









## LEX JOURNAL: KAJIAN HUKUM DAN KEADILAN

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**Analysis of Price Fixing Agreement for Treking Equipment Rental in East  
Lombok**

**Muh Khairil Amri**

Faculty of Law, Social and Political Sciences, University of Mataram

Email: [amritanguk@gmail.com](mailto:amritanguk@gmail.com)

**Djumardin**

Faculty of Law, Social and Political Sciences, University of Mataram

Email: [drdjumardin@gmail.com](mailto:drdjumardin@gmail.com)

**Diangsa Wagian**

Faculty of Law, Social and Political Sciences, University of Mataram

Email: [diangsawagian@unram.com](mailto:diangsawagian@unram.com)

**ABSTRACT**

This study aims to analyze how the Implementation of Price Fixing Agreement for Treking Equipment Rental in East Lombok, Analyzing How the Validity and Effects of Price Fixing Agreement for Treking Equipment Rental in East Lombok according to the Civil Code and Business Competition Law. The type of research used in this research is normative-empirical, using a case approach (case approach), statutory approach (statute approach), conceptual approach (conceptual approach), and sociological approach (sociological approach). the implementation of the price fixing agreement agreed upon by the members of the East Lombok Rental Coalition, where the implementation is that each member agrees that there will be a price determination which will be a reference for all members to determine the price of the equipment or goods being rented. Agreeing to the agreement made. Both members consciously carry out the agreement and if there are members who do not carry out what has been agreed, there are no criminal sanctions or civil sanctions, only limited to social sanctions in the form of lack of access to information obtained and no assistance to fulfill requests for equipment in the event of an excess ordered by the tenant. The validity of the agreement is contained in Article 1320 of the Civil Code, from the four conditions of the validity of the agreement that make an agreement valid or not, the validity of the price fixing agreement according to the Civil Code is valid and does not violate the regulations. Furthermore, the validity of the price fixing agreement in business competition law can be found for the case of the price fixing agreement for equipment rental carried out by the East Lombok Rental Coalition, namely in letter H, which provides that "Business actors classified as small businesses" so that the agreement made by the Coalition is not

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included in the prohibited agreement, so the validity of the price fixing agreement for equipment rental is valid in the eyes of business competition law.

**Keywords:** Price Fixing Agreement, Price Fixing, Coalition, Treking Equipment

## 1. INTRODUCTION

Life is something that continues. It is continuous because every day is done in the same way sleeping, eating, working and sleeping. So the cycle of turning each wheel will always exist. Work is one of the cycles that will always be done by humans. So that to eliminate the feelings caused by activities that are carried out every day, humans need what is called recreational tourism or entertainment tourism. Vacation is one way for humans to relieve fatigue after a long time struggling with tiring activities, and vacation is also one of the removers from fatigue. Someone will look for what kind of vacation that can relieve fatigue and get peace, comfort and a sense of self-satisfaction after doing the vacation (Gelgel, 2021). A person can play in entertainment places such as going to karaoke, shopping in the market (mall), fishing, playing games, going to the green outdoors.

People have their own events to enjoy their vacation. In vacations such as playing outdoors such as going to the mountains to do climbing (heking) or for camping, requires equipment or tools to support safety and security during climbing. From tools such as clothes, bags, tents, shoes and all kinds of tools needed during climbing. Of course, to fulfill the above equipment, there are those who purchase equipment directly and there are also those who rent equipment on the grounds that climbing or camping is not done regularly and is expensive, lazy to spend maintenance costs so the alternative is to rent the tools needed.

The development and demand for trekking equipment rental has opened up opportunities for people to open climbing equipment providers. However, the climbing equipment rental providers formed a Coalition with the main purpose of providing easy information for equipment providers (entrepreneurs) and consumers. The next issue is to

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pursue profits and equalize profits for the climbing equipment provider houses to make an agreement to equalize the price of the rental equipment provided. So that it provides an opportunity for profit for the providers and allows harm to consumers because there is no freedom of bargaining interaction for them (Panjaitan, 2021).

But it cannot be denied that the natural rules of the game make mobility in the market world erratic, especially when dealing with a person or group of people who have large capital at any time appear to the surface to regulate the course of the market world. So now there is a need for rules that can be used to minimize the influence of a handful of entrepreneurs from the market world who can dominantly influence market competition. Policy makers felt the need to create rules of the game to streamline the world of competition, so in 1999 Law No. 5 of 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition was enacted. It is intended to enforce the rule of law and provide equal protection for business actors in an effort to create healthy business competition (Meyliana & Komalasari, 2013). With guaranteed legal certainty to further encourage the acceleration of economic development in an effort to improve general welfare.

The Civil Code explains a principle about the freedom of a person to make an agreement with another person, which when the agreement is agreed by both parties, the agreement automatically becomes law for those who make it. Article 1313 of the Civil Code (KUHPer) explains the meaning of an agreement, which is “a legal act that occurs between one or more people binding themselves to another or more people”. Article 1 paragraph 7 of Law No. 5 of 1999 on the prohibition of monopolistic practices and unfair business competition also provides a definition of an agreement.

So that the consequence of an obligation is that each party must carry out all these agreements in good faith. However, if an agreement can cause harm to one or a third party, such an agreement is not justified. As in Article 5 of Law Number 5 of 1999 concerning the prohibition of monopolistic practices and unfair business competition, it

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explains the prohibition of cooperation in making agreements in setting the price of a product/service.

In practice, the application of Article 5 of Law Number 5 Year 1999 above is still not optimal, where in one of the climbing equipment rental industries there is allegedly an agreement in determining the price of the equipment being rented. So that what should be (*das Sein*) a prohibition on price-fixing agreements is actually happening (*das Solen*) in practice. So that in this paper will be described about the importance of a business industry even in a small scale to understand all existing regulations so that there is no violation of the norms in the Civil Code (engagement / agreement) and the Law on the prohibition of monopolistic practices and unfair business competition.

## **2. RESEARCH METHODS**

The type of research used in this research is normaif-empirical research. Normative-empirical research (applied law research) is legal research on the enactment or implementation of normative legal provisions in action on every specific legal event that occurs in society. The implementation in action is an empirical fact and is useful for achieving predetermined goals (Muhaimin, 2020). In conducting a research, it cannot be separated from the use of the type of approach. Because every research always uses a type of approach in research methods to analyze the issues raised.

In this study researchers used the approach: First, case approach, namely the approach taken by analyzing the law of price fixing agreements in East Lombok trekking equipment rental. Second, the statute approach, which is an approach taken by examining the regulations related to the problem in the study. Third, conceptual approach, which is an approach carried out by examining concepts, legal principles, principles and legislation developed in law. Fourth, the sociological approach, which is an approach whose discussion of an object is based on the community or location that is the object of the research. This approach is increasingly developed and used to analyze

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and provide answers to the problem of the effectiveness of the operation of law in social life.

### **3. DISCUSSION**

#### **Analysis of the Validity of a Price-Fixing Agreement for Trekking Equipment Rentals under the Indonesian Civil Code**

Referring to Article 1320 of the Indonesian Civil Code (KUHPer) regarding the requirements for a valid agreement, the price-fixing arrangement formed by the East Lombok Rental Coalition does not conflict with the law, because: First, regarding the initial requirement—mutual consent of all members to bind themselves to what the Coalition has agreed upon—there was no coercion upon any member to accept the price-fixing agreement. Thus, the first element of consent among Coalition members is lawfully fulfilled.

Second, regarding the second requirement—the capacity of each party to enter into an agreement—the price-fixing agreement made by the Coalition is valid under the Civil Code. Each party or member of the East Lombok Rental Coalition is of legal age, not under guardianship, not legally barred from operating a rental business, and free to enter into obligations with any party.

Third, the third requirement is the existence of a clearly defined object giving rise to the agreement. The agreement arose from the rental of the same kind of goods—items or equipment used for mountaineering and hiking—so the clarity of the object is evident. The goods being rented are lawful, not prohibited by any statute, and do not violate morality or public order.

Fourth, the final requirement is a lawful cause, namely the substance of the agreement (Subekti & Suyanto, 2020). In the (unwritten) agreement concluded by the East Lombok Rental Coalition, the price-fixing terms merely oblige all members to rent out their equipment in accordance with the price standard agreed upon by the Coalition.

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If anyone departs from the agreed price, the only “sanction” is a reduction in access to information available to the violating member; there are no civil or criminal penalties. Consequently, there is no element that would render the agreement null and void by operation of law. It follows that, under the Indonesian Civil Code (KUHPer), the price-fixing agreement is valid and not prohibited.

### **Analysis of the Validity of Price Fixing for Trekking Equipment Rentals under Competition Law**

Competition law recognizes several prohibitions when interpreting anticompetitive conduct (Satriawan, 2023). These prohibitions range from outright bans to those assessed in light of economic justifications. Two key analytical concepts are the per se illegal rule and the rule of reason, which are used to determine whether given conduct is anticompetitive (Sirat, 2004).

Per se is Latin for “by itself,” meaning that if an activity’s purpose and harmful effect are evident, there is no need to consider whether it could be reasonable in some circumstances to determine that it violates competition law. In competition law, this denotes that certain categories of agreements—such as horizontal price-fixing—are deemed inherently anticompetitive and harmful to the public, without requiring proof that the conduct actually harmed competition.

The rule of reason is the converse of per se illegality. Under the rule of reason, to declare conduct a violation of competition law, the fact-finder must consider surrounding circumstances to determine whether the conduct unreasonably restrains competition. If we applied solely the per se approach, the Coalition’s price-fixing agreement would be considered a violation, because such agreements are expressly prohibited by law. However, when assessing reasonableness, several factors should be considered:

- a. Effects on the market and competition

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- b. Business justifications underlying the conduct
- c. Market power
- d. Available alternatives (less restrictive alternatives)
- e. Purpose (intent)

Below is a factor-by-factor discussion to evaluate whether the Coalition's price-fixing agreement is valid under competition law:

**a. Effects on the market and competition**

Findings from consumers (the market side) and non-Coalition rental providers indicate that many customers were generally unaware of the Coalition's existence. They did not pay much attention to potential price differences, nor were such differences particularly apparent. This suggests that the Coalition's price-fixing agreement has not harmed consumers—there has been no noticeable price distortion leading to unhealthy competition. Non-Coalition rental providers also reported no impediments from Coalition competitors, especially during peak hiking seasons and after Mount Rinjani reopened. They have not received complaints from customers regarding price differences for the equipment they rent. Thus, the Coalition's price-fixing agreement appears not to have affected competition in the trekking-equipment rental market, because it has not had a meaningful impact on other market participants. If we relied only on the per se rule, we would still say the Coalition "fixed prices" and thus violated the law. But the rule-of-reason assessment of this first factor supports the view that the Coalition's agreement did not harm competition.

**b. Business justifications**

The Coalition's stated reasons for price fixing are to stabilize market prices so that consumers do not need to comparison-shop extensively, thereby achieving uniform prices among members. The purpose is not to disrupt the market but to ease consumers' decision-making. Another reason is to maintain stable profits for members; when demand falls, the Coalition intends to stabilize prices collectively by

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following market signals—lowering prices reasonably—without harming other businesses.

**c. Market power**

With 47 affiliated members, the Coalition arguably holds a degree of influence in East Lombok. Even so, it does not control the entire district's trekking-equipment rental market to the point of being able to damage or dominate prices. Statements from non-Coalition businesses corroborate that they have not experienced significant revenue impacts, even with the Coalition's price-fixing, suggesting no material effect on market dynamics and thus no anticompetitive harm.

**d. Alternatives**

For Coalition members, there was effectively no need for an alternative to the agreement because the arrangement benefitted all members—e.g., easier information sharing and help sourcing equipment. As for consumers, they remain free to rent from any provider. The Coalition does not fully control the trekking-equipment rental market in East Lombok, so customers have choices.

**e. Purpose (intent)**

The Coalition's main purpose was to equalize prices among members to stabilize everyone's profits so no one gains or loses unfairly. The scope is internal to the Coalition; there is no intention to render the broader trekking-rental market anticompetitive or to distort market prices. Considering all the factors above as the primary basis for assessing the Coalition's price-fixing agreement, there are no indications of anticompetitive effects. Therefore, the price-fixing agreement is valid under competition law.

This conclusion is reinforced by Article 50 of Law No. 5 of 1999, which lists exceptions to the law's prohibitions, including:

- a. Acts and/or agreements intended to implement prevailing laws and regulations;

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- b. Agreements related to intellectual property rights such as licenses, patents, trademarks, copyrights, industrial product designs, integrated circuit layouts, and trade secrets, as well as agreements related to franchising;
- c. Agreements establishing technical standards for goods and/or services that do not restrict or hinder competition;
- d. Agency agreements that do not require resupply of goods or services at prices below the agreed price;
- e. Research cooperation agreements to improve or raise the standard of living of the broader community;
- f. International agreements ratified by the Government of the Republic of Indonesia;
- g. Agreements and/or conduct intended for export that do not disrupt domestic needs or supply;
- h. Business actors classified as small enterprises; or
- i. Cooperative activities specifically aimed at serving members.

Among these exceptions, the relevant one for the Coalition's agreement is letter (H)—small enterprises. Because the Coalition's trekking-equipment rental businesses are small enterprises, their price-fixing agreement is not among the prohibited agreements. Accordingly, the price-fixing agreement for trekking-equipment rentals in East Lombok is valid under Indonesian competition law.

#### **4. CONCLUSION**

That there is an implementation of a price fixing agreement agreed by the members of the East Lombok Rental Coalition, where the implementation is that each member agrees that there will be a price determination which will become a reference for all members to determine the price of the equipment or goods being rented out. The first thing to do is to agree to the agreement made by the Coalition, the second is that

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the members consciously carry out the agreement and if one or more members of the Coalition do not carry out what has been agreed, there are no sanctions in the form of criminal sanctions or civil sanctions that will be obtained, only limited to social sanctions in the form of lack of access to information that will be obtained and if in the future they need tools to complete the number of requests, no assistance will be provided by members for these members.

The validity of an agreement is explained in the Civil Code in article 1320 and of the four conditions for the validity of an agreement that make an agreement valid or not, the validity of the price fixing agreement in the Civil Code is valid and does not violate the regulations. Furthermore, the validity of price fixing agreements in business competition law can be found for the case of price fixing agreements for equipment rental carried out by the East Lombok Rental Coalition, namely in letter H, which provides that “Business actors belonging to small businesses” so that the agreements made by the Coalition are not included in prohibited agreements, because the businesses carried out by the Coalition are included in small businesses. Therefore, the validity of the price fixing agreement for equipment rental is valid in the eyes of business competition law.

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