

Standard Clauses on Parking Tickets Reviewed Under Law No. 08 of 1999 on Consumer Protection (Case Study of Pon Market Trenggalek and Tulungagung KAI Station)

Imam Mahmudi

Sekolah Tinggi Agama Islam Sabilul Muttaqin Mojokerto

mudimam5@gmail.com

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Abstract

Standard clauses are part of an agreement, their validity is not all contradictory and prohibited by law, the existence of opinions, or court decisions expressly indicate that standard clauses that follow or meet the requirements and obey the rules, it can be ascertained that the standard clause remains valid. The purpose of this study is to provide an understanding to consumers and business actors regarding the rights and obligations regulated in Law. No. 8 of 1999 concerning consumer protection. Research This study uses the method This study uses a type of empirical juridical research which is a sociological legal research model and can be interpreted as a type of field research. The results of this study indicate that the practice of standard clauses on tickets at the Pon Market location has been eliminated, while the implementation of standard clauses at the Tulungagung KAI station contains an ecosystem clause or transfer of responsibility.

Keywords: *Standard Contract, Pon Trenggalek Market, Tulungung Train Station, UUPK*

Abstrak

Klausula baku merupakan bagian dari sebuah perjanjian, keberlakuannya tidak semua bertentangan serta dilarang oleh hukum, adanya pendapat, maupun putusan pengadilan secara tegas menunjukkan bahwa klausula baku yang mengikuti atau memenuhi syarat-syarat serta taat pada aturan, dapat dipastikan klausula baku tersebut tetap sah. Tujuan penelitian ini adalah memberikan pemahaman terhadap konsumen dan pelaku usaha mengenai hak dan kewajiban yang diatur dalam UU. No.8 tahun 1999 tentang perlindungan konsumen. Penelitian ini menggunakan metode Penelitian ini menggunakan jenis penelitian yuridis empiris merupakan model penelitian hukum sosiologis serta bisa diartikan sebagai sebuah jenis penelitian lapangan. Hasil penelitian ini menunjukkan bahwa praktek klausula baku pada lokasi pasar pon sudah ditiadakan, sedangkan pemberlakuan klausula baku di stasiun KAI Tulungagung terdapat klausula ekosistem atau pengalihan tanggung jawab.

Kata Kunci: *Klausula Baku, Pasar Pon Trenggalek, Stasiun KAI Tulungung, UUPK*

Introduction

To meet the needs of both consumers and producers, consumer protection law offers safeguards for consumers through the provisions outlined in Law No. 8 of 1999, which regulates the rights and obligations between consumers and producers, as well as the mechanisms for upholding those rights and obligations.¹ Social communication, which eventually evolves into an exchange relationship, does not necessarily have to be purely economic in nature; it can also encompass empathy.²

Material losses can often be found in cases involving standard agreements that contain clauses indicating a transfer of liability or restrictions on the fulfillment of an agreement (exoneration clauses). Clauses in standard contracts are typically pre-prepared by one of the parties well in advance as a form of protection to limit or eliminate responsibilities that should otherwise fall upon that party. Common examples of such cases include lease agreements, insurance contracts, the sale of goods in supermarkets or minimarkets, and even parking tickets.

The standard agreements found on parking tickets in the Pon Market area of Trenggalek and KAI Station in Tulungagung include liability transfer clauses that can be detrimental to consumers. Consumer protection is a crucial aspect of running a parking management business in compliance with legal provisions. There is a legal protection imbalance between parking operators and parking

¹ Moch. Chorul and Rizal, *Klausula Baku Perspektif Hukum Pidana* (Surabaya : bijak publishing, 2018), p. 37

² Budiono Kusumohamidjojo, *Teori Hukum : Dilema Antara Hukum Dan Kekuasaan*, (Bandung: Yrama Widya, 2020), p. 286

service users/consumers. This lack of balanced protection may place parking service users/consumers in a highly vulnerable position, exposing them to potential losses.

Since early 2024, the implementation of standard clauses on parking tickets at Pon Market in Trenggalek has been abolished, effectively making parking there free. This change resulted from several factors, including the researcher's initiative to conduct an audience or hearing with the Trenggalek Regency Government and the Trenggalek Regional House of Representatives (DPRD) in 2022. The hearing was based on the researcher's study on the prohibition of standard clauses indicating exoneration on Pon Market parking tickets. The proposal was accepted by the DPRD, leading to the removal of the exoneration clauses.³

Consequently, the researcher sought to extend the study by adding a new research locus with the same context and theme as the previous one. The new research locus selected was the parking area at KAI Station in Tulungagung. The parking management practices at this location are similar to those at Pon Market in Trenggalek, including the use of exoneration clauses or liability transfers, as well as imposing fines on parking service users who lose their parking tickets.

The clauses implemented on parking tickets at the KAI Tulungagung parking area are as follows:

1. A fine of Rp. 20,000 for lost tickets, regardless of whether it's for a motorcycle or a car.
2. Lost items are not the responsibility of the parking management.

Several studies have examined standard clauses, including:

1. Desitasari Riswayana and Asep Hakim Zakiran, focusing on *Legal Protection for Laundry Service Consumers in Standard Agreements Containing Exoneration Clauses under Law No. 8 of 1999 on Consumer Protection*.⁴
2. Siswanta, researching the *Application of the Principle of Pacta Sunt Servanda in Standard Agreements Containing Exoneration Clauses Without Applying the Principle of Good Faith*.⁵
3. Agus Suwandono, Eviana Yuanitasari, Nun Harrieti, Ety Mulyati, Holyness N. Singadimedja, Rafan Darodjat, *Studying Legal Counseling on the Prohibition of Standard Clauses for Business Actors to Promote Consumer Protection*.⁶
4. M. Syaifudin & Fera Adityas Ramadani - focusing on *Consumer Legal Protection in the Application of Standard Clauses in Cases No. 26/P.Bpsk/12/2014, No. 15/Pdt.G/2015/Pn.Sby, and No. 184 K/Pdt.Sus-Bpsk/2016*.⁷
5. Wilma Putri Handayani Siregar & Cahaya Permata- analyzing *Exoneration Clauses on Laundry Receipts in Padang Hilir Subdistrict, Tebing Tinggi City, from the Perspective of Wabbah Az-Zuhaili*.⁸

The above studies indicate that there has been limited research specifically addressing standard clauses in the management of parking tickets, particularly from the perspective of Law No. 8 of 1999 on Consumer Protection. This research aims to build upon previous studies. There are two fundamental assumptions underlying this study:

³<https://www.cakrawala.co/jatim/pr-7755125451/klausul-baku-karcis-parkir-pasar-pon-trenggalek-sepakat-disesuaikan> accessed on 15-09-2024 at 20.00 WIB

⁴ Desitasari Riswayana and Asep Hakim Zakiran, *Perlindungan Hukum Terhadap Konsumen Jasa Laundry Pada Perjanjian Baku Yang Mengandung Klausula Eksonerasi Ditinjau Dari Undang-Undang No. 8 Tahun 1999 Tentang Perlindungan Konsumen*, *Bandung Conference Series: Law Studies*, Vol. 3 No. 1 (2023), <https://garuda.kemdikbud.go.id/documents/detail/3287325>

⁵ Anggitariani Rayi Larasati Siswanta, Penerapan asas pacta sunt servanda dalam perjanjian standar yang mengandung klausula eksonerasi tanpa menerapkan asas itikad baik, *Jurnal De Jure*, Vol 15, No 1 (2023). DOI: 10.36277/jurnaldejure.v15i1.798

⁶ Agus Suwandono, et al. Penyuluhan Hukum Mengenai Larangan Pencantuman Klausula Baku Bagi Pelaku Usaha dalam Rangka Mewujudkan Pelindungan Konsumen. *PaKMas: Jurnal Pengabdian Kepada Masyarakat* 4.1 (2024): 242-251.

⁷ Muhamad Syamsudin and Fera Aditias Ramadani. *Perlindungan hukum konsumen atas penerapan klausula baku*. *Jurnal Yudisial* 11.1 (2018): 91-112.

⁸ Siregar, Wilma Putri Handayani, and Cahaya Permata. "Analisis Hukum Terhadap Klausula Eksonerasi pada Nota Laundry di Kecamatan Padang Hilir, Kota Tebing Tinggi Perspektif Wabbah Az-Zuhaili." *Al-Manhaj: Jurnal Hukum Dan Pranata Sosial Islam* 5.1 (2023): 228-215.

1. There are still many instances of liability shifting by business operators.
2. This research focuses on the prohibition of exoneration clauses in the service industry, particularly parking ticket services at Pon Market in Trenggalek and KAI Station in Tulungagung.

The object of this research is the exoneration clauses found in parking tickets at Pon Market in Trenggalek and KAI Station in Tulungagung. This research takes the form of a case study, where the implementation of parking tickets at these two locations will be analyzed in the context of Law No. 8 of 1999 on Consumer Protection.

Research Methods

This research employs an empirical juridical method, which is a model of sociological legal research. It can also be understood as a form of field research, focusing on examining legal regulations that have been implemented and identifying what aspects are currently occurring within the community/field. The purpose of this research is to analyze real-life situations or facts that have taken place within the community. The goal is to gather all relevant facts and evidence. Once all the data has been collected, the next step is to identify the issues, ultimately leading to solutions for the existing problems.⁹

Results and Discussion

A. Definition of Standard Agreement and Standard Clause

Standard agreements are a form of contract that has long been recognized within society. These agreements are commonly referred to as standard contracts or boilerplate contracts. One of the main reasons why standard agreements are widely used is because they offer a way to achieve a more efficient, fast, and practical economy. However, some argue that standard agreements can be disadvantageous for consumers, as they are typically left with only two options: either accept or reject the pre-drafted terms set by the business operator well in advance.¹⁰ Despite their widespread use, the principle of freedom to contract remains subject to certain limitations, such as not violating religious norms, morality, and public order that prevail within a community or region.¹¹

A standard clause is part of a contract, and its validity is not inherently contrary to the law. There are legal opinions and court decisions that explicitly state that standard clauses are permissible as long as they meet the required conditions and comply with legal standards. If these requirements are satisfied, the standard clause remains valid and enforceable.¹²

In this regard, the Consumer Protection Law (UUPK) has established principles and guidelines that aim to balance the interests of business operators and consumers.¹³ The UUPK outlines the conditions under which standard clauses are considered lawful and may be included in a contract. Article 18 of the UUPK specifies prohibited clauses that should not be included in standard agreements, particularly if they involve certain substantive regulations or contain unclear terms that are not explicitly known to the parties involved (Article 18 paragraphs 1 and 2 of the UUPK).

The importance of legal protection for consumers lies in the fact that consumers have inherent rights, both general and specific, that need to be safeguarded.¹⁴

⁹ Bambang Waluyo, *Penelitian Hukum Dalam Praktek*, (Jakarta:Sinar Grafika, 2002), p. 16.

¹⁰ Susilowati Suparto Dajaan,at.al *Hukum Perlindungan Konsumen*,(Bandung:Penerbit Cakra,2020), p. 77

¹¹ Imam Mahmudi. Perlindungan Hukum Bagi Para Pihak dalam Perjanjian Akad Murobahah Perspektif Hukum Islam danKUHperdata (Studi Kasus BMT Istiqomah Tulungagung)." *Al-Muttaqin: Jurnal Studi, Sosial, dan Ekonomi* 2.1 (2021): p. 109-116.

¹² Ahmad Fikri Assegaf, *Penjelasan Hukum (Restatement) Tentang Klasula Baku*, (Jakarta: Pusat Studi Hukum Dan Kebijakan Indonesia (Pshk),2014) p.5

¹³ Haris Hamid, *Hukum Perlindungan Konsumen*,(Makasar: Sah Media, 2017), p.28

¹⁴ Norma Sari, *Permasalahan Kontemporer Hukum Perlindungan Konsumen di Indonesia*, (Yogyakarta :UAD Press, 2021), p. 5

B. Review of Law No. 08 of 1999 on Consumer Protection (UUPK) Regarding the Practice of Implementing Parking Tickets at Pasar Pon, Trenggalek Regency

The implementation of parking management at Pasar Pon, Trenggalek, generally follows the same procedure as electronic parking systems. Users or consumers arriving at the Pasar Pon location must first press a parking button, which then issues a paid parking ticket.

The management of parking at Pasar Pon, Trenggalek, is handled by a business operator or another party that collaborates with the Trenggalek Regency Government (PEMDA). This cooperation has been going smoothly. However, in 2022, the researcher, who is also an advocate and a member of the Advocacy Team for Trenggalek Welfare, conducted a hearing with several regional leaders of Trenggalek Regency, including the Regional People's Representative Council (DPRD) and the Department of Micro, Small, and Medium Enterprises and Trade (Diskomidag). The result of this hearing was an agreement to remove fines and eliminate exoneration clauses. The requests presented during the hearing were approved and agreed upon by the hearing leaders and all parties present at that time.¹⁵

Although the requests were approved, the implementation of paid parking tickets continued. The switch to free parking or the discontinuation of parking tickets began in early 2024. According to some sources at Pasar Pon, Trenggalek, the paid parking management at this location was officially removed or made free around early 2024. The reason provided by these sources was that the previous paid parking system was burdensome, especially for elderly visitors, and there was a high risk of losing the parking tickets. This system also led to a decrease in the community's interest in visiting Pasar Pon, which subsequently affected their willingness to engage in transactions there. As a result, the Trenggalek Regency Government decided to make parking free to encourage more people to shop at Pasar Pon.

The decision to remove electronic or paid parking was based on several considerations, one of which was a previous hearing between the researcher, the Trenggalek Regency Government, and the DPRD. The outcome was a resolution to remove exoneration clauses and eliminate fines. The researcher found that the parking tickets were very thin and easily damaged, which was especially impractical in a market setting. Furthermore, the researcher, as part of the Alliance for Trenggalek Community Welfare, was particularly concerned about the use of exoneration clauses, especially when fines were imposed if consumers lost or damaged their parking tickets.

This situation poses a high risk of loss to one party—in this case, the consumers. Visitors to Pasar Pon, Trenggalek, are at a disadvantage when using fragile parking tickets that are easily damaged, especially during the rainy season. In such cases, consumers are likely to be harmed, while the business operators benefit.

Currently, the researcher's objective, along with the advocacy team, was not to eliminate parking fees altogether but rather to remove the transfer of liability from the parking operators and to eliminate fines for lost or damaged parking tickets, especially those containing exoneration clauses.¹⁶ The researcher believes that this practice is not in line with existing regulations. It is clear that such practices contradict one of the principles of contracts, namely the principle of good faith, and are contrary to the Consumer Protection Act (UUPK), which aims to ensure that no party is disadvantaged.

However, since early 2024, parking management at Pasar Pon, Trenggalek, is no longer handled by private entities. Parking has become free of charge. The researcher believes that making parking free at this location is a positive move that benefits the vendors at Pasar Pon. When visitors are not burdened with parking fees, it automatically attracts more people, as they do not have to spend extra money on parking.

¹⁵ <https://www.jatimhariini.co.id/nasional/pr-8826120323/tahpt-desak-pemkab-trenggalek-ubah-klausul-di-karcis-parkir-pasar-pon> accessed on September 15, 2024, at 8:09 PM WIB

¹⁶ <https://trenggalek.memontum.com/tim-advokasi-hukum-peduli-trenggalek-hearing-dengan-dprd-kehilangan-kendaraan-jadi-tanggung-jawab-siapa>, accessed on September 15, 2024, at 8:30 PM WIB.

Nevertheless, it would be beneficial to provide designated personnel or parking managers from the Trenggalek Regency Government to assist visitors at Pasar Pon, especially in cases where vehicles are blocked by others. More importantly, ensuring security is crucial—if there is no one overseeing the parking area, who will be responsible if theft or loss of goods or vehicles occurs at Pasar Pon, Trenggalek?

The researcher is confident that visitors would not mind paying a fee for parking attendants who manage the area, provided that there are no exoneration clauses included in the parking tickets.

C. Review of Law No. 08 of 1999 on Consumer Protection (UUPK) Regarding the Practice of Implementing Parking Tickets at KAI Station, Tulungagung

The management of parking at KAI Station Tulungagung is in collaboration with a business brand, PT Reska Multi Usaha, which is a subsidiary of PT Kereta Api Indonesia (Persero) focusing on parking management services. Established in 2009, Resparking not only manages parking within station areas but has also expanded its operations beyond station premises. Their parking management extends to locations such as Jabeka Residence, RS Permata Medika, RSUD Sragen, RSUD Siti Fatimah, RSUD dr. R. Goeteng Taroenadibrata, GOR Gontor Darjono, Owabong Waterpark, and many more.¹⁷

Before delving into the analysis of Law No. 08 of 1999 on Consumer Protection (UUPK), the researcher will first examine it from the perspective of contract law or agreements. This is because the relationship between parking service operators and consumers or users is essentially a contractual bond or agreement, albeit an indirect one, between the parties involved. In this case, it is an agreement between the parking service provider and the parking service user/consumer.

At a glance, the practices implemented by the parking management service providers appear reasonable and in compliance with existing regulations. However, if we examine the parking ticket issued to consumers more closely. It is clearly evident from the parking ticket issued at KAI Tulungagung Station, as shown in the image above, that there is an imbalance between the parking service provider and the consumers or parking service users. Clause No. 3 explicitly shows a transfer of responsibility by including the following statement: “Do not leave valuables inside your vehicle. The parking management is not responsible for the loss of any items stored inside the vehicle.”

The imbalance referred to here is exemplified by the rule “lost ticket penalty IDR 20,000,” which imposes a fine on consumers if they lose their parking ticket. However, if the consumer’s belongings are lost from the vehicle, the parking management disclaims any responsibility. According to the principles of contract law, the application of such clauses contradicts the principle of good faith in agreements. This principle must be adhered to by both parties, whether it is the business operator or the consumer. Since both have secured their respective rights, they are automatically obliged to fulfill their obligations. If the principle of good faith is not realized in a transaction, the agreement in question will have legal consequences, meaning it can be annulled or deemed never to have existed.

Under the principle of good faith, no party is justified in engaging in deceit or manipulation within the transaction. All parties are required to uphold norms of morality and propriety.¹⁸

Given the current era, the existence of standard clauses (*klausula baku*) is unavoidable and undeniable. In Indonesia, standard clauses are not prohibited, as they are highly beneficial in the business world, making it more efficient and effective. However, consumer protection laws only provide guidelines concerning standard clauses. Importantly, the language used in such standard contract clauses must be clear and understandable to all parties involved in the agreement.

¹⁷ <https://www.instagram.com/p/CAeSN4Mp1qE/?igsh=YTBkOWVob203cnU=> Accessed on September 20, 2024, at 8:00 PM WIB

¹⁸ Dadang suksandar, *Membuat Surat Perjanjian*, (Yogyakarta : CV. Andi Offset, 2011), p.13

Because standard clauses are part of a contract, not all of them are deemed illegal or prohibited by law. Judicial opinions and court rulings clearly demonstrate that standard clauses that comply with certain requirements and adhere to regulations are considered legally valid.¹⁹

Furthermore, regarding the placement of text within contracts or agreements, it is essential that the terms are positioned in a visible location. This ensures that all parties involved in the agreement can easily understand the contents of the agreement they are entering into and are aware of their rights and obligations.²⁰

Standard clauses that are prohibited or restricted under the Consumer Protection Law No. 8 of 1999 concern clauses that involve the transfer of liability (exoneration clauses). Such liability transfers may be included either fully or partially within a contract. The transfer of responsibility can be seen as a deceptive tactic by business operators, aiming to evade risks or liabilities if any damage, loss, or similar issues arise that affect consumers during the course of the agreement.

The implementation of standard clauses that include elements of liability transfer (exoneration clauses) is often practiced by economically dominant parties—in this case, by the parking management at KAI Tulungagung Station. This practice reflects an imbalance in the contractual relationship, favoring the business operator at the expense of consumer protection.

Under Article 4(a) of the Consumer Protection Law No. 8 of 1999, consumers are explicitly granted the right to “comfort, security, and safety in the consumption of goods and/or services.”²¹ When parking service providers or managers include clauses that transfer responsibility, as seen in the aforementioned parking ticket, it clearly undermines the consumer's right to comfort and security. Consequently, this could lead to consumer losses in the future.

The prohibition against liability transfer clauses is clearly stated in Article 18, paragraph 1(a) of the Consumer Protection Law, which specifies that:²²

“Business operators, in offering goods and/or services intended for trade, are prohibited from creating or including standard clauses in any document and/or agreement if these clauses: a. State the transfer of responsibility from the business operator.”

The Consumer Protection Law No. 8 of 1999 serves as concrete evidence of the government's commitment to protecting its citizens by ensuring that all consumers are guaranteed their rights. According to this regulation, if any party causes harm to another involved in a transaction, the party failing to fulfill its obligations will face legal consequences.

This legal framework emphasizes that the use of exoneration clauses, which shift risk away from business operators to consumers, is strictly prohibited to uphold fairness and accountability in commercial transactions. The law ensures that no party can unfairly evade liability, thereby promoting a balanced and just contractual relationship between business operators and consumers.

Conclusion

The implementation of free parking at Pasar Pon, Trenggalek Regency, which has been in effect since the beginning of January 2024, stems from several reasons. Notably, in 2022, the researcher participated in a hearing with the Trenggalek Regency Government (PEMKAB) and the Regional House of Representatives (DPRD). During this hearing, numerous complaints were raised by the market vendors, highlighting the significant negative impact of paid parking on their businesses. The presence of parking fees was seen as a deterrent for people to visit Pasar Pon, ultimately affecting the market's foot traffic.

In contrast, the parking management at the KAI station in Tulungagung Regency appears to violate the provisions set out in Law No. 8 of 1999 concerning consumer protection. The way parking services are handled there does not align with the legal standards meant to safeguard consumer rights.

¹⁹ Ahmad Fikri Assegaf, p. 5

²⁰ Fajar Nugroho Handayani, *Penggunaan Klausula Baku Yang Dilarang Menurut Hukum Perlindungan Konsumen*, (Jawa Timur : Uwais Inspirasi Indonesia, 2020), p. 8

²¹ Undang-Undang No 8 Tahun 1999 Perlindungan Konsumen Pasal 4 Huruf A

²² Undang-Undang No 8 Tahun 1999 Perlindungan Konsumen pasal 18 ayat 1 huruf a

For future researchers interested in exploring this topic further, there are opportunities to expand studies on standard clauses, particularly with regard to legal considerations surrounding exoneration clauses in other contexts, such as online agreements. This could serve as a critique of business operators who continue to use exoneration clauses that shift responsibility away from themselves. These practices highlight the need for stricter adherence to consumer protection laws to ensure fairness and accountability in business transactions.

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