

Community Empowerment In Consumer Law Protection

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Abstract—The research approach used is the normative juridical approach that is research that emphasizes on secondary data, covering the whole legislation concerning Consumer Protection which will be discussed in this research. The results showed the Consumer Protection Agency for Self-Reliance is a registered and acknowledged government-owned non-governmental entity that deals with consumer protection. Under the Consumer Protection Act, LPKSM has the opportunity to take an active role in realizing consumer protection. To ensure the existence of a legal certainty, openness and order in the implementation of consumer protection in Indonesia, every LPKSM must register to the Regency, to obtain LPKSM Registration License as evidence that LPKSM concerned is really engaged in consumer protection. There are two conditions to be acknowledged as LPKSM, that is, (1) registered to the Regency, (2) Moving in consumer protection as contained in the LPKSM statute and conducting consumer protection activities throughout Indonesia.

Keywords—Consumer Protection, Legal Certainty

I. INTRODUCTION

Development of the economy in general and in particular in the field of industry and trade has resulted in various variations of goods and/or services that can be consumed. In addition, globalization and free trade supported by technological advances have broadened the flow of goods and/or service transactions to cross the boundaries of a country's territory, so that the goods and/or services offered vary, both foreign production and production domestic (Directorate of Consumer Empowerment 2011) The era of free trade is a necessity, Indonesia as part of the citizens of the world must be able to optimize the utilization of globalization, trade liberalization, global integration, and regional integration. Indonesia's active participation in the globalization era has resulted in a growing diversity of products offered to consumers.

This has resulted in the emergence of increasingly complex new challenges in relation to increasing competitiveness for domestic trade and consumer protection (Giesler and Veresiu 2014).

The Directorate General of Standardization and Consumer Protection of the Ministry of Commerce is mandated to be responsible for every aspect of consumer protection, so that management coordination on aspects related to consumer protection can be done more quickly, dynamically, and more efficiently. Consumer protection efforts aim to increase consumer awareness of rights and obligations, as well as to raise business awareness of the importance of consumer protection.

With the development of various aspects of consumer protection is expected to result in increased quality of goods and/or services in the domestic market that can raise the competitiveness of Indonesian goods and services and trade in the global market. The scope of consumer protection activities is vast. The magnitude of the scope of consumer protection activities related to the number of consumers in Indonesia that must be protected is about 240 million people, the extent of the types of activities related to consumer protection, as well as the many types of products to be monitored. These conditions on one side have benefits for consumers because the need for goods and / or desired services can be fulfilled and more open the freedom to choose various types and quality of goods and / or services in accordance with the wishes and capabilities of consumers. But on the other hand, these conditions and phenomena can result in the position of business actors and consumers become unbalanced and consumers are in a weak position. Consumers are the object of business activity to gain the most profit for business actors through promotional tips, sales methods, and the implementation of standard agreements that harm consumers. To be able to guarantee a consumer

protection arrangement is very necessary law that protects the interests of consumers who have been neglected, the government poured Consumer protection in a legal product. This is important because only the law has the power to force business actors to obey it, and also the law has strict sanctions. Given the important impact that can result from the illicit acts of business actor and only prioritizes the profits and the business itself, the government has an obligation to protect consumers whose position is weak, in addition to the legal provisions that protect the interests of consumers is not adequate.

In Indonesia, the consumer protection movement is marked by the establishment of a Consumer Protection Agency (LPKSM) named Yayasan Lembaga Konsumen Indonesia (YLKI) on May 11, 1973. YLKI was established in order to assist Indonesian consumers not to be harmed in consuming goods and/or services (C. Tantri D. and Sulastris 2017). The existence of YLKI is directed at increasing the critical awareness of consumers of their rights and obligations, in an effort to protect themselves, their families, and the environment. The motto or motto of YLKI is "YLKI aims to protect consumers, maintain the dignity of producers and help the government". The presence of Consumer Institution, especially YLKI, is a step forward in consumer protection, because in an effort to achieve its goal YLKI plays an active role in realizing consumer protection by helping to increase consumer awareness of their rights and not only doing research and testing, receiving complaints but also making efforts direct advocacy through court (James and David 2014).

The birth of the Consumer Protection Act is a mandate to protect consumers in an effort to empower consumers and is expected to lead Indonesian consumers into independent consumers, increasing their dignity, knowing their rights and obligations, and can foster a healthy business climate. While the business actors are expected to conduct business activities to place consumers not merely a target market, but consider consumers to be market guarantees in the long term. Thus business actors are encouraged to become a tough business actors, honest, responsible and in the end will create a strong economy.

Law No. 8 of 1999, affirms it as: "Any endeavor that ensures legal certainty to provide protection to consumers". Legal certainty to provide protection to the consumer, among others, is to improve the consumer's amnesty and develop the attitude of honest and responsible business actor (Redclift 2005).

In the provision of Article 44 paragraph (3) letter c which states the duty of the Non-Governmental Self-Consumer Protection Institution is to cooperate

with the relevant agencies in the effort to realize consumer protection, because there is no cooperation between the consumer self-help protection institute with the judicial institution which can give sanction to the business actor. Therefore, it needs to be re-examined and examined further about the active role of the Consumer Protection Institution Self-Help in providing protection to consumers (Klidas, Van Den Berg, and Wilderom 2007).

This research will be focused on the role and duty of consumer self-help protection institution according to the Law of Consumer Protection No. 8 year 1999. In the UUPK consists of 15 chapters and 65 articles there are some things that are less perfect but the law is a requirement of all Indonesian people all of which are users, users and / or beneficiaries of goods and / or services. According to the explanation of the Law on Consumer Protection, it is mentioned that the consumer law protecting the consumer is not intended to kill business actors, but on the contrary, because consumer protection can encourage a healthy business climate, and the birth of a tough company in the face of competition through the provision of goods and /or quality services (Gunawan Widjaja and Ahmad Yani 2003). Consumer protection for violation of Intellectual Property Rights (HAKI) is not regulated in this Consumer Protection Law, because apart from being regulated in Law Number 12 Year 1997 regarding Copyright, Law Number 13 on Patent and Law Number 14 Years of Trademark, which prohibits the production or trade of goods and / or services that violate the provisions on intellectual property rights, it also turns out that the rules in the field of intellectual property are essentially more relevant for the protection of business actors with good intentions, even though indirectly the interests of consumers according to the Consumer Protection Act) are also protected (Ursula Hansen and Ulf Schrader 1997).

II. RESEARCH METHODOLOGY

The research approach used is the normative juridical approach that is research that emphasizes on secondary data, covering the whole legislation concerning Consumer Protection which will be discussed in this research. In relation to the normative legal research here used several approaches, namely statute approach, the theory and conceptual approach, the approach comparative approach. The research is conducted by tracing, collecting, researching and studying books, literature, documents, statutory and other related articles in support of this research (Sinaulan and Rahmat 2018). Data collection, both primary legal materials, secondary legal materials and tertiary legal materials, required for this study, were collected on the basis of topics of problems that have

been formulated and studied according to the classification of the problem, according to the source and hierarchy comprehensively. Data analysis is very important in a study in order to provide answers to the problems studied, used in this study is normative qualitative, that data obtained from the research presented descriptively and processed qualitatively with the steps as follows before data analysis done, first held data collection, then analyzed qualitatively and interpreted logically and systematically. The deductive and inductive thinking framework will assist this research especially in the level of consistency, as well as conceptual with the procedures and procedures as established by the law principles generally accepted in legislation. Subsequent classification results then analyzed to serve as a basis in drawing conclusions (Rahmat, Suryanto, and Rahim 2018).

III. ANALYSIS AND DISCUSSION

Development and development of the economy in general and in particular in the field of industry and trade has resulted in various variations of goods and/ or services that can be consumed. In addition, globalization and free trade supported by technological advances have broadened the flow of goods and/or service transactions to cross the boundaries of a country's territory, so that the goods and / or services offered vary, both foreign production and production domestic. In accordance with the direction of national development goals through the National Long Term Development Plan and the Second National Medium-Term Development Plan of the 2nd period, in responding to these challenges, the trade sector always stipulates trade development objectives, among others through enhancing export competitiveness and improvement of consumer protection and security of the domestic market. In anticipation of the integration of the domestic market into the global market, the Ministry of Trade is optimizing the policies and security measures for domestic producers, securing the domestic market, and protecting all consumers in the country. This is what underlies the establishment of the Directorate General of Standardization and Consumer Protection (Indah Sukmaningsih 2005)

In the case of the implementation of supervision of goods and services, it is expected to stem the possibility of entry of goods that are not in accordance with applicable regulations/regulations. And in the framework of empowering and protecting consumers, the development of consumer protection is directed at building intelligent consumers, consumers who know and understand their rights and obligations. In absolute consumer trade transactions to be given protection. The importance of legal protection for consumers is due to weak consumer bargaining position. Legal protection of

consumers requires a weakening of the bargaining position (Sudaryatmo, 1999). Legal protection for consumers is a big problem, with growing global competition. Legal protection is needed in competition and the number of products and services that put the consumer in a weak bargaining position (Vivek 2002). Legal protection for consumers in the form of legal protection provided by the state. The growing awareness of the state to provide legal protection for consumers who are in a weak bargaining position begins with thinking through policies. In this case, as follows: "Legal protection for consumers as an integrated concept is a new thing, whose development starts from developed countries. However, now this concept has spread to other parts of the world" (A. Zen Umar Purba 2016).

Consumerism is a term often misinterpreted by some as excessive consumption. That is wrong. The meaning of consumerism is the movement of society to protect consumers from the producers' inconsequential practices. An example of consumerism in Indonesia is the Indonesian Consumers Foundation that fights for consumer rights, the Indonesian Council that helps consumers get halal food, and others. The rationale is simple. Generally consumers do not have enough in-depth information about the products they buy. Instead manufacturers know more details of the products they make and sell. This means that the consumer is the "weak" and the producer is the "strong". As a result, not infrequently there are manufacturers who are tempted to manipulate the superiority of information it has for the profit to be gained. Business actors use lower quality materials, reduce product specifications and so on, including using substitutes that are not good for consumers for money. The risk? Consumers who must bear. Risk of consumer responsibility. Justification: "The fault itself consumers do not buy goods carefully. Check before buying". The campaign touted is "Let the consumer beware". For that reason consumerism emerges. Another name that now often appears is the consumer movement. Indeed, consumers must be there to protect. There should be a body or agency that informs consumers what they should do when harmed by the manufacturer. The campaign that the government should now start is "Let the producer beware" (Barbu and Price-kreitz 2012).

In the early 1970s Lasmidjah Hardi (1914-1998) and a number of friends organized charity activities, introducing various domestic products. A reporter asks that if everyone is loyal to the national product, who protects the consumer when problems arise? That is the fragment that lies behind the birth of the Indonesian Consumers Foundation 30 years ago. Since YLKI stands many changes have occurred. From the external side, the world is now experiencing a change in the economic order from control of the government to the private sector

(Indah Sukmaningsih, 2005). In the historical context, the background of the founding of YLKI is colored by the thoughts of people whose lives are very closely related to the ideals of the struggle. The founders of YLKI are mostly people who from the beginning have a passion to fight for the public interest. YLKI is expected to benefit all groups without knowing the boundaries of ethnicity, religion, ethnicity and socioeconomic status. In the early days of the founding of YLKI up to one-third of its journey, the emerging consumer issues were still around food, drink and some other primary services. Thus, testing and research are excellent. YLKI's attitude when it was politically still refers to the three main pillars of "Protecting Consumers, Keeping Manufacturers Dignity, and Helping the Government" The motto clearly puts YLKI as a neutral player even though there is an awkwardness. How does 100 percent protect consumers when it comes to considering producer and government conditions ?. As the times of consumer problems change rapidly. Inevitably this change must be faced with internal limitations and constraints from the organization. Many people think that YLKI should set the option of protecting consumers so that the quality of YLKI's work can be measurable, but also the idea that YLKI is engaged in policy by protecting consumers macro (Rahmat and Izudin 2018).

Law Number 8 Year 1999 concerning Consumer protection is signed by President BJ. Habibie on April 20, 1999. regardless of its shortcomings and what is the background of the signing of this law, the consumer society has had legal certainty primarily on its rights as a consumer (Daily management of YLKI 2003).

The existence of YLKI is helpful in raising awareness of consumer rights or testing, publishing and accepting complaints, but at the same time also conducting direct advocacy through the court. During this time the individual legal efforts of consumers to sue producers, both private and government, have little result, therefore, to represent the community and itself, YLKI uses the class action law regime, as set forth in Article 44 paragraph (2) and Article 46 paragraph (1) sub-paragraph b of Law Number 8 Year 1999 regarding Consumer Protection.

The Consumer Protection Agency (LPKSM) is present in the community to realize justice for the consumer community in order to create a conducive climate between business actors and consumers. Consumer Protection Law is expected to become a weapon for the consumer seekers of justice, in the optimization was still found obstacles are:

a. Institutional/institutional constraints. The development of LPKSM after the birth of the

Consumer Protection Law was enacted significantly. Associated with its existence, the existence of LPKSM in Indonesia is not encouraging because not all districts where there are 277 LPKSM has been registered in the local office. This is seen from the TDLPK that has been issued local service and sent to the Directorate of Consumer Empowerment Ministry of Internal Affairs LPKSM active less than 50 percent.

- b. Funding Constraints. Funding affects the performance of LPKSM. Not infrequently, the activities undertaken by LPKSM should drain the administrative pockets because there is no assistance from the government, both regional and central. Support for LPKSM is still very minimal. the absence of special attention from the government in terms of funding to participate in increasing the constraints LPKSM institutions difficult to develop in the field of consumer protection. Whereas the existence of LPKSM is really needed to protect the consumers from fraud, deceit and loss by the provider of goods and services as the duties and obligations of LPKSM mandated in Article 44 paragraph (3) UUPK jo PP. 59 of 2001 on LPKSM
- c. Lack of Socialization and the Low Level of Consumer Law Equality. One factor of the low level of legal awareness of consumers to defend their rights is due to lack of socialization, both before the promulgation and after the enactment of UUPK. Communities as less active consumers reported losses they experienced even impressed not want to deal with the authorities. Lack of socialization of the existence of LPKSM in the community, so that the roles and tasks can not be implemented as much as possible. Consumers are still not aware of their rights and obligations in carrying out consumer protection for themselves. Consumers do not complain to the Consumer Protection Non-Governmental Organizations in the case of fraud that befell to the consumer, consumers more small regard a problem if there is a fraud that affects the consumer for the acts committed by business actors, other than ignorance of consumers LPKSM institution itself and the function and place of LPKSM institution engaged in consumer protection. The existence of LPKSM is in need of support from society especially consumer. Without the support and trust of the community, LPKSM does not mean anything.

IV. CONCLUSION

The Consumer Protection Agency for Self-Reliance is a registered and acknowledged government-owned non-governmental entity that deals with consumer protection. Under the

Consumer Protection Act, LPKSM has the opportunity to take an active role in realizing consumer protection. To ensure the existence of a legal certainty, openness and order in the implementation of consumer protection in Indonesia, every LPKSM must register to the Regency / Municipal Government, to obtain LPKSM Registration License as evidence that LPKSM concerned is really engaged in consumer protection. There are two conditions to be acknowledged as LPKSM, that is, (1) registered to the Regency, (2) Moving in consumer protection as contained in the LPKSM statute and conducting consumer protection activities throughout Indonesia. (Directorate of Consumer Empowerment 2011).

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Legal protection for consumers as an integrated concept is a new thing, whose development starts from developed countries. However, now this concept has spread to other parts of the world.

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