

The Role of the Food and Drug Control Agency in the Sales of Food through E-Commerce Platforms

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Abstract

There are many advantages to online shopping, there are things that business people must pay attention to. Based on Law Number 8 of 1999 concerning Consumer Protection. Article 8 regulates actions that are prohibited for business actors. However, the lack of public or consumer knowledge is an advantage for business actors. In the Shopee application, several business actors can still be found selling imported processed food originating from China, one of which is Akuan Shicuan Wide Noodle (Chinese wide noodles). This product does not comply with the provisions in the consumer protection law above. Viewed from an administrative perspective, the food products sold are processed foods that do not yet have a distribution permit. The obligation to obtain a distribution permit is regulated in Law Number 18 of 2012 concerning Food, article 91 paragraph (1). The authority of an institution that issues a distribution permit, namely BPOM, is based on Presidential Regulation Number 80 of 2017 concerning the Food and Drug Supervisory Agency Number 80 of 2017. Article (4). The research method used is normative juridical, which examines legal materials such as statutory regulations, legal analysis, and the opinions of scholars in order to solve the problems studied. The aim is to find out and explain BPOM's authority in granting distribution permits and forms of consumer protection for food sold via e-commerce platforms. The results of this research show that the role of the Food and Drug Monitoring Agency in the sale of food via e-commerce platforms is to ensure that food or products circulating via e-commerce already have a distribution permit from BPOM to guarantee the safety and quality of a product. BPOM's supervision of e-commerce in sales on social media is using cyber patrol. The form of consumer protection is divided into two, namely the preventive form of consumer protection seen from several regulations which are the basis for distributing good food online, while the repressive form of consumer protection is seen from the provision of sanctions. Apart from that, it is recommended that in terms of supervision, cooperation between BPOM and the e-commerce marketplace requires special supervision, such as cyber patrol which is usually used, but perhaps the way the supervision works is specifically directly for the e-commerce and also requires cooperation with business actors in adding mandatory sales conditions. legal documents such as distribution permits from BPOM.

Keywords: Role of Bpom, Consumer Protection, E-Commerce.


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INTRODUCTION

Advances in technology, information and communication greatly affect the pattern of people's lives in a country, one of which is making trade or buying and selling around the world easy and very practical, namely by using modern technological and information developments today. Indonesia is a developing country in the world.

The Internet is a global network that can connect millions of computer devices around the world, which can provide information, communicate, and access various online services. The development of the internet is one of the driving factors for the development of *e-commerce* in Indonesia.¹ Trade, for example, increasingly relies on *electronic commerce (e-commerce)* as a transaction medium.² The definition of *e-commerce* itself is a form of trade transaction or business of goods or services using electronic media. The use of electronic media such as mobile phones, *computers* and *laptops* is currently becoming popular and popular among the public, because these media make it easier to interact between sellers and buyers in shopping and doing business *online* (online). Indonesia is the largest archipelago in the world consisting of separate islands. With *online* shopping, it brings convenience in transactions. So that people can transact anywhere and anytime. Online shopping today makes it very easy for shoppers to save time and be practical. The advantages of *online* shopping today are not only for buyers but also for sellers or business actors. Now by just posting sellers or business actors, they can sell freely without renting a place and paying taxes. One of the electronic media used today in *online* shopping is mobile phones. Buyers or consumers in the use of these media no longer need to go looking for goods or products to shops, markets and *malls* or other places of sale. Simply by using a mobile phone, they can buy the items they need and want. Applications that are currently online shopping centers for the public are such as the Shoppe application, Lazada, Tokopedia, Tiktok and other sales applications. In these applications, a variety of goods or products are sold ranging from food products, beverages, medicines, *fashionable* clothes, household appliances, electronic equipment, beauty products, accessories and others.

Shopee is an online shop or marketplace application (electronic commerce platform). By using Shopee, we can more easily shop, explore, and sell any products and services and anywhere. Shopee can help sellers more easily offer their merchandise and help buyers make transactions and interact directly with sellers through its live chat feature.³ There are many advantages in online shopping, there are things that must be considered by business actors.

¹ Setia Putra "Perlindungan Hukum Terhadap Kiat dan Strategi Bisnis di Dunia Maya Konsumen Dalam Transaksi Jual-Beli Melalui E-Commerce," *Jurnal Ilmu Hukum* 5, no. 2 (2014) hal. 287.

² Richardus Eko Indrajit, *E-Commerce*; PT. ElexbMedia Komputindo, Jakarta, 2001, hal. 33.

³ <https://www.gramedia.com/literasi/pendiri-shopee/>. Diakses 2023-12-20. Jam 11:40.

Based on Law Number 8 of 1999 concerning Consumer Protection. Article 8 regulates acts that are prohibited for business actors paragraph (1) letters (a), (i), and (j) Regulates that:

(1) "Business actors are prohibited from producing and/or trading goods and/or services that:

"(a) does not meet or does not comply with the required standards and the provisions of laws and regulations;

(i) not to label or make an explanation of the goods containing the name of the goods, size, weight/net or net content, composition, rules of use, date of manufacture, side effects, name and address of the business actor and other information for use that according to the provisions must be installed/made;

(j) does not include information and/or instructions for the use of goods in Indonesian in accordance with the provisions of the applicable laws."

The lack of knowledge of the public or consumers is an advantage for business actors. In the Shopee application, there are still several business actors who sell imported processed food from China, one of which is Akuan Shicuan wide Noodle (Chinese wide noodles). The product does not meet the provisions in the consumer protection law above. It is seen from the administrative point of view that has not been fulfilled by business actors, where the food products they sell are types of processed foods that do not have a distribution permit. The obligation to have a distribution permit is regulated in Law Number 18 of 2012 article 91 paragraph (1) concerning Food which reads:

"In terms of safety, quality, and nutrition supervision, every processed food made domestically or imported to be traded in retail packaging by food business actors must have a distribution permit".

The authority of an institution that issues distribution permits, namely bpom, is based on Presidential Regulation Number 80 of 2017 concerning the Food and Drug Supervisory Agency Number 80 of 2017. Article (4). In carrying out its duties, BPOM also issued regulations regarding distribution permit obligations. In the Regulation of the Food and Drug Supervisory

Agency Number 27 of 2022 concerning the Supervision of the Entry of Drugs and Food into Indonesian Territory, Article (2) paragraph (1) stipulates that:

(1) "Drugs and Food that are entered into Indonesian territory for distribution must have a distribution permit."

An act done by a business actor while doing business can cause consumers to lose money, due to the actions of business actors who sell imported food without a distribution permit and are not in accordance with the safety requirements for consumption.⁴ Supervision of food products is carried out by BPOM with the aim of providing health and safety protection to the public or consumers. In this regard, the relationship between consumers and business actors that continues to develop requires a rule that provides certainty to the responsibilities, rights, and obligations of all parties.⁵ Consumer protection aims to ensure legal certainty to provide protection to consumers. Seeing the existence of this legal basis, the protection of consumer rights can be done with optimism.⁶

METHODS OF THE RESEARCH

The research method used is normative juridical, which examines legal materials such as laws and regulations, legal analysis, and the opinions of scholars to solve the problems being studied. The purpose is to find out and explain the authority of BPOM in granting distribution permits and forms of consumer protection for food sold through *e-commerce platforms*.

RESULTS AND DISCUSSION

A. The Role of the Food and Drug Control Agency on Food Sales Through *E-commerce Platforms*

Technological developments have brought rapid and significant changes in Indonesia, one of which is the sale of processed food products that are widely sold freely in e-commerce. The lack of consumer knowledge of the rights and obligations of business actors is an advantage for business actors to easily and freely ignore consumers' rights to get safe and healthy food for consumption. Indonesia is a country of law, so all administration and state life must be based

⁴ Ahumadi Miru dan Sutarman Yodo, *Hukum Perlindungan Konsumen*, PT Raja Grafindo Persada, Jakarta, 2014, hal. 11.

⁵ Sri Redjeki, *Aspek-Aspek Hukum Perlindungan Konsumen pada Era Perdagangan Bebas*, Bandung: Mandar Maju, 2000, hal. 34.

⁶ Happy Susanto, *Hak-Hak Konsumen Jika Dirugikan*, Transmedia Pustaka, Jakarta, 2008, hal. 18.

on the law. The purpose of the law is to achieve legal certainty. Based on the 1945 Constitution of the Republic of Indonesia, it also mandates Human Rights as stated in Article 28 I paragraph (4) which reads: "The protection, promotion and fulfillment of human rights is the responsibility of the State, especially the government".

The government is a state administrative official, because it carries out the function of organizing government affairs both at the central and regional levels based on applicable laws and regulations.⁷ The authority of the Food and Drug Control Agency (BPOM) is a form of state responsibility through the government to protect every citizen. In this case, the state guarantees that every citizen can exercise this right by meeting his or her health needs. As stipulated in Presidential Regulation Number 80 of 2017 concerning the Food and Drug Supervisory Agency. Article (2) number (1) stipulates that:

(1) "BPOM has the task of carrying out government duties in the field of drug and food supervision in accordance with the provisions of laws and regulations".

One of the authorities of BPOM as the implementation of government duties is

Based on Presidential Regulation No. 80 of 2017. Article 4 letter (a) stipulates that:

"(a) issue product distribution permits and certificates in accordance with standards and requirements for safety, efficacy/benefits, and quality, as well as testing of Drugs and Food in accordance with the provisions of laws and regulations;"

Nutritious food is one of the basic needs for the healthy growth and development of people who consume unsafe food products can endanger health and even lives. It is the government's duty to ensure that the food sold has good quality and is circulated and has a distribution permit and is safe for consumption. As a business actor, you must also be smart in selling and ensure that the products sold have a distribution permit.

Distribution permits According to BPOM Regulation Number 7 of 2021 concerning Registration of Processed Foods. Article (1) number (8) which reads:

(8) "Distribution Permit is the approval of the results of the Processed Food Assessment issued by the head of the agency in the context of the circulation of Processed Foods".

⁷Dr. Ir. H. Juniarso Ridawan dkk, *Hukum Administrasi Negara dan Kebijakan Publik*, Nuansa, Bandung, 2009, hal. 92-93

As an authorized institution, BPOM must ensure that food circulating from within the country and abroad is safe for consumption. The rules issued by BPOM regarding food and medicines imported from abroad for sale or distribution in Indonesian territory are required to register the products sold to obtain a distribution permit from BPOM. BPOM Regulation Number 28 of 2023 concerning Amendments to Regulation of the Food and Drug Control Agency Number 27 of 2022 concerning Supervision of the Entry of Drugs and Food into Indonesian Territory. Article 1 number (5) stipulates that:

(5) "Distribution Permit is a form of approval for the registration of Drugs, Natural Ingredients, Quasi-Medicines, Health Supplements and Processed Foods or a form of approval in the form of notification that Cosmetics have been notified, fulfillment of Processed Food commitments and approval of Processed Foods to be distributed in Indonesian territory".

The function of BPOM distribution permits, BPOM distribution permits are requirements for obtaining permits to include BPOM labels on product packaging. With the BPOM label, it indicates that the products sold have a guaranteed product status from BPOM. With the BPOM certificate for products, consumers and potential consumers feel safer and trust to consume or use the products sold.⁸ Asep Warlan Yusuf said that permits are a government instrument that is juridical and preventive, which is used as a means of administrative law to control people's behavior.⁹

Based on the authority given to BPOM, there are 2 authorities that are prioritized by BPOM, namely, preventive authority and repressive authority:

1. Preventive Authority, which is the authority commonly called pre-market authority, is the authority of BPOM to inspect every drug and food product before it is distributed and marketed to the public by going through the stages of certification and registration of products, production facilities and distribution of the product.

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<https://www.sobatpajak.com/article/62c803cd1f70cd04219528c9/Pentingnya%20Izin%20Edar%20BPOM%20untuk%20Pelaku%20UMKM%20Pangan>. Diakses 2024-06-23. Jam 13.00.

⁹ Ateng Syafudin, *Pengurusan Perizinan, Pusat Pendidikan dan Pelatihan ST Alosius, Bandung, 1992, hal. 4.*

2. Repressive authority, which is the authority commonly called post market authority, is the authority of BPOM to conduct inspections of drug and food products circulating in the community, with the following process:

a. Inspection of the means of production and distribution of drugs and/or food.

b. Conducting sampling and laboratory tests on products suspected of containing hazardous substances or products that do not have production and products that are suspected of being harmful to public health. If the results of laboratory sampling show that the drug or food does not meet the requirements, BPOM has the right to withdraw or remove the product from the market, warn entrepreneurs and product distributors not to repeat their actions and warn the public about products that do not meet this requirement.¹⁰

BPOM has attribution authority that occurs due to the granting of authority by a law and regulation. The POM Center as the Task, authority and supervision of the Food and Drug Supervisory Agency is based on the law. Therefore, the Food and Drug Supervisory Agency is authorized to take certain legal actions in accordance with the provisions of laws and regulations. This means that BPOM has the ability to enforce positive regulations. BPOM has the authority to regulate arising from the granting of jurisdiction based on the provisions of the law. As a state institution, BPOM has an important role in carrying out the task of monitoring the quality, efficiency and usefulness of drug and food distribution according to the standards that have been set. BPOM's control of drugs and food is important to be carried out from the consumer's point of view, namely to ensure health insurance and a sense of safety in using and consuming the food, so as to make it easier for consumers to choose and order which foods are safe for consumers. It is clear that BPOM's authority is based on Presidential Regulation No. 80/2017. Article (4) letter (a) for processed foods, as business actors who sell products such as processed foods are obliged to ensure that the products they sell that come from Indonesia or imported from abroad are obliged to register their products with BPOM to obtain distribution permits and labels from BPOM so that the legality that the products they sell are safe and have passed tests from BPOM and related agencies.

¹⁰ Tyrsa Tesalonika Tambuwun, Dkk, *Peranan Badan Pengawasan Obat Dan Makanan (BPOM) Dalam Perlindungan Konsumen Yang Mengandung Zat Berbahaya*, Lex Privatum Vol. VIII/No. 4/Okt-Des/2020, hal.105.

Processed foods are naturally considered safe if they have been granted a distribution permit by BPOM, an extension of the government's role in protecting the public in drug and food supervision. This BPOM regulation must be complied with by business actors, who sell in the market and *online* so that the purpose of this regulation on consumer protection can be achieved properly. The Regulation of the Food and Drug Control Agency Number 8 of 2020 concerning the Control of Drugs and Food is circulated online. Chapter IV Online Circulation of Processed Foods. Article 16 stipulates that:

(1) "Processed Foods that are distributed online must have a distribution permit and meet good production methods in accordance with the provisions of laws and regulations".

E-commerce is a place to shop online (online) The practical impact of shopping using *e-commerce* is very much felt by consumers. However, it opens opportunities for business actors who do not have good faith in selling freely and do not think about consumer rights that must or must be protected. One of them is an imported processed food product Akuan Shicuan *wide Noodle* (Chinese wide noodles) which does not have a distribution permit and is labeled bpom which is sold freely on one of the *e-commerce platforms*, namely Shopee. The obligation as business actors to ensure that the products they sell already have a distribution permit from BPOM, this is to ensure the safety of a product to be consumed for the health of the body. The rules regarding this distribution permit are very clear. However, BPOM supervision in the distribution permit of products in circulation or sold in *e-commerce* itself has not been optimally supervised.

Judging from the ease of registering to sell on the Shopee application, making BPOM's authority in ensuring that products in circulation must have a distribution permit is not effective enough in carrying out its duties in *the e-commerce* platform. The authority to issue distribution permits according to testing from the lab of the product to be distributed has safety and quality. BPOM in exercising its authority must ensure that processed food products that are circulating or sold in the market and business actors who sell them on *the e-commerce* platform must have a distribution permit as a body that has been given responsibility based on the law. The weak shoppe policy in registering the sale of processed food products in the

shoppe freely and easily is not enough to help BPOM in its efforts to protect consumers. In this case, consumer protection itself is still charged to consumers.

Activities related to the circulation of packaged food are the main tasks and responsibilities of BPOM, supervision of circulating packaged food, BPOM conducts two stages of supervision, namely pre-market and post market supervision. Pre-market supervision or pre-marketing is the control carried out on the circulation and consumption of packaged food. BPOM implements a premarket supervision system for packaged food production. This pre-marketing control is carried out by registering a trader's commission permit and laboratory examination of the ingredients used by entrepreneurs. This laboratory analysis was carried out at BPOM. This supervision is carried out to prevent the abuse of dangerous or excessive foodstuffs. Meanwhile, post market supervision or post-marketing control is control carried out when packaged food is in circulation.

Post-marketing supervision is carried out by BPOM When inspecting distributors' packaged food, BPOM conducts inspections or raids directly in the field, inspections are carried out by randomsampling If BPOM finds food without a distribution permit, officers will immediately remove the product and bring it to BPOM for destruction. At the first meeting, BPOM only gave a reprimand to the owner of the took for violating the rules At the second meeting, if BPOM still considers the goods unfit for consumption, BPOM will provide administrative sanctions in the form of a letter of reprimand.

The stages and types of inspections carried out by BPOM are pre-employment inspections and workplace inspections. This food without a distribution permit is not only available in the market. BPOM carries out comprehensive drug and food supervision throughout the product life cycle, from pre-market to post-market. This aims to ensure that all drug and food products that will be used by the community are safe, efficacious, and of high quality. Furthermore, it is also regulated in UUPK Number 8 of 1999 Article 4 explains that consumer rights include the right to comfort, security and safety in consuming a good or service, the right to choose goods according to exchange rates and conditions and guarantees, the right to true, clear, and honest information about the condition and guarantee of goods, and the right to compensation if the

goods received are not suitable. In monitoring packaged food circulating in the community, BPOM still often finds food that does not meet the standards of packaged food, for this reason in accordance with Presidential Decree No.80/2017 concerning the Food and Drug Supervisory Agency Article 4 letter (c), BPOM has the authority to set administrative sanctions according to violations committed based on laws and regulations. The sanctions from the supervision carried out by BPOM on distributors who still sell goods that are not suitable for consumption in the Food Law No. 18 of 2012 are:

1. Based on Law No. 18 of 2012 Article 140 concerning Food states that every person who produces and trades food that deliberately does not meet food safety standards will be sentenced to a maximum of 2 (two) years in prison or a maximum fine of 4 billion,

2. Based on Law No. 18 of 2012 concerning Food, article 142 states that any business actor who deliberately does not have a distribution permit for food or packaged food in circulation will be sentenced to a maximum of 2 years in prison or a fine of 4 billion.

Supervision is not only offline, but also online. BPOM carries out its role in the sale of food and drug products through websites, social media, applications, online games, electronic commerce platforms, and various types of online content in cyberspace. The supervision is cyber patrol of products that are sold freely in cyberspace. BPOM supervision is regulated in the Regulation of the Food and Drug Control Agency Number 8 of 2020 concerning the Supervision of Drugs and Food Distributed Online Chapter VI of Supervision Article 25 stipulates that:

- (1) "Supervision of drugs and food distributed online is carried out through inspection by the Supervisor".

- (2) "The examination as intended in paragraph (1) shall be carried out with the following provisions: "a. monitoring the circulation of drugs and food online, including accompanying advertisements on Electronic Systems, Social Media, and other internet media; and"

- "b. conduct local inspections in facilities related or reasonably suspected of organizing Online Drug and Food Circulation activities".

(3) "The supervisor in carrying out the audit as intended in paragraph (2) may coordinate with the Ministry/Institution, relevant Regional Government, and/or PSE association".

(4) "The supervisor in carrying out the inspection as intended in paragraph (1), is authorized to:

"a. entering any place that is suspected of being used in Online Drug and Food Circulation activities to check, and/or take samples of drugs and food and everything used in online circulation activities;

"b. inspect the Electronic System used as a means of drug and food circulation, data and/or information, documents and/or records that are suspected of containing information about Online Drug and Food Circulation activities, including duplicating or quoting such information; and/or"

"c. taking pictures in the form of photos or videos of all or part of the facilities and equipment used in Online Drug and Food Circulation".

(5) "The Business Actor who is responsible for the place where the inspection is carried out by the Supervisor may refuse the inspection if the Supervisor concerned is not equipped with a duty warrant and identification card".

Article 25 of BPOM Regulation No. 8 of 2020 concerning the supervision of drugs and food distributed online emphasizes the importance of supervision after the product is circulated in the market. BPOM supervises products sold in the online market and ensures that the products have a valid distribution permit. Law enforcement efforts carried out by BPOM include preventive and repressive measures, such as checking products and online advertisements and providing education to business actors and consumers. Online supervision of BPOM through *cyber patrols* is not effective enough in monitoring *e-commerce* because until now there are still many who sell processed food products without a distribution permit and the proof is that there is also no blocking of *e-commerce* that has sold illegal or prohibited products. *E-commerce* is a website that provides online buying and selling services from various sources. The owner of the website or application does not own the product; The company only offers other people's products to its users and provides convenience by providing them. In other words, the

definition of an online marketplace is a business model where a website not only helps to promote products but also bridges online transactions between sellers and buyers.¹¹

E-Commerce acts as the website administrator and is also responsible to each consumer as a third party. *E-commerce responsibility* is not a replacement for physical products.

In the context of *e-commerce* accountability, the position of *e-commerce* such as Shopee is a third party, only as an intermediary between business actors and consumers, and third parties are service providers related to buying and selling. The service provider, even if only a third party or vendor, is responsible for ensuring that the products sold on the website are genuine and legal for sale. This means that processed foods that want to be consumed must first check the authenticity of the product and ensure that BPOM has issued a distribution permit for the product. However, sanctions against electronic transactions are regulated in Government Regulation of the Republic of Indonesia Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions Article 100 paragraph (2) stipulates that:

(2) "Administrative sanctions as intended in paragraph (1) can be in the form of:

- "a. written reprimand;
- b. administrative denda;
- c. temporary suspension;
- d. termination of Access; and/or
- e. removed from the list".

This sanction aims to ensure that electronic system operators comply with applicable regulations and maintain the security and reliability of electronic systems and transactions. The purpose of this control is to ensure that food circulating is safe from harmful substances and avoid dangerous foods that are not suitable for public consumption, while protecting consumers from dangerous foods, because every consumer has the right to protection. This supervision effort is to prevent violations of the law and supervision while avoiding misappropriation and at the same time to correct misappropriation if it has occurred. The government in consumer protection efforts has an important role as a mediator between the

¹¹<https://medium.com/treelight/pengertian-dan-jenis-jenis-marketplace-faa9044af03f>. Diakses 2024-07-19. Jam.15.30.

interests of business actors and the interests of consumers, so that each party can go hand in hand without harming each other.¹²

Supervision of products that do not have distribution permits sold through the platform is using cyber patrols. Judging from the use of cyber patrols used in surveillance efforts in the e-commerce platform itself, it is not effective enough because the way cyber patrol itself works only on illegal sales sites, not directly with e-commerce, therefore until now there are still many business actors who sell processed food products that do not have a distribution permit on the e-commerce platform freely. The policy taken by Shopee against violations of business actors who sell illegal or prohibited goods will be blocked or deleted.

B. Consumer Protection of Food Products Sold Through E-commerce Platforms

Food is the most important basic human need to maintain the sustainability of their lives. The need for food is a human right of every Indonesian citizen, guaranteed by law, as stated in Article 3 of the Law of the Republic of Indonesia Number 39 of 1999 concerning Human Rights which affirms that "Everyone has the right to the fulfillment of his basic needs to grow and develop properly."

The food that humans consume, either directly or indirectly, has a connection with health, and in turn health is also a means to achieve and enjoy this prosperity. Food is everything that comes from biological sources of agricultural products, plantations, forestry, fisheries, livestock, water, and water, both processed and unprocessed that are intended as food or beverages for human consumption. In addition, food is also intended in the form of food additives, food raw materials, and other materials used in the process of preparation, processing, and/or making food or beverages. In their business activities, it often happens that food business actors carry out a series of certain actions, use certain processing methods, and/or use certain materials (standard, auxiliary or additional) in the production process. This is basically done for several reasons, not least as follows:

¹² Agustina BaliK Dan Vica Jilyan Edsti Saija, *Tanggungjawab Pemerintah Dan Pelaku Usaha Makanan Siap Saji Terkait Penggunaan wadah Plastik Yang Berbahaya Bagi Konsumen Di Kota Ambon*, SASI Volume 23 Nomor 2, Juli - Desember 2017, Fakultas Hukum Universitas Pattimura, hal. 095-107.

1. To improve the quality of the food product, be it aroma, taste, texture, shape, color or others;

2. To protect food products from damage caused by natural processes both during storage and during the distribution and marketing chain;

3. To achieve effectiveness and efficiency in the production process. Actually, doing the above things in the production process of food products within certain limits is not prohibited as long as it does not endanger the safety and safety of life and does not harm the health of the people who consume it, even with the aim of protecting the nutritional value of food, even ordered by Article 64 of the Food Law.

Indonesia's national positive legal system has several provisions related to food safety to protect the public from dangerous and/or unsafe food. The protection is provided in accordance with the specific purpose of each law and regulation, namely:

1. Provisions for food products based on Law Number 8 of 1999 concerning Consumer Protection

2. Provisions for food products based on Law Number 36 of 2009 concerning Health

3. Provisions for food products based on Law Number 18 of 2012 concerning Food

4. Provisions for food products based on Government Regulation Number 28 of 2004 concerning Food Safety, Quality and Nutrition

5. Provisions for food products based on the Regulation of the Minister of Health Number 033 of 2012 concerning Food Additives

The inclusion of safety as one of the principles in the Consumer Protection Law is a guideline that the regulations that regulate the field of consumer protection ensure consumer safety in every product traded. If it turns out that the product violates the safety principle, the operator is responsible.

The obligation to prioritize safety and security is one of the government's efforts to protect consumers from food products that threaten health. Therefore, there are opportunities for consumers to demand the responsibility of business actors. An e-commerce *platform*, a website that brings together sellers and buyers. *E-commerce* platforms act as intermediaries between

merchants and consumers, also known as marketplaces, such as Tokopedia, Shopee, and Lazada. With the existence of the online shopping application, many business actors use it to market their products, besides that consumers also feel the convenience of shopping according to their needs, but consumers in general have a weak position compared to business actors so that it can be used by irresponsible business actors.¹³

Legal protection is an effort to protect the interests of a person by allocating power to him to act in the context of his interests.¹⁴ The elements of legal protection, namely:¹⁵ the subject that protects, the object to be protected by the tools, instruments or efforts used to achieve the protection. Consumer Protection relates to legal protection. Consumer Protection is all efforts that ensure legal certainty to provide protection to consumers". A sentence that states "all efforts that guarantee legal certainty".¹⁶ Therefore, consumer protection contains legal aspects. Janus Sidabalok stated that there are 4 (four) reasons why consumers need to be protected, which are as follows:¹⁷

- a. Protecting consumers means protecting the entire nation as mandated by the national development goals according to the 1945 Constitution;
- b. Protecting consumers is necessary to avoid consumers from the negative impact of the use of technology;
- c. Protecting consumers is necessary to produce spiritually and physically healthy human beings as development actors which means also maintaining the sustainability of national development;
- d. Protecting consumers to ensure the source of development funds sourced from the consumer community. Consumer protection is synonymous with the protection provided by law for consumer rights. In other words, consumer protection is synonymous with the protection provided by law for consumer rights.¹⁸ The state protects consumer rights through

¹³ Erman Rajaguguk, dkk., *Hukum Perlindungan Konsumen*, Mandar Maju, Bandung, 2000, hal. 20.

¹⁴ Sajipto Raharjo, *Sisi-Sisi Lain Dari Hukum Di Indonesia*, Kompas, Jakarta, 2003, hal.121.

¹⁵ Philipus M. Hadjon dkk, *Pengantar Hukum Administrasi Indonesia*, Gajah Mada University Press Yogyakarta, 2011, hal. 10

¹⁶ Inosentius Samsul, *Perlindungan Konsumen Kemungkinan Penerapan Tanggung Jawab Mutlak*, Universitas Indonesia, Jakarta, 2004, hal. 10.

¹⁷ Janus Sidabalok, *Op.cit*, hal.6

¹⁸ Susanti Adi Nugroho, *Proses Penyelesaian Sengketa Konsumen Ditinjau Dari Cara Serta Kendala Implementasinya*, Kencana, Jakarta, 2011, hal.

the Consumer Protection Law No. 8 of 1999 and several national and international laws and regulations.

The Consumer Protection Law Number 8 of 1999 is the most important legal basis for the protection of consumer rights in online shopping. Some of the consumer rights guaranteed by this law include:

a. Right to Clear and Correct Information: Business actors are obliged to provide true, clear, and non-misleading information about products or services offered to consumers. Accurate information is essential so that consumers can make the right decisions in transactions.

b. Right to Safety and Quality: Consumers have the right to get safe and quality products or services in accordance with applicable standards. Food products sold online must meet the food safety standards set.

c. Right to Good Communication and Service: Business actors are obliged to provide good and responsive service to consumers. Effective communication with consumers is an important key in building consumer trust and satisfaction.

d. Right to Compensation and Indemnity: In the event of loss or damage due to defective or non-conforming products or services to the advertisement, the consumer is entitled to compensation or compensation.

e. Right to Legal Protection: Consumers have the right to legal protection if their rights as consumers are violated by business actors.

In Law Number 18 of 2012 concerning Food, it is the main reference in regulating food products that are traded online. Some of the relevant provisions in this law include:

a. Food Safety Standards: The Food Law establishes food safety standards that must be complied with by producers and business actors in producing, processing, storing, and distributing food, including imported food products that are traded online.

b. Distribution Permit: Food products, including imports, must have a distribution permit from the Food and Drug Supervisory Agency (BPOM) before being distributed in Indonesia. This distribution permit guarantees that the product has met the set safety and quality requirements.

c. Labels and Product Information: Food products must be equipped with clear and correct labels, including information regarding the ingredients used, expiration dates, and distribution authorization numbers. This information is important so that consumers can identify products that are safe and fit their needs.

The obligation of business actors in distributing processed food online is mandatory food quality security through 2 electronic systems owned by themselves and electronic systems provided by PSE and business actors are obliged to ensure that the electronic systems used meet the provisions in points a and b of article 18 paragraph (2). Shopee's e-commerce platform is one of the Electronic System Operators (PSE) in Indonesia. All e-commerce platforms such as Shopee must be registered as PSE at the Ministry of Communication and Information Technology (Kominfo) to comply with applicable regulations in Indonesia. This registration ensures that they operate in accordance with regulations governing data use and consumer protection. Strong legal protections, strict supervision, and consumer education are important steps to creating a healthy and quality online shopping environment.

Regulations regarding the sale of processed food products are clear in the e-commerce platform, including processed food products that do not have a distribution permit. Regulation of the Minister of Trade of the Republic of Indonesia Number 31 of 2023 concerning Business Licensing, Advertising, Coaching, and Supervision of Business Actors in Trade through Electronic Systems. Chapter III Requirements for Conducting Business Activities. Article 11 Paragraph (1) Letter (d) Administrative sanctions, namely in Article 50 Number (2). However, e-commerce platforms do not check the products that will be sold by business actors on the e-commerce platform. E-commerce platforms also regulate the sanctions applied to entrepreneurs if they violate regulations or agreements regulated in the e-commerce platform. Tokopedia, Shopee, and Lazada expressly state that both consumers and business actors must agree to the terms and conditions regulated if they want to use the site. Web services - starting a business. Based on the issue that is the background of this writing, the author draws conclusions about the form of consumer protection for the sale of processed food products on

the e-commerce platform divided into 2, namely the form of preventive and repressive protection as follows:

1. The form of preventive protection is seen from the Regulation that regulates the circulation of processed food products that are good for consumers. These provisions refer to the Food Law, UUPK, BPOM Regulations, and also several regulations that regulate the online circulation of processed food products.

2. The form of repressive protection, which is seen from the provision of sanctions to business actors is regulated in the Food Law No. 18 of 2012 concerning Food, BPOM Regulation No. 8 of 2020 concerning Online Drug and Food Supervision, Government Regulation of the Republic of Indonesia No. 71 of 2019 concerning the Implementation of Electronic Systems and Transactions as implementers of the UUIITE, and Regulation of the Minister of Trade of the Republic of Indonesia No. 31 of 2023 concerning Business Licensing, Advertising, coaching, and supervision of business actors in trade through electronic systems.

CONCLUSION

The role of the Food and Drug Control Agency in food sales through *e-commerce* platforms is to ensure that food or products circulating in *e-commerce* already have a distribution permit issued by BPOM to ensure the safety and quality of a product. As a body that organizes government affairs in the field of drug and food supervision in issuing distribution permit certificates. BPOM in carrying out its duties ensures that the products in circulation have a distribution permit by means of direct supervision to the market to see and check directly. BPOM's supervision of *e-commerce* and sales on social media is using *cyber patrols*. Through *cyber patrols*, BPOM will check websites or websites that sell illegal food or that do not have a distribution permit. *The cyber patrol* used by BPOM is not effective enough in monitoring products sold on *e-commerce* marketplaces such as Shopee and others, because the way it works is not directly to the *e-commerce marketplace*. As for the policy of the *e-commerce marketplace*, one of which is Shopee in handling products without a distribution permit, if there is a complaint from business actors who sell prohibited or illegal products, *the e-commerce party* will block or delete the product. Consumer protection for food products sold through *e-commerce* platforms

is divided into 2, namely preventive and repressive forms of consumer protection. The form of preventive consumer protection is seen from food laws, consumer protection laws and also several rules that are the basis for good online food circulation, one of which is through *e-commerce* so that it is safe for consumption by consumers. While. The form of repressive consumer protection is seen from the provision of sanctions based on the Food Law, the online BPOM Regulation, the Government Regulation of the Republic of Indonesia on PSTE as the implementation of the UUIITE, and the Regulation on Business Licensing, Advertising, Coaching, and Supervision of Business Actors in Trade through the Electronic System. The rules regarding consumer protection to provide legal certainty for consumers are clearly regulated, but the form of consumer protection in *e-commerce* itself is still not optimal because *e-commerce* is only a site or tool that connects the interaction between sellers and buyers. Meanwhile, to protect consumer rights, the responsibility is given to business actors.

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