

# Analysis of Legal Protection Against Consumers of Refill Drinking Water That Has Not Met Product Quality Standards

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## ARTICLE INFO

### Article history:

DOI:

[10.30595/pssh.v14i.1042](https://doi.org/10.30595/pssh.v14i.1042)

Submitted:

June 08, 2023

Accepted:

September 29, 2023

Published:

November 16, 2023

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### Keywords:

Consumer Protection,  
Production Standardization,  
Business

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## ABSTRACT

Consumer protection is something that cannot be separated from healthy business activities. The definition of consumer protection according to Law Number 8 Year 1999 on Consumer Protection is all efforts that ensure legal certainty to provide protection to consumers. This research focuses on consumer protection against the consumption of refill drinking water with the aim of knowing the legal protection of consumers and knowing the standards and requirements for making refill drinking water. Often the standardization of the manufacture of a product is ignored because consumers are less concerned about their rights to quality assurance than a product, this is one of the factors that encourage producers to act as they wish for the goods they will market. Refillable drinking water products offered by business actors must meet the standardization of water quality standards set by the government. This research was conducted using the normative juridical method through legal and conceptual approaches. In writing this research, the author uses primary legal materials that are binding and secondary legal materials as references. The result of this research is legal certainty on consumer protection and standardization of refill drinking water production in accordance with Permenkes Number 492/Menkes/Per/IV/2010.

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## I. INTRODUCTION

Consumer protection is an integral part of healthy business activities. In healthy business activities, there is a balance of legal protection between consumers and producers. The absence of balanced protection puts consumers in a weak position. Losses experienced by consumers can arise as a result of the legal relationship between producers and consumers, or as a result of unlawful acts committed by producers. Consumer protection issues are regulated nationally in Law of the Republic of Indonesia Number 8 of 1999 concerning consumer protection.<sup>1</sup> Consumer protection is the overall rules that contain the protection given to consumers in social life.<sup>2</sup>

The need for life is a fundamental right for every human being and is free, which means that it is unlimited and cannot be limited. Freedom for every human being to fulfill their lives is an absolute thing that must be

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<sup>1</sup> Kiswanto, E. (2014). "Perlindungan Konsumen terhadap Dampak Negatif Penggunaan Air Minum Isi Ulang yang Tidak Memenuhi Standar Kualitas (Studi Pelaksanaan PERMENKES RI No. 492/MENKES/PER/IV/2010 Tentang Pesyaratan Kualitas Air Minum) (Doctoral dissertation, Brawijaya University), *Jurnal Universitas Brawijaya*, Hlm. 3.

<sup>2</sup> AZ. Nasution, 2001, *Hukum Perlindungan Konsumen Suatu Pengantar*, Jakarta: Diadit Media, hlm.37.

fulfilled by each individual.<sup>3</sup> The needs of the population can be divided into 3 (three) levels based on what needs must be met first, namely primary needs, secondary needs and tertiary needs.<sup>4</sup> In addition to these needs, there are also spiritual and physical needs that must be met. In running life, humans cannot be separated from water, which is one of the natural resources that already exist. Water is one of the primary needs for humans and has a very important role in life on earth, if there are no water resources then there is no life.

The community's need for clean, safe and suitable water for consumption is increasing day by day. This is due to the increasing population in Indonesia. Therefore, it is also increasingly difficult for people to find and get water that has quality and is guaranteed in terms of health. In addition, the price of bottled drinking water products produced by drinking water companies that have guaranteed quality is also expensive. Therefore, new innovations are developing in the community, namely the emergence of refillable drinking water businesses which in terms of price are very cheap compared to bottled drinking water products.

Refillable drinking water products offered by business actors must meet the standardization of water quality standards set by the government. Article 7 Letter d of Consumer Protection Law Number 8 of 1999 states that the obligation of business actors is to guarantee the quality of goods and/or services produced and/or traded based on the provisions of the applicable quality standards for goods and/or services. If it is related to refill drinking water, every business actor who opens a refill drinking water business if they provide false information and the content of drinking water products sold to consumers is not in accordance with the established drinking water quality standards, it can be said that the business actor has violated the provisions in Permenkes Number 492/Menkes/Per/IV/2010 in Article 3 paragraph 1 which states that drinking water is safe for health if it meets the physical, microbiological, chemical and radioactive requirements contained in mandatory parameters and additional parameters.

This study aims to determine and analyze the legal protection for the rights of consumers of refill drinking water and the responsibility of business actors if consumers suffer losses due to consuming refill drinking water products that have not met product quality standards and how the standards and requirements for making refill drinking water products set by the Ministry of Health. This research is written using the normative juridical method through the Law and case approach with binding primary legal materials and secondary legal materials as references.

As for previous research that discusses consumer protection of refill drinking water as reference material for writing this research, namely previous researchers Edi Kiswanto, Sentot Pringhandajani Sigito, SH.Mhum., Djumikasih, SH.MH., with this research both discussing how the quality standards of refill drinking water are regulated by the Ministry of Health. Then the difference is that the previous researcher discusses the obstacles of the Health Office in terms of implementing the regulation of the Minister of Health of the Republic of Indonesia Number 492 / Menkes / Per / IV / 2010 related to the authority to supervise the circulation of refill drinking water, while the author will discuss legal protection for the rights of consumers of refill drinking water and the responsibility of business actors if consumers suffer losses due to consuming refill drinking water products that do not meet product quality standards. Not only that, previous researcher Oksilta Jesindri Serang also both discussed the provisions that became the service standards of refillable drinking water depots. Then the difference is that the previous researcher discusses the factors of comfort and sanitation of refillable drinking water depots for consumers while the author will discuss legal protection for the rights of consumers of refillable drinking water and the responsibility of business actors if consumers suffer losses due to consuming refillable drinking water products that do not meet product quality standards.

With the existence of many refillable drinking water depots that do not meet existing water quality standards, one of the consumer's rights to obtain proper goods is not fulfilled. Therefore, it is necessary to carry out stricter supervision of the refill drinking water depot business so that in its implementation it can meet the drinking water quality standards determined by existing legislation. The above background encourages the author to raise the title of "**Analysis Of Legal Protection Against Consumers Of Refilled Drinking Water That Does Not Meet Product Quality Standards**".

## II. RESEARCH PROBLEMS

Based on the background of the problems that have been described, the problems to be discussed are:

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<sup>3</sup> Ni Made Dewi Intan Lestari dan Dewa Nyoman Rai Asmara Putra, 2019, "Perlindungan Hukum terhadap Konsumen Akibat Kerugian Yang Ditimbulkan oleh Pelaku Usaha Toko Online Di Instagram", *Jurnal Kertha Semaya Fakultas Hukum Universitas Udayana*, Vol. 7 No. 10, Hlm. 2.

<sup>4</sup> Putu Bella Mania Madia dan Ida Bagus Putra Atmadja, 2019, "Perlindungan Hukum bagi Konsumen yang Menggunakan Kosmetik Tanpa Pencantuman Tanggal Kadaluarsa", *Jurnal Kertha Semaya Fakultas Hukum Universitas Udayana*, Vol. 7 No. 12, Hlm. 2.

1. How is legal protection for the rights of consumers of refill drinking water and the responsibility of business actors if consumers suffer losses due to consuming refill drinking water products that do not meet product quality standards?
2. What are the standards and requirements for making refill drinking water products set by the Ministry of Health?

### III. RESEARCH METHODS

The type of research used by the author is normative juridical research. This type of normative juridical research is used in legal research through examination of existing literature. This study uses several approaches, namely a legal approach carried out by looking at all laws and regulations related to the legal issues being studied. In addition, the conceptual approach departs from the views and doctrines that develop in legal science. The laws and regulations used as primary legal materials include: 1) Civil Code; 2) Law No. 8 of 1999 on Consumer Protection; 4) Permenkes No. 43 of 2014 concerning Drinking Water Depot Sanitation Hygiene. While secondary legal materials, namely, textbooks written by influential jurists, legal journals, scholars' opinions, legal cases, jurisprudence, and the results of recent symposiums related to the research topic. This research uses a literature study data collection method carried out to obtain information through the study of laws and regulations, literature, and general sources such as books, minutes of meetings, and journals, therefore data processing in this research is carried out through a systematic method of written legal materials.

### IV. RESULT AND DISCUSSION

#### A. Legal Protection for the Rights of Refillable Drinking Water Consumers and the Responsibility of Business Actors if Consumers Experience Losses as a Result of Consuming Refillable Drinking Water Products That Have Not Met Product Quality Standards.

In carrying out life, humans cannot be separated from water, which is one of the natural resources that already exist. Water is one of the primary needs for humans and has a very important role in life on earth, if there are no water resources then there is no life. Apart from oxygen, water has a very important role for human life, this is because the human body is about 70% composed of water.<sup>5</sup> Therefore, it is only natural that we pay attention to the quality of the water we drink to keep our bodies awake and fit.

As consumers, of course, they have rights that must be known and realized in meeting their needs, namely the right to security, the right to obtain information, the right to choose and the right to be heard. Judging from these consumer rights, if it is related to the sale of refill drinking water which is increasingly widespread, there are still many refill drinking water business actors who are naughty by selling drinking water that does not comply with the standards regulated in the Minister of Health Regulation Number 429 / MENKES / PER / 2010 concerning Drinking Water Quality Requirements, especially in Article 3 paragraph (1), namely drinking water is safe for health if it meets the physical, microbiological chemical and radioactive requirements contained in mandatory parameters and additional parameters.<sup>6</sup> The inappropriate content of drinking water sold by business actors will certainly have an adverse effect on the health and safety of consumers of refill drinking water.

Drinking water that does not meet the eligibility standards will have a negative impact on the body if consumed continuously in the short and long term. Short-term effects include diarrhea caused by bacteria such as *Escherichia coli* (E-Coli) and colliform. While the long-term effects caused by consuming dirty water are not immediately known, and require dozens of years to find out the diseases caused. The diseases that arise are usually caused by chemicals contained in water, including magnesium (Mg) which causes liver disease, mercury (Hg) causes reproductive disorders and nervous disorders, chlorine (Cl) causes kidney disease and when reacted with organic materials will form trihalometane compounds (THM) which can cause diseases such as cancer, and others.<sup>7</sup>

One of the legal protections that can be given to the rights of consumers of refill drinking water depots is preventive legal protection. This legal protection is contained in Law Number 8 of 1999 concerning Consumer Protection in Article 7, Article 8 and Article 17. Article 7 states that in a business activity, business actors have an obligation to guarantee the quality of goods/services produced and or traded based on the provisions of the

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<sup>5</sup> Muh Nur Irfan Ramli, 2015, "*Perlindungan Konsumen dalam Mengonsumsi Air Minum Depot Isi Ulang di Makassar (Ditinjau dari UU Nomor 8 Tahun 1999)*", Skripsi UIN Alaudin, Makassar, Hlm. 1.

<sup>6</sup> Edtriani Meliza, 2014, "Pelaksanaan Pengawasan Balai Besar Pengawasan Obat Dan Makanan (BBPOM) Terhadap Peredaran Makanan Dan Minuman Tanpa Izin Edar (TIE) Di Kota Pekanbaru Tahun 2012", Jurnal Online Mahasiswa (JOM) Bidang Ilmu Sosial Dan Ilmu Politik, Hlm. 10.

<sup>7</sup> Akbar Satyalam, Skripsi: "*PERLINDUNGAN HUKUM TERHADAP KONSUMEN DEPOT AIR MINUM ISI ULANG DI KOTA YOGYAKARTA*" (Yogyakarta: UMY, 2017) hlm.3.

applicable quality standards for goods/services and to provide compensation, compensation and or replacement for losses due to the use, use and utilization of goods/services traded.<sup>8</sup>

In addition, Article 8 states that business actors are prohibited from producing/trading goods/services that do not meet or are not in accordance with the required standards and provisions of laws and regulations, business actors are prohibited from trading damaged, defective or used and polluted goods without providing complete and correct information on the goods in question and business actors are prohibited from trading damaged, defective or used and polluted pharmaceutical and food preparations, with or without providing complete and correct information. Article 17 states that advertising business actors are prohibited from producing advertisements that do not contain information about the risks of using goods/services.<sup>9</sup> In GCPL Article 7 letter d imposes or obliges producers/business actors to trade products that are guaranteed quality, so that they are safe for consumption by the public, and can reduce the risk/loss caused by products that are not guaranteed quality.<sup>10</sup> Therefore, refillable drinking water businesses are required to provide clear and correct information about the content of their refillable drinking water products to protect their consumers.

In addition to the provision of preventive legal protection, consumers of refill drinking water also get repressive legal protection both in litigation and non-litigation. According to Article 45 of the Consumer Protection Law, it is stated that every consumer who is harmed can sue the business actor through an institution in charge of resolving disputes between consumers and business actors or through courts within the general judicial environment. In addition to litigation settlement, dispute resolution between consumers and business actors can be carried out by non-litigation channels through the Consumer Dispute Resolution Agency (BPSK). Article 52 of the Consumer Protection Law states that BPSK has the duty and authority, namely to receive complaints, both written and unwritten, from consumers about violations of consumer protection and to impose administrative sanctions on violating business actors in the form of a maximum compensation of Rp. 200,000,000.00 (two hundred million rupiah).<sup>11</sup> This is regulated in Article 60 of the Consumer Protection Law.

## **B. Standards And Requirements for Making Refillable Drinking Water Products Set By The Ministry Of Health.**

Every drinking water product is periodically tested for drinking water quality, whether it meets health requirements based on the Decree of the Minister of Health of the Republic of Indonesia Number 907/MENKES/SK/VII/2002 concerning Requirements and Supervision of Drinking Water Quality. Every container that will be filled with drinking water must be clean. The bottle washing and disinfection process can be provided by the depot entrepreneur. Each container that has been filled is closed with a sterile container cover. Any drinking water that has been filled must be given directly to customers, and must not be stored at the depot.

### **1. Employees**

Employees must be healthy and free from infectious diseases, free from wounds, ulcers, skin diseases and other wounds that can be a source of pollution. For this reason, it is necessary to carry out periodic health checks (at least 2 times a year). Employees are also required to wear clean and tidy clothes, always wash their hands when serving customers, do not eat, drink, smoke, spit and other actions that can cause pollution. In addition, there is also a need for a Food/Drinking Water Handler Course for employees and how to hold gallons.

### **2. Yard**

The depot location must have a yard or yard with the following requirements; Large enough for vehicle parking, water tight surface and sloping enough to prevent inundation, high location so that it is free from flooding, always kept clean at all times, free from other activities or other sources of pollution.

### **3. Maintenance**

Managers and employees are required to maintain the facilities and infrastructure of the Drinking Water Depot for which they are responsible. Provide a closed trash can and dispose of garbage regularly every day. Do not allow anyone to enter the processing room or drinking water filling room. Only trained people are allowed to come into contact with drinking water.<sup>12</sup> Recording and monitoring includes; Duties and obligations of handlers, laboratory test results both internal and external, customer address data (to facilitate investigation and proof).

### **4. Water Sampling Requirements**

<sup>8</sup> Pasal 7 Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen.

<sup>9</sup> Imelda Barus, 2016, "Penerapan Etika Bisnis Terhadap Kelayakan dan Keamanan Air Minum Isi Ulang di Kabupaten Bogor", Fakultas Ekonomi Universitas Tama Jagakarsa.

<sup>10</sup> Celina Tri Siwi Kristiyanti, *Hukum Perlindungan Konsumen*, (Jakarta: Sinar Grafika, 2011) hlm.36.

<sup>11</sup> Pasal 52 dan 60 Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen.

<sup>12</sup> Sutjahyo, B. Air Minum "Kebijakan Kemitraan Pemerintah dan Swasta dalam penyediaan Air Minum Perkotaan". Tirta Dharma, Jakarta, 2000, hlm 21.

- a. Minimum sample size 5,000 people or equivalent to 1,000 households 5000 to 10,000 people or equivalent to 1,000 - 2,000 households > 100,000 people or equivalent to 20,000 households 1 sample per 1,000 households 1 sample per 2,000 households plus 10 additional samples.
- b. Type of bacteriological examination: 1) Raw water at least 1 sample every 3 months, 2) Drinking water at least 1 sample every month
- c. Type of chemical examination 1) Raw water at least 1 sample every 3 months, 2) Drinking water at least 1 sample every month
- d. Microbiological parameters 1) Escherichia coli 2) Total coliform bacteria
- e. Organic chemical parameters: Arsenic, Flouride, Chromium (valence 6), Cadmium, Nitrite (as NO<sub>2</sub>), Nitrate (as NO<sub>3</sub>), Cyanide and Selenium.
- f. Physical parameters: Odor, Color, Total dissolved solids (TDS), Turbidity, Taste, and Temperature.
- g. Chemical parameters; Almunium, Iron, hardness, Chloride, Manganese, pH, Sulfate, Copper, Chlor and Ammonium. Chemical parameters; Almunium, Iron, hardness, Chloride, Manganese, pH, Sulfate, Copper, Chlor and Ammonium.<sup>13</sup>

The source of raw water used by refill drinking water depot entrepreneurs in Manado City, obtained from raw water providers where each entrepreneur in obtaining raw water comes from several sources, namely from groundwater, springs (mountains), underground rivers, busong, PDAM, artesian and boreholes, which are protected, surface water such as lake water.

However, raw water sources must meet the requirements of both physical, chemical and bacteriological structures. Raw water sources must be maintained and sustained. The raw water sources used by most of the research samples used raw water sources originating from springs and boreholes, which were obtained by purchasing from mountain water service entrepreneurs. The transportation of raw water from raw water sources uses water tank cars owned by raw water suppliers.

What is meant by drinking water as described in Article 1 of the Decree of the Minister of Health of the Republic of Indonesia Number 907/MENKES/SK/VII/2002 concerning Requirements and Supervision of Drinking Water Quality is water through a treatment process or without a treatment process that meets health requirements and can be directly drunk. Furthermore, in Chapter II of the Decree of the Minister of Health of the Republic of Indonesia Number 907/MENKES/SK/VII/2002 concerning Requirements and Supervision of Drinking Water Quality, types of drinking water are described, including:

- a. Water distributed through pipes for domestic use;
- b. Water distributed through water tanks;
- c. Bottled water;
- d. Water used for the production of food and beverages served to the public;

This type of water must meet drinking water quality requirements which include bacteriological, chemical, radioactive and physical requirements. In addition to drinking water requirements, Article 9 of the Decree of the Minister of Health of the Republic of Indonesia Number 907/MENKES/SK/VII/2002 concerning Requirements and Supervision of Drinking Water Quality also regulates the obligation of drinking water provider managers to ensure that the drinking water they produce meets health requirements, by carrying out periodic checks on the quality of water produced starting from:

- a. Inspection of the water treatment plant;
- b. Inspection on distribution pipelines;
- c. Inspection on the connection pipe to the consumer;
- d. Inspection on the refill and packaging process.

As well as safeguarding the raw water sources it manages from all forms of pollution of the applicable laws and regulations. Supervision activities by the manager as described in Article 9 are carried out in accordance with the guidelines in the Decree of the Minister of Health of the Republic of Indonesia Number 907/MENKES/SK/VII/2002 concerning Drinking Water Quality Requirements and Supervision. Sanctions are imposed on drinking water supply managers if they do not carry out their obligations. The imposition of sanctions is regulated in Article 11 of the Decree of the Minister of Health of the Republic of Indonesia Number 907/MENKES/SK/VII/2002 concerning Drinking Water Quality Requirements and Supervision, namely every Drinking Water Supply Manager who commits acts contrary to the provisions in this decree which may result in public health problems and harm the public interest may be subject to administrative sanctions and/or criminal sanctions based on applicable regulations.

<sup>13</sup> *Ibid.*

## V. CONCLUSION

Based on the results of the discussion above, it can be concluded that legal protection that can be given to consumers of refill drinking water sold by business actors is given preventively and repressively. In addition, the responsibility that can be given by refill drinking water businesses to consumers who are harmed because the products sold do not meet drinking water quality standards is to provide compensation, maintenance costs and also provide compensation. This is stated in Law Number 8 of 1999 concerning Consumer Protection in Article 19. In addition, the business actor may be subject to administrative sanctions in accordance with Permenkes Number 492/Menkes/Per/IV/2010 concerning drinking water quality requirements in Article 7.

Processing raw water into drinking water must follow a predetermined procedure and in accordance with existing standards and provisions so that the utilization of refill drinking water is very necessary for human needs. Basically, the regulation of refillable drinking water depot standards has been regulated in the Decree of the Minister of Industry and Trade Number 651/MPP/Kep/10/2004 concerning Technical Requirements for Refillable Drinking Water Depots.

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