

Legal Implications of the Practice of Selling Food Products Past the Expiration Date

Sumito, Rommy Hardyansah, Fayola Issalillah, Yeni Vitrianingsih, Adi Herisasono

Sunan Giri University of Surabaya, Indonesia

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ABSTRACT

The oversight of expiration date food products is an important issue in keeping consumer health. BPOM has an important role in enforcing regulations related to food products, but there are still obstacles in oversight that cause expired products to remain in circulation. This research examines the legal implications of the practice of selling expired food products and the oversight conducted by Food and Drug Monitoring Agency (BPOM). Based on Law Number 18 Year 2012 on Food, food products that have passed the expiration date may not be sold. BPOM is authorized to withdraw products that do not meet standards and sanction violating business actors. Challenges in oversight that are limited in resources and a wide scope of oversight are problems that need to be overcome. This research proposes to increase the effectiveness of oversight through technology and training for business actors. With better oversight and increased awareness of business actors, it is expected that consumer protection against expired food products can be maximized.

INTRODUCTION

The trade of food products in Indonesia is developing along with the increase in population and the high consumption needs of the society. In the food industry, awareness of the quality and safety of food products is very important to keeping the public health. One of the things that need to be considered is the expiration date of food products, which is a crucial aspect in determining whether a product is still safe for consumption. Expired food products may pose serious health risks to consumers. The existence of regulations governing the expiration period of food products is very important to be implemented in an effort to keeping quality and public health (Sembiring & Priyanto, 2019).

While regulations related to the oversight of expiration dates are in place, the practice of selling food products that have passed the expiry date is still found in the market. This practice often occurs due to the profit factor for traders or producers who try to reduce losses due to goods that are close to or past the expiration date (Febrianti et al., 2016). This raises legal issues that can harm consumers and affect their trust in the food market. In this case, effective oversight from the government and related institutions, such as the BPOM, is very important to implement.

It is important to understand that the sale of food products past the expiration date is an ethical issue, and concerns the rights of consumers to obtain products that are safe and fit for consumption. Legally, there are various regulations governing food safety, one of which is Law Number 8 Year 2012 on Food. This regulation mandates that every food product circulating in the market must meet the established food safety standards. Selling food products that have passed the expiration date is against this provision and may be subject to legal sanctions in accordance with applicable regulations.

The practice of selling expired food products also reflects the lack of oversight and firmness in legal enforcement against business actors who do not comply with these provisions. The lack of firm prosecution allows irresponsible businesses to repeat harmful practices without deterrence. While there are clear regulations, the reality is that such practices still occur in markets, both in traditional and modern markets. This shows that there are loopholes in the implementation of oversight that can be exploited by irresponsible individuals. Consumers also need to be given a better understanding of the health risks posed by food products that are past their expiration date.

* Corresponding author, email address: dr.yenivitrianingsih@gmail.com

This phenomenon leads us to examine more deeply the legal implications that can result from the practice of selling food products that have passed the expiration date. In terms of business actors, and consumer protection who are the most vulnerable parties affected. It is important to further analyze whether the current regulations are effective enough to provide optimal protection for consumers. This includes the right of consumers to obtain correct, safe and honest information about the products they buy. There is a need to evaluate the implementation of oversight policies that can prevent the practice of selling expired food products in the market.

The practice of selling food products that exceed the expiration date has become a main issue that must be addressed seriously. While there are various regulations governing food oversight, the reality is that there are still many products circulating in the market that exceed their expiration dates. This certainly raises questions regarding the effectiveness of oversight carried out by relevant agencies, especially the BPOM. One of the regulations that serve as a legal basis for food product oversight is Law Number 18 Year 2012 on Food, which requires every food product circulating in the market to meet safety and health standards.

The implementation of these regulations still faces several challenges. The oversight of food products is often constrained by the large number of products circulating in the market, both imported and locally produced. There are still loopholes in the application of sanctions for business actors who violate provisions related to the expiration date (Soekorini, 2015). For example, while there are regulations that prohibit the sale of products that have passed the expiration date, many traders or distributors deliberately ignore this provision in pursuit of profit, so that existing regulations have not been able to guarantee maximum food safety in the market.

Based on this, the oversight carried out by BPOM and related agencies needs to be evaluated. In this case, the role of BPOM as an institution authorized to oversighting food and drug products is very important, because BPOM has the authority to conduct inspections and legal enforcement against the practice of selling illegal food products. BPOM oversighting role is still limited, and many illegal food products can escape oversight. These challenges are exacerbated by a lack of coordination across sectors and weak engagement of local governments in supporting oversight at the local level. Better cooperation is needed between BPOM, local governments, and the society in order to create a safer and more quality-assured market.

It is important to monitor and respond to the practice of selling food products that are past their expiration date as it harms consumers, and can impact the economic system and society's trust in the food market. When consumers feel aggrieved that the products they buy are unsafe, it can undermine trust in the food industry as a whole. This trust is crucial for maintaining the continuity of legitimate business and increasing active participation of the society in supporting public interest-oriented business, especially in the food sector.

The sale of food products that are past their expiration date can have various negative impacts on public health. Consumers who consume such products are at risk of poisoning or other health problems. In the long-term, this can burden the public health system, both in terms of medical costs and other social impacts. Strict oversight and legal enforcement against business actors who violate the provisions of the expiration date of food products are very important to ensure the safety of food consumption in Indonesia.

This research aims to analyze the legal implications of the practice of selling expiration date food products and to evaluate the effectiveness of oversight conducted by BPOM in providing optimal protection for consumers. This research also aims to provide an overview of whether existing regulations are sufficient to provide maximum protection for consumers, as well as how BPOM's efforts in addressing this issue. The results of this research are expected to provide recommendations on increasing policies and oversight of food products circulating in the market.

RESEARCH METHOD

This research uses a literature study approach with a normative juridical method to analyze the legal implications of the practice of selling food products past the expiration date. This approach examines relevant laws and regulations as well as existing legal policies, by exploring the norms contained in regulations governing food product trade and consumer protection. According to Soekanto (2014), normative juridical research focuses on applicable legal norms, namely searching and exploring positive legal rules that exist in society, and researching the implementation of these legal rules in real life. Through this approach, this research will researching various regulations, such as Law Number 18 Year 2012 on Food, which requires food products to meet safety standards, as well as other regulations governing the circulation of food products in the market.

In this research, a qualitative descriptive literature study was also used to explore opinions and analysis from various legal sources, including government regulations, court decisions, and relevant academic literature. The descriptive qualitative approach is relevant in analyzing regulations and assessing their effectiveness in protecting consumers from harmful products (Gao, 2015). This research aims to identify whether existing regulations are sufficient to provide protection to consumers and how the implementation of oversight carried out by BPOM. This normative juridical research is limited to the existing legal text, and involves an analysis of the effectiveness of law enforcement and weaknesses in its implementation in the field. This is in line with the opinion of Marzuki (2017) who explains that in normative legal research, it is important to identify the applicable norms, and to evaluate the implementation of the legal in existing social practices.

RESULT AND DISCUSSION

The practice of selling food products past their expiration date has become an important issue that needs serious attention. In the Indonesian market, there are many food products that are sold even though they have exceeded the specified expiration date. These products, while they may still look physically good, could potentially contain harmful chemicals or have lost sufficient quality, posing health risks that cannot be underestimated. These changes in quality can have a direct impact on consumer welfare, including food poisoning or long-term illnesses caused by the consumption of spoiled food. For this reason, it is important to have stricter oversight of the circulation of food products in the market.

Law of the Republic of Indonesia Number 8 Year 1999 on Consumer Protection has stipulated that consumers have the right to obtain products that are safe, of good quality, and not harmful to health. Article 7 letter (b) of the Law stipulates that business actors have the obligation to provide correct, clear, and honest information regarding the condition and guarantee of the goods and/or services they offer. Business actors are also required to provide adequate explanations about the use, repair, and maintenance of these products. This obligation is crucial to ensure that consumers can make informed decisions before making a purchase, as well as to protect them from misleading business practices. The obligation stipulated in Article 7 letter (b) is reaffirmed in Article 8 paragraph (1) letter (f), which states that business actors are prohibited from trading products that are not in accordance with the promises stated in the label, etiquette, description, advertisement,

or sales promotion of goods and/or services. This provision aims to prevent fraudulent practices and ensure that the information conveyed to consumers is accurate and reliable.

The sale of expired food products clearly violates these consumer rights and is a form of neglect of the basic principles of consumer protection. The sale of expired food products reflects the negligence of business actors who ignore consumer protection rules and the obligation to maintain product quality (Shahrullah & Hindra, 2020). This action shows a form of disregard for the basic principles of consumer protection as stipulated in Law Number 8 Year 1999 on Consumer Protection. When consumers consume products that are no longer safe, they are at risk of serious health impacts, which could have been prevented if business actors had carried out their obligations responsibly. This practice also indicates a gap in oversight and legal enforcement that must be addressed immediately. It harms consumers, and the sale of expired products also tarnishes the image of the food market and irresponsible business actors. Decisive action from relevant authorities, such as BPOM, is urgently needed to eradicate this practice and ensure protection for the society. BPOM needs to strengthen its oversight system and expand the range of inspections, especially in areas prone to violations. Collaboration with law enforcement officials, local governments, and community participation is also needed to create a safe, healthy, and responsible market environment.

Article 28 of Government Regulation Number 69 Year 1999 regulates food and labeling, which strictly prohibits the trade of food that has exceeded the expiry date, month and year stated on the label. This provision aims to protect consumers from health risks that can be caused by the consumption of unfit food products. Clear and accurate labeling is one of the important aspects in ensuring that consumers can make informed decisions about the products they buy, as well as to maintain high food safety standards. While strict regulations, there is still a significant gap between the law and practice on the ground. Many manufacturers and traders ignore these provisions, either due to a lack of effective oversight from the authorities or because economic pressures encourage them to sell expired products. In some cases, these products are still marketed with the expectation that consumers will not notice the expiry date, or in a non-transparent manner, such as changing the label or selling them at a discount. This gap creates serious challenges for consumer protection and public health. Consumers who do not realize that they are buying expired products are at risk of health problems,

such as food poisoning or other illnesses. These unethical trade practices can undermine society's trust in the regulatory systems and oversight institutions that are supposed to protect them. Violation of this obligation is a form of exploitation that can harm consumers healthily and psychologically (Mukholik, 2022). It is important to increase oversight and legal enforcement of these regulations, as well as raise public awareness about the importance of checking expiry dates before purchasing food products. Educating consumers on their rights and how to recognize products that are safe for consumption is also need. It is hoped that the gap between the legal and practice in the field can be minimized, so that consumer protection can be more effective and public health can be well maintained.

BPOM has the authority to oversighting and take action against business actors who sell expired food products. While BPOM has made various oversight efforts, there are still major challenges in overcoming the practice of selling products that are not in accordance with applicable regulations. The develop number of online sellers also adds to the complexity of m the circulation of food products. Many business actors utilize digital platforms to sell products without direct oversight, increasing the risk of massive circulation of expired products. Any violation of this obligation can be considered a form of exploitation that endangers consumer health (Mukholik, 2022). Public education is also an important key to make consumers more vigilant. Stricter legal enforcement, accompanied by increased society and business actors' awareness about the importance of maintaining the quality of food products, is key to realizing a healthier and safer market (Sembiring & Priyanto, 2019).

The Indonesian government, through BPOM, plays an important role in ensuring that food products circulating in the market are safe and meet established quality standards. BPOM has the authority to oversighting the circulation of food products in the Indonesian market. It is also authorized to take action against food products that do not meet the standards or that have expiration date. In its implementation, BPOM is responsible for oversight the distribution and marketing of food products, as well as withdrawing products from the market if products are found that do not meet applicable regulations.

In accordance with Law Number 18 Year 2012 on Food, food products circulating in Indonesia must meet food safety standards set by the government. These standards include quality and safety requirements covering the expiration date, packaging,

packaging, and circulation of food products. BPOM, as the institution assigned to oversighting and control food products, conducts inspections in markets, stores and warehouses to ensure that food products sold to consumers meet the stipulated requirements, including the expiration date. Any food product that has passed its expiration date should be withdrawn from circulation and prohibited from further sale.

BPOM's oversight of food products that have passed the expiration date needs to be carried out by involving various effective methods. One of the oversight efforts carried out is routine and unexpected inspections in markets, supermarkets, and food product distribution places. BPOM also uses technology to monitor product circulation and conduct laboratory testing to ensure that food products in circulation are safe and in accordance with legal provisions. With the implementation of technology and a more efficient oversight system, BPOM is expected to be able to more quickly detect food products that do not comply with standards and immediately withdraw these products from the market.

BPOM's limited resources are one of the obstacles in reaching oversight in all regions of Indonesia, so the role of business actors in independent compliance is also very need (Pulungan, 2019). Limited oversight and resources, especially in remote areas, make it difficult to ensure compliance with regulations regarding food products that have passed the expiration date (Putra, 2022). Given that Indonesia has thousands of food products on the market, BPOM faces a huge challenge in oversighting every product. The practice of selling expired food products often occurs within the scope of smaller markets, such as small shops or street vendors that are difficult to reach by BPOM oversight. This results in the potential for the sale of expired products that continue to circulate in the market, while the oversight carried out by BPOM is quite intense (Febrianti et al., 2016).

To strengthen consumer protection, BPOM needs to strengthen coordination with other relevant institutions, such as the police and regional health offices. This collaboration is important because food product oversight cannot be done separately or sectorally, given the complexity of the distribution chain and the vast area of oversight. Collaboration between BPOM and these institutions can increase the effectiveness of oversight and ensure that food products that do not comply with standards, such as products that have passed the expiration date, do not circulate in the market. With integrated oversight, the oversight of food products in the market can be more effective and can provide maximum protection for consumers.

Law Number 18 Year 2012 on Food also stipulates strict sanctions for business actors who violate the provisions on the circulation of food products. These sanctions include fines, revocation of distribution licenses, and even criminal sanctions for business actors who intentionally sell food products that have expired. These legal provisions provide stronger protection for consumers, as they provide a deterrent effect for business actors who are reckless in distributing products that are unsafe for consumers. Consistent legal action can strengthen consumer protection against harmful practices (Sidauruk & Simanjuntak, 2021). BPOM has the authority to enforce this legal and take the need legal action against violating business actors.

As a part of oversight, BPOM also conducts socialization to the society and business actors on the importance of complying with food-related regulations. This socialization is important so that the society is increasingly aware of the dangers of consuming expired food products, and so that business actors understand their obligations not to distribute products that do not meet standards. BPOM also works with the mass media to disseminate information related to the dangers of expired food products and the actions that have been taken against violating business actors (Bu'ulolo et al., 2022).

While there are clear regulations and oversight measures taken by BPOM, the practice of selling expired food products still occurs. This indicates a gap between existing regulations and implementation in the field. One factor that needs to be considered is the increased awareness of business actors, who are focused on profits, and are responsible for the quality and safety of the products sold. Business actors must have a commitment to fulfill regulations, and to maintain consumer trust.

One solution to overcome this problem is to tighten the monitoring and reporting system for food products circulating in the market. Periodic internal oversight by authorities is often insufficient to cover all product distribution points, especially in remote areas or in online sales channels. BPOM could develop an online reporting system that makes it easier for consumers to report products they encounter and suspect are past their expiration date. This can speed up the detection of dangerous products and increase transparency in the existing monitoring system. When consumers feel included and heard, trust in consumer protection mechanisms will increase. Active community participation, facilitated by accessible technology, can be an important force in creating a healthier and safer market environment for all.

BPOM's oversight of food products is simply a legal obligation, and part of a larger effort to protect public health. BPOM has clear regulations and various instruments to take firm action against the circulation of food products that do not meet standards. Effective implementation of such oversight still faces a number of challenges, particularly in relation to the increasingly complex distribution of food products, both through offline and online channels. With more consistent and systematic oversight, the risks posed by illegal and expired food products can be minimized (Soekorini, 2015).

The low level of awareness among some business actors and consumers regarding the importance of choosing safe food products also exacerbates this situation. An uninformed society is vulnerable to being victimized by food products that do not meet quality and safety standards. Consumers often do not report instances of sales of expired products due to lack of knowledge about legal procedures and fear of the consequences of reporting (Sidauruk & Simanjuntak, 2021). Public education and efforts to increase knowledge of existing regulations should be prioritized. Stricter oversight, and active participation from all parties will greatly support the creation of a healthier and more responsible food market ecosystem.

BPOM needs to strengthen cooperation with various related agencies to ensure that legal enforcement is limited to administrative sanctions, and is able to provide a deterrent effect for business actors who deliberately ignore existing regulations. This can be done through a more holistic approach, which includes preventive oversight, improving the quality of human resources, and implementing technology to detect illegal food products more quickly. With these steps, it is hoped that the Indonesian society can benefit maximally from the oversight carried out by BPOM, namely the creation of a safer, more transparent and reliable food market.

CONCLUSION

The conclusion that can be drawn from this discussion is that the oversight of food products that have passed the expiration date is one of the crucial elements in ensuring consumer safety. The oversight carried out by BPOM has a strong legal basis and is regulated by various food-related regulations. While the existence of regulations governing the circulation of food products, the practice of selling expired products still occurs in the field, indicating a gap in the implementation of oversight and legal enforcement. More efforts are needed to ensure that food products sold to consumers meet the quality and safety standards set by the government.

The implication of this finding is the importance of increasing the effectiveness of BPOM's oversight in preventing the circulation of food products that have passed the expiration date. This can be done by strengthening the reporting system and faster detection, as well as increasing coordination with other related institutions to conduct more comprehensive oversight. Awareness of the society and business actors also needs to be increased to better comply with applicable regulations, and maintain the quality and safety of the food products they sell. With a combination of strong supervision and collective awareness, the circulation of food products unfit for consumption can be prevented more effectively, so that optimal consumer protection can be realized.

Suggestions that can be made are the need to strengthen the capacity of BPOM in terms of human resources and technology to support more efficient oversight. Business actors should be provided with periodic training related to their obligations in maintaining the quality and safety of food products, especially in terms of expiration date. This is important to create a more effective oversight system and prevent expired food products from entering the market.

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