

Due to the Law Against Business Activities That Conduct Drinking Water Complosed in Packaging That Causes Damages for Consumers: Review of Law Number 5 of 1999 Concerning the Prohibitions of Monopoly Practices and Unfair Business Competition and Law Number 8 of 1999 Concerning Consumer Protection (A Case of Complossing Drinking Water in Packaging Year 2017)

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ABSTRACT

Community economic activities in particular are growing rapidly. Economic development covers several aspects of life in society, namely aspects of culture that are material in nature and rapidly changing and social changes in the economic field which include changes in society to meet various needs in life. One of the needs of people's lives that has an important role is the need for clean drinking water. Community life in the midst of busy activities that have taken up a lot of time and energy requires every individual to maintain good body health. Water is the largest body component and maintains the function of various organs of the human body. Adequate body fluids become very important to be maintained and noticed. Humans need quality drinking water. They need the air that is safe for the body and humans are required to drink at least 2 liters of water a day. If there is a lack of water in a person's body, then humans will experience dehydration and lack of fluids in their bodies. Therefore, air has the most important role for humans to survive.

Keywords: *Water, Health, Human*

1. INTRODUCTION

Clean drinking water is often a problem that doesn't seem to exist especially in South Tangerang, it can't be denied that this often happens used as an act of fraud committed by some producers who do not honest, which is detrimental to the health of consumers, even though drinking water has an interest. The main thing that must always be kept clean is in terms of quality. But in Indonesia often occurs fraudulent acts against drinking water which harm the body. [1] Therefore consumer protection is important existence for the life of society. Along with globalization which greatly affects life in society in all aspects, one of which is in economic development, causing society is required to keep up with the times. As the economy develops, the rights and protections for consumers should be for consumer safety protected. This unhealthy business activity is very common

and is a difficult thing to stop its activities. Case in point community, namely the act of copying Aqua. [2] case is a little different because he mixes the bottled mineral water as much as 25% with ground water which has been filtered and boiled as much as 75%. The operating capital of this forgery is very often occur. Police around Cilandak arrested four perpetrators of water mixing Aqua brand gallon packaging which was carried out in Pondok Cabe, precisely in Gandun Street, Lebak Bulus, Cilandak. The police said that the arrested gang had contaminated Aqua's water with ground water for a year. The disclosure of this case began with information from people who become consumers, consumers make complaints to the perpetrators in the Gandun Street, Lebak Bulus, Cilandak. According to consumers who after drinking the water, the Aqua he bought looks cloudy and feels different with the original product. Then he reported the alleged fake water to the police around in the Cilandak area. After conducting

surveillance, the police then arrested the water counterfeiters on August 21, 2017 when deliver water to the shop.

Another case occurred in Garden City Housing, Priuk District, Tangerang, four suspected employees have carried out the practice of polluting water. This bottled drink has been running for two months. Police Chief nearby Jatiuwung Eliantoro Jalmaf explained that they were filling water in refill gallons from groundwater using drilled wells to be precise Gembor Village, Priuk, Tangerang City, then they took them to the warehouse to falsify the brand. Become a well-known brand that is 2Tang to get more profit and also to increase the selling price. In housing

Garden City, the perpetrator replaced the label that originally used a lid red to white. Then Distributed by one of the perpetrators used a pickup truck. They use matches and then label them with one of the famous brands so that the gallon water they produce is very similar to famous brand, they distribute this gallon water to several locations in the region Tangerang. Victims who live near the production site of illegal mineral water products

This person experiences heartburn and vomiting after consuming the drink, another victim named Andi, aged 15 years, experienced severe stomach pain, heartburn and vomiting due to consuming unhygienic raw drinks this. Business activities that have been carried out by business actors when viewed from the case above, in this case includes business competition which kills the supplier's business. The main ones are Aqua drinking water and 2 Tang, because the perpetrators took action cheating by using the gallon, so this fraudulent act does not have a good purpose in it so as to create business competition not healthy. Law Number 5 of 1999 Article 19 letter b states that the perpetrators business is prohibited from shutting down the business of competitors in the relevant market which lead to monopolistic practices and unfair business competition.

When traced, it turns out that Aqua water is easily packaged into gallons in the housing factory area of one of the actors and supplied to at least 7 shops namely 3 stores in the Pondok Labu area, and another store in Cilandak. According to the confession of one of the actors who gave the idea to polluting water, the first time the perpetrator selling real drinking water, but the perpetrator chooses to fake it, he chooses things this cheat because they want to get a very large profit.

The problem of bottled drinking water (AMDK) in it containing bisphenol is said to be dangerous for consumers. Wahyu Purbowasito a Director Development of Agro, Chemical, Health and Halal Standards Standardization Agency National / BSN said that mineral water products that were circulated precisely in the domestic market and produced by the domestic industry as well as products from abroad must meet quality standards based on the has been established because it is accompanied by standards, then security is guaranteed and tested for institutions that carry out conformity assessments that have been accredited by KAN.

In SNI or Indonesian National Standard, the meaning of drinking water in packaging is that the water has been

processed without any food ingredients and also without the addition of other packaged food also provides safety when drunk consumer. The definition of mineral water is bottled drinking water which is It contains minerals in a certain amount without any additives carbon dioxide or oxygen.[3] Wahyu said that there are 27 for mineral water SNI quality requirements criteria, including in terms of criteria, namely normal taste, odorless, has a turbidity with a maximum of 1.5 NTU and has a color that is a maximum of 5 units of Pt-Co. It is certain that drinking water does not pass the test when the test criteria are met in a product is judged to exceed the threshold amount or the maximum will be terminated in SNI. In SNI 3553:2015 regarding packaging, it is stated that during storage and transportation of the product if it is packaged in a container very tightly closed does not affect the contents and is said to be safe.

Wahyu said that packaging is like plastic packaging, packaging glass or bottle has been carried out and has passed an audit of test parameters or a proper examination based on the provisions of the Ministerial Regulation Industry Year 2019 Number 26. The stipulation of SNI 3553: 2015 aims to can protect consumers in terms of health and also the interests of consumers, ensuring the existence of trade food honestly and with a sense of responsibility, as well as to support for a diversified development by industry bottled drinking water (AMDK). Revelation says that people don't panic easily and people need to pay close attention both for the news that is disinformation. National Standardization Body (BSN) expects the AMDK Industry to continue to obey the Regulations The government regarding the mandatory application of SNI AMDK so that the public protected from problems related to food safety. [6]

1.1. Formulation of the Problem

Based on the background described, the main problem is:

1. What are the legal consequences for business actors who do water mixing drinking in containers that cause harm to consumers in terms of Law Number 5 of 1999 and Law Number 8 of 1999?
2. What is the responsibility of the Aqua composting producer for consumers who have suffered losses after drinking the drinking water are viewed from the perspective of Law Number 5 of 1999 and Law Number 8 1999?

1.2. Research Methods

1.2.1. Type of Research

Using normative juridical research with reasons that are considered through a process - a process with the aim of obtaining a principle, the rule of law, and also the doctrine to answer the problems faced. In normative legal research discusses the rules laws, namely Law Number 5 in 1999 and Law Number 8 in 1999 by applying existing laws.

1.2.2. Characteristics of Research

This research is qualitative research. Qualitative means that this research has descriptive nature that leads to analysis.

1.2.3. Research Approach

The research approach is the Legislative Invitation and approach case approach. What is meant by a legal approach is an approach with conduct a review of all laws relating to problem handled. The definition of the case approach is checking the case on this issue.

1.2.4. Legal Material Collection Techniques

Aims to obtain legal material. This collection has technique that is, this legal material is related to and supports the results of this research is a literature study commonly called a document study, namely: is a collection of legal entities used as content analysis.

2. ANALYSIS

2.1. What are the legal consequences for business actors who do water mixing drinking in containers that cause harm to consumers in terms of Law Number 5 of 1999 and Law Number 8 of 1999?

According to Syarifin, legal consequences are all consequences that arise from all legal actions by the subject against the object of law. Way aware of the legal consequences, namely:

- a) the existence of certain consequences carried out by the subject on the legal object that causes an effect has been regulated by law
- b) bearers of rights and obligations intersect due to: There is action Legal consequences have the form of: born or disappear as a result of the law, birth or disappearance of a legal relationship between 2 or more of the subjects law.
- c) if you take action against the law, a certain amount will be imposed punishment or fine Law Number 5 of 1999 has the understanding that business competition unhealthy, namely business actors who compete with other business actors who when carrying out a production and or sell goods and or services against the law or dishonest way. Based on the description above, the writer can conclude that the prohibition of unfair business is competition between a seller who is carrying out his business in a fraudulent manner. Law Number 8 of 1999 in Article 62 paragraph 1 which is threatened with a maximum of 5 years imprisonment or a fine of up to 5 billion.

- Article 8 paragraph (1) of Law No. 8 of 1999. It states that:
- a. not in accordance with the existing standard requirements in accordance with the Act
 - b. not balanced with the contents, net weight in the label of an item
 - c. not balanced with the calculated dose according to the correct size
 - d. does not match the guaranteed state of the condition on the label
 - e. not balanced with the composition, grade, quality and processing process in label
 - f. not in balance with the promises in the label, label and description or sales promotion
 - g. do not put an expiry date of an item;
 - h. do not produce in a halal way. [5]

This fraudulent act also includes unfair business competition because this production activity uses dishonesty in it detrimental in many ways. A dishonest way of this case, the perpetrators of this water mixing get a lot of benefits which is 90 million per month. This fraudulent producer activity when viewed from the above case, in terms of This includes business competition which kills the main supplier's business, namely: drinking water Aqua and 2 Tang, because the perpetrators committed fraudulent actions by using the gallon, so this fraudulent act does not have a good purpose in it to create competition make unhealthy business. In Law Number 5 of 1999 Unhealthy in letter b, to be precise, article 19 contains that, manufacturers may not turn-off other manufacturers. [6] The activities that are continuously carried out by fraudulent producers so that get the maximum benefit but endanger health people who consume it, this business activity is not carried out in good faith. Other activities that should not be done by people who trade in drinking water, namely adding foreign materials dangerous which in this case the producer interferes with boiled groundwater and filtered as much as 75%.

The criteria for unfair competition are:

- a. Prevents producers from doing business in markets that concerned
- b. Kill the business of producers who are competitors in the market concerned

The characteristics of unfair business competition

1. Have 1 seller or manufacturer
2. There is no other seller who can replace it properly products issued by monopoly producers
3. Obstacles arise from natural as well as technical and legal terms

Elements of monopoly activities and unhealthy business

1. Business actors enter into agreements
2. Production quantity setting
3. Marketing of goods is regulated

Monopoly and unhealthy business will arise 6. 75% of the market share of a certain type of goods or services is controlled by 2/3 manufacturers. According to the Indonesian Dictionary (KBBI), 'oplosan' comes from the

word ‘oplos’ which means to mix.[4] In this case the fraudulent manufacturer has mix foreign materials that are harmful to the health of consumers. In connection with this case, the criteria, characteristics and elements unhealthy business are fulfilled, in this case the perpetrator does harm to the the business of other producers, so this creates a large loss barrier in terms of public health that can be dangerous if consumed continuously, fraud in terms of information, namely the manufacturer lies consumers by saying that the drinking water they sell is branded Aqua when in reality consumers drink fake Aqua.

2.2 What is the responsibility of the Aqua composting producer for consumers who have suffered losses after drinking the drinking water are viewed from the perspective of Law Number 5 of 1999 and Law Number 8 1999?

Article 4 point 8 UUPK. states that the right to obtain compensation if the goods obtained are not in accordance with the supposed agreement. From the data above, the conclusion is for consumers who are harmed must receive compensation because not only detrimental to finances but also health is threatened. Article 4 point 3 UUPK, explains if consumers have the right to clear, honest and true information about the conditions and guarantees true for goods or services. In this connection, consumers do not get clarity and honesty of information due to water conditions drinking is not hygienic even mixed with other ingredients. In this article affirmed that consumers have a right to get help law in the form of assistance in resolving consumer disputes (BPSK).

The UUPK states the meaning of BPSK or Forms of Settlement Consumer Dispute, which is a Level II Regional institution of a consumer justice institutions, have the main task of providing protection for consumers and handle dispute resolution outside general judiciary.

In UUPK Article I paragraph 1, it is stated that the quality of an item that is traded must be guaranteed by the business actor because the business actor has obligations according to applicable standards. Then the conclusion is people experience health problems and losses due to drinking poor quality drinking water produced by this manufacturer. Terms Article 19 of the Consumer Protection Law which is extended to Article 23 said that manufacturers who do not want to make replacements losses on consumer demands will be sued through BPSK in accordance with the contents of article 19 paragraph 1 2 as well as 3 and 4. The aggrieved consumer can also file a lawsuit of group representatives, regulated in Article 46 paragraph (1) of the UUPK, namely:

- a. consumer who has experienced loss.
- b. consumer groups with common interests.
- c. non-governmental consumer protection agency that has complied with conditions, namely in the form of a legal entity or foundation, which in the budget basis states explicitly that the purpose of the organization that is in the interest of consumer protection and has carry out activities in accordance with the basic budget.

- d. related agencies and governments if the goods and/or services that are consumed or utilized cause a material loss large and or the number of victims is not small.

In Article 46 paragraph (1) letter b of the Consumer Protection Act reads that this Law recognizes group lawsuits or called class action, class action or class action group requires that it be submitted by a consumer where the consumer really - really harmed and can be proven legally, one of which is there is evidence of a transaction being made. So, the consumers who are equally harmed by the contaminated water drink this pack to do a class suit because of them are the parties who are harmed, not only material losses due to consume, but they are also affected by the health of those who consume it. Water is the largest body component and maintains the function of various organs of the human body. Adequate body fluids become very important to be maintained and noticed. Humans need quality drinking water. They also need the air that is safe for the body and humans are required to drink at least 2 liters of water a day. If there is a lack of water in a person’s body, then humans will experience dehydration and lack of fluids in their bodies. Therefore, air has the most important role for humans to survive. [7]

3. CLOSING

3.1. Conclusion

The author draws conclusions - conclusions obtained from the analysis case studies and compare them with literature materials:

The legal consequences of business actors who do the copying of drinking water in packaging that results in losses for consumers and producers the original, namely the producer of the adulterated drinking water business, this resulted in losses are not only detrimental to the health of consumers but are detrimental consumer finances as well as harming the original business actors. The responsibility of the Aqua conceding producer for consumers who get a loss after consuming drinking water, namely the producer obliged to make compensation for the correct parties harmed, namely the consumers who are harmed and the original producers.

3.2. Suggestions

Consumers should be more careful when buying a product because it will harm consumers if the product is not suitable. Supervision and public complaints against this fraudulent activity must be improved again due to the lack of supervision and complaints cause this action to be difficult to stop its circulation in the Public.

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