchise in Tanjungpandan, Belitung

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**Abstract.** Franchising is one of the fastest-growing businesses today. This rapidly growing franchise business can become a new economic force in Indonesia. This study aims to examine and analyze the legal protection of those involved in the Pick Cup Beverage Franchise Contract between the franchisor and the franchisee, as well as the efforts that the parties can take in the event of a default in terms of the license agreement's contents by the franchisee. This research is empirical juridical which consists of primary data and secondary data. A review of the results of the research, it is clear that the legal protection provided to the parties in the Pick Cup Drink franchise agreement takes the shape of both preventative and punitive legal protection. Litigation and non-litigation settlements are options for the parties in the scenario of failure in breach of the Pick Cup Drinks franchise deal.

**Keywords:** Legal Protection, Franchise.

## 1 Introduction

At this time, there are many business activities increasing competition between businesses. This certainly makes business actors think harder about competing with other successful business actors. Therefore, there is a need for development and innovation that business actors must carry out to capture market share. It is also very necessary to create an effective marketing strategy [1][2][3].

In Indonesia, the franchise business is quite popular among business people, where this business is in various fields such as food, beverage, hotel, health, and so on. The concept of a franchise business can be seen from the existence of a form of compliance with what has been conceptualized and has been formed and then given by the franchisor to the franchisee. As a result, franchisees are granted and permitted to use and exploit the franchising organization's intellectual properties, including the brand, company recipe (if in the food or beverage sector), marketing strategy, service form, logo design, and employee appearance. This must be based on the Franchise Agreement [3][4]. The establishment of a franchise firm as a business system has distinct characteristics, and it is evident that it causes legal issues. Because the franchise business is founded on an agreement that establishes rights and responsibilities [1].

As such, legal protection of all those concerned is required to offer legal clarity and ensure that no party is injured. Legal certainty can be implemented securely and without incident in the future.

The author is interested to do research on the cases described in this background to determine what types of legal protection can be provided to the participants involved in the franchise contract and incorporating the findings into an article titled legal protection of the Groups in the franchise agreement by conducting and analyzing Pick Cup Drink Franchise Business Contracts in Tanjungpandan City, Belitung. Based on the background and grounds

for selecting the title of this thesis, the author will offer some possible issue formulations: What type of legal protection does the Pick Cup Drink Franchise agreement provide for the franchisor and franchisee?

## **2 Research Method**

The present investigation takes an empirical juridical method with a descriptive examination of legal research parameters. The data collection used in this study is primary data and secondary data. In collecting this data, the writer uses the study of documents or library materials and interviews to obtain data in this thesis [5][7]. Analysis of the data used research data that has been collected is the author uses qualitative analysis methods [8][10].

## **3 Results and Discussion**

### **3.1 Form of Legal Protection of the Parties in the Pick Cup Beverage Franchise Agreement between the Franchisor and the Franchisee**

In the Republic of Indonesia, the franchise business is expanding to become a new business idea for the community, particularly in the industry of food and beverages. This is due to the fact that this business does not require a lot of capital and the profits are pretty big. The advent of franchise companies has undoubtedly had an impact on the legal world; suitable legal institutions are required to regulate the business in a country in order to create safety and security for the parties participating in the operation [11] [12]. As stated in Article 1 point 1 of the Regulation of the Minister of Trade of the Republic of Indonesia No. 71 of 2019 on the Implementation of Franchise management, a franchise is a special right that allows a person or organization in a business system with business characteristics to market goods and/or services that have been proven to be effective and can be utilized by other individuals or entities based on the terms of the franchise agreement. The characteristics of the company referred to are further clarified in Article 1 No. 2 that the characteristic of a business is an operation that has benefits or differences that are difficult to imitate in relation to other similar businesses and cause clients to continually search for the features in question, such as management systems, marketing, and customer service methods, or ways of distribution that are particular qualities of the franchisor or the franchisee.

“According to Attachment II of the Regulation of the Minister of Trade of the Republic of Indonesia No. 71 of 2019 concerning the Implementation of Franchising, the franchise agreement must at least contain the following material or clauses that must be included in a franchise agreement; (a) Each party's identities and locations, including the names and unambiguous locations of the parties entering into the franchise agreement, namely the franchisor, and franchisee; (b) Intellectual Property Rights, specifically the Franchisor's Intellectual Property Rights; (c) Business operations, specifically the agreed-upon business activities; (d) Both franchisor's and franchisee's rights and obligations; (e) The parties' names and addresses, including the names and clear addresses of the parties entering into the franchise agreement, namely the franchisor and the franchisee; (f) Intellectual Property Rights, including the Franchisor's Intellectual Property Rights; (g) Business activities, specifically the agreed-upon company operations; (h) Rights and obligations of the franchisor and franchisee the mechanism for payment of fees, namely the procedures or provisions relating to the time and method of determining the quantity of recompense which, if agreed upon in the franchise agreement, is the responsibility of

the franchisee; (i) Ownership, shift in ownership, and heir rights, specifically control of the franchise and transfer of franchise in the event of a change of ownership due to the transfer of franchise ownership or the death of the franchise owner; (j) Dispute resolution, specifically choosing the process of dispute resolution employing options under Indonesian law. Extension and cancellation of the franchise agreement processes; (k) The franchisor's promise to continue performing its duties to the franchisee is in line with the terms of the franchise agreement unless the term of the franchise agreement expires; (l) The number of outlets/business locations that the franchisee will be in charge of during the franchise agreement period."

Preventive legal protection can be provided to the partners in the franchise agreement, as evidenced by the provisions relating to the obligations that the franchisor and franchisee must fulfill [13] [14]. In addition, related to repressive legal protection, it can be seen in the arrangement in the agreement regarding dispute resolution. If there is an issue, the first conflict settlement that the parties will carry out is deliberation between the two parties, namely the franchisor and the franchisee. However, if the problem between the two parties has not been resolved through deliberation, then based on the agreement, it will be pursued through a legal process with the District Court which has been agreed upon in the agreement.

### **3.2 Efforts taken by the Parties in the event of a Default in Violation of the Contents of the Franchise Agreement by the Franchisee**

The dispute resolution mechanism that the franchisor and franchisee can carry out is as follows: Settlement of disputes by way of deliberation

The parties to the franchise agreement will resolve the dispute by way of deliberation that the franchisor and the franchisee will carry out to get a solution to the problem. This is done through the franchisor and the franchisee meeting between the two parties and then discussing how to resolve the problem [15].

Dispute resolution through court. If this way of deliberation fails to find a solution to the problem, the parties can take legal or legal proceedings. So that if one party neglects the obligation that causes a default, the other party can file a lawsuit against the violating party to the district court that has been agreed upon in the franchise agreement [1].

Dispute resolution through this court is the last resort that the parties can take under the contents of the Pick Cup Drinks Single Franchise Agreement. Until now, there has been no dispute resolution up to the court. The parties are still resolving disputes by deliberation between those involved, primarily the franchisor and the franchisee.

## **4 Conclusions**

The following conclusions can be taken from this description: (1) In Indonesia, franchising is a popular commercial activity. With the growth of this industry, the government supervises franchising through the Minister of Trade of the Republic of Indonesia's Laws and Regulations on the Implementation of Franchising. (2) Legal protection is critical for the parties in order to shield them from various potential losses sustained by third parties. (2) Legal protection is critical for the parties in order to safeguard them from various potential damages caused by other parties. Legal safeguards can help ensure the legal protection of intellectual property rights. Preventive legal protection and repressive legal protection are two types of legal protection that can be granted to the parties in a franchise agreement. In this

franchise agreement, the franchisee is required to observe operational requirements as preventive legal protection for the obligations of the franchisee and the franchisor. The franchisor is also obliged to follow and carry out all the menus and prices that the franchisor has set. Regarding the franchisor's obligations, among others, the franchisor is obliged to provide training to employees who will work in franchisee branches. Repressive legal protection in this franchise agreement regarding other provisions that everything that has not been regulated in the agreement will be carried out by deliberation by both parties. If deliberation cannot resolve the problem, it will proceed to legal proceedings in court. The suggestion that the author can convey is that the parties involved in the franchise agreement should pay more attention to what is the responsibility of the parties as stated in the agreement so that defaults do not occur and legal remedies do not need to be taken.

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