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A JURIDICAL REVIEW OF BUSINESS ACTORS' LIABILITY IN COMPENSATING CONSUMERS FOR LOSSES RESULTING FROM PRODUCT PACKAGING WITHOUT AN EXPIRY DATE

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Abstract

This study aims to identify and analyse the legal protection afforded to consumers who receive products without clear information, as well as the liability of business actors to compensate for any resulting losses, pursuant to Law Number 8 of 1999 on Consumer Protection. The methodological approach employed in this legal research is a normative juridical one. This involves examining primary, secondary, and tertiary legal materials using both normative juridical and qualitative analyses, which are then systematically organised. The findings indicate that the provision in Article 8 Paragraph (1) of the Consumer Protection Law (UUPK) of Indonesia has not been effectively implemented. This is reflected by the existence of business actors who fail to include an expiry date on packaged products in accordance with prevailing regulations. The legal consequences for breaching the requirement to include an expiry date on packaged products may entail administrative sanctions, as stipulated in Article 71 of BPOM Regulation No. 31/2018, Article 61 Paragraph (2) of Government Regulation of the Republic of Indonesia Number 69 of 1999 concerning Food Labelling and Advertising, as well as Articles 62 Paragraph (1) and 63 of the Consumer Protection Law. Such administrative sanctions may include a written warning, temporary suspension of production activities, product recall, and revocation of business licences.

Keyword: consumer protection; expired date; liability

1. INTRODUCTION

Today, it is evident that a multitude of violations are persisting in the domain of packaged food production in Indonesia. A salient example of such an infringement is the absence of transparency in production processes, exemplified by the marketing of packaged food products devoid of an expiry date. In order to safeguard consumers, it is imperative for business operators to furnish precise information on food and beverage packaging, particularly for products designated for specific consumption amounts or times, with a view to averting potential adverse effects that may befall consumers. The term 'expiry' refers to the point at which a product is deemed unfit for consumption because it has surpassed its stipulated time limit (Aprinelita. 2021). Products that are no longer fit for consumption should not be sold, and consumers themselves must be vigilant when making purchases by examining products carefully beforehand. However, consumers face challenges that extend beyond this. The global competition that exists among packaged food producers has led to the adoption of strategies aimed at maximising profits, including the distribution of packaged foods that are not subject to an expiry date.

In reference to the aforementioned case, it is imperative to safeguard consumers and enforce the regulations outlined in Indonesian Law No. 8 of 1999 concerning Consumer Protection. This legislation stipulates that all prevailing laws pertaining to consumer protection remain in effect, provided they do not contravene or have been explicitly regulated by other legislation (Kristyanti, 2001). Consumer protection is a pivotal component of a legal system, with the overarching objective being to ensure the rights of consumers in relation to the safety and quality of products.

A pivotal concern for consumers pertains to the absence of expiry dates on product packaging. This information is of paramount importance, as it provides consumers with essential data regarding the safe time limit for product consumption. The inclusion of expiry dates serves to safeguard consumers against potential health risks associated with the consumption of substandard products. Despite the official regulation of expiry date inclusion in Indonesian legislation, its implementation in practice continues to encounter numerous challenges.

It has been demonstrated that products which are marketed frequently fail to clearly indicate the expiry date, or include information that is inaccurate or not in accordance with the standards set by the relevant agencies. This state of affairs undoubtedly engenders confusion among consumers and has the potential to harm them, especially if consumers do not realise that the product purchased has passed the production or expiration date, rendering it unsuitable for consumption again. The regulations that govern the inclusion of expiry dates on product packaging are set out in several pieces of legislation, including Law No. 8/1999 on Consumer Protection and Government Regulation No. 69/1999 on Food Labels and Advertisements. However, in practice, there are still many challenges related to implementation and supervision that cause discrepancies between regulations and their application in the field. Consequently, the author intends to conduct further research into the protection of consumers, as well as the responsibility of businesses in compensating consumers for products purchased without clear information and not in accordance with applicable regulations.

2. METHOD

The methodological approach employed in this legal research is that of normative juridical analysis, whereby primary, secondary and tertiary legal materials are subjected to systematic analysis through the utilisation of a qualitative approach. The types of legal materials employed are selected to align with the objective of the discussion, as outlined below: primary legal materials, encompassing the Consumer Protection Law and associated legislative acts pertinent to the focal issues under scrutiny; secondary legal materials, comprising references in the form of scientific literature and scholarly works within the domain of consumer protection. Consequently, this research integrates a diverse array of legal sources to accomplish a comprehensive and exhaustive analysis, aligned with the stipulated objectives (Efendi, 2018).

3. RESULTS AND DISCUSSION

The regulation of consumer protection is enshrined in Law Number 8 of 1999, particularly in Article 1 paragraph 1, which stipulates that consumer protection encompasses all measures aimed at ensuring legal certainty and safeguarding consumers (Rianti, 2017). The enforcement of consumer protection is imperative to prevent fraudulent practices perpetrated by sellers in regard to the goods they offer. This regulatory framework is pivotal in promoting societal welfare, particularly within the economic sector, by ensuring the effective protection of consumers' rights. The mandatory inclusion of the expiry date on product packaging by businesses is a crucial aspect of this regulatory framework, as it fulfils the consumer's right to receive honest, clear and correct information regarding the product's condition (Setyawati et al., 2017). This requirement for transparent and accurate product information is a consumer right, ensuring that consumers feel confident and secure when purchasing or using products (Syawali et al., 2000). However, despite existing regulations, many businesses still do not operate in a satisfactory manner, for instance by failing to include expiry dates on their packaging, which can potentially harm consumers. This underscores the necessity for enhanced law enforcement to ensure the protection of consumers' rights and the provision of compensation by producers. In Indonesia, the ratification of the Consumer Protection Law is a pivotal step in addressing and mitigating consumer ignorance regarding products marketed by business actors. This legislation aims to address various concerns, including the feasibility of the product for consumption and any issues arising from the production process.

The purpose of the establishment of a rule or law is to ensure certainty, usefulness and justice in society (Huroiroh. et al., 2022). Meanwhile, the primary aim of consumer protection law is to increase the dignity and awareness of consumers and to provide protection to them in accordance with the legal objectives and legal ideals expected by society (Harahap, 2016). A secondary goal is to encourage business actors to conduct their businesses responsibly (Sutedi, 2008), and various means can be used to achieve a balance between consumer protection, with the most important way being to uphold consumer rights (Miru, 2013). The rights of consumers, as outlined in the Indonesian law on consumer protection, are enumerated in Article 4, letter c, which stipulates that these rights encompass 'the right to correct, clear, and honest information about the conditions and guarantees of goods and/or services' (Putri & Sukranatha, 2018).

In accordance with the stipulations outlined in Article 4, paragraph c, of the Consumer Protection Law, it is evident that business actors who are found to have engaged in sales without including expiry dates on the products they offer have transgressed against consumer rights. This is due to the fact that every consumer is entitled to clear, accurate, and honest information regarding the condition and warranty of goods. The provision of information regarding all products offered by business actors is of paramount importance, as inadequate information conveyed to consumers can be deemed a defect in the product itself. The right to obtain adequate information is intended to empower consumers to form an accurate picture of a product, thereby enabling them to make informed decisions and avoid potential losses due to errors in product use. It is imperative to recognise that alongside the rights of consumers, there are concomitant obligations incumbent upon business actors. These obligations are delineated in Article 7 of the Consumer Protection Law, which stipulates that business actors are bound by the following obligations (Tampubolon, 2016):

"Business actors must furnish consumers with accurate, transparent, and truthful information regarding the condition and warranty of goods and/or services. They are further obliged to provide clear explanations for use, repair, and maintenance."

It can be concluded from the provisions outlined above that business actors who do not include expiry dates on products are in clear violation of their obligations as described in Article 7(b). In the event that consumers are harmed, it is the responsibility of business actors to provide compensation in accordance with Article 7 (b), which stipulates that business actors must provide correct, clear and honest information regarding the condition and guarantee of goods and/or services, as well as explanations for use, repair and maintenance (Charity, 2017).

Furthermore, as outlined in Article 4, letter c, of Law Number 8 of 1999 concerning Consumer Protection, consumers possess the right to obtain precise, transparent, and truthful information regarding a product, encompassing its condition and warranty. Furthermore, Article 4, letter d of the aforementioned legislation stipulates that consumers possess the right to express their concerns and to inquire about goods and/or services that have been or are being used, with the objective of averting future complications. In the event that this right is not duly observed, it will inevitably result in adverse consequences for consumers, who will incur losses due to the absence of safety and quality in products manufactured by business entities. The right to consumer safety is further delineated in Article 4, letter (a) of the Consumer Protection Law, which stipulates that consumers are entitled to security for their health, safety, and property in the form of goods and/or services used (Dera, 2019).

In addition to the rights to security and the right to obtain information, consumers are also entitled to compensation for goods and/or services received that do not comply with the relevant regulations. The legal framework surrounding this matter is delineated in Article 4, letter h, of Law Number 8 of 1999 concerning Consumer Protection, which stipulates that consumers are entitled to compensation, reimbursement, and/or replacement in instances where goods and/or services received do not align with the stipulated agreement or are found to be defective. This compensation is to be administered by business actors who have caused harm to consumers as a legal effort to prevent violations of consumer rights and as legal responsibility that must be obeyed and implemented by business actors. With the legal rules stipulated in the Consumer Protection Law, it is hoped that consumers will get clear legal protection and that they will be able to make demands if they suffer losses due to the sale of packaged food that does not include the expiry date.

Violations committed by economic operators relate to the provisions of Article 8(1)(g), which states that "the date of minimum durability or the best before date of certain goods shall not be indicated" (Adistya, 2018). This is a violation committed by economic operators in the household industry. The sanctions imposed on economic operators for such actions are regulated in Article 62(1) of Act No. 8 of 1999 on Consumer Protection. Entrepreneurs who violate the provisions of Article 8, Article 9, Article 10, Article 13 paragraph (2), Article 15, Article 17 paragraph (1) letter a, letter b, letter c, letter e paragraph (2) and Article 18 shall be punished with a maximum imprisonment of 5 (five) years or a maximum fine of IDR 2,000,000,000.00 (two billion rupiah) (Sondakh, 2017). In this regard, it is also regulated to require economic operators to affix labels on their product packaging, as provided in Law No. 18/2012 on Food and Advertising Labels, Article 97, Paragraphs (1,2,3), which reads as follows (Puasa, 2017):

Every person who produces food domestically for the purpose of trade shall be required to include a label on and/or within the food packaging.

Every person who imports food for trade shall be required to include a label on and/or within the food packaging upon entering the territory of the Unitary State of the Republic of Indonesia.

The inclusion of a label on and/or within the food packaging, as referred to in paragraphs (1) and (2), shall be written or printed in the Indonesian language and must contain at least the following details:

The product name;

A list of the ingredients used;

The net weight or net content;

The name and address of the party responsible for producing or importing;

An indication of 'Halal' status, where required;

The production date and code;

The expiry date (day, month and year);

The distribution permit number for processed food; and

The origin of certain food ingredients.

As mentioned above, the sanctions imposed on business operators are stipulated in Article 102, Paragraph (1), which states: "(1) Any person who contravenes the provisions as set out in Article 97, Paragraph (1), Article 99, and Article 100, Paragraph (2), shall be subject to administrative sanctions; (2) The administrative sanctions referred to in Paragraph (1) shall consist of the following: a. a fine; b. a temporary suspension of activities, production, and/or distribution; c. the withdrawal of food products from circulation by the producer; d. compensation; and/or e. the revocation of licences.

When a business actor violates consumer rights and causes harm to consumers, it is the duty of the economic actor to take responsibility. The consumer's right to clear information, in particular the inclusion of expiry dates, is important to know whether the product is suitable for use or not. Therefore, any act that violates or infringes the law, the perpetrator must be held accountable for his actions and be sanctioned in accordance with existing regulations.

The liability of business operators in selling products without an indicated expiry date falls under strict liability, also known as Product Liability. Under this principle, business operators are required to assume responsibility if consumers incur losses due to the use of the products they market. The aim of this principle is to hold business operators accountable for causing harm to their consumers. The liability of business operators is regulated in the Consumer Protection Act, specifically in Article 19, which states that (Randi, 2022):

Business operators are liable to compensate for damages, contamination, and/or losses suffered by consumers as a result of consuming goods and/or services that are produced or traded;

The compensation referred to in paragraph (1) may take the form of a refund or the replacement of goods and/or services of a similar type or equivalent value, or the provision of healthcare and/ or appropriate compensation as stipulated by the applicable laws and regulations;

The provision of compensation must be carried out within a period of seven (7) days following the transaction date;

The provision of compensation as mentioned in paragraphs (1) and (2) does not preclude the possibility of criminal prosecution based on further evidence of negligence;

The provisions mentioned in paragraphs (1) and (2) shall not apply if the business operator can prove that the fault was attributable to the consumer.

On the basis of the provisions of Article 19 above, any trader is required to be liable for consumer losses by providing compensation or damages in the form of reimbursement or replacement of goods in relation to products that do not have an expiry date. If it is proven that a trader has caused damage to consumers and does not take responsibility for its actions, the injured consumer may bring an action against the trader before the judicial body in the consumer's place of residence, in accordance with the provisions of Article 23 of Act No. 8 of 1999 on Consumer Protection (Munggaran et al., 2019).

4. CONCLUSION

Consumer protection is of paramount importance in promoting the welfare of the populace, particularly in the economic sphere, because with such regulations in place, the implementation of consumers' rights will be adequately safeguarded. The inclusion of expiry date information on product packaging is an obligation that must be fulfilled by business operators, with the objective of ensuring that consumers' rights to honest, clear, and accurate information about the condition of the products are met.

Every business operator is required to be liable for any consumer losses by providing compensation or damages in the form of a refund or the replacement of goods associated with products that do not display an expiry date. Should a business operator be proven to have caused harm to consumers and fail to take responsibility for their actions, the aggrieved consumer may institute legal proceedings against the operator through the judicial authority in the consumer's place of residence, in accordance with the provisions of Article 23 of Act No. 8 of 1999 on Consumer Protection.

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