



Consumer Protection of Online Food Application during COVID-19: Examining the Regulation and the Role of Government

Norma Sari^{1*}, Bella Nur Agus Sabella¹

¹Faculty of Law, Universitas Ahmad Dahlan, 55191, Indonesia
Corresponding author's email: norma.sari@law.uad.ac.id

ABSTRACT

The Covid-19 pandemic has caused people's routines to change to online food applications. Consumer needs to be guaranteed over unsafe food because consuming food will directly impact health. This research aims to examine: (i) regulation of consumer protection of online food application during COVID-19- (ii) the role of government on consumer protection of online food application during COVID-19. This research was conducted by empirical normative legal research with a qualitative approach. The data consisted of primary and secondary data sources obtained from primary, secondary, and tertiary laws. An interview collected primary data, while a literature study gathered the secondary data. All data were analysed using a qualitative descriptive approach. The study results showed some basic national and international regulations in protecting consumers of online food applications during the COVID-19 pandemic. Unfortunately, there is no specific provision about the online distribution of ready-to-serve food. The government's role also still lacks in regulating and supervising the ready-to-serve food. They assume there is no authority or obligation to take action in that situation.

Keywords: *Consumer Protection; Online Food Application; COVID-19*

1. INTRODUCTION

The world faces an unprecedented threat from the COVID-19 pandemic caused by the SARS-CoV2 virus. Following the advice of the World Health Organization (WHO), many countries are introducing distance measures as a way to reduce the transmission of the disease [1]. The Indonesian government policy restricting human mobility and interaction has caused people's routines to change to online food applications. McKinsey data in 2020 revealed that 34% of consumers they surveyed had ordered more food delivery online since the COVID-19 pandemic intent to continue their habits is about 69 %.

The problems faced by Online Food Application consumers can be seen in Figure 1. The writer found at least two main problems that need to be discussed: 1. Food safety, 2. Conformity of information with the food quality.

The first-place issue is about food safety because the problem of food safety in online food application transactions is related to the surge of users. More than 2,500 years ago, Hippocrates said: "Let food be thy medicine and medicine be thy food." The consumer needs to be more cautious and well-protected, especially during pandemics. Healthy food improves the immune system and prevents people from falling sick quickly. The quality of the food will directly impact health quality as one of the primary consumer rights.

Unfortunately, food safety in Indonesia is generally considered to be poor. The Global Food Security Index 2019 ranked Indonesia's food quality and safety at 84th out of 13 countries, after neighbouring countries like Thailand, Vietnam, Myanmar, and the Philippines [2]. This general condition requires the government and society to pay more attention because food is essential.

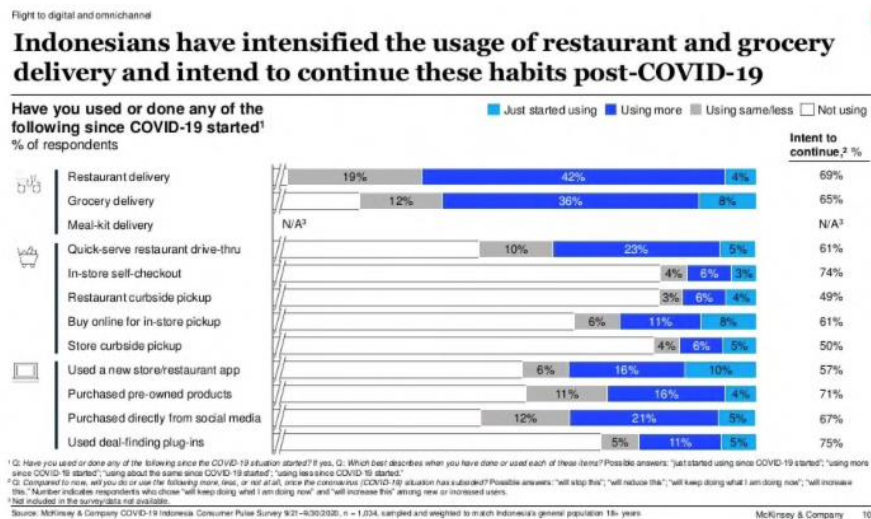


Figure 1 Indonesian consumer sentiments, behaviours, income, spending, and expectations 2020

There was a case as an example of the distribution of poor food in online food application transactions, the food containing many maggots in Kupang, East Nusa Tenggara. The case began when customers Intho Langidai and Isha Fahiberek ordered two packs of chicken rice for Rp. 46,000.00. Isha ate the rice she ordered instead of feeling nauseous and vomiting. After checking, many maggots were found in the fried chicken [3].

The other issue is that consumers receive different reality food with the image listed in the application. A restaurant has gone viral through an online application. The restaurant is in one place but has seven different names using famous restaurant names. The food menu did not meet expectations, and the price offered was unreasonable and relatively expensive [4].

Indonesia has established two basic regulations under this situation, Law Number 8 of 1999 concerning Consumer Protection and Law of the Republic of Indonesia Number 18 of 2012 concerning Food. The critical question is: is the regulation sufficient to protect the consumer? Since the pandemic situation and the model of delivery or transaction will affect food safety and quality. It is related to the philosophy role of government in The Preamble of The 1945 Constitution of the State of the Republic of Indonesia of the "After it, to form a government of the state of Indonesia which shall protect all the people of Indonesia ..." and Article 28H (1) *Every person shall have the right to live in physical and spiritual prosperity, to have a home and to enjoy a good and healthy environment, and shall have the right to obtain medical care* [5].

The objectives of this research are to examine:

- (i) Regulation of consumer protection of online food application during COVID-19;
- (ii) The role of government on consumer protection of online food application during COVID-19.

Creswell wrote, in conducting research, the area of investigation and research questions determine the methodology that the researcher complies with. The research method consists of how the researcher gather, analyse, and interpret the data [6].

2. METHOD

This research uses the empirical-normative legal research method by reviewing applicable normative law and its implementation in society [7]. The approach of this research is qualitative. There are various data collection methods in qualitative research, including observations, textual or visual analysis (from books or videos), and interviews (individual or group) [6] The primary and secondary data used are primary legal materials, secondary legal materials, and tertiary legal materials. Primary data was collected by an interview to the Head of Regional Agency of Food and Drug Control delegated to The Head of Regulation Division and the Regional Head of Department of Industry and Trade Office delegated to the Head of Sub Division of Trade, Consumer Protection, and Commerce. Primary legal materials are Law Number 8 of 1999 concerning Consumer Protection, Law of the Republic of Indonesia Number 18 of 2012 concerning Food, and Regulation of the National Agency of Food and Drug Control Number 8 Year 20202 Concerning Control of Drug and Food by Online Distribution. Secondary legal materials are legal materials that explain primary legal materials, namely books, journals, research reports, magazines, articles, and documents related to consumer protection. Tertiary legal materials are legal materials that complement primary and secondary legal materials, dictionaries. A literature study gathered the Secondary data. All primary and secondary data were analysed using a qualitative descriptive approach to describe the consumer protection of online food applications during COVID-19 by examining the Indonesian government's regulation and role.

3. RESULT AND DISCUSSION

3.1. Result

3.1.1. The Regulation of consumer protection of online food application during COVID-19

Who is in charge of consumer protection? Consumer protection falls under the purview of both public and private bodies, and may be conferred by specific laws or assumed by them by virtue of their status. Government agencies, statutory and non-statutory standards institutions, ombudsmen, professional and industry associations, self- and co-regulation, and consumer associations all play important roles in consumer protection [9].

According to a new online study conducted by Snapcart Indonesia, GrabFood is the most popular food delivery service in Indonesia, as it is the most used food delivery application by both merchants and consumers. Among businesses that have used a food delivery service in the past, 82% used GrabFood, 71% used GoFood, and 28% used ShopeeFood [10]. To become a Grab-Food merchant partner, follow these steps: 1. sign up to become a Grab-Food merchant partner; 2. complete and submit all application details; 3. receive contract; 4. contract signing; 5. detail verification; and 6. final approval of an application [11]. Partnership does not necessitate the acquisition of a business license. On the one hand, for Micro, Small, and Medium Enterprises, this partnership model is straightforward (MSME). Online food delivery services can help increase MSME sales because they do not require the development of an application or the establishment of a business location. The Covid-19 pandemic in Indonesia impacted economic instability, particularly MSME. The incredible scale of restrictions imposed by a government that encourages people to stay at home causes many MSMEs to cease operations for an extended period of time. As a result, MSME actors must have a plan in place to survive the pandemic and be able to adapt to changing conditions. In response to the Covid-19 pandemic, MSMEs are collaborating with the online transportation service Grab Food to easily establish and optimize customer marketing relationships [12]. On the other hand, consumer interest in food safety must be regulated by the government. The difference between being a food consumer and being a food producer is that food has a direct impact on the body. The current study placed a strong emphasis on food quality indicators related to health and environmental protection. Even if it is one method for selecting the best food, relying solely on consumer ratings is insufficient. According to Kotler and Keller (2013), customer satisfaction is a person's feeling that results from a comparison of the performance of a product purchased with what consumers expect [13]. Security, privacy, and dependability are all aspects of online trust.

The presence of the state by a government agency is represented by the availability of regulation. The basic regulation regarding the state's responsibility and obligation to protect society, particularly consumers, is written in Article 28D (1) juncto Article 28H (1) Every person shall have the right of recognition, guarantees, protection, and certainty before a just law, as well as equal treatment before the law. Every person has the right to live in physical and spiritual prosperity, to have a home and to live in a safe and healthy environment, and to receive medical care.

Furthermore, in the lower level of regulation, the umbrella act is Law of the Republic of Indonesia Number 8 the Year 1999 Concerning Consumer Protection clearly stated in Article 29 (1) juncto 30 (1) and 33 that the government is responsible for developing the implementation of consumer's protection which guarantee the rights of the consumers and entrepreneurs and the implementation of the obligations of the consumers and entrepreneurs. Supervision for implementing the consumers' protection and applying the legal provisions shall be carried out by the government, public, and non-government consumer protection foundations. The National Consumer Protection Agency provides suggestions and considerations to the government in the framework of developing consumers' protection in Indonesia. Provisions about the rights and obligations of consumer and businessman are much more related to how the respective party behave in their business relationship [8].

The main issue of consumer safety related to Law of The Republic of Indonesia Number 18 of 2012 on Food. Food Safety means a condition and effort required to prevent food from biological, chemical, and physical contaminants that can interfere, harm, and endanger human health and not conflict with religion, belief, and culture of the society, therefore safe for consumption. This Act emphasizes that food is an essential human need, and its fulfilment is part of human rights as a primary component in creating quality human resources. The state should achieve availability, affordability, and fulfilment of food consumption that is sufficient, safe, excellent, and nutritionally balanced both on the national and local levels to individuals equally in the country's entire territory while utilizing local resources, institutions, and culture [9].

Related to the distribution of food by the online system, there is a Regulation of the National Agency of Drug and Food Control Number 8 the Year 2020 About Control of Drug and Food by Online Distribution. Unfortunately, the provisions in Article 16 only about processed food, which is circulated online, shall be obligatory, have a distribution permit, and comply with suitable production methods per the provisions of laws and regulations. Exempted from the distribution permit obligation is for a portion of processed fast food and

processed foods that are further used as raw materials by business actors and are not sold directly to the final consumer. There is a loophole of provision about ready-to-serve food, the most popular ordered by the consumer.

3.1.2. The Role of Government on Consumer Protection of Online Food Application during COVID-19.

In cooperation with an electronic money application, National Consumer Protection Agency educates the public about consumer protection rights and how to claim their rights [10]. The Regional Agency of Drug and Food Control said that they are only responsible for supervising processed food sales by online applications, not for ready-to-serve food. Ready to serve processed food is food and beverages that have been processed and ready to be served directly at the place of business or outside, such as food served at catering services, hotels, restaurants, cafeterias, canteens, street vendors, food outlets. Mobile food trucks and mobile food vendors or similar businesses. Most people prefer to use the online application for ready-to-serve food.

In line with the previous result, The Regional Agency of the Department of Industry and Trade also said it has no role in monitoring and preventing the sale of poor-quality food in the online application-based transaction. There is no legal basis to have legal measures for the ready-to-serve food.

3.2. Discussion

Founders of Indonesia state that Indonesia is a welfare state country. The term of social welfare in the 1945 Constitution, and the term of social justice in the fifth principle of Pancasila, it is proven that Indonesia is a welfare state which means a state which purposeful to realize welfare for the people and a state that is established to aim of building welfare for all the people of Indonesia [11]. The welfare state, in Esping Anderson's concept, basically refers to the state's role active in managing and organizing the economy, including the state's responsibility to guarantee the availability of service of basic welfare at a particular level for its citizen [12].

The result shows that Indonesia has the basic regulation in protecting consumers, including online food applications. However, during the COVID-19 outbreak, the regulation is not sufficient due to the transformation of consumer behaviour. It is essential to pay more attention to the online distribution of ready-to-selling's food. If there is no institution supervising the business entity, it will potentially harm the consumer, as the writer wrote a case in the introduction section.

Analysing by Friedman Theory, the legal system is the combination of legal structure, legal substance, and the legal culture, in which one relates to another in order

to achieve a particular target [13]. We found that two of three aspects had a loophole. The legal substance still lacks provision concerning online distribution ready to serve food. The structure (agency) also eludes any action to control market activities. They merely based on the text that no authority and do not criticize the regulation over the current situation in society.

For international context, the United Nations Guideline provision article 56 regulates, in moving forward consumer interests, especially in developing countries, governments should, where appropriate, give priority to areas of essential concern for the health of the consumer such as food [14].

The government should be aware that business actors who want to register their business in online application service partnerships do not have a business license. This becomes a vulnerability for consumers. A business license is crucial for running a business to have a legal basis and provide goods and services to the public. The term consumer vulnerability is widely used to describe various difficult situations that consumers face. These situations may be associated with individual characteristics, social phenomena, business activities, and environmental (e.g., including pandemic) [15].

4. CONCLUSION

The study results showed some basic national and international regulations -from constitutional to practical regulation- in protecting consumers of online food applications during the COVID-19 pandemic. Unfortunately, there is no specific provision about online distribution of ready-to-serve food, where the consumer loses the guarantee.

The Regional Agency of Drug and Food Control is only responsible for supervising processed food sold through online applications, not for ready-to-eat food. The Regional Department of Industry and Trade has no role in monitoring and preventing the sale of ready-to-serve food distributed by online applications. They assume there is no authority or obligation to take action in that situation. This lack of specific regulation and government action during COVID-19 potentially raises some problems for the consumer due to their changing habit consumption to rely on online transactions. This situation reflects that the vulnerability of consumers is still a problem.

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