



***Halal* label packaging of food products circulation consumer protection**

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Abstract

This research is aimed on investigating the consumer protection against the circulation of food products in *halal* label packaging. It is done at Universitas Kristen Indonesia Jakarta within six months from June – December 2020. The method of the research used was normative juridical with an emphasis on library studies to examine and analyze consumer protection against the circulation of food products packaged with halal labels in Indonesia. The source of research data were mainly taken from offline and online journals, books, articles (which are mainly taken from G the result of the research is that the legal regulation concerning food products in food packaging with halal labels is regulated in Article 8 of the consumer protection act and that “business actors are prohibited from producing and trading goods and services that do not comply with the provisions of the law. produce halal, and business actors who already have halal certification are required to include a halal label on their product packaging so that the public knows the content contained in the packaging.” As the conclusion is that for those consumers whose right is harmed by the existency of the food product by filling a consumer dispute lawsuit and report it to the LPPOM MUI. If the report is accepted, then those actors will be subjected to five years prison and certain administrative sanctions.

Keywords: consumer protection, food products, halal label

Introduction

Consumers have a “greater risk than business actors. In other words, consumer rights are very vulnerable. Due to the weak bargaining position of consumers, consumer rights are very often and easily violated. Consumers occupy a crucial position that must obtain legal protection”^[1, 2]. The “weak position of consumers in Indonesia is inseparable from the history of consumer protection. The history of consumer protection was only really popularized about twenty years ago, namely by establishing a non-governmental organization called the Indonesian Consumers Foundation (YLKI)”^[3]. It was followed by “several similar organizations, including the Consumer Development and Protection Institute (LP2K) in Semarang, founded in February 1988, and in 1990 joined as an International Consumers member”^[4].

The “consumer protection law was born in early 1999, namely Law Number 8 of 1999 concerning consumer protection, which aims to provide legal certainty to consumers. This law also explains the responsibilities of business actors, which are regulated to provide legal certainty and protect the rights of these consumers”^[4]. It needs to be regulated so that the government and the public or consumers can supervise the implementation of business activities. This “consumer protection guarantees that consumers should obtain for every food product purchased from the producer or business actor. However, in reality, it is often violated by the producers or business actors. This law on consumer protection has been issued, but in the implementation process or other words, the regulations contained in this law are not following reality”^[4].

In several cases, many violations were found that harm consumers, which relates to producers (business actors) at a level that is considered dangerous to consumer health and even the soul. Several cases of food without the Halal label

were found in the field. Recently, in Madiun, officers from the Department of Trade, Cooperatives, and Micro Enterprises of Madiun Regency found several packaged foods that were not labelled Halal from the Indonesian Ulema Council (MUI). The food was found during a raid at a retail store in the local area. These foods include, among others: packaged instant noodles with the brand “Shin Ramyun”, then snacks with the brands “*Tao Kae Noi*” and “Big Sheet”, all of which are packaged food products of imports. In addition, officers also found that the packaging of the food was damaged. It is feared that there are prohibited ingredients such as pork in instant noodles^[5]. Then the Indonesian Consumers Foundation (YLKI) North Sumatra and the Indonesian Ulema Council (MUI) found that a food product known as one of the typical souvenirs from Medan had not yet pocketed a Halal certificate^[6]. Before buying food displayed in a store, it would be better to research it first to prevent unwanted things. The Food and Drug Supervisory Agency (BPOM) found that a well-known Korean noodle product tested positive for pork. It was known after the Food and Drug Supervisory Agency (BPOM) conducted sampling and testing of several Korean instant noodles. Several products tested by BPOM, there were four favourable instant noodle products detected containing pork DNA.

“The four Korean products containing pork are Samyang (U-Dong instant noodles), Samyang (Kimchi-flavoured instant noodles), Ottogi (Yeul Ramen instant noodles), and Nongshim (Shin Ramyun Black instant noodles)”^[8]. The Food and Drug Supervisory Agency requested that the instant noodles imported by PT. The Koin Bumi was immediately withdrawn from the market^[8]. In East Java, non-halal products were found on the market by the Food and Drug Supervisory Agency (BPOM) and the Ministry of Religion and the POM Research Institute-Indonesian Ulema

Council Ajinomoto case in 2001 the raw material for making was mixed with pork fat. This case is the very horrendous Muslim community, with this case Ajinomoto pulled simultaneously from circulation. PT. Ajinomoto Indonesia bears the loss by providing compensation to traders and retailers^[9].

Rapid economic development has “produced various types of products, especially food products that can be consumed by the community. Moreover, in this era of free trade, there is more room for business actors to produce and market their products, making it easier for foreign products to enter Indonesia. Business actors as providers of goods or producers at this time have produced many products in circulation, with a variety of products such as shredded meatballs, sausages, packaged beef, and others”^[4, 10]. The halalness of these products is not sure because the packaging does not have a halal label, indicating the authorities' lack of supervision on processed food products. Therefore, supervision needs to be carried out for all industries, both small and large, because it is none other than the apparent losers, consumers, especially Muslim consumers, who have spent much money to buy delicious food and are guaranteed to get haram food. “Various types of food products are increasingly making consumers choose various types and qualities of these products according to their needs and desires. On the other hand, there is no definite guarantee for these products, so a particular problem arises for consumers who consume food that does not include a halal label”^[4].

Based on this background, the problem formulation in this study is conceptualized as follows: a) How is the regulation of food products labelled halal concerning consumer protection? and b) What legal remedies can consumers take to obtain protection for their rights that business actors violate due to consuming food without halal labels on food packaging?

Literature Review

The state is obliged “to protect its citizens, one of which is through consumer protection law. So that people are careful in consuming food that does not include halal labels on food packaging, especially for every business actor who produces food in the country to trade must include labels on food packaging transparently, openly, and clearly so that it appears that there is good faith from producers to restore consumer rights. Consumer protection is all efforts that ensure legal certainty to provide a sense of security to consumers”^[11]. Law “Number 8 of 1999 concerning consumer consumer protection, in Article 8, paragraph 1, letter (h), states, business actors are prohibited from producing and trading goods and services that: halal listed on the label”^[12].

Referring to “the legal system theory developed by Friedman on Product Liability, there is three legal substance of product liability which forms the basis for consumer compensation claims. The three essential claims are claims for negligence, claims for default or breach of promise (breach of warranty), and the principle of absolute responsibility”^[13]. The “legal system theory developed by Lawrence Friedman is about product responsibility. There are three components of the legal system, namely: a. Legal structure; b. Legal substance; and c. Legal culture”^[14]. The legal structure refers to the forms and legal institutions contained in the legal system. The “structural components of

a legal system include various institutions (institutions) created by the legal system with various functions in supporting the operation of the legal system. One of these institutions is the judiciary with its various equipment”^[15].

In contrast, “the substance is composed of regulations and provisions regarding how institutions must apply. Legal substance includes legal rules, norms, and actual human behaviour patterns, including decisions issued or newly drafted rules. This component of legal substance is relevant concerning Law Number 8 of 1999 concerning Consumer Protection. Consumers' rights to obtain compensation and business actors are responsible for providing compensation for consumer negligence and losses”^[16].

Legal culture includes “values in society that underlie applicable law. Legal culture can also affect the level of use of the court, namely, attitudes about whether it will be seen as right or wrong, useful or useless when going to court. Some consumers are afraid to use their rights like the legal culture on packaged food products and halal labels”^[17]. Legal “awareness of halal label packaging consumers is still deficient because the laws that protect consumer rights are weak. There is no easy complaint mechanism for consumers who suffer losses. Consumers do not understand where to complain”^[4]. The Consumer Protection Act contained in article 65 states “Consumer rights and obligations, rights and obligations of business actors, prohibited actions by business actors, responsibilities of business actors, entities to be formed, and dispute resolution”^[18].

Many “articles contained in several regulations show that naturally, the position or position of consumers is not the same as that of producers or business actors. Meanwhile, consumer protection law arises due to the weak position of consumers, so they need legal protection. One of the nature or purpose of the law is to provide protection and protection to the community. Consumer protection law is part of consumer law that contains principles and rules regulating and contains the nature of protecting consumers”^[4, 19]. An “imbalance between producers and consumers needs to be compensated with various efforts, both through consumer protection institutions, institutional and legal instruments, and various other efforts so that consumers can consume goods or services, especially the desired food, more safely. Protection for many consumers in this kind of food production business is a must because advanced economic and industrial developments have other negative implications”^[4, 20].

Consumers are “every person who uses goods and services available in the community, both for the benefit of themselves, their families, other people and other living creatures and not for trade. Because the consumer's position is weak, he must be protected by law. One of the characteristics, as well as the purpose of the law, is to provide protection to the community”^[4, 21]. A “business actor is any 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 to carry out business activities in various economic fields. Food is anything that comes from biological sources and water, both processed and unprocessed, intended as food or drink for human consumption, including food additives, food raw materials, and other materials used in the preparation, processing, and or manufacture of food and beverages. A food label is any

information regarding food in the form of pictures, writings, a combination of both or other forms attached to food, inserted into, affixed to or part of food packaging. Halal writing or label is the inclusion or statement of halal on product packaging to indicate that the product in question has the status of a halal product. Halal products are goods and services related to food and beverages, drugs, cosmetics, chemical products, biological products, genetically engineered products, and goods used, used, or utilized by the public”^[4]. A halal certificate acknowledges the halalness of a product issued by the Halal Product Assurance Agency (BPJPH), based on a written halal fatwa issued by the Indonesian Ulema Council.

Research Method

This research method is “descriptive-analytical, namely by describing and analyzing the data obtained in the form of secondary data and supported by primary data regarding various issues related to consumer protection law against the circulation of food products in halal label packaging”^[22]. Following legal studies, the approach used in this research is normative juridical with an emphasis on literature study whose research object is in the form of legislation and library materials related to consumer protection of food products in halal label packaging in Indonesia. This study uses “legal materials, both primary legal materials and secondary and tertiary materials. Primary legal materials are binding legal materials in the form of basic norms or rules as contained in the body of the 1945 Constitution, and laws and regulations including Law Number 8 of 1999 concerning Consumer Protection, Law Number 18 of 2012 concerning Food, and Law Number 33 of 2014 concerning Guaranteed Halal Products”^[23].

Secondary legal materials are legal materials that provide explanations of primary legal materials that can help analyze and understand primary legal materials in the form of research results, writings by experts in the field of law both nationally and internationally, and journals obtained through literature studies related to consumer protection, food products, and halal label law. Tertiary legal materials, namely legal materials, provide instructions and information on primary and secondary law, namely legal dictionaries. The data collection technique uses the library research stage, and this includes an inventory of national laws and regulations with other countries as comparisons related to the problems studied and literature or books related to this research.

Field research was “conducted to obtain primary data as supporting data to complete library research. This research is needed to obtain data about the importance of halal labels on food packaging. Analysis of the data used in this research is analytical and juridical by using abstraction power and legal interpretation, which then the results of the analysis are stated in the form of descriptions (descriptions)”^[4]. In addition, an economic analysis approach will be used. This study also analyzes the data inventoried on the synchronization level of one legislation existence with other laws and regulations. In particular, literature research is carried out, among others, at the Central Jakarta National Library, the Director-General of Food Library, the National Law Development Agency library at the Ministry of Law and Human Rights, with the problems examined in this

study.

Result and Discussion

As a country with a Muslim majority population, “the Indonesian people demand great responsibility from the government in maintaining the circulating food products. In terms of taste, sanitation and hygiene, good nutritional content does not harm the body and can be ascertained its halalness. In article 4 of Law Number 8 the Year 1999 concerning Consumer Protection, it is stated that consumer rights are the right to comfort, security and safety in consuming goods and services. This law shows that every consumer, including Muslim consumers, has the right to obtain goods and services that are comfortable for consumption by him. The purpose of this convenience for consumers is that the product is halal and does not contain pork”^[24]. “Food and non-food and services are basic needs for humans. In this regard, Indonesia already has Law No. 18 of 2012 concerning food, whereby everyone who produces or imports food packaged for trading into Indonesian territory is required to include a halal label for those required on, inside and or on food packaging”^[25]. Some of the regulations that regulate halal products in the form of laws from the results of the inventory are as follows: a) Law Number 8 of 1999 concerning Consumer Protection; b) Law Number 33 the Year 2014 concerning Halal Product Guarantee; c) Law Number 36 the Year 2009 concerning Health; and d) Law Number 18 of 2012 concerning Food.

However, “this law does not appear to be going well, so it does not provide legal certainty for recognizing other food products labelled halal. Such as the sanctions arrangements for business actors who already have halal certification and do not include halal labels on product packaging, as regulated in Article 8 of the Consumer Protection Law which reads as follows”^[26, 27]: “Business actors are prohibited from producing and trading goods / or services that: a) do not meet or do not comply with the required standards and the provisions of laws and regulations; b) Does not match the net or net weight, and the amount in the calculation as stated in the label or label of the said goods; c) Not in accordance with the size, measure, scale and amount in the count according to the actual size; d) Not in accordance with the conditions, guarantees, features or efficacy as stated in the label, label or description of the said goods and / or services; e) Not in accordance with the quality, level, composition, processing, style, mode, or certain use as stated in the label or description of the said goods and / or services; f) Not in accordance with the promise stated in the label, etiquette, description, advertisement or sales promotion of the said goods and/or services; g) Does not include the expiration date or period of best use/utilization of certain goods; h) Does not comply with the provisions of halal production, as stated in the halal statement on the label; i) Not attaching labels or making descriptions of goods which contain the name of the goods, size, net or net weight / content, composition, rules of use, date of manufacture, side effects, names and addresses of business actors as well as other information for use which according to the provisions must be attached / made up; j) Does not include information and/or instructions for the use of goods in the Indonesian language in accordance with the prevailing laws and regulations”.

Sanctions for business actors who violate Article 8 letter (h),

“as mentioned above as contained in Article 62 of the Consumer Protection Law, are punished with a maximum imprisonment of 5 (five) years or a maximum fine of Rp. 2,000,000,000, (two billion rupiah). In addition to criminal sanctions, administrative sanctions are also imposed in the revocation of business licenses. Meanwhile, the sanctions contained in Article 56 of Law Number 33 of 2014 concerning Halal Product Guarantee are stated, for business actors who have obtained a halal certificate, for those who do not include a halal label on the product packaging, they will be subject to a maximum imprisonment of 5 years or a maximum fine of 2 billion” [28].

As for “business actors who wish to carry out halal certification for their products, by applying for halal certification, which is submitted in writing to the Halal Product Assurance Administration Agency (BPJPH) which must be accompanied by documents including, "Data of business actors; Product name and type; List of products and materials used, and product processing processes” [29]. Producers or business actors who apply for the inclusion of halal writings must be ready to be examined by officers from a joint team from the Indonesian Ulama Council and the Directorate General of Drug and Food Control appointed by the Director-General. Raw materials for food additives and auxiliary materials and products must be tested in the Laboratory. The evaluation results are submitted to the MUI fatwa commission to obtain a fatwa [30].

Legal efforts that “consumers can take to obtain their rights, as consumers often do not know where to complain when they are harmed by producers, to overcome this, the Food and Drug Supervisory Agency (BPOM) opens a service unit that accommodates all consumer complaints, which called the Consumer Complaints Service Unit (ULPK)” [31]. “Through this service unit, it is hoped that the public will get detailed information related to food circulating in the community. Indonesian Consumers Foundation (YLKI), as a place for consumer complaints about people who feel aggrieved by producers to protect consumers for their rights. Through the National Consumer Protection Agency (BPKN), which is domiciled in Jakarta, has the function of providing advice and consideration to the government in protecting the rights of consumers who are harmed. In addition, the public can file a lawsuit in court through the Consumer Dispute Settlement Agency (BPSK). Based on Article 45 of the Consumer Protection Act, every consumer harmed can sue business actors through the institution in charge of resolving disputes between consumers and business actors or through courts within the general court environment” [4].

Conclusion

Legal regulation about food products packaged with halal labels is regulated in Article 8 paragraph (1), letter h, Law Number 8 of 1999 concerning Consumer Protection, states: "Business actors are prohibited from producing and trading goods and services. which, does not follow the provisions for halal production, as stated in the "halal" statement on the label". Business actors who already have halal certification are required to include a halal label on their product packaging so that the public knows the content contained in the food. Meanwhile, for business actors who violate the provisions that have been regulated, if proven, they will be subject to a maximum imprisonment of 5 (five) years and administrative sanctions by revoking the business license.

Legal remedies taken by consumers who feel that their rights have been harmed can report to the Food and Drug Supervisory Agency (BPOM), the Indonesian Consumers Foundation (YLKI), and the Consumer Dispute Settlement Agency (BPSK) by filing a consumer dispute lawsuit.

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