

Legal review on the online sale of homemade food and beverage products without a distribution permit from the National Agency of Drug and Food Control (BPOM) of the Republic Indonesia in relation to consumer protection in Medan City

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ABSTRACT

The objective of this research is to analyze the legal aspects concerning the online sale of homemade food and beverage products without distribution permits from the Indonesian National Agency of Drug and Food Control (BPOM), particularly in the city of Medan. This study employs a mixed legal research method, combining normative juridical and empirical approaches by reviewing relevant legislation and conducting interviews with small-scale business owners, BPOM officials, and representatives of the Medan Health Department. The findings indicate that the majority of homemade food and beverage entrepreneurs do not possess BPOM distribution permits due to a lack of understanding, limited financial resources, and the belief that such permits are unnecessary. Consequently, consumers are vulnerable to the safety of the products they consume. The state, through BPOM and local governments, must play an active role in providing both preventive and repressive legal protection, as well as in offering education and assistance to entrepreneurs to ensure the protection of consumer rights.

Keywords: homemade food and beverage, online, distribution permit, BPOM, consumer protection

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RESEARCH & PUBLISHING



1. INTRODUCTION

The development of information and communication technology has significantly influenced various aspects of society, including facilitating global trade activities through modern technology. Under the provisions of Article 1457 of the Indonesian Civil Code, sale and purchase constitute an agreement whereby one party is obliged to hand over an item and the other is obliged to pay the agreed price. This definition remains relevant, even though transactions now also take place through various digital platforms (Ningrum & Priyana, 2021).

Along with the growth of online buying and selling practices, there has been a significant change in the food and beverage sales industry. Entrepreneurs now use online media to market their products more innovatively, including through attractive advertisements on websites and social media. These digital marketing strategies often highlight affordable prices and claim superior taste to attract a wider range of consumers.

This online sales model has opened up significant opportunities for small businesses to reach a broader market without bearing the operational costs of physical stores. Consequently, it contributes to improving household economic welfare. However, behind these conveniences and potentials, there are undeniable challenges, particularly related to product legality and consumer protection, which must receive serious attention from both entrepreneurs and the government in the future.

In running home-scale food businesses, entrepreneurs are required to meet several requirements before their products can be marketed to the public. One of the most crucial aspects of this process is obtaining a distribution permit. This permit serves as a legal safeguard for consumers against potential risks or losses and becomes an important instrument for the government to supervise the production and distribution of food by producers.

The presence of a distribution permit indicates that the product meets food safety standards, including being free from hazardous substances, processed using appropriate methods, and packaged hygienically. Without such a permit, entrepreneurs risk endangering consumers by selling products unfit for consumption. Such actions can directly harm consumers and reflect negligence by producers in fulfilling their responsibility for product safety (Nasution, 2020).

In Indonesia, regulations regarding the sale of food and beverages, including those produced by home-based businesses, fall under the authority of BPOM. This institution plays a vital role in ensuring the safety, quality, and nutritional value of food products circulating in society. However, in practice, many home-based food entrepreneurs market their products online without first obtaining a distribution permit from BPOM, particularly in the context of distribution via digital platforms.

This phenomenon may be influenced by various constraints, such as a lack of understanding of the importance of product legality, the perception that the licensing process is complicated and time-consuming, and the desire to avoid administrative costs. As a result, consumers have no guarantee that the products they purchase have undergone production processes that meet food safety standards. They also cannot be certain whether the products are free from hazardous ingredients or have been processed in a manner that is suitable for human consumption.

Failure to include a distribution permit number, including on imported products, constitutes a violation of consumer rights, as stipulated by prevailing laws and regulations. One fundamental consumer right is to obtain accurate, clear, and truthful information about the products they consume. When food products circulate without a distribution permit number, consumers not only lose access to this information but are also exposed to health risks due to the absence of product safety information.

The circulation of illegal food and beverage products in the market, especially through e-commerce platforms, remains quite high and even attracts many consumers because of easy access and wide availability. This indicates weak supervision over the circulation of food products that have not obtained distribution permits. Licensing should function preventively to prevent consumer losses and ensure that circulating products meet safety and consumption feasibility standards.

Legally, consumer protection is defined as all forms of effort aimed at providing legal certainty to safeguard consumer rights. In this regard, consumers are individuals or groups who use goods or

services for personal purposes or for others without the intention to resell. This definition emphasizes the importance of the law in maintaining a balance between consumer interests and business responsibilities (Pamory, 2016).

The prevalence of homemade food and beverage products sold online without BPOM distribution permits reflects a disregard for consumer rights, especially the right to obtain accurate, truthful, and clear information about the products that they consume. This practice shows that some entrepreneurs tend to overlook legal obligations for the sake of convenience and profit, without considering the impact on consumer safety and rights.

Given this background, this study aims to examine the legal aspects related to the online sale of homemade food and beverage products without BPOM distribution permits and to analyze its implications for consumer protection. This research is important for providing a juridical understanding of business obligations, the government's role in carrying out supervisory functions, and the forms of legal protection needed to ensure consumer rights in the era of digital trade.

2. METHOD

The subjects of this study are homemade food and beverage entrepreneurs in Medan City who sell their products online without a distribution permit, as well as relevant agencies such as BPOM. This research uses a mixed legal research method, namely a normative-empirical approach, by combining a juridical-normative study with empirical data obtained through interviews with entrepreneurs and government officials related to the supervision of the circulation of processed food products.

The data collection techniques employed include a literature study on laws and legal literature, as well as a field study through direct interviews with informants and respondents. The analysis is carried out qualitatively by exploring the factors causing weak implementation of distribution permit obligations by entrepreneurs and how legal protection can be optimized for consumers.

3. RESULTS AND DISCUSSION

This study analyzes the form of legal protection for consumers regarding the sale of homemade food and beverage products marketed online without BPOM distribution permits, focusing on Medan City. Data collection was carried out through interviews with various stakeholders, including entrepreneurs, BPOM representatives, and the Medan City Health Department, to obtain a comprehensive picture of sales practices and the supervision of processed food products (Syafri, 2023).

Interviews with homemade food and beverage entrepreneurs operating online revealed that most had not obtained BPOM distribution permits. The reasons include a lack of knowledge about licensing requirements, the belief that distribution permits are unnecessary, and the perception that the licensing process is complicated and costly.

Most entrepreneurs consider their businesses to be small-scale and home-based, serving only a limited number of consumers. Based on this, they feel that the obligation to obtain distribution permits, as applied to large-scale enterprises, is not relevant to their business operations (Nurcahyo, 2018).

Furthermore, most entrepreneurs admitted that they do not fully understand the importance of BPOM distribution permits as a guarantee of the safety and feasibility of the marketed food products. Their primary focus is on production and marketing strategies, while legal aspects and consumer protection are not yet priorities in their daily operations.

BPOM emphasizes that all food and beverage entrepreneurs, including small-scale home businesses, are required to have a distribution permit, as stipulated in Law Number 18 of 2012 on Food. This permit ensures that food products circulating in society meet the standards for safety, quality, and nutrition that are fit for human consumption.

As a form of legal protection for consumers, BPOM states that food and beverage products without distribution permits may be subject to various actions, including product recalls, destruction of

goods, and the imposition of administrative or even criminal sanctions on entrepreneurs. These measures aim to prevent the circulation of products that may endanger consumer health and create a deterrent effect for businesses that violate the law.

However, in practice, many homemade food and beverage entrepreneurs in Medan City admit that they do not clearly understand the benefits and urgency of BPOM distribution permits or Home Industry Food (PIRT) certification. Their focus tends to be limited to production, marketing, and profit-making, without considering product legality or potential consumer risks arising from negligence.

Some entrepreneurs argue that they do not require BPOM permits because their products are not produced on an industrial scale and are marketed only through social media. This reflects the low level of legal literacy among micro-entrepreneurs, especially regarding legal responsibilities in providing safe and suitable food products (Winata et al., 2023).

Other entrepreneurs complain that licensing procedures are too complex, time-consuming, and relatively expensive. As small-scale businesses, they feel constrained, both administratively and financially, in meeting legal requirements. This highlights the structural barriers that require the attention of regulators.

This creates both legal and social dilemmas. On the one hand, small entrepreneurs need support to continue their operations and contribute to the local economy. On the other hand, consumers have the right to guarantee the safety of the products they consume. Without adequate supervision, the circulation of unlicensed products poses long-term health risks to the public health.

Although BPOM and the Health Department have conducted socialization and education on the importance of distribution permits and PIRT certification, the effectiveness of these activities remains low. One major obstacle is the limited operational budget and insufficient number of inspectors. Considering the large area of Medan City and the high number of Micro, Small, and Medium Enterprises (MSMEs), comprehensive supervision poses a significant challenge for the relevant agencies.

Consumer participation is crucial for reducing the circulation of food products without distribution permits. The study found that most consumers do not sufficiently understand the differences between legal and illegal products. They tend to prioritize taste, price, and attractive packaging over legality. This weakens the demand-side pressure that could otherwise encourage entrepreneurs to comply with the legal requirements.

Under Article 8 paragraph (1) letters a and b of Law Number 8 of 1999 on Consumer Protection, entrepreneurs are prohibited from trading goods and/or services that do not meet or are not in accordance with the required standards, as well as those that are not in compliance with applicable laws. In this context, the sale of food and beverage products without distribution permits constitutes a violation of the law (Nursyamsi, 2015).

If entrepreneurs continue to market products without distribution permits, they may be subject to sanctions as stipulated in Article 62 paragraph (1) of the Consumer Protection Law, which include imprisonment for a maximum of five years or a fine of up to IDR 2,000,000,000. However, in practice, the implementation and enforcement of these sanctions against micro-entrepreneurs remain limited due to various considerations, such as the small scale of business, limited enforcement resources, and a preference for educational rather than punitive approaches. (Undang-Undang No. 18 Tahun 2012 Tentang Pangan., n.d.)

As a solution, the BPOM introduced the Online Single Submission (OSS) system to simplify the business licensing process, including obtaining distribution permits. Although this system is designed to speed up and simplify procedures, many MSMEs still find it difficult to understand how it works. Therefore, assistance from experts, support institutions, or relevant agencies is needed to ensure that micro-entrepreneurs can access and utilize the OSS system effectively (Asikin, 2004).

For products categorized as Home Industry Food (PIRT), the registration process is carried out through the Health Department with relatively simpler procedures than BPOM permits. However, many entrepreneurs are still unaware that one of the main requirements for obtaining a PIRT certificate is to attend food safety training beforehand. This lack of information results in many entrepreneurs not fully

meeting the requirements before marketing their products. (*Undang-Undang No. 8 Tahun 1999 Tentang Perlindungan Konsumen*, n.d.)

Therefore, the active role of local governments is needed in collaboration with BPOM and the Health Department to build an effective integrated supervision system over the circulation of food and beverages marketed online. Strategic steps include increasing public education, especially for consumers, and providing technical and administrative assistance to MSME entrepreneurs. These efforts should be a priority in consumer protection policies and the strengthening of local food business legality (Sagita, 2022).

In the context of Medan City, the government should systematically map the distribution of online-based home food businesses and regularly monitor the products circulating in the market. To improve supervision effectiveness, the city government can involve the Food Task Force (Satgas Pangan) and the Communication and Information Department to monitor food product sales activities through digital platforms. This collaborative approach is expected to curb the circulation of unlicensed products and increase entrepreneurs' compliance with the applicable regulations (Ismayani, 2019).

Developing a database of MSME entrepreneurs in Medan City can be done by adding parameters on BPOM distribution permits or PIRT certificate ownership. With this indicator, local governments can more easily identify entrepreneurs who comply with legal requirements and those who do not, allowing for targeted and effective policy interventions.

BPOM should also work with MSME communities and associations to organize regular training on food safety, licensing procedures, and lawful marketing practices. Such collaborative approaches are more constructive and sustainable than coercive methods, as they can raise entrepreneurs' awareness of the importance of regulatory compliance without generating resistance.

On the consumer side, those who purchase food products through social media without knowing the legal status of the products need adequate education to avoid being deceived. Massive public campaigns initiated by consumer protection institutions are necessary to raise public literacy so that consumers can distinguish between lawful and illegal products and encourage more cautious and safe consumption behavior.

Consumer legal protection can be realized through preventive and repressive approaches. Preventive protection is carried out through education for entrepreneurs and the public to increase awareness of the importance of complying with legal requirements for providing food products. Meanwhile, repressive protection is implemented through the imposition of sanctions, both criminal and civil, against entrepreneurs who are proven to violate the law and harm consumers (Miru, 2014).

In Indonesia's legal framework, the responsibility for supervising the circulation of food and beverage products lies not only with the central government but also with local governments. This is in line with the principle of decentralization as stipulated in Law Number 23 of 2014 on Regional Government, which grants regions the authority to regulate and manage government affairs, including supervising entrepreneurs in their areas.

Therefore, increasing legal awareness among home-based food and beverage entrepreneurs in Medan is urgently necessary. Strategic measures include integrated training and continuous legal counseling involving government officials, higher education institutions, and civil society organizations. This approach is expected to build a stronger culture of legal compliance in the home food business sector (Nugroho, 2008).

4. CONCLUSION

Legal protection for consumers selling homemade food and beverage products online without distribution permits in Medan City has not yet been optimally implemented. Many entrepreneurs still do not understand the importance of BPOM permits due to limited knowledge, cost, and access to information. In this regard, the government should ensure an accessible licensing system and effective, continuous supervision.

The low level of legal literacy among entrepreneurs and the minimal active involvement of the government have placed consumers in a vulnerable position regarding food safety risks. Therefore, the state has an obligation to guarantee consumer protection through education, assistance, and consistent enforcement of laws. The involvement of BPOM and the Health Department needs to be strengthened through collaborative rather than merely administrative approaches, accompanied by the development of legal awareness among microentrepreneurs so that consumer protection systems can operate in a balanced and fair manner.

Ethical Approval

Not Applicable

Informed Consent Statement

Not Applicable

Authors' Contributions

CZS contributed to the conceptualization, legal framework analysis, and supervision of this study. He also served as corresponding author. M contributed to empirical data collection through interviews, literature reviews, and the preparation of the manuscript draft.

Disclosure Statement

The Authors declare that they have no conflict of interest

Data Availability Statement

The data presented in this study are available upon request from the corresponding author for privacy.

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Notes on Contributors

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