

**LAW AND CONSUMER PROTECTION
STUDY OF THE SCARCITY OF 3 Kg LPG GAS DUE TO UNFAIR
BUSINESS COMPETITION**

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ABSTRACT

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

Keywords: Business Competition. LPG Gas. Scarcity.

1. Introduction

Humans need to be consumers to fulfill the needs of life by carrying out activities to buy goods or services offered by others.² One of the goods that cannot be separated from everyday life is Liquefied Petroleum Gas or commonly referred to as LPG. LPG is a form of realization of the 2007 Indonesian government program, by transferring or converting the use of kerosene to LPG. The purpose of converting kerosene to LPG is to reduce people's dependence on the use of fuel because fuel supplies are running low, the efficiency of the government budget for fuel subsidies given the increasing price of fuel, and the provision of more practical and efficient fuel.³ In addition, gas is one of the important sectors in development in an economic

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

³ M. Hasan Syukur, 2011, "Penggunaan *Liquefied Petroleum Gases* (LPG): Upaya Mengurangi Kecelakaan Akibat LPG", *Jurnal Swara Patra : Maja;ah Ilmiah PPSDM Migas*, Vol. 01, No. 02.

perspective that controls the lives of many people.⁴ Therefore, it is the obligation of the state to intervene in regulating the market structure through regulation or legislation and is expected to achieve a balance of public interest.

LPG is divided into two types, namely general LPG and certain LPG. General LPG is fuel that is not subsidized, namely 7 kg LPG and 12 kg LPG. While certain LPG is a fuel that has specificity in certain conditions and is given a subsidy, namely 3 kg LPG. The kerosene to LPG conversion program also creates business opportunities for the community. Basically, there are two forms of activities in the distribution of LPG gas, namely upstream and downstream businesses.⁵ Upstream business is a business consisting of exploration and exploitation carried out based on cooperation agreements between business entities and implementing agencies. The distribution of 3 kg LPG gas is carried out by distributors in each region appointed or established by the Regional Government and Pertamina. Business opportunities in the distribution of 3 kg LPG gas give rise to business competition for entrepreneurs.

Business competition is regulated in Law Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition. Competition in the national market is a very important matter of public policy, namely as a measure of the nation's ability to compete in the international market and to attract foreign investors to compete in the national market.⁶ Business competition must have a legal role in it which aims to organize fair and equitable business competition and prevent unfair competition.⁷ This provides an opportunity for consumers to be able to choose various

⁴ Ahmad Yani dan Gunawan Widjaja, 2006, *Anti Monopoli*, Jakarta: PT. Raja Grafindo Persada, Hlm 1.

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

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

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

alternatives offered in the trade of goods and/or services.⁸ This business competition is one of the means used to achieve efficiency.

Based on Article 3 paragraph (1) of Presidential Regulation No. 104/2007 concerning the Supply, Distribution and Pricing of 3-Kilogram Liquefied Petroleum Gas cylinders, it is stated that "The supply and distribution of 3-kilogram LPG cylinders is only intended for households and micro businesses". Then in Article 3 paragraph (2) it is said that "The supply and distribution of 3 Kg LPG cylinders as referred to in paragraph (I) is carried out in stages in certain areas within the territory of the Unitary State of the Republic of Indonesia". From this article it can be concluded that the provision and distribution of 3 Kg LPG gas is only devoted to households and micro businesses. This is intended so that the use of 3 Kg LPG Gas can be used in a targeted manner towards households as consumers who really need it. In the explanation of number 2 point 1 letter b of the Regulation of the Minister of Energy and Mineral Resources (ESDM) Number 26 of 2009 concerning the Supply and Distribution of Liquefied Petroleum Gas (LPG), it is explained that the households in question are families with a lower economic class with an income below Rp. 1,500,000, - (one million five hundred thousand rupiah) and micro-entrepreneurs who have an income of no more than Rp. 300,000,000, - (three hundred million rupiah) per year and have a business license certificate.

Unfair business competition according to Article 1 letter f of Law Number 5 Year 1999 is competition between business actors in carrying out production activities and or marketing of goods and or services carried out in an unfair or unlawful manner or hampering business competition. Article 17 to Article 28 of the law also regulates four prohibited business activities such as monopoly, monopsony, market control and conspiracy. This aims to anticipate the inability of consumers to meet their needs in the form of 3 Kg LPG gas which can also have an impact on the economy. With the scarcity that occurs,

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

business actors will increase the selling price higher than the predetermined price. This will cause losses to consumers.

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

The number of unauthorized distributors who sell 3 kg LPG gas above the Highest Retail Price (HET) is also a factor in scarcity and unfair business competition.¹⁰ This is not in accordance with applicable regulations and the scarcity of 3 kg LPG gas also has an impact on the unprotected rights of consumers. Abuse of authority, unequal distribution and not on target so as to cause scarcity, are not in accordance with the government's goal of social justice in the economic sector which has been established by law and various existing regulations.¹¹

Based on the explanation that has been described, in this case the problem formulation obtained will be the focus of the author's discussion, namely how the form of unfair business competition practices that result in the scarcity of 3kg LPG Gas and the protection of consumers.

2. Reseach Method

The research was conducted using a non-doctrinal approach, based on primary data in the form of interviews with several 3 Kg LPG business actors, supported by secondary data in the form of documents related to business

⁹ Interview with Punto, on January 11, 2023 at PT Cemara Bangkit Sejahtera Klaten Regency

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

¹¹ Lupiyoadi, 2001, *Manajemen Pemasaran Jasa*, Jakarta: Salemba Empat, Halaman 159.

competition and consumer protection such as articles, regulations such as Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, Presidential Regulation Number 104 of 2007 concerning the Supply Distribution and Pricing of 3 Kg Liquefied Petroleum Gas.¹² Primary data obtained through in-depth interviews and observation, as well as secondary data obtained through literature study, after being processed, were analyzed qualitatively using inductive logic.

3. Results and Discussion

3.1. Forms of Unfair Business Competition Practices Resulting in Scarcity of 3 Kg LPG Gas

Unfair business competition is regulated in Article 1 point 6 of Law Number 5 Year 1999, which states that "Unfair business competition is competition between business actors in carrying out production activities and or marketing of goods and or services carried out in an unfair or unlawful manner or hampering business competition". Broadly speaking, the types of unfair business competition found in an economy are: (1) Cartels (horizontal barriers), (2) Closed agreements (vertical barriers), (3) Mergers, and (4) Monopolies.

The author, in order to find out the form of business competition practices that caused the scarcity of 3 Kg LPG Gas, conducted direct observations in the field and interviewed business actors. From the direct observation process, the following data were obtained:

Table 1. Distribution of 3 KG LPG Gas

No	Business Competition	Business Actors				
		1	2	3	4	5
1.	Cartel					
	a. Business Actors	✓	✓	✓	✓	✓

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

	b.	Making agreements	✓	✓	✓	✗	✗
	c.	With a competing business actor	✗	✗	✗	✓	✓
	d.	Intending to influence prices	✓	✓	✓	✓	✓
	e.	To regulate production and or marketing	✓	✓	✓	✗	✗
	f.	Of goods and/or services	✓	✓	✓	✓	✓
	g.	Resulting in monopolistic practices	✗	✗	✗	✓	✓
	h.	Resulting in unfair business competition	✓	✓	✓	✓	✓
2.		Closed-door agreement					
	a.	Business actors	✓	✓	✓	✓	✓
	b.	Enter into an agreement	✓	✓	✓	✗	✗
	c.	With other business actors	✓	✓	✓	✗	✗
	d.	Contains requirements	✓	✓	✓	✗	✗
	e.	Parties receiving goods and or services	✓	✓	✓	✓	✓
	f.	Resupply	✓	✓	✓	✓	✓
	g.	To a certain party	✓	✓	✓	✓	✓
	h.	To a certain place	✓	✓	✓	✓	✓
3.		Monopoly					
	a.	Business actors	✓	✓	✓	✓	✓
	b.	Control over the Production and Marketing of goods and or services	✗	✗	✗	✓	✓
	c.	Resulting in monopolistic practices	✗	✗	✗	✓	✓
	d.	Resulting in unfair business competition	✓	✓	✓	✓	✓

Description:

1: Agent (PT. Cemara Bangkit Sejahtera)¹³

2: Sri Mulyono Base¹⁴

3: Romdoni Base¹⁵

4: Arasya Grocery Store¹⁶

5: Green Grocery Store¹⁷

¹³ Interview with Punto, on January 11, 2023 at PT Cemara Bangkit Sejahtera Klaten Regency

¹⁴ Interview with Dika, son of Sri Mulyono, on December 19, 2022 at Sri Mulyono Base, Klaten Regency

¹⁵ Interview with Andri, son of Romdoni, on January 22, 2023 at Romdoni Base, Klaten Regency

¹⁶ Interview with Luthfi as the owner of Arasya Grocery Store, on January 15, 2023 at Arasya Grocery Store, Klaten Regency

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

3.3.1. Cartel

The regulation of cartel-type business competition has been regulated in Law Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition. Regarding cartels, the Law is regulated in Article 11 as follows: "Business actors are prohibited from entering into agreements, with their business competitors, that intend to influence prices by regulating the production and or marketing of goods and or services, which may result in monopolistic practices and or unfair business competition".

From the article, the elements can be drawn, namely 1) business actors; 2) entering into agreements; 3) with competing business actors; 4) intending to influence prices; 5) regulating production and/or marketing; 6) of goods and/or services; 7) causing monopolistic practices; and or 8) unfair business competition. Resulting in monopolistic practices; and or 8) unfair business competition. From these elements and the data generated by the author, it can be explained as follows:

a. Elements of business actors

In accordance with Article 1 Point 5 in the General Provisions of Law Number 5 Year 1999, a business actor is "Every individual or business entity, whether in the form of a legal entity or not a legal entity established and domiciled or conducting activities within the jurisdiction of the Republic of Indonesia, either alone or jointly through agreements, organizing various business activities in the economic field." Based on the data

¹⁷ Interview with Fauzi as the owner of the Green Grocery Store, on January 24, 2023 at the Green Grocery Store, Klaten Regency

obtained by researchers, from 5 (five) places of sale of 3 Kg LPG gas, all of them have fulfilled the elements of business actors. PT Cemara Bangkit Sejahtera is a business entity in the form of a legal entity. Sri Mulyono Base and Romdoni Base are business entities that have business licenses, are managed by individuals and are under the guidance of LPG agents who carry out LPG 3 KG gas distribution activities. Arasya Grocery Store and Green Grocery Store are individuals who carry out activities in the economic sector.

b. The element of making an agreement

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

Based on the results of an interview with Mr. Punto, "PT Cemara Bangkit Sejahtera partnered with 35 (thirty-five) bases located in the Klaten Regency area, namely Jatinom 5 bases, cawas 5 bases, central Klaten above 5, trucuk 3 bases, ceper 3 pagkalan, karangnongko."¹⁸

Based on the interview with Sri Mulyono Base, "Sri Mulyono Base is supplied by PT Cemara Bangkit Sejahtera based on the Letter of Appointment of LPG 3 KG Base dated April 20, 2020."¹⁹ Based on the interview with Romdoni Base, "Romdoni Base has partnered with PT Cemara Bangkit Sejahtera since

¹⁸ Interview with Punto, on January 11, 2023 at PT Cemara Bangkit Sejahtera Klaten Regency

¹⁹ Interview with Dika, son of Sri Mulyono, on December 19, 2022 at Sri Mulyono Base, Klaten Regency

2019."²⁰ Based on an interview with Arasya Grocery Store, "Arasya Grocery Store receives 3 KG LPG gas supply from Sri Mulyono Base. The purchase of 3 KG LPG gas to the base is limited to 10 cylinders every week."²¹ Based on the interview with Green Grocery Store, "This grocery store gets its 3 KG LPG gas supply from Romdoni Base with a maximum purchase of 10 gas cylinders each week."²²

Based on the data obtained by researchers, agents and bases fulfill the element of making an agreement while grocery stores do not. Agents make agreements with SPPBE (LPG Bulk Transportation and Refill Station) as a business unit managed by PT Pertamina to refill 3 KG LPG gas cylinders that will be distributed to various designated areas. In addition, agents also make agreements with partners, namely bases, to provide 3 KG LPG gas supplies to be distributed to consumers. Grocery stores do not fulfill the agreement element because they do not make an agreement with anyone, but purchase LPG 3 KG gas at the base.

c. Elements with competing business actors

In accordance with Guideline Article 11 on Cartel under Law Number 5 Year 1999, "Competing business actors are other business actors in the same relevant market. Competing business actors are other business actors in the same relevant market." The definition of the relevant market can be seen in the Regulation of the Business

²⁰ Interview with Andri, son of Romdoni, on January 22, 2023 at Romdoni Base, Klaten Regency

²¹ Interview with Luthfi as the owner of Arasya Grocery Store, on January 15, 2023 at Arasya Grocery Store, Klaten Regency

²² Interview with Fauzi as the owner of the Green Grocery Store, on January 24, 2023 at the Green Grocery Store, Klaten Regency

Competition Supervisory Commission Number 3 of 2009, dated July 1, 2009 regarding the Guidelines for Article 1 paragraph 10 on Relevant Market.

Based on the interview with Mr. Punto, "PT Cemara Bangkit Sejahtera partnered with 35 (thirty five) bases located in the Klaten Regency area, namely Jatinom 5 bases, cawas 5 bases, central Klaten above 5, trucuk 3 bases, ceper 3 bases, karangnongko."²³ Based on the interview with Sri Mulyono Base, "Sri Mulyono Base is supplied by PT Cemara Bangkit Sejahtera based on the Letter of Appointment of LPG 3 KG Base dated April 20, 2020."²⁴ Based on an interview with Romdoni Base, "Romdoni Base has partnered with PT Cemara Bangkit Sejahtera since 2019. There is no unfair business competition between bases, because bases are called partners."²⁵

Based on the data obtained by researchers, agents and bases do not fulfill the element with competing business actors while grocery stores do. Agents and bases are an inseparable unit, because both have a vertical relationship in the distribution of 3 KG LPG gas. So agents and bases cannot be mentioned as competing business actors. A grocery store is an individual business that stands alone so that competition can occur between grocery stores or other business actors in the same market. Therefore, grocery stores can be categorized as competing business actors.

²³ Interview with Punto, on January 11, 2023 at PT Cemara Bangkit Sejahtera Klaten Regency

²⁴ Interview with Dika, son of Sri Mulyono, on December 19, 2022 at Sri Mulyono Base, Klaten Regency

²⁵ Interview with Andri, son of Romdoni, on January 22, 2023 at Romdoni Base, Klaten Regency

d. Element of Intending to influence the price

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

Based on the interview with Mr. Punto, "PT Cemara Bangkit Sejahtera has conducted socialization to the bases in terms of the distribution of 3 KG LPG gas and in terms of the price that must be set."²⁶ Based on the results of the interview with Sri Mulyono Base, "The agent has informed the base about the price and the parties who should get 3 KG LPG gas"²⁷ Based on the results of the interview with Romdoni Base, "The distribution of LPG gas has been determined by regulations from the government and agents."²⁸ Based on an interview with Arasya Grocery Store, "There are several grocery stores that sell 3 KG LPG gas with different supply points. This results in price differences between grocery stores."²⁹ Based on an interview with Green Grocery Store, "Because my store is still new, at first I had to sell gas at a price slightly above my

²⁶ Interview with Punto, on January 11, 2023 at PT Cemara Bangkit Sejahtera Klaten Regency

²⁷ Interview with Dika, son of Sri Mulyono, on December 19, 2022 at Sri Mulyono Base, Klaten Regency

²⁸ Interview with Andri, son of Romdoni, on January 22, 2023 at Romdoni Base, Klaten Regency

²⁹ Interview with Luthfi as the owner of Arasya Grocery Store, on January 15, 2023 at Arasya Grocery Store, Klaten Regency

purchase price at the base so that people would want to buy and recognize my store."³⁰

Based on the data obtained by researchers, all of them have fulfilled the element of intending to influence prices. The price of 3 KG LPG gas has been determined by regulations and agreements. The pricing of 3 KG LPG is regulated by Presidential Regulation No. 104/2007 on the Supply, Distribution, and Use of LPG. 104 of 2007 concerning the Supply, Distribution, and Pricing of Liquefied Petroleum Gas 3 Kilogram Tubes, as well as the letter of the Minister of Home Affairs of the Republic of Indonesia Number 541/07/SJ dated January 5, 2015, concerning the highest retail price (HET) of 3 Kg LPG cylinders. But in fact there are still bases and grocery stores with agreements with each other to sell LPG 3 KG gas at a higher price for profit. This makes agents, bases, and grocery stores fulfill the element of intending to influence prices.

e. Elements of organizing production and/or marketing

In accordance with Article 11 of the Guidelines on Cartels under Law No. 5/1999, regulating production means determining the amount of production both for the cartel as a whole and for each member. This may be greater or lesser than the production capacity of the company or the demand for the goods or services concerned. Meanwhile, regulating marketing means regulating the amount to be sold and or the area in which members sell their production.

³⁰ Interview with Fauzi as the owner of the Green Grocery Store, on January 24, 2023 at the Green Grocery Store, Klaten Regency

Based on an interview with Mr. Punto, "The distribution to bases each week is at least 100 gas cylinders according to a predetermined schedule. The number of cylinders distributed adjusts to the amount of supply from SPBE."³¹ Based on an interview with Sri Mulyono Base, "The distribution area of LPG 3 KG by Sri Mulyono Base is 60% (sixty percent) to Mranggen areas such as neighbors and surrounding areas, 40% (forty percent) to Duwet Village and Soran Village. The amount of LPG 3 Kg gas supply by the agent is at least once a week or a maximum of twice a week with a minimum supply of 400 LPG 3 KG gas cylinders per month."³² Based on an interview with Romdoni, "The distribution area is for the surrounding community in Pepe Village and Kauman Village. The base receives a supply of 3 KG LPG gas from the agent every week with a predetermined schedule and a quantity of 100 cylinders."³³ Based on an interview with Arasya Grocery Store, "My store provides 3 KG LPG gas mainly for the needs of the people of Dukuh Kadipiro, but sometimes there are also people from other areas who buy at my store."³⁴ Based on the interview with Green Grocery Store, "I sell gas mainly for this area, but it is also free for anyone who wants to buy."³⁵

³¹ Interview with Punto, on January 11, 2023 at PT Cemara Bangkit Sejahtera Klaten Regency

³² Interview with Dika, son of Sri Mulyono, on December 19, 2022 at Sri Mulyono Base, Klaten Regency

³³ Interview with Andri, son of Romdoni, on January 22, 2023 at Romdoni Base, Klaten Regency

³⁴ Interview with Luthfi as the owner of Arasya Grocery Store, on January 15, 2023 at Arasya Grocery Store, Klaten Regency

³⁵ Interview with Fauzi as the owner of the Green Grocery Store, on January 24, 2023 at the Green Grocery Store, Klaten Regency

Based on the data obtained by researchers, agents and bases fulfill the element of organizing production and/or marketing while grocery stores do not. Based on the Central Java Governor's Letter No. 540/05641, the distribution of gas from agents to bases applies within one district/city of the registered agent. Agents and bases are bound by existing agreements, one of which is the amount and distribution area of 3 KG LPG gas. The amount and distribution area have been determined for each agent and base. Meanwhile, grocery stores are free to sell any amount and in any area, because they are not bound by the agreement.

f. Elements of goods and/or services

In accordance with Article 1 Point 16 in the General Provisions of Law Number 5 Year 1999, "Goods are every object, both tangible and intangible, both movable and immovable, which can be traded, used, utilized, or utilized by consumers or business actors". Article 1 Point 17 in the General Provisions of Law Number 5 Year 1999, "Services are any services in the form of work or achievements traded in the community to be utilized by consumers or business actors". Based on the data obtained by researchers, all of them have fulfilled the elements of goods and services. Agents, bases, and grocery stores all sell 3 KG LPG gas which is included in the category of goods.

g. Elements Resulting in monopolistic practices

In accordance with Article 1 Point 2 in the General Provisions of Law Number 5 Year 1999, "Monopolistic practices are the concentration of economic power by one or more business actors resulting in control over the

production and or marketing of certain goods and or services so as to cause unfair business competition and may harm the public interest."

Based on the interview with Mr. Punto, "PT Cemara Bangkit Sejahtera has conducted socialization to the bases in terms of the distribution of 3 KG LPG gas and in terms of the price that must be set."³⁶ Based on an interview with Mr. Sri Mulyono, "Bases receive supplies every month based on a predetermined schedule and quota. In distributing 3 KG LPG gas, Sri Mulyono Base has complied with these regulations by distributing it to households and surrounding MSMEs such as stalls and sellers."³⁷ Based on an interview with Romdoni Base, "The distribution of LPG gas has been determined by regulations from the government and agents, for example to the community, MSMEs, and others. I have tried to distribute 3 KG LPG gas in accordance with the existing rules."³⁸

Based on the data obtained by researchers, agents and bases do not fulfill the element of causing monopolistic practices while grocery stores do. Agents and bases cannot engage in monopolistic practices because they are bound by the rules contained in agreements and regulations that have been established. However, grocery stores can engage in monopolistic practices because they are not bound by regulations. In fact, based on the results of research by researchers, grocery stores tend to take 3

³⁶ Interview with Punto, on January 11, 2023 at PT Cemara Bangkit Sejahtera Klaten Regency

³⁷ Interview with Dika, son of Sri Mulyono, on December 19, 2022 at Sri Mulyono Base, Klaten Regency

³⁸ Interview with Andri, son of Romdoni, on January 22, 2023 at Romdoni Base, Klaten Regency

KG LPG gas supplies when the gas supply is reduced from the agent to the base, so that the supply of 3 KG LPG gas at the base becomes depleted and moves to the grocery store. This results in economic concentration in terms of 3 KG LPG gas cylinders in grocery stores with higher prices.

h. Elements Resulting in unfair business competition

In accordance with Article 1 Point 6 in the General Provisions of Law Number 5 Year 1999, "Unfair business competition is competition between business actors in carrying out production activities and or marketing goods and or services carried out in a dishonest or unlawful manner or hampering business competition."

Based on an interview with Mr. Punto, "there are forms of business competition such as the establishment of bases close to other bases with different partnerships. So that it also causes regional inequality in the establishment of bases. The scarcity of 3 kg LPG gas can be caused by the distribution of LPG gas that is not in accordance with the designated area."³⁹ Based on the results of the interview with Sri Mulyono Base, "there is no business competition between bases because the amount of 3 KG LPG gas supply at each base has been determined by an agreement letter."⁴⁰ Based on the interview with Romdoni Base, "Romdoni Base has tried to distribute 3 KG LPG gas in accordance with existing

³⁹ Interview with Punto, on January 11, 2023 at PT Cemara Bangkit Sejahtera Klaten Regency

⁴⁰ Interview with Dika, son of Sri Mulyono, on December 19, 2022 at Sri Mulyono Base, Klaten Regency

regulations."⁴¹ Based on the interview with Arasya Grocery Store, "there is business competition at the grocery store level, because in Dukuh Kadipiro there are several grocery stores that sell 3 KG LPG gas with different supply points. This results in price differences between grocery stores."⁴² Based on the results of the interview with Toko Kelontong Hijau, "I feel that there is business competition because there are already many grocery stores that opened and sell LPG 3 KG gas first."⁴³

Based on the data obtained by researchers, all of them have fulfilled the element of causing unfair business competition. Agents and bases have been bound by existing agreements, one of which is in terms of the amount and distribution area of 3 KG LPG gas. The amount and distribution area have been determined for each agent and base, but there are still bases that sell 3 KG LPG gas outside of the designated area as stipulated in the Central Java Governor's Letter Number: 540/05641, the distribution of gas from agents to bases applies within one district/city of the registered agent.

Based on the research results, unfair business competition in the form of cartels can occur among agents. One example is an agent appointing a base adjacent to another base with a different partner. Grocery stores are free to sell anywhere in the region, as they are not bound by an agreement, but the grocery stores set

⁴¹ Interview with Andri, son of Romdoni, on January 22, 2023 at Romdoni Base, Klaten Regency

⁴² Interview with Luthfi as the owner of Arasya Grocery Store, on January 15, 2023 at Arasya Grocery Store, Klaten Regency

⁴³ Interview with Fauzi as the owner of the Green Grocery Store, on January 24, 2023 at the Green Grocery Store, Klaten Regency

their own prices higher than the base price, thus violating Presidential Regulation No. 104/2007 on the Provision, Distribution and Distribution of Food. 104/2007 on the supply, distribution and pricing of 3-kilogram Liquefied Petroleum Gas cylinders, as well as the letter from the Minister of Home Affairs of the Republic of Indonesia No. 541/07/SJ dated January 5, 2015, on the highest retail price (HET) of 3-kilogram LPG cylinders.

3.3.2. Closed agreements

Unfair business competition in the form of conducting closed agreements has been regulated and prohibited in Law Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition. Article 15 paragraph (1) stipulates that

"Business actors are prohibited from entering into agreements with other business actors that contain requirements that the party receiving the goods and or services will only supply or not resupply the goods and or services to certain parties and or in certain places".

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

a. Elements of business actors

In accordance with Article 1 Point 5 in the General Provisions of Law Number 5 Year 1999, a business actor is "Every individual or business entity, whether in the form of a legal entity or not a legal entity established and domiciled or conducting activities within the jurisdiction of the Republic of Indonesia, either alone or jointly

through agreements, organizing various business activities in the economic field."

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

b. The element of making an agreement

In accordance with Article 1 Point 7 in the General Provisions of Law Number 5 Year 1999, "Agreement is an act of one or more business actors to bind themselves to one or more other business actors by any name, either written or unwritten." An agreement according to K.R.M.T Tirtodiningrat, S.H. is a legal act based on an agreement between 2 (two) or more people that creates legal consequences.

Based on the results of an interview with Mr. Punto, "PT Cemara Bangkit Sejahtera partners with 35 (thirty-five) bases located in the Klaten Regency area, namely Jatinom 5 bases, cawas 5 bases, central Klaten above 5, trucuk 3 bases, ceper 3 pagkalan, karangnongko."⁴⁴

Based on the interview with Sri Mulyono Base, "Sri

⁴⁴ Interview with Punto, on January 11, 2023 at PT Cemara Bangkit Sejahtera Klaten Regency

Mulyono Base is supplied by PT Cemara Bangkit Sejahtera based on the Letter of Appointment of LPG 3 KG Base dated April 20, 2020."⁴⁵ Based on the interview with Romdoni Base, "Romdoni Base has partnered with PT Cemara Bangkit Sejahtera since 2019."⁴⁶ Based on an interview with Arasya Grocery Store, "Arasya Grocery Store receives 3 KG LPG gas supply from Sri Mulyono Base. The purchase of 3 KG LPG gas to the base is limited to 10 cylinders every week."⁴⁷ Based on the interview with Green Grocery Store, "This grocery store gets its 3 KG LPG gas supply from Romdoni Base with a maximum purchase of 10 gas cylinders each week."⁴⁸

Based on the data obtained by researchers, agents and bases fulfill the element of making an agreement while grocery stores do not. Agents make agreements with SPPBE (LPG Bulk Transportation and Refill Station) as a business unit managed by PT Pertamina to refill 3 KG LPG gas cylinders that will be distributed to various designated areas. In addition, agents also make agreements with partners, namely bases, to provide 3 KG LPG gas supplies to be distributed to consumers. Grocery stores do not fulfill the element of an agreement because they do not make an agreement with anyone in providing 3 KG LPG gas.

⁴⁵ Interview with Dika, son of Sri Mulyono, on December 19, 2022 at Sri Mulyono Base, Klaten Regency

⁴⁶ Interview with Andri, son of Romdoni, on January 22, 2023 at Romdoni Base, Klaten Regency

⁴⁷ Interview with Luthfi as the owner of Arasya Grocery Store, on January 15, 2023 at Arasya Grocery Store, Klaten Regency

⁴⁸ Interview with Fauzi as the owner of the Green Grocery Store, on January 24, 2023 at the Green Grocery Store, Klaten Regency

c. Elements With other business actors

In accordance with the Guidelines for the Implementation of Article 15 of Law Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition, "Other business actors are business actors that have vertical or horizontal relationships that are in a series of production and distribution both upstream and downstream and are not competitors."

Based on the interview with Mr. Punto, "PT Cemara Bangkit Sejahtera partners with 35 (thirty-five) bases located in the Klaten Regency area, namely Jatinom 5 bases, cawas 5 bases, central Klaten above 5, trucuk 3 bases, ceper 3 bases, karangnongko."⁴⁹ Based on the interview with Sri Mulyono Base, "Sri Mulyono Base is supplied by PT Cemara Bangkit Sejahtera based on the Letter of Appointment of LPG 3 KG Base dated April 20, 2020."⁵⁰ Based on an interview with Romdoni Base, "Romdoni Base has partnered with PT Cemara Bangkit Sejahtera since 2019. There is no unfair business competition between bases, because bases are called partners."⁵¹

Based on the data obtained by researchers, agents and groceries fulfill the element with other business actors, while grocery stores do not. Agents and groceries are business actors that have a vertical relationship so that they can be said to be competing business actors and not

⁴⁹ Interview with Punto, on January 11, 2023 at PT Cemara Bangkit Sejahtera Klaten Regency

⁵⁰ Interview with Dika, son of Sri Mulyono, on December 19, 2022 at Sri Mulyono Base, Klaten Regency

⁵¹ Interview with Andri, son of Romdoni, on January 22, 2023 at Romdoni Base, Klaten Regency

their competitors. While grocery stores do not fulfill the element with other business actors, grocery stores are individual businesses that stand alone so that competition can occur between grocery stores or other business actors in the same market.

d. Elements Containing requirements

Requirements are things that become conditions. Based on the results of the interview with Mr. Punto, "in the base appointment agreement letter there are already provisions that must be obeyed."⁵² Based on the results of the interview with Sri Mulyono Base, "Sri Mulyono Base gets supplies every month based on the schedule and quota set in the agreement letter."⁵³ Based on the results of the interview with Romdoni Base, "This base receives 3 KG LPG gas supply from the agent every week with a predetermined schedule and the amount is 100 cylinders."⁵⁴

Based on the data obtained by researchers, agents and bases fulfill the elements of loading requirements while grocery stores do not. Agents and bases enter into a partnership agreement which contains certain requirements.

e. Elements of the Party receiving goods and or services

In accordance with the Guidelines for the Implementation of Article 15 of Law Number 5 of 1999 Concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, "The receiving party is

⁵² Interview with Punto, on January 11, 2023 at PT Cemara Bangkit Sejahtera Klaten Regency

⁵³ Interview with Dika, son of Sri Mulyono, on December 19, 2022 at Sri Mulyono Base, Klaten Regency

⁵⁴ Interview with Andri, son of Romdoni, on January 22, 2023 at Romdoni Base, Klaten Regency

a business actor who receives supplies in the form of goods and/or services from suppliers."

Based on the interview with Mr. Punto, "PT Cemara Bangkit Sejahtera has never experienced difficulties in obtaining supplies from SPBE."⁵⁵ Based on the interview with Sri Mulyono Base, "Sri Mulyono Base gets supplies every month based on a predetermined schedule and quota."⁵⁶ Based on an interview with Romdoni Base, "This base receives 3 KG LPG gas supplies from the agent every week with a predetermined schedule and the amount is 100 cylinders."⁵⁷ Based on the interview with Arasya Grocery Store, "Arasya Grocery Store receives 3 KG LPG gas supplies from Sri Mulyono Base. The purchase of 3 KG LPG gas to the base is limited to 10 cylinders every week."⁵⁸ Based on the results of the interview with the Green Grocery Store, "This grocery store gets its 3 KG LPG gas supply from Romdoni Base with a maximum purchase of 10 gas cylinders each week."⁵⁹

Based on the data obtained by researchers, all of them have fulfilled the elements of the party receiving goods and or services. The agent is the party that receives the refill supply from SPPBE, the base is the party that receives the 3 KG LPG gas supply from the agent, and

⁵⁵ Interview with Punto, on January 11, 2023 at PT Cemara Bangkit Sejahtera Klaten Regency

⁵⁶ Interview with Dika, son of Sri Mulyono, on December 19, 2022 at Sri Mulyono Base, Klaten Regency

⁵⁷ Interview with Andri, son of Romdoni, on January 22, 2023 at Romdoni Base, Klaten Regency

⁵⁸ Interview with Luthfi as the owner of Arasya Grocery Store, on January 15, 2023 at Arasya Grocery Store, Klaten Regency

⁵⁹ Interview with Fauzi as the owner of the Green Grocery Store, on January 24, 2023 at the Green Grocery Store, Klaten Regency

the grocery store is the party that receives the 3 KG LPG gas supply from the base.

f. Resupply Element

Resupply according to the explanation of Article 15 of Law Number 5 Year 1999, is "to provide supplies, both goods and services, in buying and selling activities."

Based on the interview with Mr. Punto, "PT Cemara Bangkit Sejahtera has never experienced difficulties in obtaining supplies from SPBE. The distribution to the base every week is at least 100 gas cylinders according to a predetermined schedule."⁶⁰ Based on the results of the interview with Sri Mulyono Base, "Sri Mulyono Base gets supplies every month based on a predetermined schedule and quota."⁶¹ Based on the interview with Romdoni Base, "This base receives 3 KG LPG gas supply from the agent every week with a predetermined schedule and the amount is 100 cylinders."⁶² Based on the interview with Arasya Grocery Store, "Arasya Grocery Store receives 3 KG LPG gas supplies from Sri Mulyono Base. The purchase of 3 KG LPG gas to the base is limited to 10 cylinders per week."⁶³ Based on the results of the interview with the Green Grocery Store, "This grocery store gets its 3 KG LPG gas supply from

⁶⁰ Interview with Punto, on January 11, 2023 at PT Cemara Bangkit Sejahtera Klaten Regency

⁶¹ Interview with Dika, son of Sri Mulyono, on December 19, 2022 at Sri Mulyono Base, Klaten Regency

⁶² Interview with Andri, son of Romdoni, on January 22, 2023 at Romdoni Base, Klaten Regency

⁶³ Interview with Luthfi as the owner of Arasya Grocery Store, on January 15, 2023 at Arasya Grocery Store, Klaten Regency

Romdoni Base with a maximum purchase of 10 gas cylinders each week."⁶⁴

Based on the data obtained by researchers, all of them have fulfilled the element of resupply. Agents always provide supplies to partnering bases, bases always provide supplies to consumers, and grocery stores also provide supplies to consumers.

g. Element To certain parties

In accordance with the Guidelines for the Implementation of Article 15 of Law Number 5 of 1999 Concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, "Certain parties are other parties that purchase goods and/or services from parties that receive goods and/or services from suppliers".

Based on the interview with Mr. Punto, "PT Cemara Bangkit Sejahtera has never experienced difficulties in obtaining supplies from SPBE. The distribution to the bases every week is at least 100 gas cylinders according to a predetermined schedule"⁶⁵ Based on the results of the interview with Sri Mulyono Base, "Sri Mulyono Base gets supplies every month based on a predetermined schedule and quota."⁶⁶ Based on the interview with Romdoni Base, "This base receives 3 KG LPG gas supply from the agent every week with a predetermined

⁶⁴ Interview with Fauzi as the owner of the Green Grocery Store, on January 24, 2023 at the Green Grocery Store, Klaten Regency

⁶⁵ Interview with Punto, on January 11, 2023 at PT Cemara Bangkit Sejahtera Klaten Regency

⁶⁶ Interview with Dika, son of Sri Mulyono, on December 19, 2022 at Sri Mulyono Base, Klaten Regency

schedule and the amount is 100 cylinders."⁶⁷ Based on the interview with Arasya Grocery Store, "Arasya Grocery Store receives 3 KG LPG gas supplies from Sri Mulyono Base. The purchase of 3 KG LPG gas to the base is limited to 10 cylinders every week."⁶⁸ Based on the results of the interview with the Green Grocery Store, "This grocery store gets its 3 KG LPG gas supply from Romdoni Base with a maximum purchase of 10 gas cylinders each week."⁶⁹

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

h. Element To a specific place

In accordance with the Guidelines for the Implementation of Article 15 of Law Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition, "A particular place is a geographical area where the goods and/or services will be traded."

Based on the interview with Mr. Punto, "PT Cemara Bangkit Sejahtera has never experienced difficulties in obtaining supplies from SPBE."⁷⁰ Based on the results of the interview with Sri Mulyono Base, "Sri Mulyono

⁶⁷ Interview with Andri, son of Romdoni, on January 22, 2023 at Romdoni Base, Klaten Regency

⁶⁸ Interview with Luthfi as the owner of Arasya Grocery Store, on January 15, 2023 at Arasya Grocery Store, Klaten Regency

⁶⁹ Interview with Fauzi as the owner of the Green Grocery Store, on January 24, 2023 at the Green Grocery Store, Klaten Regency

⁷⁰ Interview with Punto, on January 11, 2023 at PT Cemara Bangkit Sejahtera Klaten Regency

Base gets supply by PT Cemara Bangkit Sejahtera."⁷¹

Based on the results of the interview with Romdoni Base, "This base receives 3 KG LPG gas supply from the agent (PT Cemara Bangkit Sejahtera) every week with a predetermined schedule and the amount is 100 cylinders."⁷²

Based on the interview with Arasya Grocery Store, "Arasya Grocery Store receives 3 KG LPG gas supply from Sri Mulyono Base. The purchase of 3 KG LPG gas to the base is limited to 10 cylinders per week."⁷³

Based on the results of the interview with the Green Grocery Store, "This grocery store gets its 3 KG LPG gas supply from Romdoni Base with a maximum purchase of 10 gas cylinders each week."⁷⁴

Based on the data obtained by researchers, all of them have fulfilled the element of a certain place. Agents, bases, and grocery stores located in an area take supplies from places in the area. For example, agents take supplies from SPPBEs located in the area.

From the data obtained and if we look at the provisions of Article 15 Paragraph (1) of Law Number 5 Year 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition, the business actors that have fulfilled the elements of a closed agreement are Agent (PT. Cemara Bangkit Sejahtera), Sri Mulyono Base, Romdoni Base. Meanwhile, Arasya Grocery Store and Green Grocery Store do not fulfill several elements,

⁷¹ Interview with Dika, son of Sri Mulyono, on December 19, 2022 at Sri Mulyono Base, Klaten Regency

⁷² Interview with Andri, son of Romdoni, on January 22, 2023 at Romdoni Base, Klaten Regency

⁷³ Interview with Luthfi as the owner of Arasya Grocery Store, on January 15, 2023 at Arasya Grocery Store, Klaten Regency

⁷⁴ Interview with Fauzi as the owner of the Green Grocery Store, on January 24, 2023 at the Green Grocery Store, Klaten Regency

including the elements of making agreements, with other business actors and containing requirements.

3.3.3. Monopoly

Unfair business competition in the form of monopoly has been regulated and prohibited in Law Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition. The regulation of monopoly in this law is contained in Article 17 paragraph (1) which reads:

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

From this regulation, the elements contained and studied with the results of data obtained by the author through interviews are as follows:

a. Elements of business actors

As previously explained, based on the data obtained by researchers, from 5 (five) places of sale of 3 Kg LPG gas, all of them have fulfilled the elements of business actors.

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

Law Number 5 Year 1999 does not specify the definition of control over production. However, control of production is a prohibited activity because it may result in monopolistic practices and/or unfair business competition.

Based on an interview with Mr. Punto, "The distribution of LPG 3 KG is only used for households and MSMEs so that it gets supervision in the distribution process."⁷⁵

Based on an interview with Sri Mulyono Base, "hoarding

⁷⁵ Interview with Punto, on January 11, 2023 at PT Cemara Bangkit Sejahtera Klaten Regency

of 3 KG LPG gas can be said to be difficult, because the requirement for receiving 3 KG LPG gas supplies from agents is to have empty 3 KG LPG gas cylinders in accordance with the amount of supply to be received."⁷⁶

Based on an interview with Romdoni Base, "The base cannot overcome the scarcity that occurs, because the amount of gas supply has been determined."⁷⁷ Based on an interview with Arasya Grocery Store, "There is no definite regulation regarding the price ceiling at the grocery store level. So the grocery store sets its own price for the LPG gas it will sell."⁷⁸ Based on an interview with Green Grocery Store, "I feel that there are obstacles in the regulation of the 3 KG LPG gas price ceiling at the grocery store level."⁷⁹

Based on the data obtained by researchers, agents and bases do not fulfill the element of control over the production and marketing of goods and or services while grocery stores do. Actually, agents, bases, and grocery stores do not exercise control over production, because they do not produce the LPG gas. However, grocery stores do not fully exercise control over the marketing of goods, because grocery stores have the last stock in the distribution of 3 KG LPG gas. Grocery stores do not have binding rules in the distribution of 3 KG LPG gas. In essence, 3 KG LPG gas is intended for households and MSMEs. However, grocery stores sell to anyone from any

⁷⁶ Interview with Dika, son of Sri Mulyono, on December 19, 2022 at Sri Mulyono Base, Klaten Regency

⁷⁷ Interview with Andri, son of Romdoni, on January 22, 2023 at Romdoni Base, Klaten Regency

⁷⁸ Interview with Luthfi as the owner of Arasya Grocery Store, on January 15, 2023 at Arasya Grocery Store, Klaten Regency

⁷⁹ Interview with Fauzi as the owner of the Green Grocery Store, on January 24, 2023 at the Green Grocery Store, Klaten Regency

region who needs it, regardless of whether they are entitled or not.

c. Elements Resulting in monopolistic practices

In accordance with Article 1 Point 2 in the General Provisions of Law Number 5 Year 1999, "Monopolistic practices are the concentration of economic power by one or more business actors resulting in control over the production and or marketing of certain goods and or services so as to cause unfair business competition and may harm the public interest."

Based on the interview with Mr. Punto, "PT Cemara Bangkit Sejahtera has conducted socialization to the bases in terms of the distribution of 3 KG LPG gas and in terms of the price that must be set."⁸⁰ Based on an interview with Mr. Sri Mulyono, "Bases receive supplies every month based on a predetermined schedule and quota. In distributing 3 KG LPG gas, Sri Mulyono Base has complied with these regulations by distributing it to households and surrounding MSMEs such as stalls and sellers."⁸¹ Based on an interview with Romdoni Base, "The distribution of LPG gas has been determined by regulations from the government and agents, for example to the community, MSMEs, and others. I have tried to distribute 3 KG LPG gas in accordance with the existing rules."⁸²

Based on the data obtained by researchers, agents and bases do not fulfill the element of causing monopolistic

⁸⁰ Interview with Punto, on January 11, 2023 at PT Cemara Bangkit Sejahtera Klaten Regency

⁸¹ Interview with Dika, son of Sri Mulyono, on December 19, 2022 at Sri Mulyono Base, Klaten Regency

⁸² Interview with Andri, son of Romdoni, on January 22, 2023 at Romdoni Base, Klaten Regency

practices while grocery stores do. Agents and bases cannot engage in monopolistic practices because they are bound by the rules contained in agreements and regulations that have been established. However, grocery stores can engage in monopolistic practices because they are not bound by regulations. In fact, based on the results of research by researchers, grocery stores tend to take 3 KG LPG gas supplies when the gas supply is reduced from the agent to the base, so that the supply of 3 KG LPG gas at the base becomes depleted and moves to the grocery store. This results in economic concentration in terms of 3 KG LPG gas cylinders in grocery stores with higher prices.

d. Elements Resulting in unfair business competition

In accordance with Article 1 Point 6 in the General Provisions of Law Number 5 Year 1999, "Unfair business competition is competition between business actors in carrying out production and or marketing activities of goods and or services that are carried out in a dishonest or unlawful manner or hamper business competition." Therefore, all the benefits of a cartel are only aimed at the interests of its members, so their actions are carried out in an unhealthy and dishonest manner. In this case, for example by reducing production or unlawfully or impeding business competition, for example by price fixing or territorial division.

Based on an interview with Mr. Punto, "there are forms of business competition such as the establishment of bases close to other bases with different partnerships. This also causes regional inequality in the establishment of bases. The scarcity of 3 kg LPG gas can be caused by the distribution of LPG gas that is not in accordance with the

designated area."⁸³ Based on the results of the interview with Sri Mulyono Base, "there is no business competition between bases because the amount of 3 KG LPG gas supply at each base has been determined by an agreement letter."⁸⁴ Based on the interview with Romdoni Base, "Romdoni Base has tried to distribute 3 KG LPG gas in accordance with existing regulations."⁸⁵ Based on the interview with Arasya Grocery Store, "there is business competition at the grocery store level, because in Dukuh Kadipiro there are several grocery stores that sell 3 KG LPG gas with different supply points. This results in price differences between grocery stores."⁸⁶ Based on the results of the interview with Toko Kelontong Hijau, "I feel that there is business competition because there are already many grocery stores that opened and sell LPG 3 KG gas first."⁸⁷

Based on the data obtained by researchers, all of them have fulfilled the element of causing unfair business competition. Agents and bases have been bound by existing agreements, one of which is in terms of the amount and distribution area of 3 KG LPG gas. The amount and distribution area have been determined for each agent and base, but there are still bases that sell 3 KG LPG gas outside of the designated area as stipulated in the Central Java Governor's Letter Number: 540/05641, the

⁸³ Interview with Punto, on January 11, 2023 at PT Cemara Bangkit Sejahtera Klaten Regency

⁸⁴ Interview with Dika, son of Sri Mulyono, on December 19, 2022 at Sri Mulyono Base, Klaten Regency

⁸⁵ Interview with Andri, son of Romdoni, on January 22, 2023 at Romdoni Base, Klaten Regency

⁸⁶ Interview with Luthfi as the owner of Arasya Grocery Store, on January 15, 2023 at Arasya Grocery Store, Klaten Regency

⁸⁷ Interview with Fauzi as the owner of the Green Grocery Store, on January 24, 2023 at the Green Grocery Store, Klaten Regency

distribution of gas from agents to bases applies within one district/city of the registered agent.

Based on the data obtained by researchers, all of them have fulfilled the elements of causing unfair business competition. Agents and bases have been bound by existing agreements, one of which is in terms of the amount and distribution area of 3 KG LPG gas. The amount and distribution area have been determined for each agent and base, but there are still bases that sell 3 KG LPG gas outside of the designated area. Based on the research results, unfair business competition can occur among agents. One example is an agent appointing a base adjacent to another base with a different partner. Grocery stores are free to sell anywhere in the region, as they are not bound by the agreement, but the grocery stores set their own prices that are higher than the base price.

Article 17 paragraph (1) of Law Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition, "Business actors are prohibited from exercising control over the production and or marketing of goods and or services that may result in monopolistic practices and or unfair business competition". The actions taken by agents and bases do not fulfill all elements of monopoly, due to the existence of binding regulations. While grocery stores also do not fully monopolize, their actions are close to monopolistic behavior. This is because there are no binding rules for grocery stores to sell 3 KG LPG gas.

3.2. Legal Protection for Consumers with Unfair Business Competition Practices in the Sale of 3 Kg LPG Gas Cylinder

Law is a rule that serves to regulate life in society. In carrying out its function, the law works with law enforcement in responding to any changes that occur. In his book *Rhetorica*, Aristotle explains that law aims to provide justice.⁸⁸ That the law has a very holy and noble task that gives what should be given to each case with its rules. The law must also make *algemene regels* (general regulations / provisions) which aim to provide legal certainty to the community.⁸⁹ Sajipto Raharjo states that legal protection is an effort to provide and protect various interests in society so that every interest in society does not collide with each other, so that all people can carry out their interests and enjoy all the rights granted by law.

Legal protection is divided into two, namely, preventive and repressive legal protection. Preventive legal protection is protection to prevent disputes from occurring, also directing the government to be careful and all decision-making is carried out with discretion.⁹⁰ Preventive legal protection is protection provided by the government to prevent violations and disputes. This is done through the formation of laws and regulations with the aim of providing signs or limits in carrying out legal actions. Repressive legal protection is the last legal protection which is a continuation of violations of preventive legal protection, in the form of imposing penalties in the form of fines, imprisonment and other additional penalties.

⁸⁸ Apriani, Rani, Kurniawati, Grasia, *Perlindungan Hukum Terhadap Wanprestasi Dalam Praktek Bisnis Usaha Kuliner Waralaba Di Karawang*, *Jurnal Syiar Hukum Jurnal Ilmu Hukum*, Vol 17, No 1 (2019) hal.16

⁸⁹ Muhammad Reza, *Kepastian Hukum*, <https://www.metrokaltara.com/kepastian-hukum/>, diakses pada 26 November 2022

⁹⁰ Nola, Febryka Luthvi, "Upaya Perlindungan Hukum Terpadu Bagi Tenaga Kerja Indoensia (Tki)", *Negara Hukum*, 7, No 1 (2016):40

Based on the provisions contained in Article 1 paragraph (1) of Law Number 8 of 1999 concerning Consumer Protection, it is explained that Consumer Protection is all efforts that ensure legal certainty to provide protection to consumers. According to Nasution, consumer protection is part of the law that contains principles or rules that are regulatory in nature and also contain properties that protect the interests of consumers or all legal principles and rules that regulate relationships and problems between various parties with each other relating to consumer goods and / or services in the association of life.⁹¹

Janus Sidabalok explained that consumer protection law is a law that regulates the provision of protection to consumers in order to fulfill their needs as consumers. What is regulated is related to the rights and obligations of consumers, the rights and obligations of business actors and ways to maintain rights and carry out these obligations.⁹² Therefore, the main purpose of the enactment of a legislation is to change or direct certain behaviors and/or situations from what was originally considered problematic to an ideal situation.⁹³ In other words, the formation of laws and regulations is essentially based on solving various existing problems by changing certain behaviors and circumstances.⁹⁴

Referring to the Consumer Protection Law, there are two main requirements in consumer protection, namely, the existence of legal guarantees (law guarantees) and legal certainty (law certainty). Law Number 8 Year 1999 on Consumer Protection has given hope to the people of Indonesia, namely the hope that consumers will get proper protection for the losses they suffer as a result of consuming goods and

⁹¹ Az. Nasution. 2014. *Hukum Perlindungan Konsumen*. Jakarta. Diadit Media. Hal.22

⁹² Janus Sidabalok. 2006. *Hukum Perlindungan Konsumen di Indonesia*. Bandung. Citra Aditya Bakti. Hal. 45

⁹³ Wahyu Aji Chalifar, *Konsumen dan Iklan: Studi tentang Iklan yang Menyesatkan di Facebook Twiter dan Instagram*, Skripsi, Universitas Muhammadiyah Surakarta , 2018, hlm. 2

⁹⁴ Kelik Wardiono, 2017 *Hukum Perlindungan konsumen: Aspek Subtansi Hukum , Struktur Hukum dan Kultur Hukum Dalam UU Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen*, Ombak, Yogyakarta, hlm. 1

services. Consumers have the rights set out in Article 4 of Law Number 8 of 1999, namely:

- 3.2.1. The right to comfort, security, and safety in consuming goods and/or services;
- 3.2.2. The right to choose goods and/or services and obtain such goods and/or services in accordance with the exchange rate and conditions and guarantees promised;
- 3.2.3. The right to correct, clear, and honest information regarding the conditions and guarantees of goods and / or services;
- 3.2.4. The right to have their opinions and complaints about the goods and/or services used heard;
- 3.2.5. The right to obtain advocacy, protection, and efforts to resolve consumer protection disputes properly;
- 3.2.6. The right to receive guidance and consumer education;
- 3.2.7. The right to be treated or served correctly and honestly and non-discriminatory;
- 3.2.8. The right to obtain compensation, compensation and/or replacement, if the goods and/or services received are not in accordance with the agreement or not as they should be;
- 3.2.9. The rights stipulated in the provisions of other laws and regulations.

Article 11 of Presidential Regulation No. 104/2007 states that "Business entities assigned the supply and distribution of 3 KG LPG cylinders are responsible for controlling and supervising the implementation of sales and distribution of 3 KG LPG cylinders for households and micro businesses". Also mentioned in the Regulation of the Minister of Energy and Mineral Resources No. 19 of 2008 concerning Guidelines and Procedures for Consumer Protection in Downstream Oil and Gas Business Activities, "Every business entity holding a business license that carries out downstream oil and gas business activities must maintain quality standards for oil and gas

products and services provided to protect downstream oil and gas consumers". Therefore, agents and bases have the responsibility for the distribution of 3 Kg LPG gas in the area where it is supplied.

In maintaining the quality standards of oil and gas products, business entities must pay attention to the rights of downstream oil and gas consumers, namely:

- 3.2.1. Guarantee the continuity of product supply and distribution;
- 3.2.2. Product standards and quality (specifications) in accordance with the provisions of laws and regulations;
- 3.2.3. Safety, security and comfort;
- 3.2.4. Price at a reasonable level;
- 3.2.5. Appropriateness of measure/volume/weight;
- 3.2.6. Service time schedule;
- 3.2.7. Service procedures and mechanisms that are easy, simple and widely informed.

Business entities must provide a service mechanism that is easy, simple and widely informed. This can be seen from the banners installed at each base or agent that contain contact information.

4. Conclusion

Based on the results of the research, if examined from the type of unfair business competition, it is concluded that: a) the five business actors if from the type of unfair business competition in the form of a cartel, all of them are not fulfilled. This is because the business actors do not fulfill all of the existing elements; b) from the type of unfair business competition in the form of a closed agreement, there are 3 business actors that have committed unfair business competition in the form of a closed agreement because they have fulfilled all of its elements. The business actors that have conducted unfair business competition in the form of a closed agreement are Agent (PT. Cemara Bangkit Sejahtera), Sri Mulyono Base, Romdoni Base. Meanwhile, Arasya Grocery Store and Green Grocery Store do not fulfill several elements,

including the elements of making agreements, with other business actors and containing requirements so that they cannot be said to conduct unfair business competition in the type of closed agreement; c) from the type of unfair business competition in the type of monopoly, there are Arasya Grocery Store and Green Grocery Store that fulfill the elements of conducting unfair business competition in the type of monopoly. Meanwhile, the Agent (PT. Cemara Bangkit Sejahtera), Sri Mulyono Base, Romdoni Base do not fulfill the element of Control over the Production and Marketing of goods and or services and the element of Causing monopolistic practices so that they are not included in the type of unfair business competition of monopoly type.

Legal protection for consumers with unfair business competition practices is through the Consumer Protection Law and Regulation of the Minister of Energy and Mineral Resources Number 19 of 2008. Consumers can take legal remedies, namely litigation (through the courts) and non-litigation (out of court).

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3. Laws and Regulations

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- Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen.
- Undang-Undang Nomor 5 Tahun 1999 Tentang Larangan Praktek Monopoli Dan Persaingan Usaha Tidak Sehat.
- Peraturan Menteri Energi Sumber Daya Mineral (ESDM) Nomor 26 Tahun 2009 tentang Penyediaan dan Pendistribusian Liquefied Petroleum Gas (LPG).
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- Peraturan Presiden Nomor. 104 Tahun 2007 Tentang Penyediaan, Pendistribusian, dan Penetapan Harga Liquefied Petroleum Gas Tabung 3 Kilogram.
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4. Interview

Interview with Punto, on January 11, 2023 at PT Cemara Bangkit Sejahtera
Klaten Regency

Interview with Dika, son of Sri Mulyono, on December 19, 2022 at Sri
Mulyono Base, Klaten Regency

Interview with Andri, son of Romdoni, on January 22, 2023 at Romdoni Base,
Klaten Regency.

Interview with Luthfi as the owner of Arasya Grocery Store, on January 15,
2023 at Arasya Grocery Store, Klaten Regency.

Interview with Fauzi as the owner of the Green Grocery Store, on January 24,
2023 at the Green Grocery Store, Klaten Regency.