

# LEGAL PROTECTION ASPECTS OF PRICE GOUGING PRACTICES IN TOURIST DESTINATIONS FROM A CONSUMER PROTECTION LAW PERSPECTIVE

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## Abstract

*The phenomenon of the practice of price gouging by culinary business actors - especially in tourist destination areas - is currently increasingly common and is starting to disturb the public. The practice of price gouging is an event when a food or drink seller sets the price of his product above what is reasonable. This is often done by business actors who have bad intentions to gain profits fraudulently. This practice of price gouging can occur as a result of prices not being included in the food menu list or a mismatch between the price information on the menu list and the price at which food is paid, which is of course very detrimental to consumers. The analysis of legal issues related to the practice of price gouging in this paper uses normative juridical methods. With a focus on studying forms of legal protection for consumers who experience price gouging practices by culinary business actors in tourist destination areas according to Law Number 8 of 1999 concerning Consumer Protection and related regulations as well as legal action that can be imposed on culinary business actors in tourist destination areas who practice price gouging. This is based on the understanding that consumer protection cannot be separated from trading activities, therefore, in trading activities, it is hoped that there will be a balance of rights and obligations between business actors and consumers, so as to create a business world climate that fulfills a sense of justice and legal certainty through existing legal instruments.*

**Keywords:** Consumers; Prices; Tourism.

## I. INTRODUCTION

In the culinary business, the interaction between business operators and consumers occurs when consumers place orders for food or beverages. Once the orders are placed, they are processed by the business operator and subsequently served to the consumers to be enjoyed. At this point, a legal obligation arises, requiring consumers to pay the business operator for the meals they have consumed. Generally, consumers are allowed to choose their desired dishes from the menu provided by the business operator, which offers a variety of food and/or beverages. However, not all menus include price information for each dish offered.

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Price information is one of the crucial aspects in the culinary business, along with other types of information, because the prices set by the business operators often reflect the quality of the services or products they provide. This indicates that price information is essential to be communicated to consumers. Therefore, information related to products or services needs to be conveyed clearly, accurately, and honestly so that consumers can understand the nature of the products and services being offered or traded. This clarity helps prevent consumers from making mistakes in their purchases.<sup>3</sup>

Additionally, to prevent consumers from being easily deceived by business operators with bad intentions, obtaining accurate, clear, and honest information is a right that consumers must have.<sup>4</sup> This is intended to place consumers on an equal footing with business operators. Consequently, business operators must recognize their obligation to provide price information for the goods and/or services they offer and trade, ensuring consumers are not subjected to unfair pricing.

Price gouging practices can occur anywhere but are often found in tourist destinations, as reported by various online media outlets. Such cases of price gouging have been observed not only domestically but also internationally, in areas like the natural tourist site of Puncak in West Java,<sup>5</sup> the beach tourist area of Anyer in Banten,<sup>6</sup> the cultural tourist destination of Yogyakarta,<sup>7</sup> and even at the tourist destination of Pangkor Island in Malaysia. Besides causing losses and discomfort to consumers, this practice can also negatively impact the sustainability of the tourist destination itself and, more broadly, affect the revenue and economy of the region where tourism is a significant contributor, as seen in the example of Phu Quoc, Thailand.

Considering the potential impacts of price gouging practices, the presence of laws to protect Indonesian consumers is unavoidable. Legal measures are deemed necessary based on several regulations at both the national and regional levels, in the form of laws and regional regulations.

When discussing legal measures to protect consumers' rights concerning goods produced and traded by business operators, a normative understanding of

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<sup>3</sup> Kristiyanti, Celina Tri Siwi. *"Hukum Perlindungan Konsumen"*, Jakarta: Sinar Grafika, 2011, p. 44.

<sup>4</sup> Pratiwiningrat, et. Al. *"Tanggung Jawab Pelaku Usaha Terhadap Konsumen Yang Mengalami Kerugian Akibat Produk Makanan Kadaluarsa."*, Jurnal Kertha Semaya, Volume 3: Nomor 3, 2015, p. 2.

<sup>5</sup> Detikfood, *"Jajan Indomie Rebus di Puncak, Wanita Ini Kaget Harganya 25 Ribu Seporsi"*, <https://food.detik.com/info-kuliner/d-6699363/jajan-indomie-rebus-di-puncak-wanita-ini-kaget-harganya-rp-25-ribu-seporji>, accessed by 25 June 2023.

<sup>6</sup> Elmy Tasya Khairally, *"Puncak Sampai Anyer, Ini 5 Kejadian Getok Harga di Tempat Wisata"*, <https://travel.detik.com/travel-news/d-5717848/puncak-sampai-anyer-ini-5-kejadian-getok-harga-ditempat-wisata> accessed by 23 June 2023

<sup>7</sup> Teras Jabar, *"Sempat Viral karena Getok Harga, Pedagang PKL di Malioboro Akan Digusur Pekan Ini"*, <https://terasjabar.id/plugin/article/view/170274/sempat-viral-karena-getok-harga-pedagang-pkl-malioboro-akan-digusur-pekan-ini>, accessed by 23 July 2023.

prohibited actions by business operators is required. Consumers should be protected to create a consumer protection system that incorporates legal certainty, transparency, access to information, and awareness among business operators regarding the importance of consumer protection, fostering honesty and responsibility in business practices.

Based on the above discussion, this paper will address several legal issues, including the form of legal protection for consumers experiencing price gouging by culinary business operators in tourist destinations according to Law Number 8 of 1999 on Consumer Protection and related regulations, and what legal actions can be taken against culinary business operators in tourist destinations engaging in price gouging practices. To answer these questions, the research method used in this paper is normative juridical, referring to current regulations and various literature related to legal issues.<sup>8</sup> Data collection in this research is conducted through library research, resulting in secondary data as the main data, supported by interview data from several informants. The data obtained is then analyzed using qualitative analysis methods to gain a comprehensive, holistic, and in-depth understanding of the existing issues.<sup>9</sup>

## II. DISCUSSION

### **Legal Protection for Consumers Against Price Gouging Practices Under Law No. 8 of 1999 on Consumer Protection and Related Regulations**

Consumers, as legal subjects (natural persons), play the role of users and consumers of goods or services to meet their daily needs. The definition of a consumer is found in Article 1, number 2, of Law Number 8 of 1999 on Consumer Protection, which states: "A consumer is any person who uses goods and/or services available in the community, for the benefit of themselves, their family, others, or other living beings and not for trade."

The phenomenon of price gouging practices by culinary business operators has become increasingly concerning to the public. Price gouging arises when prices are not listed on the food menu in dining establishments or culinary businesses. According to the Indonesian Dictionary (KBBI), "getok" means to hit or strike, and "harga" means the value of goods expressed in money. Thus, "getok harga" conveys the idea of sellers raising prices unreasonably, causing buyers to feel shocked and burdened by the unexpected amount they must pay. This practice is often carried out by unscrupulous business operators seeking to gain unfair profits.

Price gouging also occurs due to incorrect statements by business operators about outdated prices on food menus, when in fact, prices have increased. Culinary

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<sup>8</sup> Soerjono Soekanto, Sri Mamudji, *"Penelitian Hukum Normatif"*, Jakarta: Rajawali Press, 2003 p. 12.

<sup>9</sup> Ratnaningtyas, E. M., Saputra, E., Suliwati, D., Nugroho, B. T. A., Aminy, M. H., Saputra, N., & Jahja, A. S. (2023). *Metodologi Penelitian Kualitatif*. Januari. Aceh: Yayasan Penerbit Muhammad Zaini.

business operators often justify price gouging by claiming the prices on the menu are old, while the current prices are those verbally stated, which can be arbitrarily changed. Besides the bad intentions of business operators, this situation can also result from unstable or fluctuating food prices, making it difficult for culinary business operators to update menu prices accordingly. These issues lead to consumer losses as they end up paying more than the actual price. From a consumer protection law perspective, one of the obligations of business operators is to provide clear, accurate, and honest information about goods and/or services. Providing false or misleading statements about the price or tariff of goods and/or services is prohibited for any business operator.<sup>10</sup>

In this context, Law No. 8 of 1999 on Consumer Protection serves as the legal framework for consumer protection aspects in Indonesia. This law extensively addresses the responsibilities of business operators, aiming to protect consumers and providing a foundation for understanding the repercussions of business operators' actions on consumer losses.<sup>11</sup>

Fundamentally, consumers have the right to receive clear and comprehensive information about the price of goods or services. This concerns the obligation of business operators to provide true, clear, and honest information regarding the condition and guarantees of the goods or services they trade, as stipulated in Article 4(c) of Law No. 8 of 1999 on Consumer Protection: "The right to accurate, clear, and honest information regarding the condition and guarantee of goods and/or services."

In addition to Article 4(c), the requirement for providing information about traded products is also found in Article 7(b) of Law No. 8 of 1999 on Consumer Protection, which states that business operators are obligated to: "Provide accurate, clear, and honest information regarding the condition and guarantee of goods and/or services, as well as provide instructions for use, repair, and maintenance."

However, in practice, many culinary business operators in tourist destinations do not list prices on their food menus, indicating non-compliance with the provisions of the aforementioned articles. Article 7(b) of Law No. 8 of 1999 on Consumer Protection emphasizes that providing accurate, clear, and honest information means that the information given by business operators should be easily understood by every consumer. The information provided must correspond to the actual conditions, allowing consumers to have a clear understanding of the products being traded, thus preventing losses due to incorrect product choices.

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<sup>10</sup> Dewi, Kadek Ayu Desi Candra dan A.A Ketut Sukranatha, "Pertanggungjawaban Pelaku Usaha Atas Klausula Eksonerasi Yang Merugikan Konsumen Pada Nota Laundry", Kertha Semaya: Journal Ilmu Hukum, Volume 7: Nomor 6, 2019, p. 9.

<sup>11</sup> Nyoto dan Asrizal Saiin, "Itikad Baik Pelaku Usaha sebagai Produsen Makanan dan Minuman yang Mengandung Bahan Berbahaya dalam Hukum Perlindungan Konsumen", Journal Equitable, Volume 3: Nomor 2, 2018, p. 59.

Furthermore, by listing prices on food menus, consumers can evaluate which products to purchase according to their needs and financial capacity. Therefore, the actions of culinary business operators in tourist destinations who do not list prices on their menus are considered non-compliant with Article 7(b) of Law No. 8 of 1999 on Consumer Protection, indicating a lack of honesty in their business practices.

Moreover, the absence of price listings on food menus falls under the category of prohibited actions for business operators as regulated in Article 10(a) of Law No. 8 of 1999 on Consumer Protection: "Business operators are prohibited from offering, promoting, advertising, or making false or misleading statements regarding the price or tariff of goods and/or services."

Article 10(a) of Law No. 8 of 1999 on Consumer Protection regulates that business operators are prohibited from offering, promoting, advertising, or making false or misleading statements regarding the price or tariff of goods and/or services intended for trade. Business operators who do not list prices on their menus cause consumers to have a false understanding of the prices of food sold at their establishments. Generally, consumers estimate or compare prices of similar products typically traded. Therefore, if the ordered food's price does not match the consumer's estimate due to the absence of price listings on the menu, resulting in consumer losses, the business operator has engaged in misleading conduct.

The obligation to list prices on food menus is not only stipulated in Law No. 8 of 1999 on Consumer Protection but can also be found in regional regulations of tourist areas. This serves as a legal instrument providing certainty for consumers, protecting them from price gouging practices by culinary business operators in tourist destinations who do not list prices on their menus. This can be seen in Article 21(b) of the Bogor Regency Regional Regulation No. 3 of 2013 on Tourism, which states: "Every tourism entrepreneur is obligated to provide accurate and responsible information."

This provision aligns with and simultaneously implements Article 4(c) and Article 7(b) of Law No. 8 of 1999 on Consumer Protection, reinforcing the consumer's right to receive true, clear, and honest information regarding the food and beverages offered, including their prices, at dining establishments.

Therefore, based on Article 21(b) of the Bogor Regency Regional Regulation No. 3 of 2013 on Tourism, providing accurate and responsible information is an obligation for every tourism entrepreneur, including culinary business operators in tourist destinations. As stated in Article 12 of the same regulation, food and beverage services are considered a part of tourism businesses.

Article 21(b) of the Bogor Regency Regional Regulation No. 3 of 2013 on Tourism is related to Article 7(b) of Law No. 8 of 1999 on Consumer Protection, concerning the obligation of business operators to provide true, clear, and honest information about the prices of goods or services they trade. Article 13 of the Bogor Regency Regional Regulation No. 3 of 2013 on Tourism emphasizes that the

supervision of tourism businesses, including food and beverage services, is conducted by the Regent. However, the delegation of supervisory authority and the imposition of sanctions by the Regent in Bogor Regency are carried out by the Civil Service Police Unit, which has the duty to maintain public order and enforce regional regulations.

In addition to the Bogor Regency Regional Regulation No. 3 of 2013 on Tourism, the obligation to list prices on food menus is also found in Yogyakarta Mayor Regulation No. 62 of 2009, which amends Yogyakarta Mayor Regulation No. 45 of 2007 on the Implementation Guidelines of Yogyakarta City Regional Regulation No. 26 of 2002 on the Arrangement of Street Vendors. Yogyakarta is a well-known tourist destination in Indonesia, with Malioboro as its icon. Besides being a city of students, Yogyakarta is also known as a cultural city with diverse and unique culinary offerings. These factors attract both domestic and international tourists to visit the city. Yogyakarta's culinary uniqueness is characterized not only by the variety of food and beverages but also by their locations and presentation styles. However, price gouging practices by some culinary business operators are also frequently reported, which, if not properly addressed, could negatively impact the tourism sector.

Article 10(a) of Law No. 8 of 1999 on Consumer Protection stipulates that business operators offering goods and/or services for trade are prohibited from making false or misleading statements about the prices or tariffs of those goods and/or services. Business operators who do not list prices on their menus mislead consumers about the cost of food items. Typically, consumers estimate or compare the prices of similar products available in the market. Therefore, if the actual price of ordered food differs from the consumer's estimate due to the absence of price listings on the menu, resulting in financial loss for the consumer, the business operator has engaged in misleading conduct.

The obligation to list prices on food menus is not only outlined in Law No. 8 of 1999 on Consumer Protection but also in regional regulations of tourist areas. These regulations provide legal certainty for consumers, protecting them from price gouging by culinary business operators in tourist destinations who fail to list prices on their menus. This is evident in Article 21(b) of the Bogor Regency Regional Regulation No. 3 of 2013 on Tourism, which states: "Every tourism entrepreneur is obligated to provide accurate and responsible information."

This provision aligns with and implements Article 4(c) and Article 7(b) of Law No. 8 of 1999 on Consumer Protection, reinforcing consumers' rights to receive true, clear, and honest information about the food and beverages offered, including their prices, at dining establishments.

Therefore, based on Article 21(b) of the Bogor Regency Regional Regulation No. 3 of 2013 on Tourism, providing accurate and responsible information is mandatory for every tourism entrepreneur, including culinary business operators

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Additionally, the obligation to list prices on food menus is stipulated in Yogyakarta Mayor Regulation No. 62 of 2009, which amends Yogyakarta Mayor Regulation No. 45 of 2007 on the Implementation Guidelines of Yogyakarta City Regional Regulation No. 26 of 2002 on the Arrangement of Street Vendors. Yogyakarta is a renowned tourist destination in Indonesia, with Malioboro as its icon. Besides being a student city, Yogyakarta is known for its rich cultural heritage and diverse culinary offerings, attracting domestic and international tourists. The unique culinary scene includes various types of food and beverages, presentation styles, and locations. However, price gouging practices by some culinary business operators are also reported frequently, which could negatively impact the tourism sector if not properly addressed.

The requirement to list prices on food menus is specified in Yogyakarta Mayor Regulation No. 62 of 2009, which amends Yogyakarta Mayor Regulation No. 45 of 2007 on the Implementation Guidelines of Yogyakarta City Regional Regulation No. 26 of 2002 on the Arrangement of Street Vendors. Article 11(b)(9) of this regulation states that one of the conditions for obtaining a business license is the commitment to display price lists that are visible to the public, especially for street vendors selling food and beverages, regardless of whether they use a base or provide a place to eat or drink, including on the ground (*lesehan*). This commitment must be included and attached as a statement of willingness to display price lists.

Yogyakarta Mayor Regulation No. 62 of 2009 provides a clear framework for culinary business operators in tourist destinations in Yogyakarta, aligning with Law No. 8 of 1999 on Consumer Protection, particularly Article 4(c), which upholds the consumer's right to receive true, clear, and honest information about the condition and guarantees of goods and/or services.

As stipulated in Article 15(1) of Yogyakarta Mayor Regulation No. 45 of 2007, the supervision of culinary business activities in tourist areas such as Malioboro, Yogyakarta, falls under the Camat's (sub-district head) authority, in coordination with a team established by the Mayor's decision. The team, as described in Article 15(2), includes representatives from various departments:

- 1) Department of Industry, Trade, and Cooperatives;
- 2) Department of Housing and Regional Infrastructure;
- 3) Department of Environmental Affairs;
- 4) Department of Transportation;
- 5) Department of Order.

Although Law No. 8 of 1999 on Consumer Protection does not explicitly mandate business operators to list prices on food menus, the provisions supported by regional regulations in tourist areas can serve as a basis for legal claims or provide legal certainty for consumers who suffer losses due to business operators' failure to list prices.

Failing to list prices on menus, especially in tourist areas, constitutes a violation of regulations and results in consumer losses. Consumers have the right to demand accountability from business operators for such violations. Generally, consumer dispute resolution can be pursued through two channels: internal dispute resolution and external dispute resolution, depending on the choice of the aggrieved party. These dispute resolution pathways are regulated by Law No. 8 of 1999 on Consumer Protection.

Consumers who suffer losses due to price gouging by culinary business operators in tourist destinations can seek redress through two methods outlined in Article 45(2) of Law No. 8 of 1999 on Consumer Protection: "Consumer dispute resolution can be pursued through the courts or out of court based on the voluntary choice of the disputing parties."

Non-litigation dispute resolution aims to reach an agreement on the form of compensation to be provided by the business operator, typically through amicable means. However, consumers can also seek compensation through the Consumer Dispute Settlement Agency (BPSK). The purpose of out-of-court dispute resolution, as stated in Article 47 of Law No. 8 of 1999 on Consumer Protection, is to: "Resolve consumer disputes out of court to reach an agreement on the form and amount of compensation and/or specific actions to ensure that the consumer's losses do not occur again or are not repeated." By adhering to these regulations, business operators and consumers can foster a fairer and more transparent marketplace, particularly in tourist destinations.

### **Legal Actions Against Culinary Business Operators in Tourist Areas for Price Gouging Practices**

The lack of consumer awareness about food prices in tourist areas by culinary business operators leads to unfair pricing. This information gap often results in practices that cause consumer losses. Therefore, listing prices on menus in culinary businesses, including those in tourist areas, is crucial. Despite this, some vendors still neglect their obligations under Law No. 8 of 1999 on Consumer Protection



regarding clear and accurate price information. This has led to price discrepancies and unfair pricing, causing consumers to pay more than usual.

Article 19(a, b, and c) of Law No. 8 of 1999 on Consumer Protection outlines the forms of liability for business operators:

- 1) Consumers who suffer losses, damage, or pollution from using goods and/or services produced by business operators must be compensated;
- 2) Compensation can be in the form of replacing goods and/or services with similar ones or of equivalent value, or by refunding money;
- 3) Compensation must be provided to consumers within 7 (seven) days after the transaction.

Based on Article 19 of Law No. 8 of 1999 on Consumer Protection, culinary business operators in tourist areas must compensate consumers who suffer losses due to price gouging resulting from the absence of price listings on menus or discrepancies between listed and charged prices.

Law No. 8 of 1999 on Consumer Protection strictly prohibits price gouging in culinary businesses, as it significantly harms consumers. In addition to providing compensation to affected consumers, violating business operators also face sanctions under Article 62(1) of the law, which states: "Business operators who violate the provisions of Articles 8, 9, 10, 13(2), 15, 17(1) (a, b, c, e), 17(2), and 18 shall be subject to a maximum imprisonment of 5 (five) years or a maximum fine of Rp 2,000,000,000 (two billion rupiah)."

Article 63 of Law No. 8 of 1999 on Consumer Protection outlines additional criminal sanctions for price gouging, including compensation payments, orders to cease specific activities, and business license revocation.

For culinary business operators in tourist areas, sanctions for price gouging are also detailed in the Bogor Regency Regional Regulation No. 3 of 2013 on Tourism. Article 23(1) and (2) state:

- 1) Any individual or entity violating the provisions of Articles 13(2) and 21 shall be subject to administrative sanctions.
- 2) The administrative sanctions include:
  - a) Written warnings;
  - b) Business activity restrictions;
  - c) Temporary suspension of tourism business operations; and
  - d) Revocation of tourism business registration.

The sanctions in Article 23(2) of the Bogor Regency Regional Regulation No. 3 of 2013 on Tourism align with Article 63(d and f) of Law No. 8 of 1999 on Consumer Protection, which includes orders to cease business activities and license revocation. Article 44(1) of the same regulation further states: "Any individual or entity violating the provisions of Articles 13(2), 19, 20, 21, and 22 shall be subject to a maximum imprisonment of 6 (six) months or a maximum fine of Rp 50,000,000 (fifty million rupiah)."

Additionally, Yogyakarta Mayor Regulation No. 45 of 2007 on the Implementation Guidelines of Yogyakarta City Regional Regulation No. 26 of 2002 on the Arrangement of Street Vendors specifies in Article 12 that violations of this regulation are subject to a maximum imprisonment of 3 (three) months or a maximum fine of Rp 2,000,000 (two million rupiah).

### III. CONCLUSION

Based on the findings of this study, it can be concluded that legal protection for consumers against price gouging by culinary business operators in tourist areas is provided under several existing regulations in Indonesia, including Article 4(c), Article 7(b), Article 10, Article 18(a, b, and c), and the sanctions outlined in Article 62(1) of Law No. 8 of 1999 on Consumer Protection. Additionally, protection aspects are found in Article 21(b) of the Bogor Regency Regional Regulation No. 3 of 2013 on Tourism and Article 11(b)(9) of Yogyakarta Mayor Regulation No. 62 of 2009, amending Yogyakarta Mayor Regulation No. 45 of 2007 on the Implementation Guidelines of Yogyakarta City Regional Regulation No. 26 of 2002 on the Arrangement of Street Vendors. Consumers who suffer losses due to price gouging by culinary business operators in tourist areas can seek dispute resolution through internal means directly with the business operators. If this fails, they can pursue external dispute resolution through litigation or non-litigation methods. Additional legal actions can be imposed by the Civil Service Police Unit/Order Department on culinary business operators engaging in price gouging, including administrative sanctions such as written warnings, business activity restrictions, temporary suspension or freezing of business activities, or revocation of business registration/licenses. Furthermore, criminal penalties, including imprisonment and fines, may also be imposed.

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