

Consumer Protection Problems against Circulation Fake Drugs and Vitamins through E-Commerce Platforms in Pandemic Times in Utilitarianism Ethical Perspective

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Abstract: *This writing aims to find out the extent to which the government supervises the circulation of counterfeit drugs and vitamins during the Covid-19 pandemic, both preventive and repressive as a form of legal protection for consumers, as well as how producers/sellers are also e-commerce platforms as providers of goods or services. and means of buying and selling through online media, responding to and being responsible for the circulation of counterfeit drugs and vitamins which do not meet the requirements and standards of consumer safety and health. This writing methodology is more of a literature study, to see the phenomenon of the widespread circulation of counterfeit drugs and vitamins through this e-commerce platform from the perspective of utilitarian ethics, as well as government intervention as a form of consumer protection. The type of research used in normative writing and the nature of the research is descriptive-analytical. The implementation of developing e-commerce transactions must be fast with strict supervision from the Government in each implementation. From the findings, consumers are harmed by the widespread circulation of counterfeit drugs and vitamins through e-commerce platforms. Limitations in e-commerce transactions have been exploited by irresponsible people to make their profits and harm others. This action is unethical because it harms consumers, similar producers, and other related industries. They do not practice business ethics because the purpose of business ethics itself is to create a common benefit. Legal protection by BPOM and BPKN is very important for consumers/users. The law must have room for consumers to make legal efforts to restore their rights that have been detrimental. The existence of laws and regulations made by the government as a form of consumer protection.*

Keywords: consumer protection; e-commerce; business ethics; ethical utilitarianism

1. Introduction

The COVID-19 pandemic in the past 2 years has become the focus of attention all over the world. Its spread occurs rapidly and widely, affecting all aspects of human life. This is especially evident in the economic and business sectors because the space for economic and business actors, namely humans themselves, is limited due to Covid. This has caused the paralysis of several sectors of the economy. But on the other hand, the impact of the Covid pandemic has further developed the sales business through digital or e-commerce platforms, where sellers and buyers meet in cyberspace fronted by the internet, as well as offerings and transactions without the need to meet in person. So that businesses through this digital platform rely more on the ability to present visuals or product descriptions that can attract consumers. If there is a transaction, it is more because of need, just believe it, as well as the element of gambling. This opens up opportunities for cybercrime to emerge, such as selling counterfeit drugs and vitamins through e-commerce platforms.

The outbreak of the Covid-19 pandemic has made people more aware of their health. The impact of this pandemic has also changed people's consumption styles from offline (direct purchases on the spot) to online (purchases via e-commerce/internet platforms). The pandemic conditions had made vital products such as medicines, vitamins, masks, hand sanitizers, etc. suddenly disappear from the market or if there were any at a skyrocketing (unnatural) price. And it turns out that this situation is used by certain people to take

advantage of the situation and conditions to make profits only if necessary, even if necessary by cheating or falsifying products. So fake drugs and vitamins are also circulating in the market through the marketplace platform. These individuals distribute certain drugs that are different but use other product names that have official or registered permits, in which the active substances contained in the counterfeit drugs are not the same as the contents of the supposed drug. The goal is to make a big profit, but doing so can harm others.

The circulation of counterfeit health products has caused greater health problems for consumers amid the Covid-19 pandemic when public health is a major concern. Counterfeiting does not only hurt consumer health but also hurts the greater spread of the Covid-19 pandemic outbreak due to the use of illegal health products which of course are not able to prevent the spread of the Covid-19 virus. How the government can prevent and overcome this problem and how the providers of e-commerce stalls be responsible and prevent the increasing circulation of fake drugs and vitamins through their platforms. Law enforcement itself comes from the community and aims to achieve peace in society. In this case, the awareness of all parties is very important. In philosophy, the meaning of "consciousness" or Conscientia which in Latin is "cum" (with) and "Scientia" (knowledge), simply means "with knowledge" (Riyanto, A., 2013). So that the higher the legal awareness of the community, the better law enforcement will be. On the other hand, the lower the level of public legal awareness, the more difficult it is to implement good law enforcement. What is meant by legal

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awareness is, among others, knowledge of the law, appreciation of the function of law, and obedience to the law. increasingly difficult to implement good law enforcement.

Thus, business actors in carrying out their business selling drugs or pharmaceutical preparations must synergize with the regulations that have been made by the Government. The important role of business actors in overcoming the circulation of illegal drugs cannot be carried out by one party alone, in this case by the Food and Drug Administration (BPOM), the concern of business actors and the public in preventing the circulation of drugs that do not have a distribution permit is a form of awareness and obedience to the law.

2. Literature Review

E-commerce began to develop significantly when the internet was introduced. With the internet, trade transactions no longer see national boundaries. The number of conveniences in accessing the internet makes e-commerce consumers increase, several reasons include practicality, ease of payment systems, time efficiency, and the many attractive promo prices from online business actors. But behind all the conveniences and benefits offered, there are also concerns about the responsibility of online companies to e-commerce consumers considering that transactions occur in cyberspace without direct physical meetings between sellers and buyers.

In addition, Article 4 of Law Number 8 of 1999 concerning Consumer Protection (hereinafter referred to as UUPK) states that consumer rights concerning consumer protection for the distribution of health products are the right to comfort, security, and safety in obtaining or using these health products. (Shidarta, 2000). Consumers of health products have the right to correct, clear and honest information regarding the conditions and guarantees of goods, and consumers also have the right to have their opinions heard on the use of health products.

The widespread circulation of counterfeit drugs and vitamins through e-commerce platforms during the pandemic is not following the principles of business ethics. Business ethics as professional ethics discusses various principles, conditions, and problems associated with good business practice. Business ethics serves to raise the moral awareness of businesspeople to behave well in running their business for certain noble values (religion, culture) and the continuation of their business. (Widyani, 2020). In his book entitled "Honesty, Morality, and Conscience", White (1997) mentions that there are five principles that underlie the ethics that we apply in everyday life, namely the right scales, having honesty, being a role model for everyone, having responsibility. personal responsibility, and take reasonable advantage.

According to Utilitarianism, business is ethical, if the activities carried out can provide the maximum benefit to consumers and society. Utilitarianism assesses an action by emphasizing the benefits or uses as the main moral principle. So it can be said that a good business policy or action is a

policy that produces various good things, not the other way around giving losses (Widyani, 2020). The greatest association and happiness are the basic principles of utilitarianism according to Bentham (the pioneer of utilitarianism), for him to provide many benefits will give satisfaction, and satisfaction is a good thing.

Research Methods

The type of research used in this paper is a literature study, namely by using data collection techniques through literature studies and field studies. All data have been collected, and both primary and secondary data studied and analyzed in-depth to obtain a complete and in-depth conclusion. The type of research used is normative and the nature of the research used is descriptive-analytical

3. Results and Discussion

The Covid-19 pandemic period is quite difficult for the community and the Indonesian nation as a whole because the impact is quite extraordinary on economic, social, and public health development. Due to the very rapid spread of the coronavirus, medical personnel of course needs support for health products to deal with the coronavirus, such as more adequate masks, personal protective equipment (PPE), and medicines. Indonesian people's awareness of health and hygiene is also increasing. To ward off Covid, many people choose to consume health products and vitamin drinks.

Many conveniences are also offered by sellers in e-commerce stalls, from the many choices and alternative goods as well as variations of sellers so that buyers can freely choose, to discounts and other promos offered by both sellers and providers of e-commerce stalls. So it is undeniable that the rampant sales of goods online have contributed to the growing circulation of counterfeit drugs and vitamins in the Indonesian e-commerce market. At the beginning of 2020, from January-May 2020 there were 70 consumer complaints to the National Consumer Protection Agency (BPKN), a significant increase compared to 2018 with 5 complaints and 18 complaints in 2019.

Public awareness of their rights has made some people who feel aggrieved by the fake pharmaceutical products start tweeting their complaints. It turns out that the victims of the circulation and sale of fake drugs and vitamins are not only ordinary consumers of health products, health practitioners and even doctors can become easy targets. As stated by the doctor and presenter, Lula Kamal, through his Instagram account. Doctor Lula had bought fake vitamin D3 through the marketplace four times and even reviewed the fake product on Instagram to provide information and education to the public (@lulakamaldr). It turned out that dr. Boyke Dian Nugraha, who is well-known as an obstetrician and sexologist, has also been deceived by the sale of fake products.

From the case above, it can be seen that consumers are very disadvantaged because they buy fake drugs and vitamins so it is not a benefit that consumers should get but instead a material loss and impacts that endanger the health of consumers. Their rights as consumers have been violated. As stated in Article 4 of Law Number 8 of 1999 concerning

Consumer Protection (hereinafter referred to as UUPK). Consumer rights related to consumer protection for the distribution of health products are the right to comfort, security, and safety in obtaining or using these health products. So that producers or sellers should provide clear, accountable, and honest information about their products. In addition, manufacturers also explain the conditions and guarantees for the goods they sell. And the UUPK also conveys the rights of consumers to have their opinions heard on the use of health products. By getting the right information, consumers hope that they will benefit from their actions.

The existence of e-commerce in the Trade Law is considered very important, considering the potential and growth of online business in the country. Seeing that, then it will be very important to see consumers as a subject that is very closely related to the online business, so consumer protection is needed, as has been regulated by the government through the Consumer Protection Act. Law No. 7 of 2014 concerning Trade (Trade Law) and Law No. 8 of 1999 concerning Consumer Protection (Consumer Protection Law) are references for every business actor in conducting trade transactions, both conventional trading, and online trading. In the Trade Law, it is regulated regarding the electronic trading system with the stipulation that every person or business entity that trades goods or services is required to provide complete and correct data and information. E-commerce is regulated in Chapter VIII of the Trade Law concerning Trading Through Electronic Systems in articles 65 and 66. The Trade Law contains several important points in terms of consumer protection. The important issue of e-commerce trading in this Trade Law is how this law can protect micro-enterprises that are just developing without compromising consumer protection. The existence of a mandate from Article 65 of the Trade Law regarding e-commerce business actors who are required to provide data and information will have a good impact on consumer protection. Article 65 paragraph (4) of the Trade Law states: (4) Data and/or information as referred to in paragraph (1) shall at least contain a. Identity and legality of Business Actor as producer or Distribution Business Actor; b. Technical requirements of the goods offered; c. Technical requirements or qualifications for the services offered; d. Price and method of payment for Goods and/or Services; e. Method of delivery of goods.

Certification for business actors in e-commerce trade has been comprehensively regulated in other positive laws, namely through the ITE Law and PP PSTE. While related to online payments, the e-commerce RPP should emphasize the existence of certification for merchants/e-commerce business actors related to the implementation of online payments. The purpose of e-commerce payment provider certification is to improve the security and convenience of transacting through online payment systems. This provider certification is carried out by financial service providers (PJK), and is regulated and supervised by the relevant financial services authorities. The Consumer Protection Law is a guideline for business actors and consumers to run their business fairly and without harming consumers. Consumer protection in this digital era of e-commerce is important and needed when sellers and buyers only capitalize on the

principle of trust in conducting electronic commerce transactions. Do not let electronic commerce be used as a tool for people who are not responsible for marketing their products.

When examined further, in fact, the losses due to these irresponsible persons are not only accepted by consumers like buyers but other parties are also harmed by these disgraceful actions, namely:

- The original manufacturer of the counterfeit product
- Manufacturers of counterfeit products
- Supply chain related to genuine products and the like
- The e-commerce platform used
- The emergence of public fears and concerns
- The government regarding taxes, etc.

So many parties and many interests in society and the government have also felt the negative impact of selling counterfeit drugs and vitamins through the e-commerce platform, so there have been violations of norms in business ethics and maybe even legal violations.

According to the theory of Utilitarianism, the business should bring benefits to society as a whole, but in this case, the benefits of happiness are expected to be enjoyed by only a small number of people, and the businessman's actions do not care about the consequences of his actions but only focus on the results, namely providing benefits or benefits only for the people himself. Here the weakness of utilitarianism theory has become a gap for unscrupulous businessmen. In addition, there have been deviations from the main principles of business ethics, causing losses and unrest in the community.

Responding to the problem of rogue businessmen selling fake drugs and vitamins through e-commerce platforms or marketplaces, real action must be taken to prevent and take action against them. For this reason, cooperation from many parties is needed to prevent and break the chain of spreading counterfeit goods and further fraudulent actions. Parties who can help to suppress the widespread circulation of counterfeit drugs and vitamins through this e-commerce platform include:

- 1) Consumers themselves must be aware and willing to report cases of fraud they experience to the platform or the authorities so that these events can be immediately identified and further actioned
- 2) The platform takes concrete actions to respond to consumer reports and takes other anticipatory actions, including:
 - Closing shops involved in fraud
 - Process it to legal channels
 - Collaborating with BPOM to help monitor products sold through e-commerce platforms following applicable regulations
 - Educate the public about a smart way to transact via the e-commerce platform
 - There is a team internal from the marketplace party who is tasked with filtering and supervising the products sold on the e-commerce platform that has complied with existing regulations
- 3) Pharmaceutical manufacturers need to apply the latest

technology and provide education to pharmacies and direct consumers as well as carry out direct market inspections regularly

- 4) The public is encouraged before making a transaction to re-examine the packaging of the product to be purchased and it is also necessary to read references from other consumers' reviews. And if it is found that there are irregularities or suspicions regarding the product or the transaction process, the public should postpone the transaction and immediately report it through the features provided by the e-commerce application.
- 5) Cooperation from stakeholders in the pharmaceutical industry to jointly fight the production and circulation of drugs, vitamins, vaccines, and counterfeit pharmaceutical products
- 6) The government issues clear regulations to prevent and take action against dirty business actors who violate applicable laws and regulations, assisted by the police.

So in responding to the case of the circulation and sale of illegal pharmaceutical products during the Covid-19 pandemic, through e-commerce platforms, we cannot only blame or corner one party, especially sellers and manufacturers of counterfeit products. Violations of business ethics do not occur just because of an opportunity, but the problem can be quite complex which causes certain elements to take advantage of loopholes that can be exploited. So this is a shared responsibility of all aspects of society. For example, from the consumer side, they must increase awareness and concern for their health by paying attention to the products they want to buy or looking for information related to these products. In terms of pharmaceutical manufacturers, they are also active in providing education to consumers, sellers, and the general public. The marketplace has clear rules for incoming shops and also cooperates with BPOM to help protect the rights of consumers and sellers alike. Likewise, the government must also carry out its function properly to protect the rights and obligations of its citizens. All are related to one another, so cooperation and collaboration are what are needed to create a *bonum commune* in society. With the cooperation and collaboration between the related parties mentioned above, it will be able to support the five general principles of business ethics, namely the preservation of human dignity by each realizing that they are creatures of conscience and reason so that they know what is right and what is bad. and wrong, the emergence of solidarity between parties to help each other, the emergence of subsidiarity that the strong support the weak, the awareness between generations that the next generation is also determined by the current generation, as well as the creation of general welfare, namely a condition where balance is created in society and a sense of justice is felt by everyone.

4. Conclusion

The most important thing in this issue is the importance of full awareness of all parties involved, both consumers, producers, e-commerce platforms, governments, and other parties that may be related. The government as the guardian of the legal umbrella of the Indonesian people is important to carry out the function of supervision and protection of the

course of the economy and trade, among others, through regulations that protect the state and society. In addition, good cooperation and collaboration from stakeholders related to this issue will be able to minimize or even close the gap for dirty business actors to carry out their actions, as well as re-enforce the ethics and morality of Indonesian businesspeople while strengthening applicable regulations and laws. As is known, ethics is a crucial element in the business world, which must be considered by all parties, including the government, business people (producers/sellers/digital platforms), and consumers themselves. Each of them must carry out their duties and functions and maintain the rights and obligations in transactions to create a common benefit.

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