

The Legality of food packaging to the production of small and medium enterprises (SME)

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Abstract. The researcher was interested to take unique, interesting, and safe food packaging of SME as the focus of this research. Thus, the packaging made by SME should fulfill the standards enforced by the law applied in Indonesia, especially East Java Province. This research aims to discover the law regarding the legality of food packaging, mainly the standards of packaging, and to discover the understanding and obedience of SME in applying the law enforcement for the packaging standards for foods produced by SME. The standards of the packaging for SME's products and the guarantee of legal protection to SME products' packaging to achieve the legality of food packaging with requires hygiene, clean production devices, product cleanliness standards, interesting packaging, clean and recyclable packaging and getting standard licenses (MUI/BPOM, P-IRT). This research used analytical and critical ought to be journal article with qualitative research as well qualitative content analysis that emphasizes on role related to socio-cultural change for evaluation research with social research method. The results of this research show food packaging for SME's products can increase the concerns to products safety. Meanwhile, for the government, this research can become the basis of taking on useful policy to develop the potential of SME food, especially the legality of food packaging of SME's products. For academia, this research can be a literature for further research in the same field.

Keywords: the legality of food packaging, obedience of SME, social research method

1. Introduction

Foods produced by SME will only be able to compete with foreign products if the quality of the products is better and they have a competitive price. The development and assistance should be done by the government to make SME food increase its potential in the domestic market. In this research, the legality of SME food packaging enforces the standards required by the law whether from the obedience of SME in producing the packaging to the safety of products consumed by the consumers which is measured from the safety, halal standards, hygiene, and packaging feature. Thus, the packaging is comparable to the quality of food produced by SME. In addition, consumers' behavior also influences the quality due to their demand upon these characteristics. Well-packaged food has comfort that can be promoted to the consumers. Consumers involvement has positive influence to the purchase (Aghdaie, et al, 2014). The higher the involvement of the consumers, the motivation for purchasing will be higher (Lingga, 2012). This result proves that the legality of SME foods needs brand, products name, logo, size, and color; which has huge influence to the perception of the consumers' needs related to the safety, health, and comfort of the food.

2. Methodology

2.1. Research Approach and Types

This research also used social research method, i.e. qualitative research methods, which allow the researcher to discover how the social world is constructed to comprehend research context. Legal Responsibility is consistent with the expectations of governments and laws complying with the various regulations. Social responsibility has a positive impact on society and has protected human and ethical values. The aim of doing a literature review is to find out what is already known about a

specific research topic, therefore it will discuss the published data in the same content as the original authors. From search to analysis will typically focus on academic books and journal articles, although most textbooks describe the search process, what is missing is the detail on the process of review, analysis, and presentation of the written research result. The approach used for the research analysis seeks quantity content in a systematic manner, with qualitative research as well qualitative content analysis, that emphasis role is related socio-cultural change for evaluation research.

2.2. *Focus of the Research*

The focus of this research was the legal review to the legality of food packaging for SME's product. The research aims to discover the law regarding the legality of food packaging, mainly the standards of packaging for SME to obey in applying the law enforcement for SME's products packaging and guarantee of legal protection to SME's product packaging to achieve the legality of food packaging. The social study measures the obedience level of SME towards the law with Social Responsibility.

2.3. *Setting and Subjects of the Research*

The subjects of this research were the Technical Implementation Unit of Food, Beverages, and SME's food packaging in Sidoarjo and Indonesia's SME's Product Packaging Institution in Mojokerto regency, SME and Cooperative Officials of Sidoarjo, and Trading and Industries Officials of East Java in Surabaya.

2.4. *Action Planning*

Products characteristics, products process, distribution path, market segmentation, competitive products, marketing target, promotion through environmentally friendly packaging design of food SME's product, and the health and hygiene level were planned to improve the quality and benefit for East Java's SME products.

2.5. *Data Collection Procedures*

In finding and collecting the required data, it focuses on the main problems of this research; thereby, its discussions will not be contradictory or blurred. To obtain the accurate data, the researcher had to obtain primary and secondary data related to this research.

2.5.1. Primary Data. Primary data [1] is data which were obtained directly from the source of the data by interview/direct questions and answer to the respondents. The semi-structured interview was planned to make the interview controllable and not too far-fetched from the main idea.

2.5.2. Secondary data. Secondary data [1] is the data obtained by researcher indirectly from the object as the related literature, to build the theoretical and conceptual framework, including:

2.5.2.1. *Legal Materials*

- Primary legal material [1], a material which is binding or authoritarian.
- Secondary legal material [1], a material explaining primary legal material including the design of law and regulation, official notes, or the minutes in formulating law, legal reports, and legal reviews, whether in the forms of journal, final projects, thesis, or dissertation.
- Tertiary legal material, a material which gives directions to materials in primary and secondary legal materials. [1] This material was obtained from dictionary or encyclopedia

2.5.2.2. Non-Legal Materials. Data or information obtained from articles or news report from mass media or institution based data which has or has not been manipulated.

2.6. *Techniques of Data Analysis*

Technique of data analysis was obtained from the concluded analyzed data using deductive interpretative way. Deductive analysis is an empirical mindset with specific conclusion. Deductive interpretative means that in analysis, there is a possibility to opinion, perspective, or interpretation to the discovered data. It aims to find patterns, models, themes, or theories of the data.

2.7. Success Indicators

Some researchers which have done research related to success indicators always define that the success of business is the same to the success of SME's food product using the criteria of financial performance (Jennings and Beaver 1997; Willard, et al 1992; Zahra and Covin 1995; Murphy, et al 1996; Robbinson, 1999; Santos and Benito, 2000; Harada, 2003). Measuring the success based on financial performance is difficult in the context of SME. Therefore, the researcher concluded that the influencing factors to success indicators are:

- 1) Psychological Factor, including the best achievement, risk-taking bravery, confidence, acting orientation, internal locus of control, strong motivation, entrepreneurship, creativity, and innovation.
- 2) Working Behavior Factor consists of hardworking, leadership, strategic orientation, decision making path, industrial environment, marketing orientation, ability to utilize market, and social networking.
- 3) Organization Forms Factor, including business scale, company age, location of company, company networking, business experience, and marketing experience.
- 4) Technical Helps Factor, including credits/funding, training, business consultation access, internship, and business cooperation to foreign company.
- 5) Main Competence Factors, including technical expertise, managerial ability, personal relation ability, business intuition, innovation, and mastery in managerial cycles.

Thus, the importance of entrepreneurship in a business is very huge as success indicators of certain SME, whether as personal behavior of innovativeness to SME's food product produced and marketed to the consumers. The development of SME's technology is to improve the competitiveness of SME's food products which is based on innovation of technology, high quality local resources, and export orientation.

3. The Review: Legal System

Theory of Legal System. Lawrence M. Friedman explains that the effectiveness or the success of law enforcement depends on three legal systems: legal structure, legal substance, and legal culture. Legal structure is related to legal apparatuses, legal substance is related to the legislation, and legal culture is the law existing in certain community. Reviewing the theory of Lawrence M. Friedman, it can be concluded that it is not only the existence of law which is needed conventionally or legally, the guarantee of its enforcement in legal review to the legality of SME's food packaging is also needed. The law regarding this matter can be seen as follows.

- a) In the Regulation of Indonesia National Agency of Drug and Food Control Head Number Hk.03.1.23.07.11.6664 year 2011, smart packaging is included as one of the material for food contacts permitted to be used as food package and fulfill the border of migration as stated on the law, standards, guides, the national or international criteria, or from scientific reference in the law applied in Indonesia's legal system.
- b) According to National Law Number 7 Year 1996, Article 16 section 1 which states that "every person is prohibited to produce and distribute dangerous food which can also be a harmful pollutant or danger to people's health". (Law regarding packaging which is related to food safety in protecting consumers).
- c) According to Law Number 18 Year 2012 "Food packaging is the material used to cover and/or wrap food, directly or not" [7].

- d) According to Law of Consumers Protection in Chapter III Article 4, which regulates consumers' rights on [8]:
- 1) Rights of safety and security in consuming things/services
 - 2) Rights to choose things and services and get them as the exchange rate and condition along with its guarantee
 - 3) Rights of obtaining clear and honest information regarding things and/or services
 - 4) Rights to be heard upon opinion and complaints regarding things and/or services
 - 5) Rights to be advocated, protected, and processed to consumers' dispute appropriately.
 - 6) Rights of compensation and retribution if accepted goods and/or services were not in a good condition.

In this case, the researcher gives the understanding that problems of food packaging legality is also influenced by the theory of Street Level Bureaucracy, because this theory is used as one of the attempts in doing monitoring to SME's food in enforcing the law based on the safety system to food's quality and nutrition through minimum standard services, SME product monitoring, and the guarantee of SME product safety based on Government Regulation Number 28 Year 2004 regarding Food Safety System. Therefore, in its legality, SME food should list the registration number of the respective SME food, and have HALAL logo based on Islamic Law, according to ICOSA [9] (Indonesia Costumer Satisfaction Award) with the persuasion and description on the quality of the products through SME's food packaging.

Theory of Food Packaging. According to Herman Kertajaya in his book entitled "Siasat Memenangkan Global" (1996), the technology of packaging has a function shifting. In the past, "Packaging Protect What It Sells". Today, "Packaging Sells What It Protect". Package should have the ability to stop consumers, bind consumers, or attract consumers to buy certain products [10].

Ambur Rector, a designer from futurebrand, New York, explains that a packaging is designed well that it represents the promises from the company to the society as well as symbolizing the taste of the food. The quality of the packaging is deemed as the sign from the quality of covered products.

Iwan Wirya (1999) [11] says that good package is a package which can protect the whole product from the weather and other natural process. Package can also become the container to make things easily brought; aside from functioning as the communication tool to explain and reflect products information, image, and brand as the inseparable parts of promotion and marketing. In Cenadi (2000) [12], packaging is all activities of planning and producing the container, cover, or package of certain products. It includes three things: brand, the package itself, and the label. According to Kotler and Amstrong (2007), packaging is an activity of designing and producing container or cover of products. Bakti (2001) and Natadjaja (2002), package should become the short impression of products quality which is wanted to be delivered by the company and the package should be integrated to products function and brand identity. Steven Sonsino in "Packaging Design: Graphic, Material and Technology" (1990), says that the basic function of package is to protect the product inside; it has broader and more complex function. It has important roles on marketing competition and retail world, where packages should be able to increase the value of a product. Rodriquez (2008) explains that package or active packaging is a cover which can change the condition of food ingredients combination with the addition of active compound for extending its storage, increasing the safety, and keeping its quality.

Thus, the researcher concludes that food packaging is the attractiveness of SME's food products; it can help the consumers in considering the product which they are going to consume in accordance to their needs. Later, it can increase the productivity of food SME products from the legality of food packaging to face global market by applying principles of modern economic management and SME's food product development in some cities, including Sidoarjo, Mojokerto, Malang, and Surabaya.

In this research, the researcher gave socialization to SME/businessmen and consumers to list the symbol and plastic resin codes as well as including the information to every SME food products packaging to maintain products quality, health safety, and not violating the Law of Consumers Protection [13]. Since, the obligation of business owner in food SME products management is to use permitted package materials [14], and Government can regulate special rules handling the inspection of SME's food packaging to sanction those who violate the law because SME's food products should have high quality, good taste; as well as durable, fresh, and safe to consume. Thus, the product should ensure the consumer that the packaging has the imagery, brand value, product functionality, or innovation [15] from the packaging, and able to give additional value and increase marketing volume [16] by increasing the quality of the packaging.

These explanations above can give a developing model to environmentally friendly packaging [17] to improve the competitiveness of SME's food product. It can be executed by Packaging Activity Information Center; Packaging Materials Procurement Center, especially for processed Food and Beverages; Graphic and Packaging Design Mediator; Branding and Design; and the needed facilitators for SME, like SNI (Indonesia's National Product Standards), Halal certificate, Barcode, Indonesia National Agency of Drug and Food Control, Consultant of Branding decision and registration, Product Information Center, product criteria, certification center, Copyrights Information Center, design requirement, registration, and publishing.

In conclusion, this research focuses on the legality of SME's food packaging in East Java (especially in Sidoarjo, Mojokerto, Malang, and Surabaya) as the symbol of food SME products showing the obedience of SME to law and regulation of food packaging, which will be mentioned in this research.

4. Findings

4.1. Result

The obedient level of SME in fulfilling law and regulation regarding food packaging. The factors influencing SME's obedience to law and regulation of food packaging.

4.2. Discussions

The obedient level of SME in fulfilling law and regulation regarding food packaging. The importance of legality to SME's food packaging was observed in the area of East Java (a study to Technical Implementation Unit of Food, Beverages, and Food SME's packaging in Sidoarjo and Indonesia's SME's Product Packaging Institution in Mojokerto regency, SME and Cooperative Officials of Sidoarjo, Trading and Industries Officials of East Java in Surabaya), since the legality or the permission to SME's product was used to build the trust of consumers to the product, proving that the SME's food product was under the control of government and safe to be consumed. The legality or permission to home industry/ SME's food product mostly came from P-IRT (Perizinan Industri Rumah Tangga/ Home Industry Permission) authorized by surrounding Health Officials.

In this case, SME's food product should be able to maintain its position with HALAL certification, nutrition fact certification, and patent for the brands of produced food; thereby, SME's food product can compete with other products from foreign company and legally acknowledged from the certification of MUI (Indonesian Ulama Council), BPOM, or PIRT; despite of the limited information and socialization regarding the importance of packaging and products' standardization.

According to APRINDO, interesting packaging should possess good components in the criteria of visual, verbal, and features. From visual aspect, the color should be interesting with adjusted forms and size. From the verbal aspects, it should include some information regarding the quality of the product, like halal label, expired date, PIRT or BPOM, ingredients, and products size. Some SMEs were considered less aware to packaging as the attribute of marketing; for example, from the observation, SME should have halal certificate from MUI, however, this attribute was not attached to the product; thereby, the implementation of packaging innovation from the products legality aspect

[18] (Halal MUI, BPOM or PIRT) was not executed well and need further monitoring to the product. This is the reason why packaging is important to maintain the safety of the products [19]. As stated by Mudra [20], the main reason of products packaging is to maintain the products safety and differentiate the product to the competitor as well as boosting its marketing; thus, the package should be interesting and unique. In other words, packaging should be functioned to protect the product inside and impress the buyers outside.

The practical implication of this was there should be an intensive cooperation to improve the competitiveness of SME food, between SME Officials and related Officials, house of packaging, academician/research and development, third sector as the source of knowledge or Science and Technological mediator through packaging and training of PIRT to obtain PIRT [21] certificate as the requirement of selling the product to domestic market. *The factors influencing SME's obedience to law and regulation of food packaging.* The obedience of SME to law and regulation about food packaging is an obligation for businessmen or entrepreneur of SME food to protect their product based on the following provision: Every people who produce and trade food should fulfill the standard of food safety and quality. (Law No.18 Year 2012 Article 86 (2)) [7]. One of the attempts of food safety execution is by giving the guarantee of food safety and quality by Food Industry, specified for SME food.

Therefore, all food industry especially SME in East Java should produce the food in packages. The provision of food packaging, the way of food packaging (Government Regulation Number 28 Year 2004 Article 19 (2)), and the prohibited materials for Food Packaging are regulated in Government Regulation. (Law No. 18 Year 2012 Article 83(3)) [7]. Meanwhile, the way/standard of food packaging is regulated by Indonesia National Agency of Drug and Food Control (Government Regulation Number 28 Year 2004). Final food packaging is the final packaging of food which is normally done in the final process of production and distribution for people. (The explanation of Article 20 in Government Regulation Number 28 Year 2004). Retail packaging is the final packaging which should not be opened to be packaged again in the small scale to be directly sold. (Regulation of Head of Indonesia National Agency of Drug and Food Control: HK. 03.1.5.12.11.09955 year 2011 Article 2 (3)) [5].

5. Conclusion

Food packaging legality for SME's product is the main decisive factor for consumer in valuing and choosing products which ensure the safety of the products. Even if the package is simple, it should not neglect the regulation of food packaging which is also done by other food producers of SME:

- a) Legal Aspects of Domestic Market are P-IRT certificate and Health Officials Permission which is highly required to improve the quality of home industry's food placing the position of the industry to strategic and healthy position. SME and Cooperative Officials provide facility of P-IRT free certificate to SME actors with the requirement of the socialization of food security for home industry from local Health Officials. The P-IRT certificate should be proposed in the collection of proposal form of P-IRT by local head, Filling the registration form of P-IRT permission in Health Officials by attaching data related to the product (products name, products location, owners data, copy of owners ID) and doing bacteriology examination for food product in local health officials. If the product fulfills the requirement of proper standards and health standards, the officials will release P-IRT for the SME's food product.
- b) The Permission from Indonesia National Agency of Drug and Food Control
- c) For domestic food, there should be a copy of industry's permission from Department of Industry and Trading, since the business actor/entrepreneur of food products are obliged to propose products distribution's permission for domestic market from Indonesia National Agency of Drug and Food Control.
- d) Halal Certificate

A product is considered halal by MUI if it has been validated and stated that the product is made of halal ingredients and halal processing. Every industry which works on industrial sector should have permission of industrial field as stated in Article 2 section 1 and 2 of Ministry of Industry's Regulation NO.41/M-IND/PER/2008 regarding the Provision and Steps of Industry's Permission and Registration (PERMERIND 41/-M-IND/PER/2008) [22]. The role of packaging in domestic market for SME's food product is becoming the media of safety, media or marketing, and media of communication to consumers of SME; thus, the legal aspect can improve the trust of consumers and fulfill the legal requirement of certain food SME's products based on industry's legality, P-IRT, and legal entity in Indonesia; thereby, the product can be distributed and marketed. Thus, packaging and legality of product becoming the main factors to develop market in the global era, and the government can strengthen the partnership to SME's businessmen.

The factors influencing SME's obedience to law and regulation of food packaging.

The obedience of SME to law and regulation regarding SME food's packaging includes the production of food which requires hygiene, clean production devices, products cleanliness standards, interesting packaging, clean and recyclable packaging, and getting the standard licenses (MUI/BPOM, P-IRT); as one of the attempt to improve the intensity of products supply in the market. Thereby, it is hoped that the standardization of SME food can be achieved and supported by quality human resources owned by SME which have knowledge and skills to develop the SME in East Java, especially Sidoarjo, Mojokerto, Malang, and Surabaya.

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