

## **Reconstructing Legal Protection Regulations for Parties in Franchise Agreements Based on Dignified Justice**

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### **ABSTRACT**

Franchise agreements are recognized globally and Indonesia is experiencing significant growth in this industry. However, weaknesses in existing regulations, particularly Government Regulation No. 42 of 2007 and Minister of Trade Regulation No. 71 of 2019 hinder legal certainty and protection for franchisors and franchisees. This research aims to reconstruct Article 8 of Government Regulation No. 42/2007 on franchising to improve legal certainty and protection and promote justice for all parties involved. A critical review of Article 8 of Government Regulation No. 42/2007 reveals an ambiguity in the term 'sustainable', which can lead to various interpretations and potential legal conflicts. The research findings show that adding the word 'periodically' before the word 'sustainable' in Article 8 will provide clearer guidelines for franchisors regarding their obligation to guide the form of training, operational management, marketing, research, and development to franchisees. Using the normative juridical method, this research analyses secondary data from relevant laws and regulations. The insights gained can inform policymakers and stakeholders on reforms that need to be made to improve legal clarity. Implementing these recommendations may result in a more balanced power dynamic between franchisors and franchisees, which may ultimately contribute to the sustainable growth of the franchise industry in Indonesia. In conclusion, addressing vagueness in franchise agreements is critical to creating a fair business environment, and bringing dignified justice to the parties. Clarity in regulation will not only protect the rights of franchisors and franchisees but also promote the growth and stability of the franchise sector in Indonesia.

Keywords: Dignified justice, Franchise agreements, Legal protection, Reconstruction

### **ABSTRAK**

Perjanjian waralaba diakui secara global dan Indonesia mengalami pertumbuhan yang signifikan dalam industri ini. Namun, kelemahan dalam peraturan yang ada, khususnya Peraturan Pemerintah No. 42 Tahun 2007 dan Peraturan Menteri Perdagangan No. 71 Tahun 2019, menghambat kepastian hukum dan perlindungan bagi pemberi waralaba dan penerima waralaba. Penelitian ini bertujuan merekonstruksi pasal 8 Peraturan Pemerintah Nomor 42 tahun 2007 tentang waralaba yang bertujuan meningkatkan kepastian dan perlindungan hukum, serta mendorong keadilan bagi semua pihak yang terlibat. Telaah kritis terhadap Pasal 8 Peraturan Pemerintah Nomor 42 Tahun 2007 mengungkapkan adanya ambiguitas dalam istilah 'berkelanjutan', yang dapat menimbulkan berbagai interpretasi dan potensi konflik hukum. Temuan penelitian menunjukkan bahwa dengan menambahkan kata 'berkala' sebelum kata 'berkesinambungan' pada Pasal 8 akan memberikan pedoman yang lebih jelas bagi pemberi waralaba mengenai kewajiban mereka untuk memberikan pembinaan dalam bentuk pelatihan, manajemen operasional, pemasaran, penelitian dan pengembangan kepada penerima waralaba. Dengan menggunakan metode yuridis normatif, penelitian ini menganalisis data sekunder dari peraturan perundang-undangan yang relevan. Wawasan yang diperoleh dapat memberikan informasi kepada para pembuat kebijakan dan pemangku kepentingan mengenai reformasi yang perlu dilakukan untuk meningkatkan kejelasan hukum. Implementasi dari rekomendasi-rekomendasi ini dapat menghasilkan dinamika kekuatan yang lebih seimbang antara pemilik waralaba dan penerima waralaba, yang pada akhirnya dapat berkontribusi pada pertumbuhan industri waralaba yang berkelanjutan di Indonesia. Kesimpulannya, mengatasi ketidakjelasan dalam perjanjian waralaba sangat penting untuk menciptakan lingkungan bisnis yang adil, dan menghadirkan keadilan bermartabat bagi para pihak.

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Kejelasan dalam regulasi tidak hanya akan melindungi hak-hak pemilik waralaba dan penerima waralaba, tetapi juga mendorong pertumbuhan dan stabilitas sektor waralaba di Indonesia.

Kata kunci: Keadilan bermartabat, Perjanjian waralaba, Perlindungan hukum, Rekonstruksi

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## **INTRODUCTION**

### **Understanding Franchise**

The word “*waralaba*” (franchise) originated from a French word, namely “*franchir*” which signified giving freedom to the parties (Salim Hs, 2019). In Law Dictionary, P H. Collin defined franchise, as a License to trade using and paying a royalty and Franchising as the act of selling a license to trade as a Franchisee (Widjaya, 2001). This definition emphasized the significant role of trade names in granting franchises in exchange for royalties. Consequently, a franchise was defined as “a privilege established or granted by the franchisor to the franchisee with several obligations or payments” (Lumoindong, 2020).

Franchise agreements are a widely recognized business model throughout the world. More than 30 countries have enacted franchise-specific regulations to regulate franchise relations in response to global recognition (Temesgen, 2016). Legally speaking, franchising was regulated in Indonesia by Minister of Industry and Trade of Indonesia Decree Number 259/MPP/Kep/7/1997 dated July 30, 1997, concerning Provisions as well as Procedures for Franchise Business Registration Implementation, and Government Regulation Number 16 of 1997 dated June 18, 1997, regarding Franchises. Following that, Government Regulation Number 42 of 2007, the Minister of Trade of Indonesia Regulation Number 71 of 2007 revised the regulation of the Minister of Trade Number 71 of 2019 concerning the implementation of the franchise concerning the Implementation of Franchises were added to these regulations.

In a franchise agreement, there are specific elements that distinguish it from other business agreements, such as training, supervision, and quality assurance. Franchise agreements are considered standard category contracts where the franchisor provides a unilateral agreement in a blank template or form to conduct business. The business owner also called the franchisor, holds a stronger position in the agreement compared to the franchisee, resulting in more favorable terms for the entrepreneur. Consequently, the agreement franchise agreements are often made by the franchisor there is an inequality in the legal relationship (unequal bargaining power) between the franchisor and franchisee (Lasamahu, 2006:308). These agreements are unilaterally determined by a single party, particularly the economically stronger partner (Salim, 2006). Franchise agreements are drafted by the franchisor and enforced upon all potential franchisees without exception. Therefore, potential franchisees are given the option to accept or reject the agreement without having any input into the contents. This theory addresses the relationship between the principal (franchisor) and the agent (franchisee). The principal authorizes the agent to act on its behalf, describes how the franchisee acts on behalf of the franchisor, and how obligations and responsibilities should be managed. Unlimited business expansion worldwide is facilitated by the use of franchising. This implies that a franchisor should be fully aware of the legal regulations applicable in the country where the franchise will be granted or developed. Consequently, the franchisee does not transition from being a business partner to a competitor. Franchising in the business world is considered a highly advantageous system, as evidenced by various national and international companies. Unlimited business expansion worldwide is facilitated by the use of franchising.

This implies that a franchisor should be fully aware of the legal regulations applicable in the country where the franchise will be granted or developed. Through a franchise agreement, the franchisor grants the right to the franchisee as its business partner to run a business in the same field by using a trademark or trade name and other intellectual property rights by maintaining quality standards and reputation and other intellectual property rights by maintaining the quality standards and reputation of the franchisor in connection with the use of the brand of goods and/or services. The franchisor in connection with the use of the brand of goods and/or services that are agreed upon (Salim HS, 2019). Consequently, the franchisee does not transition from being a business partner to a competitor. Franchising in the business world is considered a highly advantageous system, as evidenced by various national and international companies.

The legal framework in Indonesia for franchising lacks comprehensiveness, leaving certain aspects of the relationship inadequately addressed. This can be observed from the legal provisions governing franchise businesses, which are currently regulated by a single Government and Ministerial Regulations. There are indeed regulations from the relevant technical departments but are inadequate considering the franchise business system is dynamically evolving with business developments. When a situation arises concerning the contract, the parties require comprehensive legal frameworks as guidelines both before and after the agreement's creation. This is necessary to prevent franchise holders and recipients from undesired losses due to the incompleteness of legal instruments protecting the parties. Therefore, the regulation for parties intending to operate a business is determined by the franchise agreement made by both partners. Establishing a contract is the most crucial aspect of a business cooperation process, as all related to the collaboration will be stipulated in the contract and become law for the parties. Under franchise business regulations, both parties are expected to perform certain duties (Temesgen, 2016). An aspect that needs legal regulation in the franchise business is how the parties receive fair legal protection as constitutional subjects. In the Constitution of Indonesia, protection for every individual is regulated in Article 28D (paragraph 1) of the 1945 Constitution, which states. "Every individual is entitled to recognition, guarantees, protection, and fair legal certainty, as well as equal treatment before the law."

The concept of legal protection can be defined as the efforts made by the government or authorities through various existing regulations to provide security. Satjipto Rahardjo affirms that legal protection includes providing shelter for human rights (HAM) infringed upon by others, ensuring all individuals enjoy total rights granted by the law (Raharjo, 2000). Legal protection in an agreement should be reflected through clauses agreed upon by the parties, such as the rights and obligations, responsibilities, dispute resolution mechanisms, as well as choice of law. These aspects should be included as norms that serve as the legal foundation for the parties to achieve a dignified and just franchise agreement. Considering that the agreements are innominate or unnamed contracts and not specifically regulated in the Civil Code, the regulation is addressed in Government Regulation (PP) Number 42 of 2007 Regarding Franchises and Minister of Trade Regulation Number 71 of 2019 Regarding the Implementation of Franchises. Although not regulated in the law, this is justified because Indonesian treaty law adheres to an open system as stipulated in Article 1338 of the Civil Code, namely regarding freedom of contract. In the case of a business franchise, the franchisor and the franchisee have no equal power to make negotiation. The franchisor's offer is a take-or-leave type in which the franchisee has no negotiating power, while the franchisor has the authority to dominate the negotiation.

In the case of a business franchise, the franchisor and the franchisee have no equal power to make negotiation. The franchisor's offer is a take-or-leave type in which the franchisee has no negotiating power, while the franchisor has the authority to dominate the negotiation. The unequal power of the franchisor and the franchisee affects the fairness of the contract among the parties. The business also includes a

complicated range of agreements which is an imbalance in the distribution of rights and responsibilities among the parties (Dimatteo, 2003). Franchise agreements should be made in a balanced and mutually beneficial manner as business partners, thereby creating fairness and legal certainty to avoid disputes simultaneously. Additionally, the business should be formalized through an agreement because the contracts are an avenue for providing legal protection for the parties. When any party violates the terms of the agreement, the other pursues legal recourse against the violating partner following the applicable law (Rahma, 2014). Civil Code Article 1320 upholds freedom of contract, allowing parties to determine the content as long as the agreement remains lawful and has binding force for both parties. Though contract law upholds freedom of agreement, government intervention has limited this freedom in certain areas. The restrictions in franchise agreements are observed in the parties' obligations to include certain clauses in the contract. The lawmakers intend this to provide legal protection to all parties of the contract. Another restriction on the freedom to contract is the evolvement of standard category contracts.

The evolvement of franchise businesses will attract legal consequences, thereby the necessity of legal institutions governing franchise businesses within a country. This is essential to ensure legal certainty in the businesses and to provide a sense of dignified justice for all parties. A franchise agreement grants a franchisee the right to operate a business using the franchisor's intellectual property such as brands or logos for a fee, with ongoing support from the franchisor. The use of a franchise agreement as the basis for legal relations between the franchisor and franchisee implies that all provisions of the contract serve as guidelines in the implementation of the business relationship. The guidelines also serve as a partnership and legal force for the initiator, as mentioned in Article 1338 of the Civil Code.

During the implementation of a franchise agreement, issues are perceived by the parties as loss experienced. This requires legal resolution for the parties in the contractual relationship being implemented. The legal resolution can be conducted through litigation or non-litigation methods. Decision Number 2297K/PDT/2012 West Jakarta is an example of a legal issue reaching the constitutional sphere. The parties include MATIO SIHOMBING as Plaintiff and PT. TARRA FRANCHISE as Defendant. The case focuses on the Plaintiff and Defendant who agreed to sign a contract with a duration of five years on July 21, 2009, using the trade name Odiva as a Unit Franchise Agreement for a video rental business. A significant factor causing the loss suffered by the Plaintiff in the franchise business was during the location survey, where the Plaintiff agreed to the business site. However, the location was not suitable as the location, due to road constraints, was difficult for motorists or potential customers to make a U-turn. The business location was positioned on a one-way street with high commuter traffic during business hours presenting a challenge for customer acquisition. Although the franchisee (plaintiff) agreed to the business location, the experienced franchisor (defendant) should have conducted a re-survey of the site approved by the plaintiff. The franchisor had customers the business operated for during the first year of the contract period due to promotional efforts conducted by Plaintiff as the franchisee.

From the second to the third year, the Plaintiff experienced continuous losses. Additionally, the Plaintiff had to incur more expenses on operation, management service, contribution costs, building rental, electricity, and employee salaries. The court stated that the franchise business operated by Defendant (franchisor) should have been proven and profitable for Plaintiff (franchisee). Furthermore, the actions of the Defendant (franchisor) towards the Plaintiff (franchisee) violate the provisions of Article 8 of Government Regulation Number 42 of 2007 Regarding Franchises, which states: "The franchisor is obligated to guide the form of training, operational management guidance, marketing, research, and development to the franchisee continuously." Regarding the lawsuit, the West Jakarta District Court issued Decision Number 524/Pdt.G/2009/PN JKT.BAR, dated June 23, 2010, with the verdict as follows:

-In the main case, the plaintiff's lawsuit is rejected entirely.

-At the appeal level regarding the Appellant/Plaintiff's petition, the decision of the West Jakarta District Court has been confirmed by the Jakarta High Court with Decision Number 200/PDT/2011/PT.DKI, dated November 14, 2011. -At the cassation level submitted by the first applicant, the plaintiff/appellant with Decision Number 2297K/PDT/2012 rejected the application from the cassation applicant, Matio Sihombing. From the summary of the case to the cassation verdict, the analysis observes that Article 8 of Government Regulation Number 42 of 2007 could potentially create legal loopholes leading to disputes in the contractual relationship between the franchisor and the franchisee. This arises because Article 8 does not specify the form of guidance provided by the franchisor to the franchisee. Similarly, the article does not clarify the timing and frequency of guidance during the franchise agreement. The term "continuously" can lead to different interpretations among the parties.

The case raised indicates that the guidance provided by the franchisor does not have specific timing, leading to a situation where support arrives when the franchisee's business is on the verge of bankruptcy. In this case, the franchisee (plaintiff) did not receive continuous guidance in the form of training, operational management guidance, marketing, research, and development from the franchisor (defendant), resulting in the plaintiff having to close the outlet to mitigate losses. This situation can cause losses for both the franchisor and the franchisee, failing to provide fair and dignified legal protection. Therefore, there is a need for a reconstruction of specific regulations regarding Article 8 of Government Regulation of Indonesia Number 42 of 2007 concerning Franchises.

Based on the background description provided, this research will investigate two key problems namely, (1) What are current weaknesses in legal protection regulations for the parties in franchise agreements, and (2) How can the regulations be reconstructed to ensure a framework based on dignified justice? By addressing these weaknesses, this research aimed to contribute to a more balanced and equitable franchising environment.

## **RESEARCH METHOD**

This research uses a normative legal research approach (Negara, 2023) with a qualitative descriptive methodology (Al-Fatih, 2023), using secondary data which includes primary legal materials such as the civil law code, relevant government regulations, secondary sources such as relevant scientific articles are also part of the research material. This research was also conducted using the method of legislation related to the Reconstruction of Legal Protection Arrangements for Parties in a Dignified Justice-Based Franchise Agreement. The aim is to obtain a complete systematic and in-depth picture of the rules governing legal protection for the parties to the franchise agreement. The normative legal method is used as research by collecting, tracing, and studying documents to analyze legal principles and rules that can provide the information needed to discover new knowledge. This research identifies legal loopholes and gaps in the current franchise agreement framework. The aim is to build a foundation of fairness in the agreement, ensuring a balanced and fair environment for all parties so that dignified justice can be felt for the parties.

## **RESULTS AND DISCUSSION**

### **Understanding Franchise**

The competition in the business world today is getting tougher. This phenomenon is increasingly making entrepreneurs realize the need to look for innovative approaches and innovative breakthroughs in order to capture market share (Setiawan & Valentino, 2011:50).

Franchising is defined as a system of distribution of goods or services that involves a relationship between a franchisor and a franchisee, where the franchisor grants permission to the franchisee to use its trademarks, operating systems, and proven support. This allows the franchisee to run the business with an approach that has been proven effective (Justis & Judd, 2007). Franchising is a method of business collaboration between two or more companies, where one party acts as the franchisor and the other as the franchisee. Franchise business is a trading activity but also includes broader elements, namely work, profession, income, livelihood, and profit (Awaluddin, 2013).

The franchisor, who owned a well-known brand in this arrangement, granted the franchisee the authority to conduct business activities for a specific product, goods, or services. Franchisees typically rely on the established brand name training and the franchisor's support to gain entry to the business. This authority was based on and following a prepared commercial plan that had been evaluated for success and periodically updated, either on an exclusive or non-exclusive basis. The franchisor received certain compensation for this arrangement in return (Fuady & Kontrak, 2001).

Franchising has a history that can be traced back to the 19<sup>th</sup> century. One early example is the system implemented by companies such as the Singer Sewing Machine Company in 1851, which granted licenses to retailers to sell their sewing machines (Kaufmann, 2022). During this period, Singer built a distribution network across the Americas to sell the company's products. In addition, these distributors also provided after-sales service and spare parts as well as repair and maintenance services for customers (Setiawan, 2007). Singer laid the foundation for franchising which was later universally accepted, although not very successful. The idea underlying the birth of this business in America was based on how a product manufactured in one state could be sold in another province. The globally recognized franchising model is essentially an improvement and/or development of an earlier period. It allows companies to expand their reach without having to invest a lot of capital.

After World War II, franchising grew in popularity in the United States. Many entrepreneurs saw it as a way to start a business with lower risk. McDonald's, which was founded in 1940, began to widely implement the franchising system in 1955 and became one of the most famous examples of this model (Dant, R. P., & Grünhagen, 2021). In the early 20<sup>th</sup> century, franchising began to grow rapidly, especially in the food sector. In the 1930s, A&W Root Beer became one of the first brands to implement a restaurant franchising system. This marked the beginning of many fast-food brands following suit (Justis & Judd, 2007). Franchising became the dominant model for distributing goods and services in the United States. According to The International Franchise Association, fewer common businesses in the United States were franchise contracts. Franchising staffed eight million workers and constituted forty-one percent of all retail businesses in the United States. Franchising began to be recognized in Indonesia in the early 1990s. Foreign brands, particularly from the United States, began to enter the Indonesian market through the franchising model. One of the first successful brands was McDonald's, which opened its first outlet in Jakarta in 1991. McDonald's success encouraged other brands to follow suit (Hidayat, 2022).

The concept of franchising was initially absent from Indonesian legal literature as a distinct business model. This was understandable because the franchise institution was not originally present

in Indonesian society's business culture or tradition. However, due to the influence of globalization across various fields, franchising evolved into the cultural and legal framework of Indonesian society. The International Labour Organization (ILO) advised the Indonesian Government in the early 1990s to implement a franchise system to expand job opportunities and recruit experts to conduct surveys and interviews before making recommendations. The work of these experts resulted in the establishment of the "Franchise Resource Center," aimed at transforming various businesses into franchises and promoting the system to the Indonesian public. The term "franchise" subsequently became familiar to the Indonesian business community, attracting numerous companies to delve into the system. Furthermore, the term was localized as "*waralaba*" and introduced for the first time by the Management Education and Development Institute (LPPM) as an equivalent term for the franchise. Franchising comes from the word "*Wara*" which means more and "*Laba*" which means profit. Literally franchising means that franchising is a business that provides more profits. *Menantea Franchise Agreement Case Analysis Reviewed from the KUHPer* (Deviana & Urbaniasi, 2023).

Through the franchise system, small businesses in Indonesia developed sustainability by using the recipes, technology, packaging, service management, and trademarks/services of other parties through the payment of certain amount of royalty based on the franchise license (Abdulkadir, 2010).

### **Types of Franchises and the Parties**

Franchising is a business model that involves two main parties: the franchisor and the franchisee (Hidayat & Respati, 2022). It allows the franchisor to expand its brand and operations by utilizing the resources and efforts of the franchisee. By owning a franchise, as opposed to starting a small business. Franchisees may substantially reduce the risk incurred in building an enterprise from the ground up while gaining significant experience in their field through the assistance provided to them by the franchisor. In addition, franchisees usually gain better name and product recognition.

In this discussion, we will identify the different types of franchises and explain the role of each party. Several types of franchises are commonly recognized in the business world:

#### *1. Product Franchise*

In this type, franchisees sell products manufactured by the franchisor. Franchisees get the right to use established brands and distribution systems. A common example is automotive franchises, such as Toyota and Honda (Hoffman, 2022).

#### *2. Business Format Franchise*

This is the most common type in the food and beverage industry. Franchisees not only sell products but also follow the entire operational system that has been set up by the franchisor. Famous examples are McDonald's and Starbucks. Franchisees are required to comply with set standards, from store design to service procedures (Justis & Judd, 2007).

#### *3. Service Franchise*

In this model, franchisees offer certain services with support from the franchisor. Examples include cleaning, healthcare, and education services, such as Kumon and Merry Maids (Dant, R. P., & Grünhagen, 2021).

#### 4. *Distribution Franchise*

The franchisee acts as a distributor of the franchisor's products. In this model, franchisees have more freedom in the management of their business compared to a business format franchise. Examples include distributors of heavy equipment and technology products (Klein, 2023).

### **Parties in Franchising**

The franchising system involves two main parties:

#### 1. *Franchisor*

The franchisor is the party that owns the brand, product, or system that has been tested. They are responsible for providing support to franchisees, including training, marketing, and product development. Franchisors also set operational standards that franchisees must adhere to. The performance of the franchisor greatly affects the reputation and overall success of the franchise (Baker, 2023).

#### 2. *Franchisee*

Franchisees are individuals or companies that buy the right to use the brand and business system of the franchisor. They are responsible for running the day-to-day business, complying with established standards and procedures, and paying royalties to the franchisor. The success of franchisees is highly dependent on the support received from the franchisor and their ability to run the business effectively (Lafontaine, F., & Shaw, 2021).

Article 3 PP Number 42 of 2007 concerning franchising emphasized that franchises should meet the below criteria. This regulation aimed to establish a framework for fair and balanced franchising practices in Indonesia.

1. Having a distinctive characteristic. A business with advantages or differences that are not easily imitated compared to others made consumers attracted to the distinctive characteristic. For example, the franchisor's unique characteristics were management systems, sales, and service methods, as well as organization or distribution methods.
2. Proven to be profitable. By referring to the franchisor's experience of approximately five years and having business strategies to overcome challenges, was evidenced by the business's continued existence and profitable growth.
3. Having written standards for the goods/services offered. This allowed the franchisee to conduct business within a clear and consistent framework (Standard Operational Procedure).
4. Easy to operate and implement. Franchisees who lack experience or knowledge about similar businesses should be able to execute the services appropriately according to the continuous operational and management guidance provided by the franchisor.
5. Continuous support. There should be continuous support from the franchisor to the franchisee, such as operational guidance, training, and promotion.

Then the main problem in this research is the obligation of guidance carried out by the franchisor on an ongoing basis. The word continuously is interpreted differently by the franchisor as outlined in one of the articles in the franchise agreement.

### **Reconstruction of Regulations for the Implementation of Franchise Agreements Based on Dignified Justice.**

The concept of dignified justice theory could be understood by recognizing that the framework was a name for a legal theory. Since the Dignified Justice recognizes that a scientific theory has various levels of application. The level is hierarchical, with lower levels subordinated to the higher ones (Karo, 2022). The scope could be observed from the structure or layers within legal science including the philosophy of law in the first layer. Furthermore, legal dogmatic and practice were situated in the fourth layer of the legal science structure. Although the layers of knowledge within the theory of dignified justice were separated from each other, the layers of legal science fundamentally constituted a systematic unity. The system was interconnected, shoulder to shoulder, and working cooperatively. The theory of dignified justice commenced from the postulate of the system, aiming to achieve the objective of justice with dignity. The objective was to obtain justice that humanized the society, or justice connecting the community. The theory of dignified justice adhered to the principle that although legal science was structured in layers, the four components functioned as a unified system. This system, though consisting of distinct parts, remained interconnected. Understanding legal science in its entirety implied comprehending the interconnections between the four layers. The upper layers dictated, illuminated or enriched the layers of legal science in a systematic top-down fashion. Conversely, the lower layers also informed the understanding of the subsequent layers (Prasetyo, 2015).

The implementation of a franchise agreement commenced with the success of the brand owner or franchisor's business. Through the franchise business system, the franchisor would transmit the success of the company to the franchisee. The franchisor developed and established a standardized formula for success based on the experience. Standardization was the cornerstone of the franchise business model. The franchising principle dictated that regardless of outlet location, consumers would receive the same products, services, and procedures at every location. This process was conducted through research and concept development, promotion, marketing activities, as well as building a good reputation and known image. After successfully evaluating the concept by opening outlets in multiple locations, the franchisor offered the franchise to potential franchisees. Subsequently, an individual (or partnership or company) assessed the opportunity offered by the franchisor and evaluated the system to determine its profitability.

The implementation of franchise business was conducted following the agreements and regulations in force. Strong legal frameworks were essential for ensuring the smooth operation of franchise businesses in Indonesia. Therefore, Government Regulation Number 16 of 1997 concerning Franchises was enacted in 1997. The regulation was later replaced by Government Regulation Number 42 of 2007 concerning Franchises. This Government Regulation was reinforced by the Minister of Trade Regulation Number 12/M-Dag/Per/3/2006 concerning the Provisions and Procedures for the Issuance of Franchise Business Registration Certificates

Despite existing regulations, franchisors often prepare agreements for franchisees to purchase franchises. These agreements contain clauses that are detrimental to the franchisee, if it is related to the case that the author analyzes that article 8 of government regulation number 42 of 2007 also does not provide legal certainty for the application of justice received by franchisees, this is because in carrying out the franchisor's obligation to provide guidance to franchisees, it does not have a definite legal basis in terms of implementation time due to differences in interpretation of the word "continuous" so that this will have an impact on the franchisee's loss. Franchise assistance

and guidance is needed to help provide convenience for Franchisees in running their business so that they can quickly generate profits (Sumartiah, 2019).

Based on the findings, the term "continuous" was interpreted differently by franchisors as outlined in the franchise agreement document. Various franchisors interpreted "continuous" in the franchise agreement document as providing training and development to franchisees annually. Furthermore, others interpreted the clause to be bi-annual while some even set the training frequency to be two to three times during the term of the franchise agreement.

Diverse interpretations create loopholes for future disputes due to the lack of certainty and fairness in Government Regulation 42/2007 on franchising, particularly in Article 8. The standardized nature of franchise agreements, which reflect unequal bargaining power between franchisors and franchisees, creates a legal relationship that has an inherent power imbalance. Franchise agreements created by franchisors outline the requirements and standards that franchisees must follow. This allows the franchisor to terminate the agreement when the franchisee is deemed unable to fulfill its obligations (Selamet, 2022). Therefore, a reconstruction of Article 8 of Government Regulation No. 42/2007 on franchising is necessary to provide legal certainty and prevent multiple interpretations of the term "sustainable". Therefore, it is necessary to reconstruct Article 8 where before the word "sustainable" the word "periodic" is added to become "periodic and continuous" so that it can affect the implementation of the franchisor's obligations where previously the implementation of guidance by the franchisor was carried out based on the interpretation of each franchisor by applying it in one of the articles contained in the franchise agreement.

## **CONCLUSION**

In conclusion, the implementation of the franchise business is carried out in accordance with applicable agreements and regulations. The implementation of the franchise business in Indonesia has been regulated in Government Regulation Number 42 Year 2007. However, this regulation requires reconstruction to provide legal protection so that dignified justice can be obtained by all parties. Concerns were raised regarding the ambiguity of the term "continuous" in Article 8. To address this, a proposal is made to revise the article by adding the word "periodic" before the word "continuous" to become "periodic and sustainable." The addition of the word "periodic" can provide more legal certainty for the franchisor in terms of carrying out its obligations to provide training to franchisees. The existence of legal certainty can protect the interests of the parties and bring a sense of dignified justice. offer certainty and security in consuming halal products, ensuring that the products available meethalal standards. For business actors, especially micro and small enterprises, these regulatory changes facilitate the acquisition of halal certificates more effectively and efficiently, thereby enhancing product competitiveness, expanding market share, and fostering the growth of the national halal industry. Further research could focus on the enforcement or effectiveness of halal product guarantee laws following the enactment of the Job Creation Law.

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