

Advertisement and Publication Health Service

Sri Retno Widyorini¹

¹ Faculty Of Law , 17 Agustus 1945 University, Semarang, Indonesia
E-mail: sriretnowidyorini@gmail.com

ABSTRACT--*Advertisement is an effort made by a seller to offer a product. Products can be in the form of goods or service. Advertisement and publication for health service offered can use print or electronic media. Basically advertisement about health service is permitted by the applicable provision to the extent that they do not violate the ethic. The main purpose of health service advertisement is not to be commercial, but to provide true information to the public about health service. In fact, many advertising and publication of health service that mislead the public, so that special attention need to be paid by the government, so that people are not harmed both materially and negatively about their health. The government through related institution need to conduct intensive supervision. This need to be done to provide legal protection for the public as consumer of advertisement and public health service.*

Keywords: *advertisement, health service, publication*

I. INTRODUCTION

Health is a human right and one of the elements of well-being that must be realized in accordance with the ideals of the Indonesian people as referred to in the Pancasila and the Preamble of Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 . Therefore, every activity and effort to improve public health as high as possible based on non-discriminatory, participatory, protective and sustainable principle which are very important for the formation of Indonesian human resources, enhancing national resilience and competitiveness, and national development.

Efforts to improve the highest degree of health at first in the form of healing the disease then develops towards the integration of health efforts for the entire community by involving the wider community which includes promotive, preventive, curative and rehabilitative efforts that are thoroughly integrated and sustainable. However, there are still points of view that do not consider health problems as a major need and a very valuable investment in carrying out development. Therefore it is necessary to see that the health problem is every activity and / or series of activities carried out in an integrated, integrated and sustainable manner to maintain and become a major factor and valuable investment whose implementation is based on a paradigm known as the healthy paradigm, namely the health paradigm prioritizing promotive and preventive efforts without ignoring curative and rehabilitative measures. The implementation of the healthy paradigm requires a healthy minded regulation. The

regulation in question is Undang-Undang Nomer 36 Tahun 2009 tentang Kesehatan.La

According to Undang-Undang Nomor 36 Tahun 2009 tentang Kesehatan in General Pasal 1 ayat (1) it states that:

“Health is a healthy condition, both physically, mentally, spiritually and socially that enables everyone to live productively socially and economically”.

Meanwhile Pasal 1 ayat (11) explains that:

“Health efforts are every activity or series of activities carried out in an integrated and integrated manner to maintain and improve the level of health, treatment of diseases and health recovery by the government and / or the community”.

As stated in Pasal 1 ayat 11 of Undang-Undang Nomor 36 Tahun 2009 concerning health that to improve the health status, an effort is needed, one of which is by medicine. Pasal 1 ayat (8) of Undang-Undang Nomor 36 Tahun 2009 states that drugs are ingredients or alloys of materials, including biological products that are used to influence or investigate physiological systems or pathological conditions in the context of determining diagnosis, prevention, cure, health improvement . One type of medicine that we know in society is traditional medicine or commonly also called herbal medicine.

Traditional medicine has long been known in the community long before modern medicine entered Indonesia. The traditional medical care system is one of the cultural elements that has grown and developed and maintained for generations among the community, both urban and rural communities as the cultural heritage of the archipelago. In today's modern era, traditional medicine in Indonesia is still one of the main choices for curing diseases. Usually these traditional treatment options are considered cheaper than modern medicine. Traditional medicine is medication and or treatment by means and medicines that refer to empirically experienced experiences and skills that can be accounted for and applied in accordance with the norms prevailing in society. People who do traditional medicine are called traditional healers. Traditional medicine with herbs is better known as herbal medicine. Indonesian people are usually more familiar with traditional medicine with this herb as herbal medicine or herbal medicine. Herbal medicine or herbal medicine is often used by people for the treatment of

diseases that do not yet have a cure or in urgent situations where drugs are not available or are not affordable by people's purchasing power. A trend is happening, people prefer herbal medicines as alternative medicines for illnesses because herbal medicines are more likely to be economically affordable. But actually herbal medicines offered are actually higher in price than finished drugs (drugs produced by pharmaceutical companies and have been patented). On the other hand there is also an understanding in the community that the side effects on the human body from herbal medicine are lower than drugs produced by pharmaceutical companies. Despite the fact that the definition referred to is not necessarily true, because not all herbal medicines or herbs that circulate in the community have been clinically tested by the authorized institution in this case is the BPOM (Badan Pengawas Obat dan Makanan). As described above that the public or consumers are often more inclined to choose traditional medicine or traditional herbal medicine for various reasons. Among these reasons is because of the affordability in terms of price, the belief that herbal medicine is more effective because its manufacture does not use chemical drugs so it assumes that the negative effect is lower on health than patent medicines that contain chemical elements, also caused by testimonials from previous users or consumers who give a statement about the benefits of the herbal medicine, the promotion of both the sound media (radio) and advertisement that we find a lot. Often when we pass the street, we see outlets that put advertisement about the efficacy of the herbal medicine it sells which of course will appeal to those who want to try it. Finally, because they often read these advertisement and also because of intensive promotion both through print and sound media and the testimonies of consumer who have consumed this herb, they finally buy and consume it. While on the other hand this herb has not been clinically tested in their preparation, even the composition of the ingredient or even contra indication if consumed by consumer who have other diseases and so on, so this will be very dangerous for the health of consumer themselves.

From what has been described above, it provide a lesson that the incessant publication through advertisement, both through billboard, sound media and even through social media, has a significant influence on people's buying interest in the publication of health services. The incessant advertisement attract the interest of the public to buy and consume the advertised drug, without thinking long about whether the advertisement about drug or health service presented in highly attractive packaging have been clinically tested by BPOM for types of drug advertisement, or whether the health service advertised has obtained a license to practice from the relevant department, in this case the Department of Health. Departing from the background above can be defined as follows :

1. What legal protection does the government provide to consumer regarding health service advertisement and publication?
2. What are the steps taken by the government to anticipate the negative effects of health service advertising and publication?

II. RESEARCH METHOD

The type of research used in this paper is normative juridical, using secondary data as primary data and primary data as supporting data. The analysis used is qualitative normative.

III. FINDINGS AND DISCUSSION

Legal protection provided by the government to consumer related to advertisement and health service publication. Consumer comes from the word consumer or consument. The definition is literally interpreted as a person or company that buy certain goods or uses certain services or something or someone who uses inventory or a number of goods. Consumer originating from the consumer means the user, both as a product buyer and product user.

Az Nasution in his book *Firman Turmantara Endipraja* emphasizes several limitations about consumer, namely:[1]

1. Consumer is every person who gets goods or services used for a particular purpose;
2. Intermediate consumers are any people who obtain goods and or services to be used to make goods and or other goods to be traded (for commercial purposes), for intermediate consumers called goods and or services are capital goods or services in the form of raw materials, supporting materials or components of other products to be produced (producers). These intermediate consumers get goods or services in the industrial or producer markets.
3. End consumers are all people who obtain and use goods and or services for the purpose of fulfilling their personal, family and / or household needs and not to be reared (non-commercial).[1]

Pasal 1 ayat 2 of Undang-Undang Nomor 8 Tahun 1999, about Perlindungan Konsumen, states that:

"Consumers are all users of goods and or services available in the community for the benefit of themselves, their families, other people and other living things and not for trade."

In Indonesia, consumer protection gets quite good attention because it involves rules that can create prosperity for the community. The problem of consumer protection is a problem that never runs out and always becomes a conversation in the community, because as long as there are consumers who feel disadvantaged then the

problem will never be resolved, therefore the problem of consumer protection needs to be addressed. Consumer rights that are ignored by business actors need to be examined. The rapid flow of globalization also has a very significant impact on the free trade of goods and or services marketed to consumers, either through promotions, advertisements or direct offer and other offer model, for example with consumer testimonial from those product that have already consumed before and recovered because of products from goods advertised. If consumers are not careful in choosing the desired goods, consumers will only be the object of exploitation from irresponsible business actors. The problems faced by consumer are not just about how to choose goods, but are far more complex regarding the awareness of all parties both businesses, government and consumer themselves about the importance of legal protection for consumers. In producing goods, producers must also respect the rights of consumer to obtain quality, safe and beneficial goods when consumed, because they have followed the standard set in regulation established by the government. In addition, the affordability of prices from consumer also needs to be considered. The government is obliged to supervise the products produced so that they do not cause side effects that endanger the health of consumer of the product.

Regarding the legal protection for consumer of traditional medicinal product, regulatory regulation are also needed, so that there will be a balance between business that produce product and consumer, as the goal of the treatment itself is as an effort to improve the degree of public health so as to minimize negative effects on health that may arise from consuming traditional medicine. Traditional medicine is a drug that is more preferred by the public on the grounds that consuming traditional medicine is considered to have no harmful side effects because it is made from natural basic ingredients, as well as from the side affordability of the purchasing power of most people who cannot afford to buy patent medicines. Such understanding is not necessarily true, because not all traditional medicines have been clinically tested about the content of their preparations, often consuming traditional medicines can threaten patient safety because of the size and composition of the ingredients that have not been tested at the BPOM (Badan Pengawas Obat dan makanan) authorized and Competent for testing traditional medicinal products. One effort that can be done by the government in providing legal protection to consumers is by regulation that traditional medicines must go through a business test conducted by an authorized body appointed by the government, namely BPOM. Based on the description above, it is necessary to make arrangements related to herbal medicine or traditional medicine in a systematic arrangement so that legal protection occurs for users of these products, given the public interest in protecting their health rights, then on the different side the government must also support the growth of a popular economy. must stay alive and develop, in

addition to the obligation to maintain the preservation of ancestral heritage, one of which is the knowledge and skills to produce traditional herbal medicine, the arrangements made to organize must fulfill a sense of dignified justice, which in its management starts from the selection of materials raw materials, processing for production, packaging, to marketing must be clearly regulated in accordance with the provisions stipulated by the Ministry of Health of the Republic of Indonesia. Cultural heritage including knowledge of herbal medicine or traditional medicine is local wisdom that must be maintained, because this local wisdom is the root of the original values of Indonesian culture which is the spirit in building a nation based on Pancasila as the basis of the state. The producers of traditional medicines are cultural assets that must always be maintained, therefore they must be given understanding without having to be killed so that they will get a sense of justice in accordance with their dignity as citizens.

Next thing that needs to be considered is the steps that must be taken by the government to anticipate the negative impacts of advertising and health service publications. Ads in English are translated as advertisement, which comes from the Latin *advertere* which means to divert the attention of the audience towards something. Health service advertisements are persuasive communication activities or the introduction or promotion of health policies, programs and or services in the form of pictures, sounds and or writings with the aim of attracting interest and facilitating the public. Publication of health services is communication activities through the dissemination of information and or announcements or statements to introduce or promote policies and or health development programs and health services in various media. Advertising can also be interpreted as commercial and community service information about the availability of services, goods and ideas that can be used by the public with or without compensation to the relevant broadcasting institution (Pasal 1 of Undang-Undang Nomor 32 Tahun 2002 about *Penyiaran*), while for the understanding of publication in the Big Indonesian Dictionary the publication is referred to as an adjective group which means an announcement. In the provisions of Pasal 17 (1) of Undang-Undang Nomor 8 tahun 1999 about *Perlindungan Konsumen*, , it is stated that advertising businesses are prohibited from producing advertisements that:

- a. deceiving consumers regarding the quality, quantity, materials, uses and prices of goods and or service tariffs as well as the timeliness of receipt of goods and or services;
- b. deceive warranties or guarantees on goods and or services;
- c. contain false, wrong, or incorrect information about goods and or services;
- d. does not contain information about the risks of using goods and or services;

- e. exploiting the incident and or someone without seizing the authorities or agreement concerned;
- f. violate the ethics and or provisions of the laws and regulations regarding advertisement.

Provisions in Article 1 of Undang-Undang Nomor 8 Tahun 1999 about Perlindungan Konsumen that applies to all businesses engaged in advertisement, but specifically for business protection in the field of Advertisement and Publication of Health Services must comply with the provisions set forth in Article 5 of the Republic of Permenkes Republik Indonesia Nomor 1787/Per/XII/2010 about Iklan dan Publikasi Pelayanan Kesehatan which determines the advertisement and publication of services not permitted such advertising and publication permissions :

- a. Attacking and / or showing off bad feelings such as degrading the honor and professional status of health workers
- b. . Providing information or statements that are untrue, false, deceptive and misleading.
- c. Contains information that implies that the health service facility can benefit from health services that cannot be carried out by other health service facilities or create inappropriate expectations of the health services provided.
- d. Comparing the quality of health services provided by the health service facilities with other health service facilities, or denouncing the quality of health services of other health service facilities.
- e. Excessive self-praise, including statements that imply the only word or the same meaning about excellence, uniqueness or sophistication so that it tends to be misleading.
- f. Publicizing new or unconventional health service methods, medicines, tools and or technologies that have not yet been received by the medical and / or health community because their benefits and safety are in accordance with each other's requirements or are still not proven.
- g. Advertise health services and or health workers whose health service facilities are not located in Indonesia.
- h. Advertise health services performed by health workers and or health service facilities that do not have a permit.
- i. Advertise formula milk and addictive substances.
- j. Advertise hard drug, psychotropic drugs and narcotics except in medical scientific magazines or forums.
- k. Provide information to the public in a way that is encouraging the use of health services in the service facilities.

- l. Advertise promotions in any form, including price discounts, rewards or health services and / or using multi-level marketing sales methods.
- m. Give testimonials in the form of advertisements or publications in the mass media
- n. Using an academic degree and / or professional designation in the health field.

The Government as the ruler who has the right to regulate regulations on advertising and publication of health services also determines sanctions for violations of the provisions of Pasal 5 of the Permenkes Republik Indonesia Nomor 1787/Per/XII/2010 about Iklan dan Publikasi Pelayanan Kesehatan in Article 11 (1), that in the context of fostering and supervising advertisements and / or publications health services, the minister can form an assessment and supervision team for advertising and publication of health services within the Ministry of Health. Pasal 11 (2) confirms the designated team as regulated in Pasal 11 (1), is tasked with evaluating and supervising advertising material and or publicizing health services before and after airing. If a violation and inspection is found, the team will provide recommendations to the minister or official appointed to take administrative action. Pasal 14 (4), explains that the administrative action can be in the form of revocation of operational licenses or practical licenses or work permits or professional permits for a while (1 year) or revocation forever. In addition to administrative sanctions for health facilities that commit violations, they may also be subject to sanctions established by the Professional Ethics Honorary Board, Professional Discipline, and or the Indonesian Hospital Ethics Honorary Council. Regarding the responsibility of responsible advertisements for KPI (Indonesian Broadcasting Commission) advertisements, because KPI is an independent state institution that regulates matters relating to broadcasting.

IV. CONCLUSION

- 1. Legal protection for consumer to advertisement and publication of health services in its implementation is still a violation, although it has been regulated in regulations namely Permenkes Republik Indonesia Nomor 1787/Per/XII/ 2010, particularly in Pasal 5.
- 2. The steps taken by the government to anticipate the negative impact of advertising and the replication of health services are to determine regulations that regulate sanctions imposed on health facilities that commit violations related to advertisement and publication health services. These sanction are in the form of administrative sanction, namely revocation of license within a certain time and sanction to revocation of permits forever. Provision regarding sanctions are regulated in Pasal 14 (4)

Permenkes Republik Nomor 1787 /Per / XII / 2010 about Iklan dan Publikasi Pelayanan Kesehatan.

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