

Uridical Reviewon Drug And Cosmetics Imported Chinese Products That Do Not Include Indonesian Language Labels

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ABSTRACT

The aim of this research is to find out the consumer protection for imported Chinese medicinal and cosmetic products that do not include Indonesian language. This research uses the method. Result The form of consumer protection against the distribution of imported Chinese medicinal and cosmetic products that do not include Indonesian is a form of preventive protection, namely a form of protection with the existence of several regulations such as the UUPK, while repressive protection itself cannot be carried out optimally, this is because consumers themselves do not report when product incompatibilities occur.

Keywords: Law, Consumers, Products, Criminal, UUD

1. INTRODUCTION

Trade is a form of economic activity that has been carried out by humans since ancient times until now following the historical development of society. An example is the trade by the ancient Chinese known as the silk road trade journey (The Silk Road). The Silk Road was a trade route through Asia that connected East and West by being connected by traders, travelers, monks, warriors, nomads using caravans and ships, and connecting Chang'an, People's Republic of China, with Antioch, Syria, and also other places at various times (Diphayana, 2018).

The trade sector plays a role in supporting the smooth flow of goods and services, meeting the basic needs of the people, and encouraging the formation of fair prices. Trade development is very important in efforts to accelerate economic growth and equity, and makes a significant contribution in creating business fields as well as expanding employment opportunities and increasing income (Adolf, 2006).

In the hands of consumer goods or semi-finished goods produced by business actors (producers), which are then distributed by distributors and sold to consumers by retailers through the goods distribution channel scheme as stipulated in the Minister of Trade Regulation Number 66 of 2019 concerning Amendments to the Minister of Trade Regulation Number 22/M-Dag/Per/3/2016 concerning General Provisions for Distribution of Goods.



Business actors are obliged to carry out their business activities in accordance with applicable laws and regulations, including in this case the obligation to put labels in the Indonesian language on the goods they produce. Regulation of the Minister of Trade of the Republic of Indonesia Number 73/M-DAG/PER/9/2015 concerning the Obligation to Affix Labels in Indonesian on Goods (hereinafter abbreviated as Permendag No. 73 of 2015), requires business actors to include labels in Indonesian (Anggraeni, 2019).

The definition of a label is described in full in Permendag No. 73 of 2015, as follows: "Label is any description of the Goods in the form of writing, a combination of pictures and writing, or other forms that contain information about the Goods and descriptions of Business Actors, as well as other information that is attached to the Goods, put inside, affixed/attached to the Goods, printed on the Goods and/or is part of the Goods Packaging"

Thus the label is not just a sticker or a patch which is only a formal obligation of business actors with no meaning at all. Labels are a means of communicating information about an item produced by a business actor to consumers who will use the product. Consumers have the right to obtain the right to security, comfort and safety for the goods they buy, as stipulated in Law Number 8 of 1999 concerning Consumer Protection (hereinafter abbreviated as the Consumer Protection Law).

The same law also stipulates the obligation of business actors to serve consumers correctly and honestly and not discriminatory as well as the obligation to put labels or make descriptions of goods containing the name of the goods, size, net or net weight/content, composition, rules for use, date of manufacture, side effects, name and address of business actors and other information for use which according to the provisions must be installed/made.

The obligation that is carried out by the Government of the Republic of Indonesia is to empower consumers to understand their rights and obligations as consumers and to raise awareness of business actors regarding the importance of consumer protection. For law enforcement, the Government of the Republic of Indonesia is provided with criminal provisions both regulated in the Consumer Protection Law and other related laws, as will be described in detail in this study.

Thus there are three main parties (stakeholders) who are expected to interact with each other and each is responsible for their role, namely consumers who have the economic energy to buy goods, business actors (producers) who are expected to carry out their business activities in good faith and the government of the Republic of Indonesia which regulates business norms while simultaneously carrying out legal action in the event of a violation of applicable legal provisions.

This ideal condition has not been fully implemented by business actors, due to various factors, especially due to negligence which results in the threat of consumer protection due to consuming an item. Thus extra effort is needed to improve consumer protection both through educational facilities for consumers and business actors, as well as through law enforcement efforts by law enforcers.

The author observes that there is dualism in the application of legal sanctions for violations of labeling on goods. First, from the point of view of the obligations of business actors, negligence in placing labels on goods is only subject to administrative sanctions, namely revocation of licenses in the trade sector. Second, from the point of view of consumer protection, such negligence may be subject to criminal sanctions in the form of a maximum imprisonment of 5 (five) years or a maximum fine of Rp. 2,000,000,000.00 (two billion rupiah).

The author also sees the neglect of two legal principles, namely the principle of *Lex Posterior Derogat Legi Priori* (newer laws override old laws) and the principle of *Lex Superior Derogate Legi Inferiori* (higher laws override lower level laws). Minister of Trade No. 73 of 2015 applies legal sanctions in the form of administrative sanctions, lighter than legal sanctions in the form of imprisonment and fines as stipulated in the Consumer Protection Act and Trade Law (Juwita et al., 2023).

The existence of an ideal law or at least containing the principle of justice is very much needed today. The law will function as a guide for everyone to behave which will provide clarity regarding what can be expected from every action taken by everyone (Pariadi, 2018).

Strong laws will support national development programs in all fields which must be carried out on an ongoing basis. The goals to be pursued in law development are the creation of a national legal system that is fair, consistent and non-discriminatory, and ensures the consistency of all laws and regulations at the central and regional levels, and does not conflict with higher laws and regulations, and judiciary and law enforcement institutions that are authoritative, clean, professional in an effort to restore the legal trust of society as a whole. Legal development, especially economic law in Indonesia, is intended to be used as a foundation and guide for economic actors to carry out their activities.

2. RESEARCH METHOD

The type of research in this study is normative juridical law research, namely research based on literature studies which include primary legal materials and secondary legal materials. Primary legal material is carried out by reviewing laws and regulations related to the legal issues

being investigated and secondary legal materials in the form of books, journals and documents, as well as related studies related to predetermined titles. by the author. case approach, the legal approach is carried out by identifying and discussing the applicable laws and regulations, which are related to the problems in this study.

3. RESULTS AND DISCUSSION

Obligation To Include Indonesian Language Labels

The phrase that the buyer is king is a phrase that illustrates the importance of the role of consumers for business actors so that consumers must always be given the best service. This expression is also to remind consumers of the right to obtain quality goods in accordance with the conditions and guarantees promised. Consumers also have the right to obtain correct, clear and honest information in order to find out what information is related to the product they are buying. At present there is a change in the trend or tendency of consumer spending to shop online, which has now become a lifestyle for people not only in the world but also in Indonesia. The Nielsen Indonesia Institute said consumers around the world are showing an ever-increasing demand for convenient solutions that can help simplify their lives, and this is greatly influencing their consumption and spending habits.

Whatever type of shopping is done by consumers, both online and offline, consumer rights must still be considered because consumers are owners of money who have high purchasing power and can choose what items to buy according to what consumers want. So that consumers must be placed in a position as the subject of buying and selling, not the object of buying and selling, where producers always try to force sales trends of an item so that a positioning is formed in the eyes of consumers for the goods sold by these producers. In this situation, it is clear that consumers are placed as objects while producers are the subjects, where producers often neglect their obligations as business actors as mandated by Law Number 8 of 1999 concerning Consumer Protection. Because of the importance of the consumer's position, the government of the Republic of Indonesia emphasizes in a law that strongly protects consumer rights and expects producers to always comply with the legal norms set forth in it, namely Law Number 8 of 1999 concerning Consumer Protection. This law emphasizes the importance of consumer protection because the increasing opening of the national market as a result of the process of economic globalization must continue to guarantee an increase in people's welfare and certainty over the quality, quantity and safety of goods and/or services obtained on the market, as referred to in point c part of the considerations of Law Number 8 of 1999 concerning Consumer Protection.

Consumer protection is reaffirmed in article 8 paragraph (1) pointi Law Number 8 of 1999 concerning Consumer Protection reads in full: Business actors are prohibited from producing and/or trading goods and/or services that do not put a label on or make a description of the goods containing the name of the goods, size, weight/net content, composition, rules for use, date of manufacture, side effects, name and address of the business actor and other information for use which according to the provisions must be installed/made.

The obligation to put labels on manufactured goods is regulated in more detail in the Regulation of the Minister of Trade Number 73/M-DAG/PER/9/2015 concerning the obligation to put labels in Indonesian on goods. In the Minister of Trade Regulation Number 73 of 2015, what is meant by a label is any information regarding goods in the form of writing, a combination of pictures and writing, or other forms

which contains information about the Goods and description of the Business Actor, as well as other information attached to the Goods, included in, affixed/attached to the Goods, printed on the Goods, and/or is part of the Goods Packaging

Consumer Rights To Obtain Information On Goods

Labels are not just a formality containing information that is affixed, inserted or becomes part of a product. Labels are a form of information for consumers regarding goods/services as stipulated in Law Number 8 of 1999 concerning Consumer Protection. Consumers have the right to obtain correct, clear and honest information regarding the conditions and guarantees of goods and/or services. The provision of this information also shows other consumer rights, namely the right to comfort, security and safety in consuming goods and/or services, as well as the consumer's right to choose goods and/or services (Asmara et al., 2019).

Label inclusion can be in the form of:

- a. embossed or printed;
- b. affixed or fully attached; or
- c. included or included in the Goods and/or Packaging.

The size of the Label affixed or attached in its entirety is adjusted proportionally to the size of the Goods or Packaging. Information or explanation on labels related to the safety, security and health of consumers and the environment must contain:

- a. Method of use; and
- b. Clear and easy to understand hazard symbols and/or warning signs.

Information regarding the identity of the Business Actor shall at least contain:

- a. Manufacturer's name and address for domestically produced goods;

- b. Name and address of the importer for Goods originating from Import; or
- c. Merchant's name and address.

Collector if obtains and trades goods produced by Micro Business Actors and Small Business Actors. Business Actors are required to include information or explanations which, according to the provisions of the laws and regulations, must be included. For goods that have been compulsorily enforced by SNI, the inclusion of a Label in Indonesian follows the marking specified in the SNI. Finally, Business Actors are prohibited from attaching Labels in Indonesian that contain information:

- a. incompletely; and/or
- b. untrue and/or misleading consumers

Consumers Protection of Chinese Imported Medicinal And Cosmetic Products That Do Not Include Indonesian Language

Import and export is a form of movement in the world economy, supported by free trade which makes it faster and easier to enter a product into a country. In addition to free trade, technological advances are also one of the factors that make it easier for a product to circulate in the market, one of which is the existence of marketplaces such as Shopee, Lazada, and others. This very rapid development is also an opportunity for people to commit crimes, especially people who live close to the borders of other countries, one example is Batam which is the border between Indonesia and Singapore, many markets are found from this area.

For the entry of imported products, especially medicinal and cosmetic products, the government has stipulated that each imported medicinal and cosmetic product must have a distribution permit, in order to be traded in Indonesia, this stipulation can be seen in Article 2 paragraph (1) of the Regulation of the Food and Drug Supervisory Agency Number 30 of 2017 concerning Control of the Importation of Drugs and Food into Indonesian Territory, namely "drugs and food that can be imported into Indonesian territory for distribution are drugs and food that already have a distribution permit," for cosmetics, known as NA (Asian Notification). Apart from having a distribution permit, medicinal and cosmetic products must also produce information that can be understood, this is regulated in Article 22 of the Decree of the Head of the Drug and Food Control Agency of the Republic of Indonesia Number HK. 00.05.4.1745 namely "writing of statements or information in marking must be clear and easy to read using Latin letters and Arabic numerals, markings written in a foreign language must be accompanied by information regarding use, method of use and other information in Indonesian (Jopie Gilalo et al., 2020).



Marking in Indonesian is something that every importer must do before distributing medicinal and cosmetic products in Indonesia. This is a fulfillment of consumers' rights to obtain correct, clear, honest information about the condition and guarantee of goods before buying a product and is a form of consumer protection from the government. Marking in Indonesian is one of the obligations that importers often leave behind, especially products originating from China, we often encounter medicinal and cosmetic products from China circulating in the market using Chinese.

So that every drug and cosmetic product circulating in Indonesia must contain information that can be understood by the general public, products that do not contain information in understandable language are usually products that do not have a distribution permit and are illegal products. Imported products that have a distribution permit from the Food and Drug Supervisory Agency (BPOM) for both Chinese products and products from other countries usually include information on the product name, product content, number of the Food and Drug Supervisory Agency (BPOM), cedar permit, name of the importing company in a language that can be understood, and usually this marking is in the form of paper which is pasted and rewritten, if imported drug and cosmetic products do not have this, then the product is an illegal product.

This also means that all goods entering Indonesia must use the Indonesian language, even though there is an Indonesian language companion, it must still be printed on the packaging. So there are several reasons why consumers use Chinese medicinal and cosmetic products that do not use Indonesian, some consumers say that the quality of Chinese products is better than local products and the prices of Chinese products are cheaper than local products and some consumers use Chinese medicinal and cosmetic products because of friend recommendations and advertisements from the marketplace.

So, when she used imported Chinese cosmetics, after seeing her friends use these products, she saw her friends use these products. Her friend's skin turned white, her pores smaller, and beautiful, and the prices of the Chinese cosmetic products she used were relatively cheap. "Other consumers say that Chinese products are safer, more secure, better quality than local products, and many Chinese products are known to be very efficacious and good. Other consumers also say that they buy cosmetic products from marketplace advertisements so they try to buy these products (Maulida, 2013).

In conducting trade, of course, a good and good strategy and marketing is needed, this is what China seems to implement, cheap prices and good quality is China's trade marketing which attracts consumers to buy medicinal and cosmetic products from China compared to local products,



because good marketing from China is what makes more people choose to buy imported Chinese medicinal and cosmetic products and China has the ingredients and produces its own medicinal and cosmetic products, so that China can sell its products cheaper than other imported products.

Business competition that is getting tougher day by day makes business actors compete in trading their business, so that it is not uncommon for some business actors to sell their products in a way that is not justified. In Law Number 8 of 1999 concerning Consumer Protection article 8 paragraph (I) letters i and j, namely, business actors are prohibited from not placing labels or making explanations containing the name of the goods, size, net or net weight/content, composition, rules for use, date of manufacture, side effects, name and address of business actors and other information for use which according to the provisions must be installed/made. And business actors are prohibited from not including information and/or instructions for using goods in the Indonesian language in accordance with the provisions of the applicable laws and regulations. The government and BPOM have tried various ways to protect consumers, and have started educating consumers through outreach, webinars, advertisements, and many other activities. In addition to socializing the Food and Drug Supervisory Agency (BPOM) with the industry and trade department, they also created a service where people can make complaints if they have problems after using a product.

They often organize educational activities for the public about the need for consumer protection, if the public is not careful in buying products, what they do is also in vain, it all returns to the person of each person. Most people prefer products at low prices, they don't look anymore at the composition contained in the product, as long as the product is cheap, people will buy it (Jannah & Yusri, 2023).

For this reason, people who are smart in buying goods are also very much needed in protecting consumers. Not only concerned with price, but consumers must also look at the composition and contents of a product, especially for medicinal and cosmetic products. So when there is a discrepancy or loss from the use of imported Chinese medicinal and cosmetic products, the public can report it to the service and consumer complaints section owned by the Food and Drug Supervisory Agency (BPOM). After checking and if there is a violation, the Drug and Food Control Agency (BPOM) will withdraw the goods from the market and will revoke the distribution permit for these goods. The Food and Drug Supervisory Agency (BPOM) will also be responsible if problems occur after using imported Chinese medicinal and cosmetic products by facilitating any treatment for the victim's recovery and can also be in the form of compensation. This responsibility is determined based on the cases experienced (Sudewi et al., 2020).

Legal protection for consumers who use Chinese imported medicinal and cosmetic products is comprehensive protection, which not only protects consumers in the form of direct purchases but also protects consumers when purchasing online or through marketplaces, they can report directly to the Food and Drug Supervisory Agency (BPOM) if they experience a product incompatibility. After receiving the report, the Food and Drug Supervisory Agency (BPOM) will first check the contents of the product. If it does contain hazardous materials, the Food and Drug Supervisory Agency (BPOM) will withdraw the product and issue a written ban so that the product cannot enter and re-circulate on the market.

When a consumer buys Chinese medicine in his shop, if he experiences a discrepancy, the business actor will be fully responsible for the losses suffered by the consumer. This has been done before, a consumer said that the imported Chinese drug product that he bought was not suitable, then as the business actor carried out his responsibility by replacing the drug product with a new drug product that, if appropriate, complied with consumer complaints.

Consumer protection against the use of imported Chinese medicinal and cosmetic products is difficult to implement, because the public does not report the problem directly, when there is a discrepancy, consumers stop using these products without reporting to the authorities so that neither the Food and Drug Monitoring Agency (BPOM) nor the Department of Industry and Trade know that there are products that may not be able to circulate on the market, and consumers are also never serious about obtaining consumer protection, as they report that there are products which, when they use them, these products cause harm to consumers, but when asked for proof of payment, they do not have it, while the agency industry and trade themselves, they cannot carry out an investigation if there is no concrete evidence proving that it is true that the business actor is selling the product.'

Consumer protection provided to consumers is comprehensive protection, namely providing guarantees of obtaining legal protection in suing business actors. As well as losses that are given protection are material losses, such as side effects of using the product. If the product is a legal product, then the Department of Industry and Trade will carry out an investigation. If the product is illegal, the Industry and Trade Service will coordinate with the Food and Drug Supervisory Agency (BPOM) to withdraw the product from the market. Consumer protection is not only carried out by the Government, but consumer protection is also the responsibility of business actors.

Consumer protection is protection that requires many parties, not only the government but also business actors and their own consumers. Consumers are very influential in consumer



protection, because the distribution of products in the market is one of which is the high interest of consumers, even so, business actors also sometimes commit fraud in selling their products.

Control System Hold By The Government In The Circulation of Chinese Imported Medicinal And Cosmetic Products That Do Not Include Indonesian Language

Products circulating in the market are of course supervised by the government, one of the institutions under the government is the Food and Drug Monitoring Agency (BPOM), the Department of Industry and Trade, Customs, and others. These institutions are responsible for products circulating in the market and are responsible for the entry and exit of products from Indonesia. The Food and Drug Supervisory Agency (BPOM) does not carry out supervision of imported products alone, but the Food and Drug Supervisory Agency (BPOM) invites several government agencies and the public to carry out supervision. The drug and food control system administered by the Food and Drug Supervisory Agency (BPOM) is a comprehensive process, covering pre-market and post-market supervision. The system consists of

- a. Standardization which is the function of setting standards, regulations and policies related to drug and food control.
- b. Assessment (pre-market evaluation) which is a product evaluation before obtaining a distribution permit number and finally it can be produced and distributed to consumers. The assessment is carried out centrally, so that products that have distribution permits apply nationally
- c. Supervision after circulation (post-market control) to see the consistency of product quality, safety and product information is carried out by sampling medicinal and food products, monitoring pharmaco vigilia and monitoring labels/marketing on advertisements. Post market supervision is carried out nationally and in an integrated, consistent and standardized manner. This supervision involves the main offices of the Food and Drug Supervisory Agency (BPOM) in 3 provinces and areas that are difficult to reach/borders carried out by the drug and food control posts of the Food and Drug Supervisory Agency (BPOM)
- d. Laboratory testing Products that are sampled based on risk are then tested through a laboratory to find out whether the drugs and food meet the safety, efficacy/benefits and quality requirements. The results of this laboratory test constitute a scientific basis and are not used to determine if the product meets the requirements to be withdrawn from circulation

Law enforcement in the field of drug and food control. Law enforcement is based on evidence resulting from evaporation, examination and the initial investigative process of law enforcement until pro justitia can end with administrative sanctions such as being banned from circulation, withdrawn from circulation, revoked distribution permit, confiscated for destruction. violations enter the criminal realm, then drug and food violations can be processed according to criminal law.

In addition to carrying out the supervision mentioned above, the Food and Drug Supervisory Agency (BPOM) also carries out Supervision of goods imported into Indonesia with border and post-border barrels, border lartas is supervision carried out by customs in the customs area, while post-border surveillance is carried out after leaving the customs area and has been circulating in the community (free circulation/market) which is supervised by the relevant ministries/institutions. This is one of the policies established to help the Food and Drug Supervisory Agency (BPOM) supervise imported products that enter Indonesia, by first circulating the goods to the market and inviting the public to report if there is a discrepancy in the use of these goods (Indra, 2016).

Post border is when cosmetics enter Indonesia and have an NA (Asia Notification) which is a product circulation permit. Goods that already have NA from the country of origin can directly enter Indonesia. For goods like this, supervision will be carried out post-border, where the product will circulate first, after which it will be examined whether there are any hazardous materials contained or not. This is a convenience given to several products that are usually circulating in the market. However, this post border surveillance system is not the reason for the large number of products being withdrawn from the market, the products being withdrawn from the market have 2 factors, namely not having a distribution permit and cosmetics which when tested have dangerous ingredients. Most of the goods circulating do not have permits so that many products are withdrawn from the market and products that do not have permits usually contain hazardous ingredients.

This post barber system is not a good monitoring system, because the product circulates first. This is more at risk for consumer protection because the products in circulation do not have definite guarantees and consumers are passive towards consumer protection." Every system that is created certainly has negative and positive impacts, the positive impact is the existence of a post border system, this facilitates the supervision of the Food and Drug Supervisory Agency (BPOM) and customs duties on the circulation of incoming imported products, and makes it easier to



monitor products entering through the marketplace. However, the negative impact is consumer protection which is increasingly difficult to enforce.

Apart from going through the pre-order and post-border systems, the Food and Drug Supervisory Agency (BPOM) also has a service sector in responding to case reports if there is a loss in the use of products, both local and international products. This was also emphasized by Nurlinda Lubis, she said that when there is a discrepancy or loss from the use of imported Chinese medicinal and cosmetic products, the public can report it to the consumer complaint service section owned by the Food and Drug Supervisory Agency (BPOM), after receiving a complaint the Food and Drug Supervisory Agency (BPOM) will re-examine the product used, as well as check the completeness of the permit from the business actor selling it . If the product is not licensed and is a legal product, the product will be withdrawn from the market.

When imported goods enter, the Food and Drug Supervisory Agency (BPOM) will first check the ingredients contained in these drugs and cosmetics, when they are declared safe, the Food and Drug Supervisory Agency (BPOM) will issue a Food and Drug Supervisory Agency (BPOM) number stating that the product is safe for consumption.

Supervision of imported products through the marketplace is an obstacle experienced by the Food and Drug Supervisory Agency (BPOM) because there are more and more marketplaces and products that are traded on the marketplace are more diverse. The Food and Drug Supervisory Agency (BPOM) can carry out supervision by blocking shops that sell imported products without a distribution permit. (Dai et al., 2019).

Supervision of imported medicinal and cosmetic products has been carried out even before these products enter Indonesia. Before a product enters Indonesia, the importer of the product must first register as an importer, permission to import this product can be done with INSW (Indonesia National Single Windows) and when imported goods have arrived in Indonesia, the goods will first be checked for the completeness of the entry requirements for an item, such as checking NA (Asia Notification) and other checks.

4. CONCLUSION

This form of consumer protection against the circulation of imported Chinese medicinal and cosmetic products that do not include Indonesian is a form of preventive protection, namely a form of protection with the existence of several regulations such as the UUPK, while repressive protection itself cannot be carried out optimally, this is because consumers themselves do not report when there is a product mismatch. BPOM in supervising the circulation of imported Chinese



medicinal and cosmetic products that do not include the Indonesian language has made every effort to make various kinds of policies, such as pre border and post border. Senta BPOM together with several other government agencies conduct outreach in the form of seminars and other forms

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