



Legal Protection of Consumers of Household Food Products and distribution license

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Abstract. The provisions in the Health Law state that food products only be distributed to the consumer community after obtaining a distribution license from the relevant agency, namely BPOM (Food and Drug Supervisory Agency). In reality, unlicensed food products, especially those produced by home industries, are sold freely in the community. Some of these products are packaged but some are sold without packaging. This condition will certainly cause problems to the health of the community because these products do not necessarily meet the pre-determined standards related to raw materials, mixtures in food products, etc. Consumers are harmed because they consume food products that have not been licensed. Consumers who are harmed by consuming these food products are of course difficult to get the legal protection they should be entitled to. This is because the food does not have a distribution license as a requirement before a food product is sold to the public. The problem arises where the consumer community should complain, how is the supervision of the relevant agencies and whether proof is needed from consumers who are harmed.

Keywords: Distribution License, Legal Protection, Consumer.

1 Introduction

At a macro level, the goal of national development is to improve the welfare and prosperity of all Indonesian people from all aspects of life, both material and spiritual, while the fulfillment of these needs is the availability of basic needs, both clothing, food and shelter. In the provisions of Article 27 paragraph (2) of the Indonesian Constitution, it is emphasized that every citizen has the right to obtain a life worthy of humanity, which includes the provision of healthy and nutritious food in sufficient quantity and quality. In his book entitled Consumer Protection Law, Janus Sidabalok says that "The growth and development of the large and small-scale food and beverage industry on the one hand has positive and negative impacts [2].

The positive impact of the growth and development of the food industry in particular is the availability of food needs in sufficient quantities, good quality, and will be an alternative choice for consumers in meeting food needs, while the negative impact that can arise is the emergence of deviant business behavior from business actors due to intense competition, so that business actors ignore food quality standardization that should be adhered to. Health experts say that one's health will be greatly influenced by what one eats and drinks. This statement is very understandable because medically, the

ly, the quality of food and beverages that we intake will have an impact on our health. Even though the health of a person's body is also influenced by other aspects such as the mindset of the person, as well as what he/she takes in for his/her physical needs.

In the provisions of Law Number 36 concerning Health, it is also stated that food and beverage safety is an important part of health efforts. This can be seen in the provisions of Articles 109-112 which regulate food and beverage safety. In the provisions stipulated in Article 111 of Law No. 36 concerning Health, it is stated that:

1. Food and beverages used by the public must be based on health standards and / or requirements.
2. Food and drinks can only be circulated after obtaining a distribution license in accordance with the provisions of laws and regulations.

From the provisions of the article above, it can be understood that the law explicitly regulates that only food products that have a distribution permit may be sold for consumption by the consumer community. The reality that occurs in the community, there are various types of food that do not have a distribution permit produced by the household industry sold freely in the community, where it is not known whether the food is free of BKO (Medicinal Chemicals) used by business actors in order to provide attractive texture and color etc. We find many of these food products sold in the community. We find many of these food products sold in the community, of course we do not know whether before being circulated, they must first be registered with BPOM to obtain a distribution permit, which means that they have been clinically tested to be harmless for consumption.

Based on the above background, several issues can be formulated related to legal protection for consumers if by consuming these foods there are conditions that are detrimental to their health. 1. What is the legal protection for consumers if their health is harmed by consuming these foods? 2. How is the supervision carried out by the relevant agencies? Do people who are harmed have to do proof to obtain compensation?

2 Methodology

The method used in this scientific work is normative juridical, which uses secondary data in the form of primary legal materials as regulations governing consumer legal protection and distribution permits as the main data supported by secondary and tertiary legal materials which provide explanations and complement primary legal materials. In the research to write this scientific paper also uses primary data obtained from informants related to writing this work.

3 Result and Discussion

According to Friedman, as a law contains three components, namely:

- a. The structural component is an institution created by the legal system such as the District Court, Administrative Court which has a function to support the

operation of the legal system itself. The structural component allows the provision of legal services in an organized manner.

- b. The substance component is in the form of legal norms, both in the form of regulations, decisions and so on which are used by law enforcers and by those who are regulated.
- c. The cultural component of the law consists of ideas, attitudes, expectations and opinions about the law.

The law designed to integrate and coordinate the legal system. Law aims to integrate and coordinate various interests in society, while in a traffic of interests it is necessary to protect certain interests by limiting other interests. The law has an interest in taking care of human rights and interests, so that the law has the authority to determine human interests that need to be regulated and protected. Legal protection is born from a legal provision and all legal regulations given by society as an agreement to regulate behavioral support among members of society and also the relationship between individuals and the government that represents the interests of society.

Prof. Satjipto Rahardjo also said that legal protection aims to provide protection for human rights (HAM) that are harmed by others and that protection is given to the community so that they can enjoy all the rights granted by law [5]. Other legal experts also provide an understanding that the legal protection provided to the community is a preventive and repressive government action. Preventive legal protection aims to prevent disputes by being careful in making decisions based on discretion, while repressive legal protection aims to prevent disputes including handling them in the institution. Other scholars also give the opinion that law can function to realize protection that is not only adaptive and flexible, but also predictive and anticipatory. Based on the opinions of legal experts who provide an understanding of legal protection, it can be concluded that legal protection is intended so that people get their rights as a form of state obligation as a stakeholder. In addition, so that the rights of the community, which in the context of this paper are consumers, can be fulfilled as they should. The form of legal protection provided is in the form of regulation, where this regulation is regulated by policy makers, some of which are preventive in nature as anticipatory efforts and repressive regulations as handling in the event of a violation.

Speaking of consumers, according to Adrian Sutedi, they can be divided into three, namely:

- a. Consumers in a general sense are users, users and / or utilizers of goods and / or services for certain purposes.
- b. Intermediate consumers, namely users, users and / or users of goods and / or services to be produced (producers) into other goods / services or to trade them (distributors), with commercial purposes. These intermediate consumers are the same as business actors.
- c. Final consumers, namely users, users and / or users of goods and / or services to meet the needs of themselves, their families or households, and not for resale [1].

National development through industrial growth and development encourages increased community productivity, where one of these productions is production in the food sector, which is widely cultivated by the community and sold freely to the con-

sumer community. On the one hand, of course, this food productivity also has a significant effect on people whose economy has been affected due to the effects of the Covid 19 pandemic which has devastated almost all business sectors. Businesses in the field of food production are one of the choices of the community to maintain their lives. We cannot deny that. However, on the other hand, not all food producers know and comply with the provisions regarding healthy food, including the raw materials used, the mixture of raw materials in processing the food and others. Buyers or the consumer community do not know whether the food contains BKO (Medicinal Chemicals) or not.

The regulation No. 18/2012 about Food provides the definition that:

"Food is everything that comes from biological sources of agricultural products, plantations, forestry, fisheries, livestock, waters and water, both processed and unprocessed, which is intended as food or drink for human consumption, including food additives, food raw materials and other materials used in the process of preparing, processing and / or making food or drinks". From the above definition, it can be understood that the Law on Food has regulated the provision of food for human consumption, starting from the raw materials, including additives, which must be in accordance with the provisions so that food is available that meets safety, quality and nutritional requirements for the benefit of human health. The objectives of Food Implementation according to Law No.18/2012 on Food are:

1. Improving the ability to produce food independently
2. Providing food that is diverse and meets safety, quality and nutritional requirements for public consumption
3. Realizing the level of food sufficiency, especially staple foods at reasonable and affordable prices in accordance with the needs of the community
4. Facilitate or improve access to food for the community, especially food and nutrition insecure communities
5. Increase the added value and competitiveness of food commodities in domestic and foreign markets
6. Increase public knowledge and awareness about safe, quality and nutritious food for public consumption
7. Improving the welfare of farmers, fishermen, fish farmers and food business actors
8. Protect and develop the wealth of national food resources

Based on the objectives of food administration, one of the objectives is to improve the welfare of food business actors, as well as to increase public knowledge and awareness about safe food, quality and nutritious food for public consumption.

[4] Law No. 8/1999 on Consumer Protection, in one of its articles, also stipulates that business actors are prohibited from producing and/or trading goods and/or services that do not meet or are not in accordance with the standards required in the provisions of laws and regulations. This means that food production by household businesses should also be in accordance with the provisions of the applicable laws and regulations, in this context the Food Law, Law No. 18/2012 [5]. Lack of understanding about food health related to raw materials, additives, and processing, especially those produced by household businesses, will certainly have an unfavorable impact if

the product has a negative impact on the consuming community. Why this can happen, is because home-made food products or household production are very likely not to have a distribution permit, which means that they have not fulfilled the provisions of the requirements for a food product that can be sold to the public. Of course, there are many obstacles faced by business actors who produce these foods. One of the obstacles faced is of course the cost of obtaining a distribution permit is certainly not cheap, in addition not all business actors who produce food understand why the food to be circulated must have a distribution permit issued by the Ministry of Health, the authorized agency, namely BPOM.

Faced with such conditions, of course, a question will arise if consumers are harmed by their health because they consume household food products that do not have a distribution permit, who should be responsible for providing compensation, especially if the business actor selling the food is not a business actor who produces, he only sells or in the business world he is only a distributor for example. In the provisions of Law Number 8 of 1999 concerning Consumer Protection (UUPK), there are basic definitions, principles and objectives of consumer protection. In terms of substance in the UUPK there are three models of approach in consumer protection efforts. The three models are as follows:

1. Sectoral approach, meaning that consumer rights are accommodated in various sectoral laws, for example consumer rights to food are regulated in the Food Law
2. Holistic approach, meaning that there is a law that specifically regulates consumer protection issues, which also serves as an umbrella for sectoral laws with a consumer dimension
3. A combined approach, meaning that in addition to the Consumer Protection Law, specific, detailed and technical issues are still emphasized in sectoral laws

Based on these three approaches, it is clear that the producers of food products should also have to fulfill the requirements of the Consumer Protection law. The provisions on food regulate that raw materials and ingredients must meet the standards of healthy food ingredients, so that they can be useful for meeting food needs, in this case food. But what happens is the opposite, meaning that not all producers (even on a household production scale), already know and understand about these provisions.

This condition certainly requires attention from the competent authority, as part of a form of supervision, for example by providing socialization with persuasive methods to producers so that they know about the consequences for consumer health when consuming processed food mixed with medicinal chemicals, for example. Producers sometimes only think about how to make their products sell well, be attractive, etc., without thinking about the effects that arise when using a mixture of prohibited raw materials to make them look attractive. Of course, it is not only mandatory to provide knowledge with socialization, but of course, competent stakeholders such as BPOM periodically and continuously also need to conduct supervision by going to the field. Because by doing fieldwork, it will be known the factors that cause food producers, especially household products, to deviate from the applicable provisions.

When the author conducted research at BPOM Jawa Tengah. BPOM Central Java found many household food products sold to the public, one of the products was "krupuk mie." The noodle cracker is very strikingly yellow in color, and after sampling and researching it turns out that the processed household products in the form of cracker are mixed with dyes that are prohibited from circulation. The officer from BPOM said that the answer from the business actor who produced it was that he did not know that the dye he used was very dangerous to human health and that consumers were more interested because the color of the cracker was attractive after frying.

Ignorance and perhaps intentionality committed by producers as business actors, of course, must be addressed firmly but wisely by the government as a stakeholder, in this case BPOM and related agencies. On the one hand, business actors have committed violations, but on the one hand there are things that must be considered, namely the economic conditions of household food producers who are usually small-scale with limited capital as well, so that the two sides can run in balance, so that the goal of public welfare as envisioned and stated in the preamble of the 1945 Constitution can be achieved fairly. One of the indicators of the achievement of community welfare is the fulfillment of their economic needs, and making efforts by One indicator of the achievement of community welfare is the fulfillment of economic needs, and making efforts by making food products for household businesses is also an effort to improve the welfare of his family, and can even share with others, namely if the business can absorb labor both in the manufacturing process and for marketing.

In response to the above description, a question arises, if there is a loss of consumers of household food production that has not been licensed, then of course it will be difficult to file a lawsuit against the producer, this can be caused by several things including because the household food production business does not yet have a SIUP from the Department of Industry and Trade, may not have registered with the Health Office, and does not even have a distribution permit notification issued by BPOM. This will definitely cause problems, because in filing a lawsuit it is not certain that consumers can prove that because of consuming these food products, there is a loss to their health. In such conditions, consumers are always in a weak condition, because it will be very difficult for them to prove.

In the provisions of civil law, every claim of liability must have a legal basis. The basis in question is the thing that causes the emergence of a person's legal right to sue another person, The basis in question is the thing that causes the emergence of a person's legal right to sue another person, where the basis is a legal obligation for the one being sued to provide responsibility. Liability in the study of civil law can be divided into two, namely: fault and risk.

1. Liability on the basis of fault obliges a person to be liable because he is at fault, whether in the form of error or negligence,
2. Liability on the basis of risk obliges a person to be responsible not because he is guilty but because he takes risks in his legal position, thus obliging him to be responsible.

Both types of legal liability are theoretically related to the legal relationship that arises between the parties demanding liability and the party who is required to provide lia-

bility. Liability based on fault is born due to default, the emergence of unlawful acts or due to imprudent actions, while liability born due to risk is the responsibility taken by business actors for their business activities.

Based on the study of criminal law, the so-called public law is the law that regulates the relationship between the state and individuals. Within the framework of consumer protection law, what is included in public law is state administrative law, criminal law and procedural law. In the framework of consumer protection law, which is included in public law is state administrative law, criminal law and criminal procedure law. This is because the various regulations relating to consumer protection efforts are in principle the same as other regulations whose provisions contain abstract concepts, which ideally include justice, certainty and expediency, in this regard, issues relating to consumer protection are part of the legal system relating to efforts to realize an idea, where the state often has to intervene because the state has the power to influence the operation of the law to be more effective.

On the other hand, the current era of free trade tends to allow the existence of products that do not necessarily guarantee the security, safety and especially the health of consumers. One of these possibilities is the existence of food products produced by households that contain medicinal chemicals that are prohibited to be added to food. Such conditions will be detrimental if faced with a situation where consumers are less careful, as well as being faced with a weak position when compared to the position of producers as business actors. Producers as business actors have the duty and obligation to participate in creating and maintaining a healthy business climate that can support the development of the national economy. as a whole. Based on this, producers as business actors are burdened with responsibility for the implementation of these duties and wonders, including producers of processed food from household products.

4 Conclusion

The implementation of responsibilities and obligations towards the products produced lies in the application of legal norms, decency and always upholding the customs prevailing in the business world. It should be possible that in doing business producers as business actors must prioritize business ethics which is one of the guidelines for every business actor. Of course, all these expectations will be well implemented if followed by intensive supervision from stakeholders who do have the competence to carry out supervision and also provide the widest possible information related to what in the context of this paper is food products made by the home industry. Providing information is a form of preventive effort that must be carried out by business actors of food products from the home industry by providing socialization about healthy food. To consumers must also be given socialization that consumers must be smart to choose healthy food, not only interested because of the appearance of attractive colors, which may be added by producers as business actors by providing additional ingredients that contain BKO (Medicinal Chemicals).

The point is to be The point is that being careful in choosing food that is nutritious and does not contain ingredients that are prohibited to be added in the manufacture of food, especially those produced by household industries that do not have a distribution permit from BPOM is better, so that public health is maintained from pollution due to the presence of medicinal chemicals mixed in the processing process. Preventive action will be more effective, because if consumers who consume food are harmed by their health as a result of the food they eat, then the form of compensation that will be obtained is also not easy because there are several things that must be done in the process of proving, that whether it is true that the health problems are a result of consuming food produced by the household industry. Moreover, if the home industry is small-scale with small capital, how should it provide compensation, even though legally the business actors who produce the food should be responsible. Therefore, socialization from relevant agencies such as the Health Office should be intensive so that the food producing community understands and understands the benefits of healthy food for public health. The public as consumers must also be educated not to choose food only because of its attractive appearance but must understand about healthy food as well, before it harms their health.

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