

# Legal Protection For Consumers Of Advertisements For Sweetened Condensed Milk

1<sup>st</sup> Engeli Yuliana Lumaing  
Law Studies Program  
Universitas Negeri Manado  
Manado, Indonesia  
enjelilumaing@gmail.com

2<sup>nd</sup> Isye Junita Melo  
Study Program Law Science Faculty of  
Social Science Universitas Negeri  
Manado  
Manado, Indonesia  
isyemelo@unima.ac.id

3<sup>rd</sup> Sam J. R. Saroinsong  
Study Program Law Science Faculty of  
Social Science Universitas Negeri  
Manado  
Manado, Indonesia  
samsaroinsong@yahoo.com

4<sup>th</sup> Eny Sulistyowati  
Law Departement  
Faculty of Sosial Sciences and Law  
Universitas Negeri Surabaya  
Surabaya, Indonesia  
ensulistyowati@unesa.ac.id

**Abstract**— This study aims to analyze the application of the Consumer Protection Act No. 8 of 1999 to BPOM's findings on the advertisement of Sweetened Condensed Milk, as an effort to protect consumers in advertising activities. The results of this study indicate that BPOM's circular letter regarding the advertisement of sweetened condensed milk cannot provide optimal protection for consumers, therefore UUPK and UUP specifically related to advertising must be applied to business operators of Sweetened Condensed Milk.

**Keywords**— *Legal protection, Consumer, Advertising*

## I. INTRODUCTION

Globalization and free trade have resulted in the development of interdependence among world economic actors. Human tendency to not be separated from the help and help of others, can be seen in the interaction of life between countries. Developing country with all the limitations that it has, strives with all its strength in the framework of economic development of its country and aligns itself with developed countries in the world. On the other hand, the economic interests of developed countries are very dominant in gaining market share in the world in developing countries. In addition, the conditions and phenomena can cause the position of business actors and consumers to become unbalanced. Consumers can become objects of business activity from business actors that can harm consumers. So that there is a need for effective dispute resolution arrangements that can protect the interests of consumers who have been neglected [1].

In Many industries not widely considered information businesses, information actually represents a large percentage of the cost structure [2].

Advertising is a form of promotion that many business people choose, to introduce their products to consumers, for that businesses take a variety of ways in order to deliver their messages effectively and efficiently by choosing the right media, even though sometimes ignoring rights and interests consumers to get correct and honest information.

As a means of marketing communication, advertising plays an important role, so that advertising must be honest, responsible, not contrary to applicable law, and should not offend the feelings and dignity of the state, religion, ethics, customs, culture, ethnicity, class, and advertising must be animated by the principle of fair competition [3].

Advertising is a medium that is widely chosen by businesses in introducing their products to consumers. Advertising can attract the attention of consumers so that it uses a product that is advertised, but in reality what is informed in the ad is not true or not in accordance with the truth, so that consumer expectations are not achieved even rarely cause losses such as disability, illness and even death.

Advertising is a form of delivering information about goods and or services from business actors to consumers. It is expected that information in advertisements can be used as a guide for consumers in choosing and buying goods and services appropriately. But the development of advertising today often goes beyond the limits of logic, and is misleading. The tendency of what is promised in advertising is not in accordance with reality has become a daily sight, so consumers can be harmed [4].

A few days ago, consumers were quite surprised by BPOM's official statement about the advertisement of sweetened condensed milk which turned out not to contain milk as often advertised and even listed on the label. increase nutrient intake, so that with the findings BPOM issued a circular letter number HK.06.5.51.511.05.18.2000 in 2018 concerning: Labels and Ads on Condensed Milk Products and their Analogs.

The issuance of the circular letter is one of the efforts to protect consumers in advertising activities, but the problem does not stop there, then what about consumers who have been consuming sweetened condensed milk that has high sugar content and is not good for health, especially children.

## II. RESEARCH METHODS

This research method is a normative juridical research using a legislative approach by examining all laws and regulations related to the legal issues discussed.

## III. RESULT AND DISCUSSION

The results showed that the BPOM circular showed the lack of legal protection for consumers in advertising activities, because the information conveyed in the advertisement or label of sweetened condensed milk is clearly incorrect and misleading information, so that business actors must be subject to sanctions in accordance with the legislation.

In the Criminal Code, misleading advertising information is a crime of fraud as stipulated in article 378 of the Criminal Code. Referring to article 378, fraudulent elements in the form of misinformation through advertisements can occur by giving false words about conditions, guarantees, etc. of the advertised product, with a view to persuading consumers to choose and buy the product of the business actor [5].

Furthermore, the regulation regarding advertising has also been regulated in Law Number 8 of 1999 concerning Consumer Protection (UUPK), which contains legal rules concerning consumer protection, and is an umbrella for other legislation concerning consumers, as well as integrating the legislation thus strengthening law enforcement in the field of consumer protection [6].

In the UUPK, there are a number of articles that regulate advertising as contained in articles 8 to 20. Where in these articles business actors are prohibited from producing and / or trading goods and / services that are not in accordance with the promises stated in labels, labels, information, advertising or promotion of the sale of goods and or services. In essence, the substance of article 8 is focused on two things, namely the prohibition on producing goods and / services, and the prohibition on producing the intended goods and / services. These prohibitions are essentially, namely to strive to ensure that goods and services circulating in the community are products that are feasible to circulate, including origins, quality in accordance with the information of the employer through etiquette labels, advertisements and so on.

Prohibition against business actors related to advertising activities starts from article 8, which prohibits business actors from producing goods or services that are not in accordance with the promises stated in advertisements or promotion of goods and or services. This requires businesses to act honestly with consumers regarding what is conveyed through advertising so as not to harm consumers.

Whereas for business actors who do not comply with the prohibition, the criminal sanction applies as stated in Article 62 and 63 of the UUPK which reads:

### Article 62

1) Business actors who violate the provisions referred to in article 8, article 9, article 10, article 13 paragraph 2, article 15, article 17 paragraph 1 letter a, letter b, letter c and letter e and paragraph 2, and article 18 shall be punished with criminal jail for a maximum of 5 (five) years or a maximum fine of Rp. 2,000,000,000.00 (two billion rupiah)

2) Business actors who violate the provisions referred to in article 11, article 12, article 13 paragraph 1, article 14, article 16 and article 17 paragraph 1 letter d and letter f shall be sentenced to a maximum of two years imprisonment or a maximum fine of Rp. 500,000,000 (five hundred million rupiah)

### Article 63

Criminal sanctions as referred to in Article 62 can be subject to additional penalties in the form of:

- a. Deprivation of certain items
- b. Announcement of the judge's decision
- c. Payment of compensation
- d. An order to terminate certain activities that causes consumer losses
- e. Obligation to withdraw goods from circulation
- f. Revocation of business license

UUPK clearly regulates advertising activities, the display of sweetened condensed milk advertisements is clearly misleading and contains elements of fraud, so there needs to be strict sanctions from the government as regulated in the UUPK.

Paying attention to the advertisements and labels of Sweetened Condensed Milk is not only misleading but in it contains elements of fraud, the business actor must be given strict sanctions as regulated in the UUPK.

## IV. CONCLUSION

Based on the results of the research and discussion, it can be concluded that, the display of sweetened condensed milk advertisement clearly contradicts the legislation because it misleads consumers and contains elements of fraud, therefore to protect consumers optimally the circular letter from BPOM is not enough to deter business actors, therefore the application of the UUPK in the case of sweetened condensed milk is very important so that business actors can be given strict sanctions as stipulated in the UUPK.

## ACKNOWLEDGMENT

The author would like to say thank Dean of Social Science Faculty of Manado State University

## REFERENCES

- [1] D. N. Hidayat, "Analisis Wacana (Pengantar Analisis Teks Media)," *Yogyakarta LkiS Yogyakarta*, 2001.
- [2] P. B. Evans and T. S. Wurster, *Strategy and the new economics of information*. Harvard Business Review New York, NY, 1997.
- [3] C. T. S. Kristiyanti, *Hukum perlindungan konsumen*. Sinar Grafika, 2008.
- [4] G. K. Nugraha, "Perlindungan Hukum Bagi Konsumen Terhadap Iklan Yang Menyesatkan Prespektif Hukum Pidana." Universitas Islam Indonesia, 2017.
- [5] M. N. Hidayati, "Analisis Tentang Alternatif Penyelesaian Sengketa Perlindungan Konsumen: Studi Tentang Efektifitas Badan Penyelesaian Sengketa Perlindungan Konsumen," *Lex Jurnalica*, vol. 5, no. 3, 2008.

- [6] Pemerintah Republik Indonesia, *Undang-Undang No. 8 Tahun 1999 Tentang Perlindungan Konsumen*. Jakarta: Lembaran Negara RI Tahun, 1999.