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The Existence of Government Regulation Number 29 of 2021 Concerning the Implementation of the Trade Sector Relating to the Prohibition of Producers Selling Retail to Consumers

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Abstract: This study analyzes the existence and legal interpretation of the provision prohibiting direct retail sales by producers as referred to in Government Regulation Number 29 of 2021 (hereinafter referred to as PP 29/2021) concerning the Implementation of the Trade Sector, Article 55 Paragraph (1). This study also discusses the multidimensional impact of this provision on producers and consumers if implemented consistently. The next challenge is how the government will implement and enforce the law against producers who continue to sell their products directly to consumers at retail. This research was conducted using an empirical legal approach (Raharjo, 2020) supported by field data through literature review, observation, in-depth interviews with business actors, trade supervisory officials, and analysis of implementing regulations. (Soekanto, 2014).

Keywords: PP 29/2021 Article 55 Paragraph (1), Trade, Prohibition of Retail Sales, Producers, Consumers

INTRODUCTION

Trade is a vital sector in the national economic system, playing a crucial role in maintaining economic stability, improving public welfare, and driving national industrial growth. (Kusnandar, 2021) The relationship between producers, distributors, and consumers is highly dynamic, particularly with the emergence of various new business models that allow producers to sell directly to consumers without intermediaries. This condition presents new challenges in regulating trade law to ensure fairness, protection, and legal certainty for all business actors. (Marzuki, 2017)

One relevant regulation is Government Regulation Number 29 of 2021 concerning the Implementation of the Trade Sector (PP 29/2021), specifically Article 55 paragraph (1), which prohibits producers from conducting direct retail sales to consumers. The provision has given rise to various interpretations and debate among business actors and academics, particularly regarding the boundaries between production and trade activities, particularly retail trade, and its implications for healthy business competition. (Porter, 2008; KPPU, 2022)

On the one hand, this regulation aims to maintain a balanced distribution chain structure between producers, distributors, and retailers to prevent monopolies or market distortions. (Sulaiman, 2022) However, on the other hand, the implementation of this ban can impact producers' flexibility and efficiency in distributing merchandise (WTO, 2021) and consumers' access to the best prices.

This research is important because it aims to analyze the existence and legal interpretation of the retail sales ban by producers (Hidayat & Firmansyah, 2020) as stipulated in Government Regulation 29/2021, and assess its multidimensional impact on producers and consumers if this provision is consistently implemented. Furthermore, this research also examines the government's challenges in implementing and enforcing the law against violations committed by producers. Since PP 29/2021 was enacted, there has been no visible government action regarding violations of this provision. This is despite PP 29/2021 clearly stating sanctions for violations of Article 55 paragraph 1. By using an empirical legal approach (Rahardjo, 2020) through field observations and interviews with business actors and trade supervisory officials, this study is expected to provide a more comprehensive understanding of the implementation of trade policies in Indonesia and their contribution to a fair and competitive economic order.

METHOD

This study uses a normative legal approach (empirical juridical), with the independent variable being the provision prohibiting retail sales by producers (Hidayat & Firmansyah, 2020) (PP 29/2021 Article 55 paragraph (1)) and several dependent variables, including: the impact on producer behavior, the effectiveness of government oversight, and consumer protection.

Data were obtained through literature review, field observations, in-depth interviews with business actors and trade supervisory officials, and analysis of regulatory documents. The analysis was conducted qualitatively and descriptively to identify patterns of relationships between legal norms and trade practices.

RESULT AND DISCUSSION

Existence and Interpretation of Law

The provision prohibiting producers, distributors, and wholesalers/wholesale retailers from distributing goods at retail to consumers has strong legal standing and clear interpretation in Government Regulation 29/2021. Article 55 paragraph (1) of Government Regulation 29/2021 explicitly states, "Producers, distributors, and wholesalers/wholesale retailers are prohibited from distributing goods at retail to consumers." This prohibition emphasizes the separation or segmentation of the distribution chain based on the type of business actor and their distribution function (production, wholesale/distribution, retail). (Ministry of Trade of the Republic of Indonesia, 2021)

The legal existence and interpretation of the provision prohibiting producers from selling retail directly to consumers (Article 55 paragraph (1) of Government Regulation 29/2021) is clear and clear. This prohibition essentially limits producers to their role as retailers to protect the multi-level distribution system and create a level playing field among producers, distributors, wholesalers, and retailers.

This prohibition is crucial for creating a fair business climate and protecting retail businesses (especially MSMEs) from direct competition with large-scale producers with capital and logistical advantages. Legally, this provision is a manifestation of trade regulations aimed at maintaining the stability and efficiency of the distribution system. Its interpretation leads to a prohibition on activities that combine wholesale (distribution/wholesale) and retail (retail) functions within the same entity. This is also

supported by the prohibition on combining the Indonesian Standard Classification of Business Fields (KBLI) for Wholesale Trade (46xxx) and Retail Trade (47xxx) within a single business entity. (BKPM, 2022)

In current practice, the KBLI for Wholesale Trade cannot be issued simultaneously with the KBLI for Retail Trade, and vice versa. The Online Single Submission (OSS) System, an electronically integrated business licensing system managed by the OSS Agency (Ministry of Investment/BKPM, 2023) to issue risk-based business permits for businesses in Indonesia, will automatically reject the permit application process. Therefore, regulations and systems already support the implementation of this prohibition.

This prohibition aligns with the principles of sound competition law (OECD, 2020) as stipulated in Law Number 5 of 1999 (KPPU, 2020) and previous trade regulations that emphasize the separation of distribution functions. Government Regulation 29/2021 is a follow-up to the revision of the Trade Law through the Job Creation Law, which aims for deregulation while maintaining structured trade governance.

Implications for Producers and Consumers

The implementation of the provisions of Article 55 paragraph (1) of PP 29/2021 has significant implications for both parties, both Producers and Consumers. This can be seen in the following table below:

Party	Positive (Potential) Implications	Negative (Potential) Implication
Producers	focus on the core business of production	loss of potential profit margins from retail sales
	Strengthening indirect distribution networks (through distributors/agents/retailers)	Dependence on distributor/agent performance to reach end consumers
	can improve non-production cost efficiency	requires adaptation of business models and entity structures
Consumers	More equitable availability of goods through clear distribution channels	Potentially higher selling prices due to a longer distribution chain
	Protection against potential monopolistic pricing practices at the retail level by producers	Loss of direct access to producers (e.g., to obtain factory prices)

The main implication is a restructuring of the market structure. For producers, this means they must comply with the KBLI structure and establish a separate entity if they wish to conduct retail sales (for example, establishing a separate subsidiary as a retailer). For consumers, the implication is a trade-off between market order (stability of availability) and potential pricing.

This implementation aligns with economic theory regarding distribution efficiency. While shortening the distribution chain is often perceived as increasing efficiency (lower prices), such regulations prioritize structural efficiency and vertical equity, ensuring each level of distribution has a role and protecting small businesses (Tambunan, 2021), a key concern in Indonesian trade regulations.

The implication of implementing these provisions is the restructuring of the distribution structure in Indonesia. This provision encourages the separation of production and retail functions. (Sulastris, 2021) Producers are forced to focus on wholesale/distribution sales,

which strengthens the role of distributors and retailers, including MSMEs, but potentially increases selling prices to consumers due to the increase in intermediaries. (Rachman, 2021)

Supervision and Law Enforcement Efforts

Government efforts to supervise and enforce the law (Gakkum) against violations of Article 55 paragraph (1) of PP 29/2021 are carried out in stages and in layers through a business licensing system and administrative sanctions.

The supervisory mechanisms used are:

1. Risk-Based Business Licensing System (OSS RBA): Separation of KBLI (46xxx and 47xxx) at the entity registration level is the first line of defense. Manufacturers seeking to be licensed as retailers must register as separate entities.
2. Field Supervision: Conducted by the Ministry of Trade (Kemendag) or related agencies, particularly on companies suspected of combining distribution and retail functions in their operations.

The Law Enforcement Mechanism contained in Article 166 paragraph (1) and (2) of PP 29/2021 regulates administrative sanctions that are imposed in stages, namely:

1. Written Warning
2. Business License Suspension
3. Business License Revocation
4. Additional Sanctions: Withdrawal of goods from distribution, temporary suspension of business activities, warehouse closure, and/or fines.

The existence of a clear oversight and law enforcement mechanism demonstrates the government's commitment to enforcing these regulations. Gradual administrative sanctions provide producers with the opportunity to make corrections, up to and including revocation of business licenses for persistent violations. However, to date, the government has not imposed any sanctions on companies violating these provisions. For example, PT Antam, a gold bullion producer (manufacturer), also sells gold directly to the public (retail) through its Antam Boutique business unit. Two separate entities should conduct gold production and retail sales.

CONCLUSION

This research shows that the prohibition on producers selling directly to consumers at retail, as stipulated in Article 55 paragraph (1) of Government Regulation 29/2021, has a strong legal basis and serves to maintain a balanced trade distribution structure in Indonesia. This provision effectively separates the roles of producers, distributors, and retailers to create healthy business competition and protect small businesses (MSMEs) (Tambunan, 2021).

The implementation of this regulation encourages a restructuring of the distribution chain, requiring producers to focus on their production function and not double as retailers. While potentially adding distribution stages that could impact consumer prices, this policy remains crucial to ensuring fairness and order in the market.

In terms of implementation, this research confirms that oversight and law enforcement remain suboptimal, as there has been no firm action taken against violations. Therefore, the successful implementation of Government Regulation 29/2021 depends on the government's consistency in oversight and enforcement of administrative sanctions to achieve the goal of creating a fair and efficient distribution structure. (Setiadi, 2021)

Overall, the results of this study are relevant for strengthening fair, competitive, and sustainable national trade governance, while also providing an important foundation for policymakers in balancing the interests of producers, distributors, and consumers in the era of economic modernization.

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