

Legal Aspects of Consumer Protection in Indonesia

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***Abstract**---The actions of the government in Indonesia in providing protection to consumers have been outlined in Law No. 8 of 1999 concerning Consumer Protection. In this era of free trade, special laws are needed that can regulate the security and safety of consumers. The legal aspects of consumer protection in Indonesia in this case consist of civil aspects, administrative aspects, and criminal aspects. That administrative law regulates the implementation of government functions in growing and improving the welfare of the general public is carried out by exercising the authority to guide and supervise various activities carried out by the community as stipulated in various laws and regulations in this case related to consumer protection. That this aspect of civilization is intended in all matters relating to civil rights and obligations of consumers. Some are considered important in the relationship of consumers and providers of goods and / or service providers (business actors). That the aspect of criminal law contained in the Criminal Code and Law Number 8 of 1999 concerning Consumer Protection, is an important source of consumer protection law.*

***Keywords**---Legal Aspects, Consumer Protection.*

I. Introduction

Consumers have guaranteed their position in law and government as legal subjects. Consumers have rights and obligations but in reality sometimes consumers are in a weak position. Goods providers or producers in particular must prioritize the interests of consumers, because in essence everyone is a consumer. These consumer interests can include physical and consumer interests, socio-economic interests of consumers and the legal interests of consumers.

Monopolistic practices and the absence of consumer protection have placed consumers at the lowest level in dealing with business actors. The absence of alternatives that can be taken by consumers has become a public secret in the world or the business industry in Indonesia. The powerlessness of consumers in dealing with these businesses is clearly very detrimental to the interests of the community.

Government actions in providing protection to consumers have been outlined in Law No. 8 of 1999 concerning Consumer Protection. In this era of free trade, special laws are needed that can regulate the security and safety of consumers.

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Article 1 point (1) of Law Number 8 of 1999 concerning Consumer Protection, states that Consumer Protection is any effort that guarantees legal certainty to provide protection to consumers. Furthermore, Article 1 point (2) of the Law Number 8 of 1999 concerning Consumer Protection, states that consumers are all users of goods and / or services available in the community, both for their own interests, family, others, and other living things and not for trade.

That in the world of trade, a product to arrive to consumers does not occur directly from producers, but always through sharing intermediaries such as agents, wholesalers, distributors and retail traders. This situation adds to the difficulty for the victim / consumer who will make a claim for the loss he suffered.³

So the need for a responsibility of business actors related to products that have been circulating in the community / consumers. The responsibilities of the business actors contained in Article 19 (1) of Law Number 8 of 1999 concerning Consumer Protection states that "Business actors are responsible for providing compensation for damage, pollution and / or consumer losses due to consuming goods and / or services produced or traded.

Whereas in legal protection of business actors according to Article 27 of Law Number 8 of 1999 concerning Consumer Protection that "business actors producing goods are exempt from liability for losses suffered by consumers, if:

- a. the said goods should not be distributed or intended to be distributed;
- b. defects in goods arise at a later date;
- c. defects arise due to compliance with the provisions regarding the qualifications of goods;
- d. negligence caused by consumers;
- e. the expiry of the prosecution period is 4 (four) years since the goods were purchased or the agreed period has passed.

Based on the background of the above problems the researcher seeks to research and study and analyze any aspects of consumer protection law in the State of Indonesia in terms of civil law, administrative law, and criminal law aspects.

Problem Formulation

How about the legal aspects of consumer protection in Indonesia?

II. Research Methods

This research uses a type of normative legal research that is studying and analyzing legal materials and issues based on statutory regulations. This research was conducted to solve legal problems that arise while the results to be achieved are prescriptions about what should be done. In this case related to research aspects of consumer protection law in the State of Indonesia. The method of approach used in this study uses several techniques as follows:

³Husni Syawali, Neni Sri Imaniyati, 2000, *Hukum Perlindungan Konsumen*, Mandar Maju, Bandung, hal. 49.

a. Statute Approach

Namely the approach using legislation and regulation. Legal research at the level of legal dogmatics cannot escape from the legislative approach because the subject matter examined is derived from statutory regulations. The law approach is carried out by examining all laws and regulations relating to research into the legal aspects of consumer protection in the State of Indonesia. To learn whether there is consistency and suitability between a law with other laws, or between laws with the constitution or between regulations and laws.

b. Conceptual Approach

Namely an approach that moves from the views and doctrines that develop in the science of law, in order to find ideas that give birth to legal understandings, and principles of law or legal arguments that are the back of researchers to build legal arguments in solving issues faced.⁴ This conceptual approach is used to discover the views and doctrines that develop in the science of law, the study of legal principles relating to the research aspects of consumer protection law in the State of Indonesia.

III. Discussion

Legal aspects of consumer protection in Indonesia.

1. Civil Law Aspects

That this aspect of civilization is intended in all matters relating to civil rights and obligations of consumers. Some that are considered important in the relationship of consumers and providers of goods and / or service providers (business actors) include:

Some Forms of Information

Information about goods or services needed by consumers, it seems that the most influential at the moment is information sourced from the business community. Especially in the form of advertisements or labels, without reducing the influence of various forms of information on other entrepreneurs, such as cutting events of factory opening tapes, sending initial products abroad, joint or solo exhibitions, and so on. Advertising is a form of information that is generally voluntary, which is included in Law Number 8 of 1999 concerning Consumer Protection (Articles 9, 10, 12, 13, 17, and Article 20).⁵

a. About advertisement.

⁴ Ibid, hal.95.

⁵Nasution Az, 2007, *Hukum Perlindungan Konsumen (Suatu Pengantar)*, Diadit Media, Jakarta, hal. 75.

KUHPer (Book of Civil Law) and / or KUHD (Book of Commercial Law), both announced on April 30, 1847 in Staatsblad No.23 with all additions and / or amendments, do not provide understanding and / or contain rules -the law about advertising. The only provision contained in the Criminal Code that seems to be applicable is the provisions regarding amendment that violates or violates the law (Article 1365 of the Criminal Code), ie as long as certain advertisements cause losses to other parties. While in the bankruptcy law, regardless of who the law applies to, it specifically concerns the behavior of announcing advertisements for court decisions regarding bankruptcy statements and all the consequences of a person or business entity (Article 13 Jis Article 16, 105, 163c, and so on).

b. About the Label

Information on consumer products that is mandatory is stipulated in various laws and regulations. The arrangement of information referred to by various terms, such as tagging, labeling or etiquette. These provisions are contained in various laws and regulations. Both food and drug products, are required to put labels on the container or packaging. Permenkes No. 79 of 1978 concerning Food Labels and Advertising, Article 1 Number 2, states that Etiquette is a label that is attached, printed, carved, or imprinted in any way on the container or wrapping.

2. Administrative Law Aspects

That administrative law is intended as a law containing the principles and rules governing the relationship between state equipment and other state equipment and / or regulating the relationship between state equipment and individuals and the bodies of the citizens.

Administrative law regulates the activities of government structuring and control of various community life activities including making laws and regulations, granting permits or licenses, carrying out planning, and granting subsidies. The implementation of government functions in fostering and improving the welfare of the general public is carried out by exercising the authority of fostering and supervising various activities carried out by the community as regulated in various specific laws and regulations.

Law Number 10 of 1961 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 1961 concerning Goods becomes Law. This law intends to regulate goods, their packaging, marking and supervision, so that they will not cause harm to the health and / or safety of the people (consumers) and do not harm the good name of the nation.

That what is intended to be regulated by this law is goods that are traded or intended to be traded. But it does not include items made for the purpose of self-use. The limited ability of the tools of investigation, inspection and supervision, the items being targeted are the items designated (by law).⁶ Law Number 36 Year 2009 concerning health, Article 14 stipulates:

⁶Ibid, hal. 124.

1. The government is responsible for planning, organizing, organizing, fostering and overseeing the implementation of health efforts that are equitable and affordable to the community.
2. Government responsibilities as referred to in paragraph (1), especially in public services.

From the aforementioned laws and regulations, it can be seen that certain ministries and / or government agencies carry out administrative actions in the form of supervision and coaching of business actors with certain behaviors in carrying out these laws. For example, administrative actions against health workers and or health facilities that violate the law. Article 15 reads: "The government has the authority to take administrative actions against health workers and / or health facilities that violate this provision.

Based on this provision, it is seen that the administrative authority of the government in the field of health is carried out by the government (in casu Ministry of Health), which means health includes physical, spiritual (mental) and social health in addition to understanding in the strict sense of being free from disease, disability, and weakness.

3. Criminal Law Aspects.

Criminal law contained in the Criminal Code (KUHP), is an important source of Consumer Law and / or Consumer Protection Law. That the Criminal Code, as is known, every criminal rule applies to every person and / or business entity in Indonesia. But for certain crimes and / or violations each person outside Indonesia may also be subject to certain criminal acts based on the Indonesian Criminal Code.

In Article 1 Paragraph (1) of the Criminal Code, it reads: "No act may be punished other than for the strength of the criminal rules in the law, which were carried out at the time before the act was committed". This article contains the principle of criminal law for Indonesia that negates any punishment on everyone, unless there are laws and regulations that have set it up first.

The provisions of Article 63 of Law Number 8 of 1999 concerning Consumer Protection make it possible to provide additional criminal sanctions outside the main criminal sanctions that can be imposed based on the provisions of Article 62 of Law Number 8 of 1999 concerning Consumer Protection.

Additional criminal sanctions that can be imposed in the form of:

- a. Seizure of certain goods;
- b. Announcement of the judge's decision;
- c. Payment of compensation;
- d. Orders to stop certain activities that cause consumer losses; e. Obligation to withdraw goods from circulation;

e. Revocation of business license.⁷

That there is no law or law that is as complete as possible or as clear as possible, because the function of law is to protect human interests by regulating all human activities, whereas human interests are not numbered and of various types and continue to develop throughout the ages.⁸

There is no penalty that can be imposed on a person if there is no law that sets it that way, especially the wrong protection of those who have done things that harm others. Because of the importance of legal regulations on aspects of civil, administrative aspects, and criminal aspects in protecting consumers.

IV. Conclusion

The legal aspects of consumer protection in Indonesia in this case consist of civil aspects, administrative aspects, and criminal aspects. That administrative law regulates the implementation of government functions in growing and improving the welfare of the general public is carried out by exercising the authority to guide and supervise various activities carried out by the community as stipulated in various laws and regulations in this case related to consumer protection. That this aspect of civilization is intended in all matters relating to civil rights and obligations of consumers. Some are considered important in the relationship of consumers and providers of goods and / or service providers (business actors). That the aspect of criminal law contained in the Criminal Code and Law Number 8 of 1999 concerning Consumer Protection, is an important source of consumer protection law.

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⁷Op.Cit, Gunawan Widjaja dan Ahmad Yani, hal. 83-87.

⁸Sudikno Mertokusumodalam Bambang Sutyoso, 2012, *Metode Penemuan Hukum : Upaya Mewujudkan Hukum yang Pastidan Berkeadilan*, UII Press Cet. Keempat, Yogyakarta, hal. 190.