

**CONSUMER PROTECTION AGAINST FOOD THAT CONTAINS HARMFUL
SUBSTANCES (STUDY OF THE DECISION OF THE JUDGE OF THE DISTRICT
COURT OF BALE BANDUNG 831/PID.SUS/2016/PN.BLB)**

Rezi¹, Aryono², Friska Anggun Lestianti³

University of Duta Bangsa Surakarta¹²³

rezi@udb.ac.id¹, aryono@udb.ac.id², friskanoby@gmail.com³

ABSTRACT

This study aims to determine consumer legal protection for food products marketed by business actors and to determine legal sanctions against business actors if consumers are harmed by consuming food containing hazardous substances. This research is based on normative juridical law research with secondary data collection, to prove consumer protection against foods containing hazardous substances based on consumer protection laws. The data obtained were analyzed qualitatively. Law No. 8 of 1999 provides limits for business actors and consumers, and provides specific and direct tasks regarding consumer protection, as stated in Article 45 of the Act mentioned above. The findings reveal that the Consumer Protection Law, apart from regulating the rights and obligations of consumers, also regulates the rights and obligations of business actors. Based on article 8 number (1) of Law no. 8 of 1999 concerning Consumer Protection, namely: Business actors are prohibited from producing and/or trading products and/or services that: 1) do not include the expiration date or period of best use/utilization of certain products. 2) deliberately does not include labels or make product descriptions containing product name, size, net or net weight/content, composition, rules of use, date of manufacture, side effects, name and address of business actor and other information for use which according to the provisions must be included. The Consumer Protection Law, apart from regulating the rights and obligations of consumers, also regulates the rights and obligations of business actors.

Keywords: Consumer Protection, Hazardous Materials, Food Products

INTRODUCTION

The development of development and technology today has provided progress for human life. The development of this technology will always be carried out to achieve success for the

community. The development of technology so rapidly, it can bring a gap that will have a negative impact on human life. It is known that nowadays there are often crimes committed in the development of technology. The negative impact that currently often occurs is the processing of food ingredients that use hazardous materials and contain harmful chemicals, such as food preservatives, food coloring, and a mixture of other hazardous substances that can damage the human body.

As with the study of the decision of the judge at the Bale Bandung District Court 831/Pid.Sus/2016/PN.Blb, which stated that the defendant Agus Pranoto was guilty of committing a crime by intentionally using food additives as violating Article 136 Letter b of the Law of the Republic of Indonesia Number 18 Year 2012 About Food. And there is evidence in the form of 1 (one) jerry can containing formalin (half of it), 7 (seven) plastic bags of yellow wet noodles with formalin, and 24 (twenty four) sacks of yellow wet noodles with formalin. The ingredients used for the process of making wet noodle products that are sold include the following: flour, aci, large salt for flavor, peanut oil so that the noodles are not sticky, water, food coloring to make the noodles look yellow, food preservative Potacium Sorbat (P1000).) to preserve the noodles for 2 days and finally use formalin so that the wet noodles last for 5 to 7 days. The formalin liquid used in the manufacture of wet noodles is formalin liquid used to preserve corpses, not a liquid for food preservatives, a mixture of formalin used in the process of making wet noodles as much as 1 liter with the result of 1.5 tons of wet noodles.

Protection of consumers is seen materially and formally increasingly feels very important. Considering the increasingly advanced science and technology which is the driving force for the efficiency and productivity of business actors for the services or goods they produce. During achieving and pursuing these two things, either directly or indirectly, efforts are needed to provide protection to the interests of consumers. With the Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection, it is hoped that consumer protection efforts in Indonesia can be improved so that consumers are not in a weak position and business actors can improve the quality of the products that will be offered to consumers.

The basic need for human survival is food. Food consumed by humans comes from various types and sources so that there are various ways of processing the food (Arie, 2019:3). The need for food is a basic need for every group of society. The basic human need is the need for food to sustain life. Law Number 18 of 2012 concerning Food states that food is the

most important basic human need and its fulfillment is part of human rights guaranteed in the 1945 Constitution of the Republic of Indonesia as a basic component to realize quality human resources.

Intense competition can change behavior towards unfair competition because business actors have conflicting interests between them. This unfair competition in turn can harm consumers. Some people deliberately to get a bigger advantage perform various actions in the category of cheating. This can be seen from the table of results of inspections by the Food and Drug Supervisory Agency which is unstable from year to year. This means that fraud committed by business actors is not certain to increase or decrease (Dian, 2016:2). For example, quoted in the case of BPOM Semarang found that food contains harmful substances. In this case BPOM Semarang found food containing formalin and rhodamine B in Magelang City, this finding occurred when BPOM tested 31 food samples in one of the traditional markets of Magelang City, Monday (4/6/2018) (Pertiwi, 2018). Thus, researchers are interested in researching and taking the title " Consumer Protection Against Food That Contains Harmful Substances (Study of the Decision of the Judge of the District Court of Bale Bandung 831/Pid.Sus/2016/PN.Blb)".

PROBLEMS

Formulation Of The Problem is:

- 1) What is the legal protection for consumers against processed foods containing hazardous materials?
- 2) What are the legal sanctions against business actors if consumers are harmed by consuming food containing hazardous substances?

RESEARCH METHOD

This research uses a normative approach, which is basically an activity that will examine the internal aspects (to solve the problems that exist in the positive law) (Kornelius and Muhamad, 2020:23-24). The form of this research is descriptive. Descriptive research is to provide a comprehensive and detailed description of consumer protection against processed foods containing hazardous materials based on applicable laws and regulations. Meanwhile, the analysis aims to compare, relate and explain consumer protection against processed foods

that contain hazardous ingredients. The laws used in this research include Law Number 8 of 1999 concerning Consumer Protection, Law Number 18 of 2012 concerning Food.

The method of data collection in this research is to collect secondary data. Secondary data is obtained using a literature study. Literature study is a study to obtain information by looking at official texts, news from the media both electronic and print media as well as scientific works related to this writing. The legal materials obtained in this study are presented in the form of descriptions that are arranged logically and systematically. The entire legal material obtained is related to one another and in accordance with the subject matter studied in order to answer the problems that have been formulated. The legal material obtained will be analyzed qualitatively, namely the analysis is carried out by compiling and understanding the data that has been obtained and arranged systematically, then conclusions are drawn.

DISCUSSION

Legal Protection for Consumers Against Processed Foods Containing Hazardous

Consumer protection is part of the protection of human rights (HAM). That the scope of the concept of human rights is not only in the context of relations between communities, namely the relationship between producers and consumers (Zulham, 2016:7). Article 1 point 1 of the Consumer Protection Act (UUPK), which means consumer protection is all efforts to ensure legal certainty to provide protection to consumers. Consumer protection today should get more attention. Indonesia's economic development can lead to trade competition and can have a negative impact on consumer protection. In fact, consumer protection is identical to the protection provided by law regarding consumer rights (Yustin, 2018).

The government is responsible for fostering and implementing consumer protection (article 29 paragraph (1) of Law No. 8 of 1999), namely:

- 1) The creation of a business and the growth of a healthy relationship between business actors and consumers
- 2) The development of non-governmental consumer protection institutions
- 3) Increasing the quality of human resources and increasing research and development activities in the field of consumer protection (Article 29 paragraph (4) of Law No. 8 of 1999).

Based on article 8 number (1) of Law no. 8 of 1999 concerning Consumer Protection, namely: Business actors are prohibited from producing and/or trading products and/or services that: 1) do not include the expiration date or period of best use/utilization of certain products. 2) deliberately does not include labels or make product descriptions containing product name, size, net or net weight/content, composition, rules of use, date of manufacture, side effects, name and address of business actor and other information for use which according to the provisions must be included.

The objectives to be achieved in consumer protection (Article 3 UUPK), namely:

- a. Increase consumer awareness, ability, and independence to protect themselves.
- b. Improving the dignity of consumers by avoiding negative access to the use of goods and/or services
- c. Increase consumer empowerment in choosing, determining their rights as consumers.
- d. Creating a consumer protection system that contains elements of legal certainty and information disclosure as well as access to information.
- e. Growing awareness of business actors regarding the importance of consumer protection so that an honest and responsible attitude grows in business (Fadhrian, 2017).

The Consumer Protection Law, in addition to regulating the rights and obligations of consumers, also regulates the rights and obligations of business actors. To create business convenience for business actors and as a balance for the rights granted to consumers, the following are the rights of business actors as regulated in Article 6 of Law No. 8 of 1999, namely 1) The right to receive payments in accordance with the agreement regarding the conditions and exchange rates of traded goods and/or services 2) The right to obtain legal protection from consumer actions with bad intentions 3) The right to carry out proper self-defense in legal settlement of consumer disputes 4) The right to rehabilitate a good name if it is legally proven that consumer losses are not caused by goods and/or services being traded 5) Rights regulated in the provisions of other laws and regulations.

In Indonesia, the legal basis that can apply for the protection of a consumer is:

1. The 1945 Constitution Article 5 paragraph (1), Article 21 paragraph (1), Article 21 paragraph (1), Article 27, and Article 33. 16
2. Law no. 8 of 1999 concerning Consumer Protection (State Gazette of the Republic of Indonesia of 1999 No. 42 Supplement to the State Gazette of the Republic of Indonesia No. 3821)

3. Law no. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition.
4. Law no. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution
5. Government Regulation no. 58 of 2001 concerning Guidance on Supervision and Implementation of Consumer Protection
6. Circular of the Director General of Domestic Trade No. 235/DJPDN/VII/2001 Concerning the handling of consumer complaints addressed to all Prop/District/City Industry and Trade offices
7. Circular Letter of the Director General of Domestic Trade No. 795 /DJPDN/SE/12/2005 concerning Guidelines for Consumer Complaint Services.

Legal Sanctions for Business Actors Based on the Study of the Judge's Decision PN Bale Bandung 831/Pid.Sus/2016/PN.Blb if Consumers Are Lost Due to Consuming Foods Containing Hazardous Substances

Based on the study of the decision of the Bale Bandung District Court Judge 831/Pid.Sus/2016/PN.Blb. That at trial, the defendant Agung Pranoto was a legal subject who was not mentally disturbed. So that they can be responsible for what has been done. Where the defendant for 7 (seven) months or around January 2016 the defendant's wet noodle factory business was established and the wet noodle factory operated from 08.00 WIB to 24.00 WIB. In every day the factory produces as much as 1.5 tons or 1500 kilo grams.

It is known that the defendant has violated Article 136 Letter b of the Law of the Republic of Indonesia Number 18 of 2012 concerning Food which contains the element "Anyone who produces food for circulation intentionally uses prohibited materials to be used as food additives". At the factory he manages, there is evidence in the form of 1 (one) jerry can containing formalin liquid (half of it), 7 (seven) plastic bags of yellow wet noodles with formalin, and 24 (twenty four) sacks of yellow wet noodles with formalin. Where this has been proven to clearly violate existing rules.

The ingredients used for the process of making wet noodle products that are sold include the following: flour, aci, large salt for flavor, peanut oil so that the noodles are not sticky, water, food coloring to make the noodles look yellow, food preservative Potacium sorbate (P1000).) to preserve the noodles for 2 days and finally use formalin so that the wet noodles last for 5 to 7 days. The formalin liquid used in the manufacture of wet noodles is formalin liquid used to preserve corpses, not a liquid for food preservatives, a mixture of formalin used

in the process of making wet noodles as much as 1 liter with the result of 1.5 tons of wet noodles. The factory that he has managed does not have a name and there is no BPPOM on the wet noodle packaging because the wet noodle production is not registered with the BPPOM test which should be mandatory for every food that has been circulated.

In terms of food supervision, the state has appointed the Great Center for Drug and Food Control (BPOM) as a non-departmental government agency established to carry out government duties in the field of drug and food supervision in accordance with the provisions of the applicable legislation. BPOM has a technical implementation unit, one of which is in the form of the Center for Drug and Food Control (Balai Besar Pom) in the regions with their respective working areas (Panji, 2021). It is the obligation of business actors to always have good intentions in carrying out their activities, meaning that business actors are responsible for all business practices, including production practices.

If a business actor commits fraud in the production process that causes consumers to feel disadvantaged because of consuming the product they produce, then the business actor must be responsible for compensating for the loss without having to prove again about the presence or absence of the product. Mistakes, but business actors are directly responsible for losses caused by defective products (Liya, 2010:163).

Regarding safe food standards, it is also regulated in Article 86 paragraphs (1) and (2) of the Law. Food Law, namely: "everyone who produces and trades Food is obliged to fulfill Food Safety and Food Quality standards set by the Government. Everyone is prohibited from distributing contaminated food. As stated in Article 90 paragraph (1) Food Law, Contaminated Food is in the form of food which: a. contains toxic, hazardous or hazardous materials that can endanger health or life man; b. contains contamination that exceeds the maximum limit specified; c. contains materials that are prohibited from being used in Food Production activities or processes; d. contains material that is dirty, rotten, rancid, decomposes, or contains vegetable material or diseased animals or originating from carrion; e. produced in a prohibited manner; and/or f. has expired (Ibrahim, 2018:84)

Article 8 number (1) letter (a), number (2) and number (3) of the Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection stipulates a number of prohibitions for business actors, namely: business actors are prohibited from producing and trading goods that can be in the form of pharmaceutical and food preparations that are

damaged, defective or contaminated, and do not comply with the standards determined by law.

According to the article above that business actors who have heeded the articles mentioned can be subject to criminal charges and this affects articles 204 and 205 of the Criminal Code, "that is, aspects of norms and the influence of aspects of criminal provisions, then the scope of articles 204 and 205 of the Criminal Code is provide protection to consumers by threatening criminal acts of selling, offering, delivering or distributing goods that endanger life or health while the dangerous nature is not notified" (Bayu, 2020:4).

The defendant Agus Pranoto was legally proven and found guilty of committing a crime "intentionally using materials that are prohibited from being used as food additives". And the defendant has been sentenced to criminal sanctions with imprisonment for 1 (one) year and five months. The government in supervising food products that have diverged is given the authority to take administrative action, in accordance with what is stated in Article 54 point (2) of the Law of the Republic of Indonesia Number 7 of 1996 concerning Food, the administrative actions referred to are: a written warning; Temporary prohibition on distribution and/or orders to withdraw food from circulation if there is a risk of food contamination or food is not safe for human health; Destruction of food if it is proven that it endangers human health and life; Product discontinuation for a while; The imposition of a maximum fine of Rp. 50,000,000.00 (fifty million rupiah); and Revocation of production license or business license. Based on the study of the decision of the Bale Bandung District Court Judge 831/Pid.Sus/2016/PN.Blb. The defendant Agus Pranoto was given a criminal sanction with imprisonment for 1 (one) year and five months.

CONCLUSION

The responsibility of business actors if there is a loss in food products that have been marketed to consumers is absolutely responsible for the losses that have been received by consumers, ranging from health problems or death caused by consuming food or beverage products that are dangerous or contain chemical substances that are harmful to consumers. Not recommended for foodstuffs. The compensation in question can be in the form of health care or the provision of compensation to consumers who are harmed or the agreement of the parties themselves.

Legal sanctions for business actors who use hazardous substances in industrial-scale food that are proven to have intentionally violated hazardous chemicals in their production, therefore, food products are recalled, production stops temporarily until the related problems are resolved and withdrawals are made. home industry food number, destruction of said food or drink if it is proven to be harmful to human health and life, and revocation of production permit or business license.

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