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The Nature of Business Actors' Legal Responsibilities for Home Industry Products without a Health Office Permit

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ABSTRACT

The purpose of this study is to determine the legal responsibility of business actors for home industrial products that do not have permission from the health department, and the factors that support the growth and development of the home industry. The method used by the researcher here is Research, in general, can be classified into two types, namely empirical sociological research (field) and normative research. The results obtained show that the nature of the legal responsibility of business actors who do not have a permit from the Health Office is to withdraw their products circulating in the market and provide compensation according to what consumers want.

KEYWORDS: Business Actors; Industrial Products; Household

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I. INTRODUCTION

Based on Law Number 7 of 1996 concerning food and following Government Regulation Number 28 of 2004 concerning Food Safety, Quality and Nutrition, drug and food distribution is regulated that every food that will enter and circulate in Indonesia must meet food safety, quality and nutrition. as evidenced by the completeness of test and inspection results from the country of origin [1]. Furthermore, in the implementation of the Law, the government will apply administrative sanctions, basic criminal sanctions, additional criminal sanctions if it is deemed that products marketed by business actors will harm consumers [2].

The government makes laws and regulations that regulate the interests of consumers, namely Law Number 8 of 1999 concerning Consumer Protection, hereinafter abbreviated as the Consumer Protection Act, promulgated on April 20, 1999, and declared effective from April 20, 2000, one year after the law is issued. With the enactment of the Consumer Protection Law, the provisions of the previous legislation can still apply as long as the new one has not been regulated according to the law or if it does not conflict with the law [3].

Law Number 8 of 1999 concerning Consumer Protection can be used as an *umbrella act* for other laws aimed at protecting consumers, both existing and those that will be made in the future. In the Consumer Protection Law, it is regulated regarding Prohibited Actions for Business Actors, namely "Business actors are prohibited from producing and/or trading goods and/or services that do not meet or are not following the required standards and provisions of laws and regulations [4]."

According to Nurmadjito, the prohibition is intended to ensure that every good and/or service circulating in the community is a product worthy of circulation, including origin, quality according to entrepreneur information either through labels, etiquette, advertisements, and so on. The existence of a law that regulates consumer protection is not intended to kill business actors [5]. The Consumer Protection Act can encourage a healthy business climate and encourage the birth of companies that are strong in facing existing competition by providing quality goods/services [6]. In the general explanation of the Consumer Protection Act, it is stated that in its implementation it will continue to pay attention to the rights and interests of small and medium business actors. But in reality, what is happening in the market there are still many violations of the provisions contained in the Consumer Protection Act [7]. Many are found in home industries that do not have a permit from the health department and a permit from the drug and food supervisory centre. To get the maximum benefit, business actors often override consumer rights and the prohibitions regulated in the Consumer Protection Act [8].

Many home industries in Makassar City do not have permits and do not include expiration dates and P-IRT labels on their products and are sold freely, this phenomenon places the position of consumers against producers into imbalance, consumers are in a weak position because consumers become the object of business activity to gain profits through promotion and sales methods that allow large consumers. In-Law No. 8 of 1999 Article 4 Rights.

Several food product phenomena caught in Makassar during the month of Ramadan, many types of takjil (breaking the fast) snacks, however, need to be wary of some of these snacks containing chemical substances that are not suitable for consumption. Related to this, BPOM Makassar on August 16, 2010, followed up on the public's concerns by holding a surprise inspection at the takjil hawker centre. Head of Certification and Consumption Information Services of BPOM Makassar, dra Adilah Pababari, Apt., MM, together with his staff went directly to the BPOM laboratory car to examine several food samples, during this inspection, it was suspected that the takjil snacks contained chemicals, samples were taken and then tested, the type The foods examined were mainly snacks with striking colours and suspected of containing borax, Rhodamine B dye and formalin, some of which were crackers, steamed sponge cake, fruit ice and cendol. He explained that consuming Rhodamine B can irritate the eyes, liver damage, tumours and accumulates in the body, this is because Rhodamine B is a textile dye, and is prohibited from being used in foodstuffs.

In Indonesian laws and regulations, it is clear that each package must include the origin of certain ingredients and their contents, for example, food products containing pork in the inspection of imported products are fruit flavoured jelly and cola with the trademark Haricot [9]. To BPOM *Kustantinah* added, so far, importer producers who have been banned after the operation carried out by BPOM Makassar, they return to marketing products that are considered illegal, although some have been processed legally, the hardest thing is that they are ordered to pay a fine of less than 5 million rupiahs. *Kustantinah* hopes that the government will make special rules and strict sanctions to take action against distributors and producers of illegal food or drugs, at least providing a deterrent effect and not harming the public for the products they distribute.

Lately, people are often surprised by the news in various mass media that many products, especially foods that are often consumed daily contain ingredients that are harmful to health, such as the content of formaldehyde or other food preservatives [10]. Food safety in Indonesia is still far from safe, which can be seen from the recent food poisoning incidents. In such conditions, consumers generally do not have awareness about the safety of the food they consume, so that not many consumers are demanding the food producers. This also causes food producers to increasingly ignore consumer safety to get as much profit as possible.

One of the problems that arise in the community is the number of circulating products in the *Home Industry* that do not have permission from the Health Office. Most of the business actors are *Home Industry* aware of this but because their business is already running, many business actors are *Home Industry* "cat-and-move" with the police and the POM agency. So that many food products are found that do not meet the quality and food safety requirements (Food Additives, microbial contamination, expiration dates), there are still many cases of poisoning, the lack of knowledge, skills and responsibilities of food producers regarding food quality and safety and the low awareness of consumers themselves. . For this reason, *Home Industry* products, especially food products, must comply with standards to be safe for consumption.

products *Home Industry* that has obtained a permit from the Health Office means that the product has complied with the standards or requirements, safety, quality, and benefits of the product. On the other hand, products *Home Industry* that does not have a Health Office permit, whether in the form of food or beverage products, of course, have not passed the inspection stage by the authorized party to examine them. products *Home Industry* that does not have a Health Office permit if consumed by consumers can cause losses, both material and psychological losses. This is of course detrimental to consumers as those who need and consume products. *Home Industry*

II. RESEARCH METHODS

Research in general can be classified into two types, namely sociological (field) empirical research, namely research conducted with an approach to legal reality in society. This research is based on the existence of a symptom in the form of a gap between expectations (*das sollen*) and reality (*das Sein*) in the field of law. and normative research, namely research conducted with an approach to legal norms or substance, legal principles, legal theory, legal arguments and legal comparisons. In this study, the author combines the two studies, namely in this type of research the researcher researches by combining both types of Normative and Empirical research with a qualitative approach as mentioned above in a study. This research was carried out within the jurisdiction of the city of Makassar, precisely at the Makassar City Food and Drug Supervisory Center and the Makassar City Health Office, South Sulawesi. The reason is that BPOM and the Health Office are the only places that do a lot of coaching for business actors on home industry products that do not have a health office permit. And BPOM is also an institution in Indonesia in charge of supervising the circulation of drugs and food in Indonesia.

III. DISCUSSION

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The question that often arises when discussing issues regarding home industries is who should be responsible for cases of many circulating food or beverage products that do not have or hold a permit from the agency health, especially the Makassar City Health Office? Based on the results of the author's interview with staff of the Makassar City Center for Drug and Food Control, 5 people (April 2021) said that the most responsible were food or beverage producers for the home industry (*Home Industry*).

The author also conducted interviews with 5 Makassar City Health Office staff employees (April 2021) saying that providing quality assurance and food safety to consumers is the obligation of business actors in carrying out their business activities. Registration of a food product processed by the *Home Industry* is a guarantee of food quality and safety against the feasibility of a food product so that it can be consumed by consumers. Registration for food products processed by the (*Home Industry*) is issued by the Health Service so that these food products can legally circulate in the market.

The problem of food, in this case, processed food circulating in the market, is a problem that must receive special attention in efforts to implement overall health. The existence of a massive increase in production carried out by the food industry does not mean that it does not have consequences for the government because the resulting product must be kept under control and carefully monitored so that the food product has quality and safety that can be accounted for.

To determine the extent of the legal responsibility of businesses or manufacturers of the Home Industry (*Home Industry*) in the city of Makassar on consumers. The author conducts interviews about the safety of consuming processed foods from the (*Home Industry*) that do not have permission from the Makassar City Health Office.

Based on the results of the author's interview with staff from the Makassar City Food and Drug Supervisory Center as many as 5 people, the results of the author's interview on (April 2021), said that if consumers feel disadvantaged due to consuming Home Industry food that does not have a Health Service (P-IRT) permit), then the form of responsibility carried out by the producer is to withdraw the product circulating in the community.

The opinion expressed by Mrs Warda Mustari, owner of a Home Industry business (24 April 2021) from the results of the author's interview, is that the producer's responsibility is what if there is a product that causes harm to consumers, that is, apart from withdrawing the product on the market, it also provides compensation according to what consumers want.

As for the results of the author's interview with Mr Ibnu Ernas as the owner of the Home Industry (April 2021) who lives in Mannuruki, Makassar, which said that the factors causing business actors who did not have health office permits were due to the lack of legal knowledge and cultural factors. his.

As for the more binding provisions that producers must be responsible, namely based on law Number 8 of 1999 concerning consumer protection article 19 paragraph 1 states that business actors are responsible in terms of providing compensation for damage, pollution, and or consumer losses due to consuming goods. and or services produced or traded. The compensation in question is in the form of refunds or replacement of goods and or services of the same kind and equivalent in value, or health care and or the provision of compensation following the losses suffered by consumers (article 19 paragraph 2). The compensation is given within a grace period of 7 (seven) days after the date of the transaction. The provision of compensation as referred to in paragraphs (1) and (2) does not eliminate the possibility of criminal prosecution based on further evidence regarding the existence of an element of error. The provisions as referred to in paragraphs (1) and paragraph (2) shall not apply if the business actor can prove that the error is the fault of the consumer.

The production permit for a food product is an absolute requirement that must be met before the food product is circulated in the community which is explained in the Decree of the Head of BPOM No. HK. 00.05.5.1.40 of 2003 concerning Guidelines for the Implementation of Food Production Certificates for Home Industry and Government Regulation Number 28 of 2004 concerning Safety, Quality, Nutrition and Food Article 43 paragraph (2). Although the rules regarding the production permit for Home Industry food products require that before being circulated each food product must be registered to obtain a production permit, in reality, there are still many food products produced by the Home Industry that are circulated without a production permit.

In Government Regulation Number 28 of 2004 concerning Safety, Quality, Nutrition, and Food Article 47 paragraph (2), the government, in this case, the Makassar City Health Office, if there are consumers who feel disadvantaged due to consuming unregistered Home Industry products, the government will take action in the form of withdrawal of the product from the market, prohibition of distribution permits, and industrial closures.

The responsibility of the Government in supervising the implementation of consumer protection is an important part of efforts to build positive and dynamic business activities so that the rights of consumers can still be considered by business actors.

Based on the author's interview with the Pharmacy Health staff, Drug and Food Supervision Health Supplies (April 2021) it was explained that the government, in this case, the South Sulawesi Provincial Health Office, supervised the Home Industry food products circulating in the community. The Health Office, following one of its functions, performs *Post Market Surveillance*, namely the Health Office supervises products that have been granted production permits and supervises products circulating in the market to avoid Home Industry food products that can endanger the health of consumers.

The author also conducted interviews with Mr Muh. Mulky Ernas as the owner of a home industry who lives on Jalan Daeng Tata Kota Makassar (April 2021) said that many home industries do not have a product permit from the health office, and the author also conducted an interview with one of the BPOM staff who also said that the process supervision carried out by the Health Service by directly visiting the location of the Home Industry and inspecting the production facilities and locations around the home industry food product production site.

Furthermore, the BPOM Staff Officer (April 2021) said that efforts to control the production, distribution and circulation of Home Industry food products are carried out by appealing to every supermarket or shop where Home Industry food products are sold not to accept Home Industry food products. Stairs that do not have permission from the Health Office. The appeal was also conveyed to each school principal to check every snack found in his area.

The same thing was also stated by the Makassar City BPOM Inspection and Investigation Staff Officer and Makassar City Health Service Staff Officer (May 2021) who said that BPOM and the Health Office carried out surveillance every 3 months in traditional markets and supermarkets to prevent the circulation of food products. which do not meet the requirements. Through this activity, BBPOM conducts an inspection, sampling and laboratory tests for every household industrial food product circulating in the community. If under supervision there is a household industrial food product that does not have a permit from the Health Officer, the BBPOM and the Health Office will withdraw it from the market and give an appeal to shops and supermarkets not to accept the food product again and provide guidance to home industry producers to register. processed food products.

Based on the results of the author's interview with Makassar City BPOM staff, as many as 5 people (May 2021) said that so far there have been no reports of consumer complaints who feel disadvantaged due to consuming Home Industry food products that do not have the Health Office's permission. Although no reports have been received, protection to consumers for Home Industry products that do not have permission from the Health Office has been carried out, namely, consumers can complain to the Makassar City BBPOM through the Consumer Complaints Service Unit.

IV. CONCLUSION

The nature of the legal responsibility of business actors for home industrial products that do not have a Health Service permit is to withdraw their products circulating in the market and provide compensation following what consumers want and based on Law Number 8 of 1999 concerning consumer protection

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