

Analysis of Greenwashing Policy in Providing Consumer Protection in Indonesia in View of Act Number 8 of 1999 Concerning Consumer Protection

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Abstract

Greenwashing is a marketing strategy in which business actors sell the condition of their products as being environmentally friendly and supporting environmental conservation activities. As a result, it is necessary to conduct research using normative juridical research methods with a statutory and case approach to determine the impact of greenwashing actions carried out by business actors on consumers, as well as the government's efforts with the greenwashing method. The results of the study show that if consumers feel cheated by producers and/or companies producing goods and/or services for providing misleading information, then there will be a consumer confusion effect that occurs when a company makes a green claim, which in fact is only used as a marketing strategy alone. The impact that occurs on the environment will also damage the environment because the use of production materials will endanger environmental safety in the future and have an impact on the health of consumers themselves. In its efforts, the government has issued a policy regarding product manufacturing standards that are considered to have safe limits for consumers and the environment.

Keywords: *Greenwashing Method, Consumer Protection, Business Actors.*

INTRODUCTION

Activities as daily legal subjects can never be separated from transactions. These transactions are generally carried out with other parties, whether with fellow human beings or with legal entities. Doing transactions that are carried out repeatedly has the possibility of injuring the rights of legal subjects as actors in every transaction activity. One form of preventive effort to provide protection and legal certainty is the birth of provisions regarding consumer protection law. These legal provisions have the aim of providing legal certainty and also the welfare of society, in this case consumers, for every use of an item or use of a service. The government has a role in regulating, supervising, and also providing control over a system in order to create a system that is structured and also conducive to achieving the goals of the state, namely providing welfare to citizens. (Kristiyanti, 2009) Efforts to fulfill consumer rights are provided through the presence of Law Number 8 of 1999 concerning Consumer Protection (hereinafter referred to as the Consumer Protection Law). In Article 1 of the Consumer Protection Act, it is explained that the concept of consumer protection is an effort to obtain legal certainty and also to provide fulfillment of the rights that consumers should get as an entity in a transactional activity.

Then, it is explained further in Article 4 of the Consumer Protection Act which provides an affirmation of what then becomes consumer rights. The consumer rights can be in the form of the right to feel comfortable, safe and secure when consuming a service and/or product. Then it can be in the form of the right to choose the services and/or products to be used. There is also the right to obtain honest, clear and correct information regarding the condition of the services and/or products that you wish to consume or use. Up to other rights in the form of rights to protection and dispute settlement and/or compensation for any losses caused by a transaction with the business actor himself. These rights then become the basis for Business Actors and also the State to be able to fulfill every need of consumers and place consumers in the same position as business actors. These consumer rights indirectly must be fulfilled and as a form of consumer preventive effort in conducting transactions to obtain justice for the services and/or products they will use (Kristiyanti, 2009).

Consumer rights have been regulated and explained in detail in the Consumer Protection Act, particularly regarding the right to obtain honest, clear and correct information about a service and/or product in Article 4 Paragraph (3). According to a legal expert named Troelstrup, the development of the world of industry and technology provides a significant meaning to consumers, especially when consumers are trying to obtain and also seek conditions for services and/or products that they will buy and use in their daily lives. These goods and/or services will be found by consumers when Business Actors offer them with various methods and types of products they have. This information can then be accessed easily by the public in general by using communication technology facilities and infrastructure. (Erman Rajagukguk, 2000) Information about products or services that are spread to consumers is then packaged neatly and attractively which of course can influence consumers' purchasing power interest in choosing these products to buy. Labels, packaging, brands, aesthetics, functions, and sensitivity to the environment and environmental sustainability are among the factors consumers can choose from in determining the goods they want to buy.

One way to get consumers interested in a product is to conduct and educate on advertising. Advertisements that must be displayed and created must be informative, attractive, not provide wrong information, and also of course be enjoyed by consumers. One of the marketing ideas that can be carried out by Business Actors to explain and introduce the products they offer to consumers is through Greenwashing marketing techniques. Greenwashing is a marketing idea as well as a form of communication carried out by a company to produce a good image within the company, especially the image of an environmentally friendly company, both for products, values or company goals without actually carrying out an activity that also has an impact on environmental protection and rehabilitation. (Suparna, 2016) The strategy carried out by each company in carrying out greenwashing is through promotions, advertisements or other matters which of course have the theme of environmental sustainability. With the construction of a defined green image, it is hoped that it will provide an understanding and also a view of the public towards the company, so that it will have the effect of increasing profits and also attention from consumers or the public for products advertised with greenwashing techniques. However, the facts on the ground are the increasing demand for the production of products with a greenwashing campaign, meaning that the environmental damage is also increasing.. (R.Schuchard, 2009)

The danger of greenwashing is that consumers will continue to be lied to by advertising statements made by producers which cause consumers to be tempted and use these products and/or services, even though these products and/or services do not have environmentally friendly standards and cause indirect harm to consumers and directly to the environment. Consumers in this case are also not only those who are directly involved in the process of using and purchasing a service and/or product, but consumers can be interpreted broadly and can have a broad meaning as legal subject entities who live in their social environment. The concept of

greenwashing certainly has an impact on consumers who actively use, use, or buy a product that is claimed to support environmental sustainability and also has an impact on passive consumers who do not take any legal action. This then becomes the topic of the problem that we want to raise in order to find out whether greenwashing is included in the scope of consumer protection from the point of view of consumers' rights to obtain all honest, correct and clear information about a product that they will use. The description of this matter seeks to determine the impact on consumers of the circulation of products that use the greenwashing method on the social life of society.

This research will also try to examine the actions and efforts made by the Government against the greenwashing phenomenon. Holding a role as a government requires the government to be responsive and concerned about the growing existence of greenwashing in society. Of course, this must be a concern of the Government as a form of creating preventive measures to prevent environmental damage due to legal actions carried out by producers. Reviewing the policy regarding greenwashing seeks to find out and explain whether the policy regarding greenwashing in Indonesian laws and regulations has been accommodated, especially other than in the Consumer Protection Law.

RESEARCH METHOD

Research can be interpreted as an activity in a scientific group related to principles and also related to methods and also ways to find a study in a structured way in obtaining information and data that are valid and can be tested for truth through a series of verification processes. (Adi, 2015) The approach used is a statutory approach to study juridical studies on the implementation of greenwashing in Indonesia and also a case approach to dissect every problem that occurs in society, especially problems or cases that exist in Indonesia related to greenwashing in Indonesia. (Marzuki, 2007) Then the search technique for legal materials that the author uses is through library research and also through searching via the internet.

DISCUSSION

Analysis of the Impact on Consumers on the Circulation of Products Using the Greenwashing Method on the Social Life of the Community

The United States of America explains and describes the definition that is meant by "consumer", which is a legal subject who uses or uses it, then gives it a broader meaning by defining it as a victim who uses a product that can be considered defective. The victim is used to define the buyer entity. The buyer is a user, or it can also be interpreted as a victim who is not part of the user, because the concept of legal protection can also be given to and enjoyed by victims who are not users. (Kristiyanti, 2009) This understanding then explains and confirms the existence of the consumer, one of the strategic positions to be broadly understood and defined. This definition then presents a definition or concept of a "consumer," who is not only a user, maker, connoisseur, or buyer of a service or product. Rather, the consumer is also part of a passive legal subject entity (person), does not take legal action against a service and/or product, but is present in the context of the social life of society.

Inoesntius Samsul also tries to explain the meaning of the consumer as a user or end user of a service and/or product, either by making himself a buyer, which can then also be obtained by other methods, such as when receiving a gift or an invitation. (Sidharta, 2006) The broad meaning of the definition of consumers forms a framework for thinking about what is meant by consumers: those who are in a silent or passive state but get social reactions or reactions from their environment, so that they can be called a unit with consumers. When consumers are viewed as passive entities, it means that anyone (a person) who does not have a legal relationship or transaction with an item is influenced by every transaction made by other consumers. The effect can be felt directly, indirectly, or in the future.

One example of a legal action that can describe a situation where passive consumers also get the impact of other active consumers' actions is when there are active consumers who make purchase transactions, then use them, then utilize, then also use them for services and/or products that have an impact on environmental damage. Indirectly these passive consumers will also get the impact and also the consequences of legal actions carried out by these active consumers. Using, using, consuming, and/or other actions towards a service and/or product that has the potential to damage the environment will have quite a serious impact sooner or later. Thus, there are not a few products that then try to build a branding product with the lure of products and/or services that they make or create, which are environmentally friendly products (Roth).

Consumers are one entity that lives side by side with the environment. Consumers will always require a good, healthy, and beautiful environment to support their daily lives. This fact also requires and forces consumers to continue to think about and try to create a good and healthy environment, not only for environmental sustainability but also to maintain the sustainability of the consumer's own life. One of the efforts that can be made by consumers to create these conditions is to use, consume, choose, and/or use services and/or products that have been assessed and are considered safe for the environment. Indonesian society has been surveyed by Agustina Fitrianingrum, with the research group being in the younger generation in the age range of 22 to 35 years. The survey shows the willingness and ability of respondents to pay more for products and/or services that have environmentally friendly characteristics or features and have a sustainable impact on environmental sustainability. Meanwhile, people with an age range of 36 to 54 years show that they are less willing to pay high prices for services and/or products that meet environmentally friendly criteria. (Roth) The survey then supports the fact that Indonesian people are more inclined to choose and consume products and/or services that are environmentally friendly.

The survey results then increase the role of producers or companies in creating products and/or services that are environmentally friendly in society. Producers and companies use various ways and mechanisms to create products that have a positive impact on consumers' daily lives and also protect the environment. One of the consequences that later arises due to the environmentally friendly movement from various non-profit organizations is an increase in environmentally friendly brand awareness among the public when they want to buy, use, and so on, a service or product. Communities tend to choose products and/or services that are environmentally friendly because they are already aware of the dangers and impacts of products that can cause environmental damage. Increasing public awareness of goods and/or environmentally friendly criteria means that business actors will also be increasingly competing to create branding or advertising marketing using the greenwashing marketing concept to get special attention from consumers themselves.

The actions of producers in terms of building a brand around a product with the promise of being environmentally friendly are called "greenwashing actions." Greenwashing is a term used in the Green Campaign movement to describe how a company builds, conveys, and creates a green brand image for its customers. These actions are usually carried out by implementing and also using production processes that are environmentally friendly, care for the environment, and also promote sustainability and environmental sustainability, but in fact the products produced are inversely proportional (damaging to the environment). Such actions can be interpreted as efforts by business actors to manipulate the public towards a product and/or service. (Aktuaran) Companies that commit "greenwashing" do so intentionally or unintentionally as a form of policy requirement that requires them to reflect and implement environmental ecosystem sustainability. (Kaydan, 2009) Greenwashing is one of the actions that contributes to its own losses for consumers, both active consumers and passive consumers.

Increasing advertisements, promotions, or other ways with the theme of "greenwashing" will cause a consumer to experience confusion with the existence of environmentally friendly information that turns out to be not in accordance with an actual benefit. (Pointing, 2009) Derived from the meaning of "greenwashing," this is an act that hopes that consumers can make purchases of goods and/or services because they have advantages in preventing environmental damage. Producers or a company hopes that by using and developing all branding for products and/or services offered to the public by labeling environmentally friendly products and/or services, it will increase public interest and enthusiasm. This can then have a quite harmful impact on consumers. The impact of "greenwashing" is not only to create confusion for consumers who want to buy, use, or take other actions towards a service or product. However, this greenwashing action will also have an indirect impact on passive consumers who have no intention in terms of buying, using, or taking other actions towards a product or service.

The impact on consumers who have the intention to buy, use, or take other actions towards a service or product that has "greenwashing" content will cause these consumers to be confused about the benefits, production, and information on the service or product. One of the unavoidable consequences of the "greenwashing" phenomenon is that there will be a lot of information that is misleading and has a close relationship with an unclear benefit of a product. (Oslon, 2000) When a consumer carries out transactional activities with the service and/or product, the business actor uses the "greenwashing" marketing method, indicating that at that time the consumer has received incorrect and misleading information from the business actor. Not only does it provide misleading information, but there will be a consumer confusion effect that occurs when a company makes a green claim for a service or product. Increasingly, misleading information will have an impact on consumer confusion to make a purchase (green consumer confusion) and consumer confusion about the benefits of a product created by the company. (A. Langer, 2008) Then, the impact for passive consumers who have no intention or ability to purchase, use, use, and/or other actions towards a service and/or product that has greenwashing content is an impact on an unhealthy quality of life. When more and more active consumers purchase or use environmentally friendly services and/or products but in fact they are not environmentally friendly (the effect of greenwashing) it will cause more damage to the environmental ecosystem and have a pretty bad impact on the sustainability and sustainability of the social life of the community. Passive consumers will get a bad environment because the environment is increasingly polluted as a result of consuming services and/or products that are environmentally damaging. This means that in carrying out transactions for services and/or products that contain greenwashing content, it will have a detrimental impact on consumers, either directly or indirectly.

Provisions regarding misleading information have been regulated in the provisions of Article 10 of the Law on Consumer Protection, which explains that every business actor who conducts trading business activities and intends to market and/or offer services and/or products to their consumers may not provide information that misleads or provides incorrect information about its services and/or products. Such information may pertain to price provisions, the condition of goods, the use of goods, conditions or rights to compensation offers for discounts, as well as the risks associated with using these services and/or products. Consumers have the right to obtain information that is correct and clear and does not contain elements of deception so that they can understand the condition of the products and/or services they use.

The provisions of Article 10 letter e explain that there is a prohibition for business actors to carry out the process of offering goods in which there is a statement that is untrue or misleading relating to the dangers of using services and/or products. The dangers of using services and/or products in this case can also be interpreted as giving incorrect information about the dangers of using services and/or products that damage the environment and/or can pollute the environment. When a business actor, in this case, promotes or offers services and/or

products using “greenwashing” techniques without proving that the product and/or service being offered is truly environmentally friendly or not, this will of course give rise to a representation that the business actor has provided wrong information and is misleading to consumers.

The risks associated with the use and consumption of a service and/or product are not limited to the impact on or condition of the consumers who use or consume them. Instead, the dangers of using services and/or products in this case are interpreted more broadly so that the dangers of using them are also included in the dangers of environmental damage. When a passive consumer does not purchase, use, or take other legal actions, it does not mean that he is not harmed or endangered by his circulation. Even if the passive community is silent and does not take legal action, the circulation of services and/or products with indications of greenwashing will also have a negative impact. A bad environment will indirectly affect the quality of life in the community. In this case, society includes both active and passive consumers. So, it can be concluded that "greenwashing" can have a negative impact on human life and also have a negative impact on the sustainability and preservation of environmental ecosystems..

Analysis of the Government's Efforts in Forming Policies Related to Greenwashing in the Contents of Indonesian Legislation

The act of greenwashing is closely related to the Market Conduct. Market Conduct is a business behavior in carrying out a design, compiling, and also conveying an information offering, making a contract or agreement for each product and/or service, as well as handling complaints and also having a role in the dispute resolution process that occurs. The application of market conduct must of course be carried out and carried out in a balanced and comprehensive manner to develop the financial services sector by fulfilling rights and obligations in order to increase consumer confidence. In essence, market conduct is closely related to efforts to provide consumer and/or public protection. Market conduct in this case is needed in order to provide an understanding and also early education regarding what is meant by greenwashing and how to respond to greenwashing.

This consumer confusion is the result of a lack of information either about greenwashing itself or how to distinguish products that can be categorized as greenwashing or not. So that market conduct in this case is needed as a form of implementation of consumer protection. When market conduct is said to be an effort to anticipate the occurrence of greenwashing, then in this case the initial hypothesis can be taken that greenwashing is a problem in consumer protection. Whereas the confusion that occurs to consumers creates a confusion for consumers, even though Article 4 Number 3 of the Consumer Protection Law explains that consumer rights are to obtain correct information regarding a condition and also guarantees for services and/or products. Then, in the elucidation of the Consumer Protection Laws, one of the business activities is to carry out activities based on preserving environmental functions and preventing environmental damage. Thus, indirectly the Consumer Protection Act has accommodated the values of anticipating greenwashing in the Act.

These environmentally friendly activities must then be supported and get a positive response from various parties so that the implementation goes as desired. The government in this case owns and holds an important role in creating and forming policies that are relevant to the phenomenon of greenwashing in society. It is necessary to understand that the policies established by the Government will not only have an impact on providing protection to consumers, but will also have positive impacts and influences on environmental development and sustainability. The government becomes the center in forming a change, dealing with existing problems, and also as a party that has a repressive role in overcoming when overcoming these problems. The government in this case is expected to provide an overview in creating

regulations and policies regarding greenwashing within the scope of consumer protection as a form of preventing environmental damage and fulfilling the right to correct information for consumers.

One of the government's roles in tackling the "greenwashing" problem, which causes losses to active or passive consumers, is to create and accommodate greenwashing policies into the applicable laws and regulations. The government's role is also supported by the development and emergence of sustainable consumption and production (hereinafter abbreviated as SCP), which is a derivative of sustainable development. The government, through the Ministry of Environment, has followed up on the SCP by participating in carrying out a General Assembly Resolution, which was carried out with an international organization called the United Nations, with Number 66/288 dated July 27, 2012. (Kehutanan, 2020) The discussion of this resolution also involved Indonesia, which was intended so that Indonesia could be prepared in the process of implementing the SCP, which is used as an agenda process in national development. Not only that, it is hoped that the proposed agenda will continue and become a policy, as well as preparation for the development of priority national programs whose implementation will be carried out through the existing stages. (Aktuaran) By participating in the conference, it was explained that the government has essentially paid attention to Indonesia's sustainable development, but in the process of enforcing it, it has not been able to consistently apply these principles.

The breadth of targets for sustainable development requires the government to be able to divide its focus, one of which is on consumer and producer norms with due regard to environmental sustainability values. The government, in this case, can form a policy on an agenda for realizing sustainable development, or SCP, through the holding of a sustainable public procurement policy (hereinafter abbreviated as SPP). The implementation of the SPP is then based on the existence of three pillars, namely the economic aspect, which emphasizes the efficient use of each fee and/or service; the social aspect, which emphasizes empowering small businesses; then also relating to guarantees for the condition work, which in its implementation adheres to the principles of justice, equality, and also diversity; and finally, the environmental aspect, which also adheres to the principles of justice, equality, and also diversity. (Apsari, 2021) The SPP activity is expected by the government to encourage and provide protection to consumers in Indonesia from greenwashing practices. The practice and implementation of the government's efforts in using the SPP still cannot be maximized. This is because the SPP itself cannot influence public awareness of the dangers of "greenwashing," and also because implementing the SPP is still imperfect because it does not yet have a policy that can be used as a basis for implementing SPP practices in Indonesia (Maxwell, 2011).

The Consumer Protection Act does not have rigid regulations regarding policies tackling greenwashing. When viewed through the lens of the Consumer Protection Act, greenwashing policy settings only seek to explain what consumers have the right to appropriate, honest, and non-manipulative information about the condition of services and/or products. This then becomes the basis for the government to form more rigid regulations or derivative regulations regarding how to regulate the handling of greenwashing in Indonesia itself. In the general explanation of the Consumer Protection Act, it also explains that the Consumer Protection Law currently present in Indonesia is not the only legal product that regulates consumer protection. There are many laws and other derivative legal products that can be used as a basis for providing consumer protection. One of the provisions that is most relevant to the regulation of this "greenwashing" policy is related to Act Number 32 of 2009.

Providing protection to consumers is so narrow in scope if it is only viewed from the Consumer Protection Law that the scope is expanded with the enactment and presentation of Act Number 32 of 2009. Act Number 32 of 2009 can be used as a basis and support in the policy formation process to overcome greenwashing problems in Indonesia. As stated in Article 3

letter g of Act Number 32 of 2009, which also explains the purpose of environmental protection and management, it is to ensure the fulfillment and protection of environmental rights as part of human rights themselves. When consumers, as community entities and living entities, do not get a good and healthy environment, it means that there is an error in the process of enforcing the consumer protection law itself. Consumers, in this case as living entities, both active and passive consumers, have the right to a good and healthy environment, as explained in Article 65, Paragraph 1 of Act Number 32 of 2009. When the practice of "greenwashing" continues unabated by business actors, it means that there are efforts and actions that damage the environment to make purchases, use, and/or others, and it also has a negative impact on passive consumers who get a bad environment and lack health due to the circulation of non-environmentally friendly products and/or services that damage the environment.

In essence, the government has implicitly made these arrangements and explanations; it's just that the implementation lacks firmness given the existence of a ban on greenwashing practices in Indonesia. Not only through these two laws, the government is trying to establish green industry standards that have been regulated in Minister of Industry Regulation Number 51/M-IND/PER/6/2015. These standards are then used as a benchmark and basis for business actors in the industrial sector to formulate a consensus relating to a production process, raw materials, energy, processes used, waste management, and other matters. (PPN/Bappenas, 2020) The government's efforts in forming policies regarding greenwashing are one of the efforts that the government can make at this time to create conditions that are efficient in providing protection for consumers from greenwashing practices. These policies are not only limited to the Law on Consumer Protection, but these efforts can be carried out by establishing policies related to greenwashing practices in derivative regulations or making them effective through related laws.

CLOSURE

Conclusion

Based on the description and explanation above, it can be concluded that in everyday life, consumers are not only interpreted as parties who buy, use, or take other actions towards a service or product. However, consumers can also be interpreted as someone who is passive and does not perform the act of purchasing, using, or otherwise interacting with a service or product. As this is then analogous to the act of greenwashing carried out by business actors against consumers, the impact that greenwashing acts carried out by business actors have on these consumers is an act that seeks to mislead information on service products and/or products to consumers by stating that the product and/or service is an environmentally friendly product, but it is not. Not only that, but the impact felt by passive consumers is that if greenwashing is not limited and handled, there will be more and more service products and/or products that are not environmentally friendly and have a negative impact on the environment, causing the social community to become dirty and receive unfit air, water, and land in the future.

Sugesstion

The government is a party that has an important role in shaping policies, laws, and regulations related to greenwashing in Indonesia. The government should form policies related to SPP in Indonesia by strengthening the Consumer Protection Law and the Environmental Protection and Management Law. In this case, business actors should not carry out "greenwashing" to attract consumers' attention but should not implement the greenwashing provisions, and consumers themselves should be more selective in enjoying, buying, using, and selecting products that have a negative impact on their own health and the environment. as a result of greenwashing practices.

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