

Legal Protection for Consumers Regarding the Absence of Labels Containing Product Information on Packaging

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ABSTRACT

This research is aimed at understanding and analysing the legal protection regarding the absence of product information labels on packaging. As legal protection for consumers is an important issue in the context of safeguarding consumer rights and interests, one frequently discussed aspect is the lack of product information labels on packaging. This disorderliness can pose various risks to consumers, such as difficulties in making informed purchasing decisions, financial loss, health, and safety concerns. This study adopts a Normative Juridical research approach. The analytical technique used in this research is descriptive analysis, examining various regulations and laws that govern consumer protection and product labelling. The research findings indicate that consumers have the right to obtain accurate, clear, and complete information about the products they intend to purchase or consume. The absence of product labelling on packaging can result in consumers' inability to make informed decisions. Therefore, various regulations and laws have been established to mandate businesses to provide accurate and complete information on product packaging. This research concludes that legal protection for consumers concerning the absence of product information labels on packaging is highly significant. Continuous efforts are required to enhance business compliance, effective law enforcement, as well as consumer education and awareness regarding the importance of obtaining accurate information before purchasing products.

Keywords:

Legal Protection,
Consumers, Product
Labels, Packaging,
Product Information

INTRODUCTION

Consumers represent the entire Indonesian society, which means providing protection to consumers is a form of protection for the entire Indonesian population. This aligns with the state's objectives outlined in the Fourth Preamble of the 1945 Constitution of the Republic of Indonesia (UUD NRI), which is to protect all the people of Indonesia and the entire homeland of Indonesia. Protecting consumers is essential for nurturing physically and mentally healthy Indonesian citizens who are active participants in the nation's development, thus ensuring the continuity of national development and serving as a source of investment for that development. Therefore, consumer protection is indispensable for the sustainability of national development, especially considering that the successful implementation of consumer protection will realize Indonesia's aspirations for a competitive and just economy. (Arfian Setiantoro dkk, 2018)

The influence of rapid economic development at the present time has resulted in a wide variety of goods and services that can be consumed. Therefore, consumer protection is a matter that requires attention in the current era of globalization. In order to realize consumer protection, it is necessary to establish connections among various sectors that have interrelatedness and mutual dependence among consumers, businesses, and the government (Adrian Sutedi, 2012). As is known, the form of globalization itself is characterized by various aspects, including financial activities, investment products, as well as foreign trade, which will affect the economic relations between countries (Sri Redjeki Hartono, 2009).

In this context, Law Number 8 of 1999 concerning consumer protection serves as the legal foundation for consumer self-help organizations whose aim is to expand consumer rights through consumer education and training. This empowerment effort holds significant importance because it is not easy to rely on the awareness of business operators who fundamentally adhere to the principle of maximizing profits with minimal investment. This, of course, has the potential to harm consumers, both directly and indirectly (Adrian Sutedi, 2012).

Nutrition information or nutrition facts is a label found on food or beverage packaging that provides information about the nutritional composition of the product. The nutrition facts label is crucial for consumers as a consideration when purchasing a product. This label holds specific benefits for individuals with certain medical conditions or those who need to restrict specific nutrient intake. With the presence of nutrition information, consumers can understand the nutritional composition of the product they are about to purchase. Law Number 18 of 2012 concerning Food, Article 96 paragraphs (1) and (2), regulates the provision of food labelling with the aim of providing accurate and clear information to the public about each packaged food product before purchasing and/or consuming it. The information conveyed includes the product's origin, safety, quality, and other relevant details.

In the context of legal protection for consumers, these provisions are important as they provide assurance that consumers have the right to receive accurate and clear information about the food products they will consume. The nutrition information label is one crucial aspect that must be conveyed to consumers. By having complete and accurate information, consumers can make smarter and healthier decisions regarding the food choices they purchase and consume. The intended information includes details about origin, safety, quality, and other necessary descriptions (Undang-undang, 2012).

Providing specific information on processed food labels is an obligation that must be fulfilled. This is regulated in Article 97 paragraph (3) of Law Number 18 of 2012 concerning Food (Undang-undang, 2012). The provision states that "Labelling on and/or packaging of Food shall be written or printed using the Indonesian language and must contain at least information about: the product's name; list of ingredients used; net weight or net contents; the name and address of the producing or importing party; halal declaration if required; production date and code; expiration date including day, month, and year; circulation permit number for Processed Food; and origin of specific Food materials." However, the requirement to include certain information according to the Food Law does not encompass the obligation to include nutrition information. Instead, this is stipulated in its implementing regulation, namely Article 32 paragraph (1) of Government Regulation Number 69 of 1999 concerning Food Labels and Advertising, hereinafter referred to as the Food Label and Advertising Regulation (Peraturan Pemerintah, 1999). It is regulated that "The provision of information about the nutritional content of food on the Label is mandatory for food products accompanied by a statement that the food contains added vitamins, minerals, and/or other nutrients as required by prevailing regulations in the field of quality and other nutrients." Therefore, including a nutrition information label on processed food products that make claims about specific nutritional benefits is an obligation of the manufacturer.

As known based on the provisions of Article 1 of Law No. 7 of 1996 concerning Food, it is stated that: "Food is everything derived from biological sources and water, both processed and intended for consumption by humans as food or drink, including food additives, food raw materials, and other materials used in the preparation, processing, and/or production of food or beverages." (Peraturan Pemerintah, 1999)

In the context of labelling, particularly food labelling, it is crucial for society to obtain accurate, clear, and complete information regarding the quantity, contents, quality, and other relevant aspects of food products available in the market. Labels can be likened to windows through which discerning consumers can observe and evaluate a product based on its label. Through the information provided on labels, consumers can make informed decisions before

purchasing and consuming food products. Without clear information, the likelihood of deceptive practices or fraud increases.

As in the recent case of PT Es Teh Indonesia Makmur, a company producing Indonesian iced tea, controversy has arisen over the past few days concerning the sugar content in their beverage. This controversy began when a consumer named Gandhi expressed his complaint through his Twitter account @Gandhoyy, stating that the chizu drink from Es Teh Indonesia was overly sweet, even comparing the sugar content in the beverage to 3 kilograms. The response from Es Teh Indonesia came in the form of a legal warning (somas), with the argument that they felt the statement was inappropriate.

"It is inappropriate to state that the Chizu Red Velvet product (beverage) is like having 3 kilograms of sugar. We consider this statement could lead to incorrect and/or misleading information for consumers," The legal warning letter issued by Es Teh Indonesia was dated Monday (September 26, 2022). The response to this legal warning has been varied within the community. Some demand that Es Teh Indonesia disclose the actual facts about the sugar content in their beverage product, while others criticize the legal and public relations team of Es Teh Indonesia for choosing to use a legal warning in responding to this case. Several netizens then shared screenshots from Es Teh Indonesia's Instagram account that displayed information about the sugar content in their iced tea susu Nusantara (local milk tea) beverage. In the screenshots, it was stated that one portion of the iced tea susu Nusantara contains 31 grams of sugar, 140 milligrams of sodium, 7 grams of total fat, and 235 kcal of total energy (Wibi Pangestu Pratama, n.d.). Hence, based on the aforementioned case, the insufficient protection of consumers due to the absence of labels containing information on product packaging becomes evident. Therefore, the purpose of this writing is to discuss the regulations concerning labelling provisions on product packaging.

METHOD

As is commonly understood, legal research is a scholarly activity grounded in specific methods, systematic approaches, and particular modes of thinking. Its purpose is to study one or more general legal phenomena by means of analysis. In this study, the researcher employs the type of research known as Normative Juridical, involving an examination of legal regulations, legal theories, and jurisprudence related to the issues under investigation. This research utilizes primary legal sources, secondary legal materials, and tertiary legal sources. The analytical technique employed in this research is descriptive-analytical method. This involves utilizing legal source materials that have been collected and then analyzing them by providing descriptions related to the subject matter being examined, concerning both national and international legislative regulations, as well as legal theories pertaining to legal development (Irwansyah, 2021).

RESULTS AND DISCUSSION

The use of product information labels on packaging is crucial for consumer protection. These labels provide consumers with access to accurate, clear, and comprehensive information about the products they intend to purchase or consume. However, there are cases where products lack labels containing product information, or the existing labels do not comply with the applicable regulations. In this context, there are several important aspects that need to be discussed concerning legal protection for consumers in such cases.

As known, Law Number 8 of 1999 concerning consumer protection plays a crucial role in providing protection to consumers. This law serves as the legal foundation for consumer self-help organizations with the objective of empowering consumers through consumer education and guidance. Based on the provision of Article 1 number 1 of Law Number 8 of 1999 concerning Consumer Protection, which states that (Undang-undang, 1999b)

“Consumer protection encompasses all efforts that ensure legal certainty to provide protection for consumers.”

Consumer protection is essentially synonymous with the legal protection provided for consumer rights. Generally, there are four fundamental consumer rights, which include:

- 1) the right to safety;
- 2) the right to be informed;
- 3) the right to choose;
- 4) the right to be heard

These four fundamental rights have been internationally recognized. Along with the passage of time, consumer organizations affiliated with The International Organization of Consumers Union (IOCU) have also added several additional rights. These rights include the right to consumer education, the right to compensation, and the right to live in a healthy and conducive environment.

Consumer" in the Big Indonesian Dictionary is defined as users of manufactured goods (clothing, food, and so on); recipients of advertising messages; users of services (customers, and so on). In general, it is defined as the ultimate user of products provided to them by entrepreneurs (Mariam Darus, 1980), namely anyone who obtains goods for personal use and not for resale or trade. In line with this, Philip Kotler in his book "Principles of Marketing" defines consumers as all individuals and households that purchase or acquire goods or services for personal consumption. So, in essence, consumers are anyone who uses goods or services available in society with the intention of meeting their own living needs and various other purposes without reselling them..(Az. Nasution, 1994)

If based on the fundamental understanding as described above, efforts to protect consumers tend to be more appropriate using the term "consumer protection," which is defined as efforts to protect the end consumers of a product, goods, and/or services. However, experts and regulations still recognize and use the term "consumer protection."

Consumer protection is a set of principles and legal rules governing the relationships and issues between various parties concerning consumer goods and/or services in social life.(Sidharta, 2000). Consumer protection law comprises all regulations and laws that govern the rights and obligations of consumers and producers arising from their efforts to fulfill their needs and regulates efforts to ensure legal protection for consumer interests.(Janus Sidabalok, 2014)

Food refers to any substance derived from biological sources and water, whether in processed or raw form, intended for consumption as food or drink by humans. This definition also includes food additives, food raw materials, and other materials used in the preparation, processing, and production of food or beverages (Tejasari, 2005).

Processed food products are often packaged in attractive packaging to capture the buyer's interest. In addition to appealing packaging, several processed food products also come with nutrition information labels displayed on their packaging. These labels provide information about nutritional content such as carbohydrates, protein, fats, vitamins, or minerals present in the food or beverage. This information is crucial in assisting buyers to meet their nutritional requirements.

The theory of legal protection originates from the term "legal protection theory" in English, "*theorie van wettelijke bescherming*" in Dutch, and "*theorie der rechtliche schutz*" in German. Legal protection consists of two concepts: protection and law. Satijipto Raharjo explains that legal protection means providing shelter for fundamental rights to enjoy all the rights granted by the law. Harjono explains that the concept of legal protection carries the meaning of safeguarding through means or protections provided by the law aimed at specific interests (Harjono, 2008).

Legal protection, according to Philipus M Hadjon, is the protection of dignity and honor, as well as the recognition of human rights acknowledged by legal subjects based on legal provisions of authority. The elements of legal protection may include (Kalalo, 2018):

- a. The existence or form of protection or the purpose of protection
- b. Legal subjects
- c. Objects of legal protection

Phipus M Hadjon explains that theoretically, the forms of legal protection can be divided into 2, including (Hadjon, 1987):

- a) Legal protection is of a preventive nature, which means that it aims to prevent disputes from occurring. Legal subjects are given the opportunity to raise objections or express their opinions before a government decision is made.
- b) Legal protection that is repressive in nature, on the other hand, aims to resolve disputes that have already occurred, including handling protection through the judicial system.

Based on the above description, it can be concluded that the law serves to protect the interests of society. Law as protection of societal interests consists of commands and prohibitions, as well as dividing rights and responsibilities of the community. Sudikno Moertokusumo explains that the function of law as a protection is to create order and balance within society (Mertokusumo, 1999).

The production of these products is very limited due to the handmade process, and therefore, their marketing is carried out through direct transactions between individuals. Transactions made directly from the producer to the consumer result in the formation of a sales contract between the producer and the consumer. Consequently, if consumers experience losses in the future due to consuming products bought from the producer, they can file for compensation based on a breach of contract or default on promises against the producer.

Consumer claims for compensation based on contract violations or breach of promise have evolved over time, particularly since the onset of the industrial revolution. The shift began with the advent of industrialization. Since then, marketing methods have developed to include a distribution network, known as the channel of distribution or chain of distribution. This system involves the marketing of goods through a distribution chain that typically includes the following sequence: producer – distributor – sub-distributor – wholesaler – retailer - consumer. With this system in place, if a consumer experiences harm or loss due to consuming a product produced by a manufacturer, the consumer can no longer file for compensation against the producer based on contract violations or breach of promise. This is because there is typically no direct contract between the producer and the consumer as a basis for such a claim.

This system is typically applied in countries following the common law system and has persisted for centuries. It wasn't until 1932 that English courts introduced the concept of strict liability through their judgment in the *Donoghue (consumer) vs. Stevenson (manufacturer)* case. Even though Donoghue did not have a contract with Stevenson, the concept of strict liability within the distribution network was deemed by the court as a form of product liability within consumer protection law.

In countries following the civil law system like the Netherlands, there were only two High Court (Hoge Raad) decisions related to product liability over a period of approximately 30 years starting from the 1960s. The first case was the *Amsterdam v. Jumbo* case, famously known as the "Lekkende Kruik" case. (F.J. De Vries, 1990) decided by the High Court in 1973. In this case, a baby girl was injured due to scalding water leaking from a hot water bottle she was using. Her parents sued the manufacturer of the hot water bottle on behalf of their child. However, because the manufacturer was not the seller of the hot water bottle, the lawsuit could not be based on a breach of contract, but rather had to be based on an unlawful act (*onrechtmatiggedaad*) according to Article 1401 of the Dutch Civil Code (*BW Belanda*). In its decision, the High Court applied the principle of strict liability for the first time, even though the basis of the lawsuit was an unlawful act (tortious liability).

Several formulations mentioned above can be summarized that product liability is a civil liability of manufacturers to compensate damages to specific parties (such as buyers, users, or even third parties) for harm to property, injuries, and/or deaths resulting from the use of products manufactured by the producer. Strict liability in the civil law system is a derivation from liability based on unlawful acts (tortious liability) and still contains an element of fault.

In the context of "caveat venditor" (let the seller beware), the Consumer Protection Law (UUPK) was designed and enacted. It can be understood that the provisions in this law primarily regulate the behavior of business actors, accompanied by a set of sanctions for businesses that violate the UUPK's provisions. The application of "caveat venditor" is expected to create a balanced bargaining position between businesses and consumers. However, in its development, consumer protection advocates also need to pay attention to "caveat emptor" (let the buyer beware) alongside "caveat venditor." This is because, especially in the advertising of everyday goods and services, the focus is often on selling an image rather than the quality of the product or service.

The goal of these advertising strategies is to make consumers aspire to attain the image presented in the advertisements or believe that they can change their own image by consuming the products or services being advertised. As a result, consumers may go to great lengths to purchase these items, even if they don't actually need them (needs), they don't align with their personal preferences (wants), or they exceed their purchasing power.

In analyzing this research, the author employs the theory of economic analysis of law by Richard Posner. In this context, Posner states that: "Efficient law is the allocation of responsibility among individuals engaged in interacting activities in such a way as to maximize joint value, or some aggregate of it, and minimize the cost of the joint activity."

Hence, in this context, every business entity has an obligation to be responsible for every business activity it undertakes. Just as in this case, the owner of the beverage brand Es Teh Indonesia failed to include labels containing nutritional information and sugar content in each of its beverages. The absence of labels containing information about the nutritional content and sugar content in each beverage package leads to consumers being unaware of the amount of sugar present in the Indonesian iced tea. As a result of the harm suffered by consumers, the owner of Es Teh Indonesia should be held accountable for their negligence, as they did not include nutritional and sugar information on their beverage products.

Furthermore, based on the provisions of Article 4 of Law Number 8 of 1999 concerning consumer protection, which enumerates consumer rights, as follows (Undang-undang, 1999a):

1. The right to comfort, safety, and security in consuming goods and/or services;
2. The right to choose goods and/or services and to receive those goods and/or services in accordance with the agreed value and conditions as well as the promised guarantees;
3. The right to accurate, clear, and honest information about the condition and guarantees of goods and/or services;
4. The right to express opinions and complaints about the goods and/or services used;
5. The right to receive advocacy, protection, and fair dispute resolution efforts for consumer protection;
6. The right to consumer education and guidance;
7. The right to fair, honest, and non-discriminatory treatment or service;
8. The right to compensation, restitution, and replacement if the received goods and/or services do not meet the agreement or are not as they should be.

In every trade transaction, businesses have rights that must be respected by other parties, such as consumers. However, these rights are accompanied by obligations imposed on businesses, which must be complied with and carried out. The relationship between rights and obligations is balanced in their implementation.

Labels serve the purpose of providing accurate, clear, and comprehensive information about the quantity, content, quality, and other relevant aspects of traded goods. Through labels, consumers obtain correct, clear, and complete information about the quantity, content, quality, and characteristics of available goods or services, enabling them to make informed choices before purchasing or consuming those goods or services. Labels can take the form of simple tags attached to products or intricately designed graphics integrated into packaging. Labels may contain just a brand name or include a substantial amount of relevant information (Philip Kotler, 2000).

One of the pieces of information found on food labels is nutritional information, which benefits consumers in selecting and purchasing products that align with their nutritional needs. In Indonesia, nutritional information, also known as Nutrition Information, Nutrition Fact, or Nutrition Labelling, is mandatory to be included on food labels under certain conditions. The definition of nutritional information is a list of nutritional contents present in food displayed on food labels, following the established format.

Based on the provisions of Article 32 paragraph (1) of Government Regulation Number 69 of 1999 concerning Food Labels and Advertising (Peraturan Pemerintah, 1999), that nutritional information on food labels must be provided if the food contains added vitamins, minerals, and other nutrients that are required by prevailing regulations in the field of food quality and nutrition. In this regard, paragraph (3) specifies that in nutritional labeling, mandatory information should include serving size, number of servings per package, energy content per serving, protein content per serving, carbohydrate content per serving, fat content per serving, as well as the percentage of recommended dietary intake (Peraturan Pemerintah, 1999).

Nutrition labelling, also known as nutritional information, is a standard that provides information about the nutritional content of a food based on the nutrients it contains. Consumers use the information presented on nutrition labels to determine whether they will purchase a product or not. This nutritional information is of crucial importance for health, particularly for consumers with specific medical conditions that require dietary nutrient management. For instance, individuals with diabetes can regulate their calorie intake by considering the energy content present in a food product.

Furthermore, regarding violations committed by businesses against food product labels, there are legal consequences stipulated in the Consumer Protection Law and Law Number 18 of 2012 concerning Food (Undang-undang, 2012). In addition, there are also implementing regulations that govern food labelling and advertising, namely Government Regulation Number 69 of 1999 concerning Food Labels and Advertising. Violations of these provisions can result in civil, criminal, and administrative sanctions. Businesses must also adhere to the prohibitions stipulated in Articles 8 to 17 of Law Number 8 of 1999 concerning Consumer Protection. Article 8 of this law establishes general prohibitions, which can be categorized into two main parts:

- a) Prohibition concerning the product itself, which does not meet the requirements and appropriate standards for consumer use or consumption.
- b) Prohibition concerning the availability of information that is false, inaccurate, and misleading to consumers.

Included within the scope of the second prohibition are violations committed by businesses in labelling. In addition to the rights and obligations that businesses must adhere to, they also have a product liability responsibility that they must fulfil as part of their binding obligations in conducting their business.

Then, based on the provisions of Article 19 of Law Number 8 of 1999 concerning Consumer Protection, it is stated that (Undang-undang, 1999b):

1. Business operators are responsible for providing compensation for damages, pollution, and/or losses suffered by consumers due to the consumption of goods and/or services produced or traded by the business operator.

2. Compensation as referred to in paragraph (1) may be in the form of money refund, replacement of goods and/or services with similar or equivalent value, or healthcare treatment and/or appropriate compensation in accordance with prevailing regulations.
3. The provision of compensation shall be carried out within a period of 7 (seven) days from the transaction date.
4. The provision of compensation as stipulated in paragraph (1) and paragraph (2) does not eliminate the possibility of criminal charges based on further evidence of fault.
5. The provisions as stipulated in paragraph (1) and paragraph (2) do not apply if the business operator can prove that the fault lies with the consumer.

So, based on the provisions of Article 19 paragraph (1) of the Consumer Protection Law, it can be understood that the responsibilities of business operators include:

- a) Responsibility for compensating damages.
- b) Responsibility for compensating pollution.
- c) Responsibility for compensating consumer losses.

In Law Number 8 of 1999 concerning Consumer Protection, there is no specific provision that regulates the exact amount of compensation that must be provided by businesses to consumers. This can lead to the emergence of new issues between businesses and consumers, and the consumer's position becomes weaker due to legal uncertainty. Ideally, the amount of compensation should be agreed upon between the business and the consumer who directly suffered the loss. Top of Form Regarding the legal position of consumers that falls between private law and public law, Article 19 paragraph (4) stipulates that even if a business operator has been subject to civil compensation claims, they can still be subject to criminal sanctions for the violations they have committed. These sanctions aim to encourage business operators' compliance with the applicable regulations and protect consumer rights.

Furthermore, based on the provisions of Article 1504 of the Indonesian Civil Code (KUHPerdata), a seller is held responsible for products they trade if those products have hidden defects. In this context, businesses distributing food products that do not meet quality and nutritional safety standards can be held accountable. Additionally, the role of consumer education and awareness in understanding the importance of product information labels on packaging is crucial. Consumers need to be empowered with knowledge about their rights and how to obtain accurate information about the products they purchase. This education can be achieved through public campaigns, consumer empowerment programs, and increasing awareness of the importance of checking labels before making purchases.

CONCLUSION

From the discussed points, the following conclusions can be drawn:

The information displayed on food labels, such as nutritional information, provides benefits to consumers in selecting products that align with their nutritional needs. Every business entity has an obligation to take responsibility for its business activities. Violations of food product labelling by businesses can result in sanctions in accordance with the provisions of the Consumer Protection Law, Law Number 18 of 2012 concerning Food, and Government Regulation Number 69 of 1999 concerning food labelling and advertising. These sanctions can include civil, criminal, or administrative penalties.

However, Law Number 8 of 1999 concerning Consumer Protection does not specifically regulate the amount of compensation that businesses must provide to consumers. This can lead to new issues between businesses and consumers, weakening the consumer's position due to legal uncertainty. Ideally, the amount of compensation should be agreed upon between the business and the consumer who has suffered a direct loss. Therefore, in this context, legal protection for consumers regarding the absence of product information on packaging is crucial. Consumers have the right to receive accurate, clear, and comprehensive information about the products they intend to purchase.

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