

Legal Protection for Consumers Against Illegal Sale of hand sanitizer During the Covid-19 Pandemic Based on Law Number 8 of 1999 Concerning Consumer Protection

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Abstract. Nowadays, hand sanitizer is one of the primary needs of the community that must be distributed and is one of the items which is urgently needed to be used during the Covid-19 pandemic. Concerning the spread of the covid-19 virus, many business actors and irresponsible people make this phenomenon a business field, in this case, business actors who have bad intentions because of the weakness of consumers who do not have protection for their rights. This article seeks to examine legal protection for consumers to establish Consumer Protection in Article 3 of Law No. 8 of 1999 concerning Consumer Protection (hereinafter abbreviated as UUPK/*Undang-Undang Perlindungan Konsumen*). The sale of illegal hand sanitizers without a distribution permit during the covid-19 pandemic was caused by irresponsible business actors, and the lack of supervision by the government caused consumers to lose their rights as mandated by law.

Keywords: Covid-19, consumer protection, distribution permits, illegal commodities, regulations

1 Introduction

The globalization that is happening today, many goods or services are not guaranteed security, safety, and quality of goods for consumers out there. It makes consumers and producers unequal, namely consumers are in the weakest position. Consumers are the target of business activities to get a lot of profit through promotions and sales that are detrimental to consumers [1].

Indonesia has a vast and abundant number of consumers; in this case many consumers in Indonesia are not fully protected by existing laws. Consumer complaints in the trade sector amounted to 4,855 or 95 percent of the total number of incoming consumer complaints, as much as 5,103 from January to June 2021 [2] [3]. Therefore, legal protection for consumers is very much needed. It is in accordance with establishing Consumer Protection in Article 3 of Law Number 8 of 1999 on Consumer Protection (hereinafter abbreviated as UUPK/*Undang-Undang Perlindungan Konsumen*).

It is hoped that with the objectives given in the UUPK, it can be realized for consumers in Indonesia to solve existing problems in consumers. Seeing the current state of the world being hit by the Covid-19 virus outbreak, there have been drastic changes in the trade sector. One of them has had a major impact on consumers worldwide, including in Indonesia. It is known that the Head of the National Disaster Management Agency (BNPB/ *Badan Nasional Penanggulangan Bencana*) has stated that the Covid-19 virus is one of the national disasters

as regulated in Law Number 24 of 2007 on Disaster Management Article 7 paragraph 1 letter c, namely, "determination of the status and level of national disasters and area." With the Covid-19 virus that is spreading widely in Indonesia, the entire economy is disrupted, and people experience panic so they do panic buying [4][6]. Most people do panic buying in the form of food needs, masks, hand sanitizers, and panic buying vitamins themselves. It can be interpreted as consumer behavior in the form of buying products in large quantities so as not to suffer losses in the future.

In the panic buying phenomenon itself, hand sanitizers themselves are a rare item due to an appeal from the World Health Organization (WHO), which recommends the use of hand sanitizers as one way to avoid the possibility of being exposed to the Covid-19 virus when interacting with an environment that is suspected to be contaminated with the virus.

Nowadays, hand sanitizers is one of the primary needs of the community that must be distributed and is one of the items that need to be used during the pandemic of Covid-19. In relation to the phenomenon of the spread of the covid-19 virus, many business actors and irresponsible people make this phenomenon a business field. In this case, business actors have bad intentions because of the weakness of consumers who do not have protection for their rights. The existence of an opportunity in the panic buying phenomenon has made many irresponsible people sell illegal hand sanitizer without a distribution permit which can endanger the safety of consumers. Law Number 36 of 2009 on Health Article 19 explains, "The government is responsible for the availability of all forms of quality, safe, efficient, and affordable health efforts."

The government is still negligent in monitoring the sale of illegal hand sanitizers without a distribution permit [7][8]. So, if the sale of illegal hand sanitizers without a distribution permit does not get in-depth supervision from the government, the rights and interests of consumers to feel safe and get health will be threatened. Moreover, this Covid-19 pandemic is unpredictable and cannot be controlled by anyone.

With the distribution permit that has been issued by the Ministry of Health, it should have gone through various processes to achieve the right quality standards so that it does not endanger consumers and the products being traded are ready to be marketed. Found in Article 4 of Law Number 8 of 1999 on Consumer Protection, precisely paragraph (1) further explains the rights of consumers, namely, "the right to comfort, security, and safety in consuming goods and/or services." All consumers have the right to feel safe and comfortable when buying or using goods or services. Furthermore, it is also explained in Law Number 8 of 1999 on Consumer Protection Article 1 paragraph 1, namely, "Consumer protection is all efforts that guarantee legal certainty to protect consumers." Therefore, it might be drawn to the conclusion that consumer protection is one of the efforts to ensure consumer protection.

Therefore, consumer protection has a vital role in consumers' daily lives so that their safety and security are guaranteed, particularly during the pandemic of Covid 19. This condition forces the protection of consumers to be more emphasized so that consumers and business doers accept his right and perform his obligations reasonably. The government can also provide further understanding to consumers about their rights as consumers.

The aims of this research is to find out the form of legal protection for consumers and the efforts of the Central Java Provincial Health Office in supervising the sale of illegal hand sanitizers without a distribution permit during the Covid-19 Pandemic based on Consumer Rights in terms of Law No. 8 of 1999.

2 Research Methods

This research uses a normative juridical method, namely the approach in terms of the applicable laws and regulations [9][10]. This research was conducted by reviewing the legislation and directly examining the Central Java Provincial Health Office regarding the efforts of the Central Java Provincial Health Office in supervising the sale of illegal hand sanitizers that were sold without distribution permits throughout the Covid-19 pandemic.

The research specifications used in this research are descriptive-analytical, which aims to describe or provide an overview of the applicable laws and regulations then linked to legal theory and law enforcement practices related to legal protection of consumers related to the sale of illegal hand sanitizer.

The collection method is carried out by literature study, namely by reviewing regulations related to Consumer Protection, consumer protection legal journals, research results, and other literature related to consumer protection and the sale of illegal hand sanitizer. In this study, interviews were conducted to obtain information and to find out the implementation of supervision and enforcement of the Central Java Provincial Health Office by asking directly to the resource person, namely Mrs. Eva Rachmawati as the Head of the Enforcement Section of the Circulation Permit of Medical Devices at the Central Java Provincial Health Office, Semarang City.

The data analysis method used is qualitative. The research data in this study are sourced from primary legal materials and secondary legal materials are presented in the form of data analysis to answer this research and then compiled in written form and become this paper.

3 Research Result

3.1 Forms of legal protection against the sale of illegal hand sanitizers without a distribution permit based on Consumer Rights in terms of Law Number 8 of 1999 on Consumer Protection

Regulations related to legal protection against the sale of illegal hand sanitizer without a distribution permit based on consumer rights in Law Number 8 of 1999 on Consumer Protection

Today many consumers are harmed materially and formally due to business actors who are reluctant to take responsibility and commit fraud in buying and selling activities which result in unequal rights and obligations for consumers. One of the main factors so that consumers avoid these losses can be found in Article 1 paragraph 1 Law Number 8 of 1999 on Consumer Protection, namely:

"Consumer Protection is all efforts that establish legal certainty to provide protection to consumers."

Based on Article 1 paragraph 1 of Law No. 8 of 1999 concerning Consumer Protection, consumer protection is stated as a way to protect consumers by providing guarantees to all consumers through legal certainty.

There is a tendency of consumers in Indonesia who are not fully aware of all the rights attached to them, along with the behavior of business actors who have not been able to fulfill their obligations in carrying out business activities, so that consumers have a weaker position than business actors. Moreover, consumers are reluctant to claim rights for the losses incurred, considering the time, cost, and energy that would otherwise be spent demanding the restoration of their rights as consumers [11][13]. In addition, with Law Number 8 of 1999 on Consumer Protection, consumers should not have to worry about the rights they will get as consumers. However, there are still many consumers out there who are still not aware of the rights they have. One of them is consumers who suffer losses from the impact of selling illegal hand sanitizers without a distribution permit.

The rights owned by consumers themselves have been regulated in Law No. 8 of 1999 on Consumer Protection in Article 4, namely:

1. The right to comfort, security, and safety in consuming goods and/or services
2. The right to choose goods and/or services and to obtain said goods and/or services by the exchange rate and the promised conditions and guarantees
3. The right to correct, transparent and honest information regarding the conditions and guarantees of goods and/or services
4. The right to have their opinions and complaints heard on the goods and/or services used
5. The right to obtain proper advocacy, protection, and efforts to resolve consumer protection disputes
6. The right to receive consumer guidance and education
7. The right to be treated or served correctly and honestly and not discriminatory
8. The right to obtain compensation, compensation and/or replacement, if the goods and/or services received are not following the agreement or not properly
9. Rights are regulated in the provisions of other laws and regulations

In addition to Article 4, which has been regulated in Law No. 8 of 1999 on Consumer Protection, the protection provided is also contained in Article 7 and 19, namely regarding the obligations of business actors and the responsibilities of business actors to consumers.

Regulations related to the legal protection of the sale of illegal hand sanitizer without a distribution permit based on consumer rights outside of Law No. 8 of 1999 on Consumer Protection

Hand sanitizer itself is a rare item due to an appeal from the World Health Organization (WHO), which recommends the use of hand sanitizers as a way to avoid the possibility of being exposed to the Covid-19 virus when interacting with an environment suspected of being contaminated with the virus. So, at this time, hand sanitizer is one of the primary needs for the community that must be distributed as well as an emergency item to prevent exposure to the virus during this Covid-19 pandemic.

In this case, it is clarified in the Legal Protection against the sale of illegal hand sanitizer without a distribution permit in addition to being regulated in the Legislation in Law No. 8 of 1999 concerning Consumer Protection, namely Law Number 36 of 2009 on Health and Regulation of the Minister of Health Number 62 of 2017 concerning Distribution Permit of Medical Devices, In Vitro Diagnostic Medical Devices and Household Health Supplies.

3.2 The efforts of the Provincial Health Office of Central Java in supervising the sale of illegal hand sanitizers without distribution permits circulating during the Covid-19 pandemic

Classification of Illegal hand sanitizer

Hand sanitizer is a product in the form of a gel or liquid that is used to clean hands without rinsing with water because it contains antiseptic properties. Hand sanitizer gel is a gel-shaped hand sanitizer that is useful for cleaning or eliminating germs on hands, containing 60% alcohol as an active ingredient. Hand sanitizer spray is a hand sanitizer in the form of a spray to clean or eliminate germs on hands containing the active ingredient Irgasan (triclosan) DP 300: 0.1% and 60% alcohol.

Hand sanitizer is also regulated in Minister of Health Regulation Number 62 of 2017 on Circulation Permits of In Vitro Diagnostic Medical Devices and Household Health Supplies (Permenkes PKRT), hand sanitizer is classified as Household Health Supplies (hereinafter PKRT/ *Perbekalan Kesehatan Rumah Tangga*). However, hand sanitizers themselves can be categorized as illegal hand sanitizers, namely:

1. If the hand sanitizer is circulated by the manufacturer but does not get a production permit from the Indonesian Ministry of Health for official distribution
2. If the hand sanitizer is circulated by the manufacturer but does not have a distribution permit number as arranged in Regulation of the Minister of Health Number 62 of 2017 concerning Circulation Permits of Medical Devices, In Vitro Diagnostic Medical Devices, and Household Health Supplies regarding the destruction and withdrawal of Medical Devices, Equipment In Vitro Diagnostic Health and PKRT regarding standard requirements for distribution permits by the Indonesian Ministry of Health
3. If the hand sanitizer manufacturer circulates the hand sanitizer, but the composition is not by the laboratory standards of the Indonesian Ministry of Health and contains hazardous substances, and is not by what was registered by the manufacturer to the Indonesian Ministry of Health
4. If the hand sanitizer contains methanol, where methanol itself cannot be included in the hand sanitizer content, if used by humans, there will be dangerous side effects.

Legal Protection of Illegal hand sanitizer Users without a distribution permit and the Responsibility of the Central Java Provincial Health Office Regarding the Sale of Illegal hand sanitizers without a Circulation Permit during the Covid-19 Pandemic

Consumer protection is a matter used to describe the legal protection given to consumers to protect them from things that can harm consumers themselves. Law No. 8 of 1999 has explained Consumer Protection. Article 1 paragraph (1) explains that "Consumer Protection is all efforts that guarantee legal certainty to protect consumers." Based on the article above, we can apply legal protection to consumers as appropriate to avoid losses suffered by consumers.

In applying protection to consumers who experience losses due to the sale of illegal hand sanitizers without a distribution permit that occurred in the city of Semarang. The Central Java Provincial Health Office together with the Indonesian Ministry of Health, have implemented protection to consumers themselves against the use of medical appliance and household health supplies.

The Ministry of Health of the Republic of Indonesia has issued a Regulation of the Minister of Health which aims to become a center for the community, especially on medical devices and household health supplies, one of which is Permenkes Number 76 of 2013 concerning Advertising of Medical Devices and Household Health Supplies, Minister of Health Regulation No. 62 of 2017 concerning Permit Circulation of Medical Devices, In Vitro Diagnostic Medical Devices and Household Health Supplies, and Permenkes No. 1189/MENKES/PER/VIII/2010 on Production of Medical Devices and Household Health Supplies. All the regulations that have been issued by the Indonesian Ministry of Health are solely for the safety and welfare of the entire community. This means that medical appliance and household health supplies circulating in the community must be safe, of good quality, useful, and guaranteed and meet the requirements or standards set by the Ministry of Health of the Republic of Indonesia.

In the regulations that have been set and issued by the Indonesian Ministry of Health, the government has preventive measures taken by the Indonesian Ministry of Health and the Health Office in providing consumer protection in the event of a loss, especially against the sale of illegal hand sanitizers without a distribution permit, namely:

1. Availability of websites and applications that have been specially created to provide more facilities related to information and alert systems on medical devices and household health supplies so that consumers and the public feel safer if they want to buy medical device products and household health supplies.
2. Conducting regular socialization every three months regarding the provision and understanding of health workers and the community entitled "Education of the Community Movement on the Correct Use of Medical Devices and Household Health Supplies (PKRT).
3. There are 4 follow-up plans that the Central Java Provincial Health Office has prepared to tackle the sale of medical devices and pharmaceutical preparations that are sold illegally.

4 Conclusion

The sale of illegal hand sanitizers without a distribution permit during the covid-19 pandemic was caused by irresponsible business actors and the lack of supervision by the government caused consumers to lose their rights as regulated in Law Number 8 of 1999 Article 4 concerning Consumer Protection. Furthermore, regarding consumer rights, Law no. 36 of 2009 on Health and Minister of Health Regulation Number 62 of 2017 concerning distribution permits for in vitro diagnostic medical devices, medical devices, and household health supplies.

As for efforts to minimize losses experienced by the community as consumers due to the sale of illegal hand sanitizers, the Central Java Provincial Health Office, together with the Indonesian Ministry of Health, have made various efforts to ensure consumer safety, such as providing various kinds of websites that make it easier for the public to avoid irresponsible business actors, conducting socialization routinely and carry out follow-up plans in the future in overcoming problems that occur due to illegal hand sanitizers without distribution permits.

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