

Public Responsibilities Of Business Entities Under The Consumer Protection Laws

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ABSTRACT

This study seeks to examine the public accountability of business entities through the lens of consumer protection law, specifically addressing the types of legal liability that include criminal, civil, and administrative dimensions. Consumer protection has emerged as a paramount concern due to the increasing intricacy of global trade, which poses numerous risks to consumers. In this context, business entities are anticipated to behave responsibly concerning the products and/or services they provide in the marketplace. The study utilises a normative legal methodology, incorporating statutory and conceptual frameworks. The legal materials comprise primary sources, including statutory regulations, and secondary sources, such as legal literature and judicial rulings. The results demonstrate that the responsibilities of business entities surpass contractual commitments and encompass ethical and societal obligations to guarantee the safety, comfort, and security of consumers. Law No. 8 of 1999 on Consumer Protection explicitly mandates administrative, civil, and criminal penalties for infringements of consumer rights. Consequently, the amalgamation of regulatory mechanisms, robust legal enforcement, and corporate ethical standards is crucial for the establishment of an equitable and sustainable consumer protection framework.

Keywords: business actors, consumer protection, public responsibility

ABSTRAK

Penelitian ini bertujuan untuk menganalisis tanggung jawab publik pelaku usaha dalam perspektif hukum perlindungan konsumen, dengan fokus pada bentuk-bentuk pertanggungjawaban hukum yang meliputi aspek pidana, perdata, dan administrasi. Perlindungan konsumen menjadi isu krusial seiring meningkatnya kompleksitas perdagangan global yang memunculkan berbagai risiko bagi konsumen. Dalam kerangka tersebut, pelaku usaha dituntut untuk bertindak secara bertanggung jawab terhadap barang dan/atau jasa yang dipasarkan. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan perundang-undangan dan pendekatan konseptual. Sumber bahan hukum meliputi bahan hukum primer berupa peraturan perundang-undangan dan bahan hukum sekunder berupa literatur dan putusan pengadilan. Hasil penelitian menunjukkan bahwa tanggung jawab pelaku usaha tidak hanya terbatas pada pemenuhan kewajiban kontraktual, tetapi juga mencakup kewajiban moral dan sosial dalam menjamin keselamatan, kenyamanan, dan keamanan konsumen. Ketentuan dalam Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen secara tegas mengatur bentuk sanksi administratif, perdata, dan pidana terhadap pelanggaran hak-hak konsumen. Oleh karena itu, integrasi instrumen regulatif, penegakan hukum yang efektif, dan standar etika korporasi menjadi pilar utama dalam mewujudkan sistem perlindungan konsumen yang berkeadilan dan berkelanjutan.

Kata Kunci: pelaku usaha, perlindungan konsumen, tanggung jawab publik

Introduction

The availability of products and services is an inherent component of the daily social interactions that occur within society. Business actors provide products and services that are intended to appeal to consumers in response to the diverse demands of various societal sectors. The government is tasked with the critical responsibility of developing, overseeing, and executing a comprehensive consumer protection framework that is applicable to all administrative levels, from the central to the local government. Consumer protection law functions as a legal instrument to prevent practices that may cause damage to consumers by ensuring an equitable distribution of rights and obligations between consumers and business entities (Hamid, 2017). The primary objective of consumer protection is to safeguard and defend consumer rights in the presence of commercial conduct that is either negligent or exploitative.

As market competition intensifies, the primary objective of business actors has shifted to the preservation of consumer loyalty in the era of globalisation and the transition to liberalised trade. As a result of free trade, the strategic positioning of enterprises may be negatively impacted, in addition to consumers, due to the increased competition among businesses (Sinaga & Sulisrudatin, 2014). A reconfiguration of marketing strategies, including the fundamental concepts, perspectives, and methodologies employed to engage consumers, has been prompted by the current orientation of both states and commercial entities towards global markets. As a result, the framework of global consumer protection is inextricably linked to the broader advancements in marketing practices.

Consumer protection is becoming more important in response to the growing complexity of global trade, which entails both globally acknowledged rights and those catered to the particular demands of different consumer groups. Cross-border transactions, jurisdictional conflicts, and inconsistent consumer protection rules across several legal systems are just a few of the difficulties that expansion of international business has brought. These events underline the need of a unified international legal framework able to protect consumer rights, stop exploitative corporate activities, and guarantee fair treatment for consumers all around. Essential first measures towards creating a fair global market are strengthening legislative instruments, encouraging transnational legal cooperation, and pushing the harmonisation of international consumer protection standards.

The emergence of consumer protection movements, which were motivated by a variety of factors, is inextricably linked to the historical development of consumer protection law at the global level (Novita & Santoso, 2021). Imbalance of power between businesses and consumers, as well as the effects of industrialisation and globalisation, were among the primary factors, particularly in the United States and Europe. With the rapid advancement of technology and the growing scale of international trade, there was a pressing need for regulations that were specifically designed to regulate consumer protection. These regulations are designed to prevent harmful business practices, including the dissemination of misleading information, abuse of market dominance, and fraud, by establishing a fair legal framework that regulates the relationship between business actors and consumers (Sidharta, 2006). Consequently, consumer protection law is not only designed to protect the individual rights of consumers, but also to serve as a legal instrument that promotes a sustainable, fair, and balanced commercial environment, all while upholding the broader public interest.

Consumer protection movement in the United States has taken significant progress, as evidenced by the adoption of a variety of regulations that are designed to protect consumer rights. The Federal Trade Commission oversees the Food, Drug, and Cosmetic Act, which is a critical regulation that demonstrates the government's dedication to the safety of products and the accuracy of advertising (Dajaan et al., 2020). In addition, legislative instruments such

as the Wool Products Labelling Act of 1940 and the Fur Products Labelling Act of 1951 were implemented to prevent deceptive labelling practices and promote transparency. As time progressed, the scope of consumer protection broadened to encompass areas such as environmental impact, financial services, and automobile safety. The Consumer Financial Protection Bureau and the Consumer Product Safety Commission were instrumental in enforcing these regulations.

In Europe, consumer protection has developed through a combination of national legislation and supranational regulations within the European Union framework. As early as the 1970s, the European Economic Community began to make efforts to harmonise consumer protection laws among its member states. Key directives, including the Unfair Commercial Practices Directive and the Consumer Rights Directive, have endeavoured to guarantee a high level of consumer protection throughout the single market. These legal instruments address a wide range of issues, including product liability, digital commerce, and unfair contract terms, demonstrating the region's dedication to a robust consumer protection regime that is bolstered by institutional oversight and legal harmonisation.

Consumer protection law in Indonesia began with the enactment of Law Number 8 of 1999 on Consumer Protection. This legislation established a crucial foundation for a comprehensive legal framework designed to protect the rights and define the obligations of consumers and businesses (Sidabalok, 2014). Before the implementation of this law, the Indonesian Consumers Foundation (YLKI) was established in May 1973 as the nation's inaugural non-governmental organisation dedicated exclusively to consumer advocacy and education (Nugroho, 2014). YLKI has offered various services, encompassing oral and written legal consultations, to enhance consumer capability in asserting their rights and comprehending their responsibilities. Furthermore, YLKI has served a crucial mediating function in resolving conflicts between consumers and businesses, thereby significantly advancing the evolution of consumer dispute resolution mechanisms in Indonesia.

The enactment of regulations in the field of consumer protection constitutes a tangible manifestation of the state's role in ensuring the fulfillment of the rights of society as consumers. The state is not only obliged to maintain order and fairness in economic transactions, but also to guarantee the availability of effective legal protection for vulnerable parties, namely consumers (Jaang, 2023). In practice, the legal relationship between consumers and business actors reveals an imbalance of position, as business actors generally possess greater bargaining power in terms of information, capital, and access to dispute resolution mechanisms. Based on the foregoing explanation, the focus of this paper is directed toward the definition of business actors, particularly as examined within the framework of consumer protection regulations, as well as the forms of public liability imposed upon business actors as stipulated in consumer protection law.

Methods Research

This research employs a normative legal research method, which focuses on examining legal norms as stipulated in legislation, legal doctrines, legal principles, and court decisions. This study is theoretical in nature, aiming to understand, analyze, and explain various legal aspects as a normative system. This research adopts two approaches, namely the statutory approach (statute approach) and the conceptual approach (Marzuki, 2007). The legal materials used in this study are classified into two categories: primary legal materials and secondary legal materials. Primary legal materials include statutory regulations such as the Consumer Protection Act (UUPK), the Indonesian Civil Code (KUH Perdata) in relation to contractual obligations, and other relevant sectoral regulations. Meanwhile, secondary legal

materials consist of legal literature (books, journals, and articles), expert opinions (doctrines), and court rulings with binding precedents (jurisprudence).

Results and Discussion

Business Actor Definition

The rapid advancement of technology and information has significantly intensified international trade interactions, resulting in the emergence of consumer protection as an inevitable consequence (Nasution, 2007). Consumers have gained greater autonomy in making purchasing decisions that are tailored to their unique needs and preferences as a result of technological advancements, which have increased their access to a diverse array of goods and services from a variety of regions. Ideally, this dynamic competition among business operators contributes to improved product standards and service quality, as evidenced by the broad market availability. Nevertheless, these advancements also raise substantial concerns, particularly in the context of the structurally weakened position of consumers when interacting with enterprises that possess superior financial and legal resources (Jabłonowska et al., 2018). The disparity is more apparent during conflicts that involve the enforcement of consumer entitlements, such as the rights to safety, comfort, accurate disclosure, and the expression of grievances. Additional obstacles, including the prevalence of non-negotiable contractual terms, inadequate consumer awareness, and limited regulatory interventions against exploitative commercial practices, exacerbate vulnerabilities. These conditions underscore the urgent need for a comprehensive and adaptive protective mechanism to prevent the ongoing disadvantages experienced by consumers in commercial engagements that should promote mutual accountability and equity.

In Indonesia, business actor definition is explicitly regulated in Article 1 point 3 of Law Number 8 of 1999 concerning UUPK. In this provision, a business actor is defined as:

"Setiap orang perseorangan atau badan usaha, baik yang berbentuk badan hukum maupun bukan badan hukum yang didirikan dan berkedudukan atau melakukan kegiatan dalam wilayah hukum Negara Republik Indonesia, baik sendiri maupun bersama-sama melalui perjanjian menyelenggarakan kegiatan usaha dalam berbagai bidang ekonomi."

Article 1, point 3 of UUPK delineates that business entities encompass companies, corporations, state-owned enterprises (BUMN), cooperatives, importers, traders, distributors, and others. According to the stipulations of the UUPK, the discourse on consumer protection is intrinsically linked to the examination of the rights and responsibilities of producers. The Directive defines "producer" as follows (Eleanora, 2018): 1)Entities that generate finished products in the form of manufactured goods. 2)The parties are liable for any damages resulting from the goods they distribute to the public, including damages caused by defects in goods that are components of the production process. Manufacturers of raw materials or product components. 3)Any individual or entity that labels a product with a name, brand, or other identifiers and claims to be the manufacturer of those goods.

Public Responsibility Of Business Actors From A Consumer Protection Perspective

Every business transaction carried out by a business actor must be accountable. The concept of "responsibility" is a term that is widely known and used in Indonesian society. In legal science and practice, this concept is articulated using the English term "*responsibility*" which means legal, moral, and procedural obligations imposed on business actors (Manda Sari et al., 2023). In the framework of consumer protection law, this responsibility is not only a matter of ethical behavior but also a legal requirement that aims to protect consumer rights can be fulfilled fairly and in balance. The production process from business entities to consumers in the contemporary business era has evolved into a series of intricate and

systematically organised stages. This sequence commences with the manufacturing process in factories, where goods or services are produced via systems that prioritise efficiency, quality standards, and adherence to relevant technical regulations. Upon completion of the production phase, distribution proceeds via a logistics network comprising primary distributors, sub-distributors, and retailers located in diverse areas. Every component in the distribution chain plays a vital role in maintaining the continuity and seamless flow of products until they arrive at the end consumers.

Legal responsibility of each participant in the goods distribution chain transcends mere contractual obligations, incorporating social and ethical responsibilities in business conduct. Business entities must guarantee that marketed products are delivered to consumers in acceptable and functional condition, while also adhering to the prescribed standards of safety, health, and comfort as mandated by applicable laws and regulations (Syafitri & Dewi, 2022). There is a significant correlation between compliance with formal regulatory frameworks and the implementation of established business norms during both production and distribution phases. Principle of accountability is essential for safeguarding consumer rights. In instances of consumer rights violations, it is imperative to implement the principle of due diligence to ascertain the parties liable and the degree of responsibility attributable to business entities, including manufacturers, distributors, and retailers. Numerous formal legal sources, including statutory regulations and standard contracts in civil law, impose restrictions on the extent of liability for individuals who violate consumer rights. The legal principles of liability can generally be classified into the following categories: 1) fault-based liability, 2) presumption of liability, 3) presumption of non-liability, 4) strict liability, and 5) liability limitation (Yuanitasari et al., 2023).

Public accountability, which encompasses criminal and administrative dimensions, as well as private accountability, which is commonly referred to as civil liability, are both included in the responsibility of business entities from the perspective of consumer protection law (Mahayani et al., 2022). Business actors who produce or distribute consumer goods that are hazardous or lack proper authorisation in compliance with relevant regulations may be subject to criminal sanctions as outlined in consumer protection legislation and other pertinent legal statutes. Administrative sanctions, including fines, temporary suspension of business licenses, or permanent cessation of production activities, may be imposed in the administrative domain for violations of relevant regulations. The objective of imposing administrative sanctions on business actors is to halt the unlawful conduct and to return the situation to its original state prior to the occurrence of the violation.

Administrative sanctions can be formulated cumulatively, including internal and external accumulation. Internal accumulation refers to the imposition of two or more types of administrative sanctions. In contrast, external accumulation involves the application of administrative sanctions in conjunction with other forms of legal sanctions, including criminal and civil penalties. This cumulative approach reflects a legal response intended to enhance compliance and ensure effective enforcement of regulations. In the context of consumer protection law, the cumulative application of sanctions plays a critical role in deterring violations and promoting accountability of business actors (Herlina, 2019). Globally, many countries recognize the need to implement regulations that integrate administrative, civil, and criminal mechanisms to address varying levels of non-compliance by business actors. For example, the European Union's consumer protection framework allows for multiple levels of sanctions imposed by national law enforcement agencies, depending on the severity and nature of the violation. Similarly, jurisdictions such as the United States have adopted a hybrid enforcement model through agencies such as the Federal Trade Commission, which can pursue civil remedies and refer cases for criminal prosecution if necessary.

These sanctions are reparatory in nature, meaning that their primary objective is to restore the situation to its original condition prior to the violation. A key distinction between administrative sanctions and criminal sanctions lies in the enforcement mechanism. Administrative sanctions may be imposed directly by administrative authorities without the need for judicial proceedings, whereas criminal sanctions can only be imposed by a criminal court through a formal adjudicative process. Administrative sanctions for violations of licensing provisions may take various forms, including the imposition of government coercion (*bestuursdwang*), the revocation of legally beneficial decisions, the imposition of penalty payments (*dwangsom*), and administrative fines (*administratieve boete*). The determination of the appropriate administrative sanction for licensing violations is generally stipulated explicitly in the applicable legislative and regulatory frameworks.

In cases where a licensing violation has occurred and the government intends to impose a coercive administrative measure (*bestuursdwang*), the competent authority must first conduct a thorough assessment of the legal facts surrounding the violation. Such an assessment allows for the classification of the violation into two categories: non-substantial violations and substantial violations (Yonnawati, 2022). This distinction has direct implications for the type of sanction to be imposed. In instances of non-substantial violations, the government may still provide an opportunity for legalization or regularization of the violation. Conversely, in cases of substantial violations, the government may proceed directly with the imposition of government coercion (*bestuursdwang*) without affording the opportunity for prior legalization. Article 60 of Law Number 8 of 1999 concerning Consumer Protection regulates the administrative sanctions that may be imposed on business actors. This article states:

"(1) Badan Penyelesaian Sengketa Konsumen berwenang menjatuhkan sanksi administrasi terhadap pelaku usaha yang melanggar Pasal 19 ayat (2) dan ayat (3), Pasal 20, Pasal 25, dan Pasal 26.

(2) Sanksi administrasi berupa penetapan ganti rugi paling banyak Rp. 200.000.000,00 (dua ratus juta rupiah).

(3) Tatacara penetapan sanksi administrasi sebagaimana dimaksud pada ayat (1) diatur lebih lanjut dengan peraturan perundang-undangan"

From the perspective of its legal substance, UUPK possesses distinctive characteristics, as it does not operate autonomously as a fully independent branch of law. Instead, it has evolved through the integration of various legal norms derived from other classical legal disciplines. When viewed through the lens of the Science Tree approach—which conceptualizes scientific knowledge as a tree with interrelated branches—UUPK can be classified as a cross-sectoral field of study. This indicates its inherently interdisciplinary nature, encompassing elements from multiple branches of law.

Criminal sanctions are essential within Indonesia's consumer protection framework, serving as a legal mechanism to uphold consumer rights and ensure compliance by business entities with established ethical and regulatory standards. The UUPK not only provides civil remedies but also explicitly establishes criminal liability for business entities whose actions violate statutory obligations and cause verifiable harm to consumers. This dual-track enforcement model signifies a comprehensive dedication to improving accountability and discouraging detrimental business practices in the marketplace (Fiscarina et al., 2022). From the perspective of criminal law theory, the imposition of criminal sanctions in consumer protection embodies retributive, preventive, and restorative values. The retributive aspect is reflected in the imposition of punishment as a response to legal violations. The preventive function serves as a deterrent to other business actors, discouraging similar unlawful conduct.

Meanwhile, the restorative element aims to restore the position of the victim, although this approach is generally more prominent within civil law mechanisms.

Criminal responsibility is a fundamental legal mechanism through which the justice system determines whether a suspect or defendant may be held liable for a criminal offense. In order for criminal liability to be imposed, the act committed must satisfy all the constitutive elements of a criminal offense as stipulated by statutory law. These elements typically include *actus reus* (the physical act), *mens rea* (the mental state or intent), causation, and the absence of justifying or excusing conditions. From the perspective of criminal law theory, criminal responsibility reflects the principle of individual culpability, which posits that punishment should only be imposed on those who can be deemed morally and legally blameworthy. This notion is deeply rooted in classical criminal law theory, which emphasizes the necessity of both a prohibited act and a culpable mental state to justify state-imposed sanctions. Additionally, modern developments in criminal law have expanded the discourse to include concepts of strict liability for certain regulatory offenses, particularly in fields such as consumer protection, where public interest and safety are at stake.

The application of criminal sanctions is predicated on a number of normative provisions outlined in Article 62 of the UUPK. This provision stipulates that any business actor who violates specific provisions of the law may be subject to imprisonment for a maximum of five years or a maximum fine of two billion rupiah. These provisions include, among other things, violations related to the sale of hazardous goods, the dissemination of false or misleading information, and the failure to fulfil obligations regarding the safety, quality, and utility of products.

Conclusion

Consumer protection is an essential pillar of contemporary legal frameworks, aimed at maintaining an equitable relationship between consumers and business entities. This is especially crucial in the context of globalization and liberalized trade, which have significantly heightened both the complexity of commercial transactions and consumers' exposure to risk. As subjects of law, consumers are entitled to safeguards against exploitative or harmful commercial practices, while business actors are under a legal duty to ensure the safety and reliability of the goods and services they provide. Under the Consumer Protection Law, the designation "business actor" is construed in a comprehensive manner, encompassing not only manufacturers but also intermediaries such as distributors, retailers, and financial service providers. These entities bear legal accountability across three principal areas: criminal, civil, and administrative law. Criminal liability arises where harm to consumers results from intentional misconduct or negligence. Civil liability entails the obligation to compensate consumers for damages resulting from unsafe or defective goods and services. On the administrative level, sanctions may include license suspension, monetary penalties, or other regulatory measures, and may be imposed cumulatively, thereby reinforcing compliance through multi-tiered enforcement mechanisms. The notion of public responsibility imposed on business actors is instrumental not only in securing the rights of individual consumers, but also in upholding a just, transparent, and ethically sound commercial environment. As such, the integration of regulatory instruments, judicial enforcement, and corporate ethical standards is imperative for the realization of a robust and effective consumer protection regime.

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