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CONSUMER RIGHTS PROTECTION AGAINST PRICE GOUGING DURING THE COVID-19 PANDEMIC IN INDONESIA

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ABSTRACT

This study investigated consumer rights protection in Indonesia on price gouging during the Covid-19 outbreak. This research employed normative law with a statutory approach and an analytic approach. The Consumer Protection Act, the Anti-Monopoly and Unfair Business Law, the Civil Law, and the Trade Law were the primary sources. Meanwhile, the supporting sources included books, journals, and articles on the internet. The object of research focused on consumer protection from price gouging for necessities during the Covid-19 pandemic. The results revealed that unhealthy business competition during the pandemic have harmed Indonesian people in fulfilling their basic needs to stay healthy. Goods in urgent demand such as masks and hand-sanitizers have a lower consumer buying interest due to the unfair selling power set by several business actors. The Indonesian

government has prohibited business actors from deliberately gouging product prices during the Covid-19 pandemic. It has also played a central role in establishing and enforcing civil and criminal laws on business actors who set unreasonably high prices, resulting in consumer economic difficulties amid the outbreak of Covid-19.

Keywords: Consumer, Covid-19, price gouging.

INTRODUCTION

Ever since the coronavirus which originated from the city of Wuhan, China, spread almost worldwide, including Indonesia, the supply of masks and hand sanitizers has continued to increase. High demand has made the price of masks soar. The availability of masks and hand sanitizers in several pharmacies and health shops have become increasingly challenging. The traditional justification for consumer protection is based on the idea of curbing the monopoly power of large companies and their potential to influence consumers through advertising that limits consumers' ability to verify what is in their best interest. This theory does not refer to individual consumers in concrete situations but emphasizes consumers who are generally weaker economically compared to suppliers. Consumers are seen as less knowledgeable and financially inferior to producers and traders. Thus, significant deviations between the ideal of consumer sovereignty and the reality are assumed. The imbalance of power in the market ("balancing force") leads to market reconciliation, compensation, or equilibrium demands. According to this conception, the state should support consumers as the weaker market participants during offsets. This traditional concept of justifying consumer protection regulations looks pretty baseless. Monopoly power only affects quantity by limiting it, which appears to be a matter of competition law. At the same time, consumers face market inefficiencies due to a deterioration in the quality of contract parameters such as rights and obligations arising from transactions. The issue of consumer protection often occurs in markets characterized by the presence of many small producers or suppliers, then in monopolistic markets where large companies cooperate with the large advertising industry (Haupt, 2003).

On the other hand, the development of law is not as fast as the development of society. Even with the increasing types of crimes,

various problems that arise in society continue to develop. Despite knowledge about the crime factors in society, what is certain is that crime is a form of human behavior. Therefore, crime has been accepted as a fact which is detrimental to society, both in the most straightforward (primitive) society and modern society. The more advanced and contemporary people's lives, the more advanced and sophisticated the types and modus operandi of crimes in the community (Arifin, 2020).

Business competition is one of the identities of a country, marked by the high expansion of industrial businesses with a variety of products and services offered to the public. Business competition itself is not prohibited as long as it prioritizes the principles of balance and equality by emphasizing honesty and fairness; therefore, each trade transaction can operate following stipulated regulations. Unfortunately, large numbers of unfair business competition impact the trading business in Indonesia and harm consumers such as product and service buyers. Both fair as well as unfair business competition are increasingly rife in Indonesia. These are businesses in health goods sought after by the public, i.e., masks and hand sanitizers used as personal protection during the Covid-19 outbreak in Indonesia. Unreasonable increase in pricing much higher than the standard selling price before the pandemic has caused harmful economic impact on society as consumers. Nevertheless, people desperately need masks and hand sanitizers to prevent the spread of the virus.

Some countries, such as the United States, are also affected by price-gouging. The prices of masks and hand sanitizers are getting out of control. Similar cases can be found in several marketplaces such as Amazon, eBay, and Walmart, which have blocked some sellers who deliberately sell at alarmingly high prices. Price-gouging is known as taking advantage of conditions in almost the entire world during a disaster through hoarding and selling goods at an unreasonable price. Rising prices generally influence excessive rates in an area that experiences an increase during a certain grace period before the emergency due to a disaster, usually around six months or more. If the prices are in the range 10–15 percent higher than those in several countries that have different thresholds, price gouging is certain (F. Team, 2020). The state of North Carolina through the Office of the Attorney General, has approved penalties for sellers who deliberately

sell goods at a high price by gouging the price and buying money for goods bought and sold during a disaster. In addition, the North Carolina government, through the courts, penalizes such producers, distributors, and retailers or sellers (J. S. Team, 2020).

Price volatility has also occurred in Italy, which has been hit by the COVID-19 pandemic. The country has imposed a lockdown due to the virus that is increasingly infecting and killing many people. The price also affects consumer needs; the merits of the health goods are very high, unlike other countries affected by COVID-19. Besides, the increase in prices is not included in a free market, so it must be prevented to obtain a stable rate and help consumers carry out economic transactions properly. Likewise, there is a ban on price gouging in the US (State of Missouri) during the price hike emergency that affected certain goods such as gas, water, food, hand sanitizers, medical masks, soap, OTC medicines, and other necessities (News, 2020).

Consumer protection in law No.8/1999 defines that consumers have been guaranteed by law by providing complete protection regulated in the consumer protection law. It means that consumers are people who faithfully use goods or services offered by business actors, whether for their interests, their families, other people, other living things, and not for trading. The Indonesian government has regulations that prohibit monopoly in the market including unhealthy business practices. The aim of this regulation is with reference to the basis and objectives of sellers in Indonesia in enforcing business transactions by implementing economic democracy and prioritizing the balance between sellers and consumers. However, suppose we return to the context of “prices,” which are an essential part of trade transactions between business actors and consumers. In this case, producers certainly expect profits from the sale of goods to consumers. The highest or lowest price is determined based on several factors, including cost, marketing, etc. Price is also something that consumers consider before buying goods that they need. Goods sellers during the Covid-19 outbreak have burdened consumers in purchasing necessities to cope with the pandemic. The price of goods determined by sellers is essential for the consumers before they buy the products. The price can be higher or lower depending on several factors, including demand, production costs, marketing, etc. Thus, government involvement is needed to stabilize the price of goods during the Covid-19 pandemic. The need

for medical equipment is the main aim to eradicate the deadly virus for the people of Indonesia. The legal regulating price-fixing shows that the state has the capacity and ability to ensure public health and safety even in an emergency. Another policy that the Indonesian government must issue is to address this price-fixing. The increase in the price of goods in trade transactions is not controlled without clear rules implemented by the producers. A government sanction is needed to stabilize the price of goods so that consumer rights are protected. This research answers the following questions: How does the government protect consumers from price gouging? What are the penalties imposed by the government on business actors who deliberately conduct price gouging?

METHODOLOGY

In answering the research questions, this research employed normative law (known as doctrinal law) with a statutory approach and an analytic approach. Planning themes and central themes in research. The planning article, namely before conducting research, a researcher must make several preparations consisting of the following: a. research themes/topics. To choose a theme or research topic, a researcher is thirsty to have sensitivity to the life that is being faced. A researcher can choose a theme from various sources such as social phenomena that occur in life. Literature review presents information provided by other parties. The central theme in research is the main theme of the problem, which becomes the study in conditional or situational research in which there are challenges, demands, and opportunities. In connection with this, it is not uncommon to express the central theme of research problems first to reveal the phenomena or symptoms faced and their consequences. Warmth, actuality, and relevance need to be taken into consideration. Doctrinal research is a study that provides a systematic explanation of the rules governing specific legal categories, analyzes relationships among regulations, explains areas of difficulty, and, possibly, predicts future development (Marzuki, 2005). The analysis of this research employed primary sources of the Consumer Protection Act, the Anti-Monopoly and Unfair Business Law, Civil Law, and Trade Law.

Meanwhile, supporting sources included books, journals, and articles on the internet. The object of research focused on consumer protection

as a result of price gouging for necessities during the Covid-19 pandemic. The mismatch between expected conditions (*das sollen*) and reality (*das sein*) raises legal problems from a normative point of view; thus, what is expected to happen due to law implementation does not function appropriately as predicted by the ideals of the regulations (Efendi & Ibrahim, 2016).

DISCUSSION

Consumer Rights Protection in Indonesia

Consumers in consumer protection law are the primary legal subjects. All institutions and organizations for consumer protection exist as a form of consumer interest. The Consumer Protection Act regulates the consumer's obligations to business actors, but the law's real purpose is to protect consumers. There are discussions on the definition of consumers who should be saved. According to Akomolede and Oladele (2006), modern consumers buy or supply goods or utilize or consume goods and services that eventually become the chain of production. Two main features can be indicated from this description, first, consumers as buyers, and second, consumers as part of the production chain. One of the challenges law enforcers face is the rapid advancement of technology that contributes to legal problems.

While it is development, the order between law enforcement officers and the government does not immediately change price gouging regulations. Additionally, salespeople can differentiate by themselves through fast-developing technology and efficiently adapt to the skills demanded in rapid digital advancement. This creates a more conflicting asymmetry in a fast-changing digital world. This challenge can be considered “disrupting,” an indication of inaccuracy that is still active in the pattern of the economy and industrialized society (Mathios et al., 2020).

Consumer protection is generally justified by assuming that consumers are weaker than business actors. Therefore, it is accepted that these interests should be protected because of the relatively lower bargaining power. The doctrine of “bargaining power inequality” emphasizes the position of consumers, which is economically weaker

than suppliers. As Barnhizer points out in Ariunjukna regarding United States case law, “large inequalities in bargaining power can determine the meaningful options available to the weaker parties.” The “exploitation theory” also provides a view similar to the “weaker side” argument. According to this theory, consumers need protection for two reasons: first, consumers have several choices of purchase terms and contracts established by companies getting bigger and stronger; second, companies can take advantage of important information and the differences in their support (Ariunjukna, 2018). Legal protection is an act or effort to protect the public from security measures that do not comply with the standard rules of the state. Creating order and peace enables everyone to enjoy their rights as human beings by being fair and honest. Legal protection will not be realized for the sake of sustainability that has not been developed. Justice must be done correctly, fairly, honestly, and responsibly for the actions taken. A sense of justice and law must be enforced based on the upholding of justice in a society that is questionable for its peace and security.

Consumer protection laws imply that a person categorized as a buyer of personal goods may be a paradigmatic consumer, joining the many other economic actors who can claim to be part of that diverse group. As a result, there are initial difficulties in identifying the subject matter. The Tanzanian government defines a consumer as a person who purchases a product other than for resale; it does not include people who buy products to be used in production or manufacturing (Atikah, 2020b). The issue of consumer protection is not a particular concern for both the government and the broader community as consumers. Before consumer protection was known and developed explicitly, consumer understanding tended to be identical to the people’s interpretation of developments in the industry, trade, health, and security. The above mentioned are the basis for the regulations on Consumer Protection (Law Number 8 of 1999; State Gazette of 1999 Number 42) (Wibowo, 2020).

Consumers are closely related to buying and selling transactions in a trading system that involves business actors. Whether we realize it or not, law enforcement reveal that laws legitimize socio-economic injustices; for example, the legal structure allows producers to burden consumers as economic actors. Through this, there is a deregulation of the doctrine of illegal acts (Article 1365 of the Civil Code), stating that every action that violates the law and harms others demands

that those who accidentally lose to be compensated for the loss. The illegal act referred to in Article 1365 of the Civil Code must fulfill the following elements: a) there is an action against the law; b) there is an element of error; c) there are losses; d) there are causes and effects which indicate that the loss is caused by someone's fault (Wibowo, 2020).

Legal protection for consumers is crucial in carrying out safe and just economic activities as the main aim of a country's legal system is to protect its citizens (Ruhl, 2011). The significance of laws to preserve Indonesian consumers is inevitable; it is in line with national development, i.e., the growth of the entire Indonesian people. Law Number 8 of 1999 is presented as the government's effort to protect and regulate business actors in the era of free trade. The law is not only for consumer rights but also for the interests of business actors to create business competition in a healthy climate (Budianto & Wulandari, 2020). There are four main reasons why consumers need protection:

1. Protecting consumers means safeguarding the nation based on national development goals in the 1945 Indonesian Constitution.
2. Protecting consumer needs from the negative impact of technology use.
3. Protecting consumer needs to nurture physically and mentally healthy people as agents of development towards sustaining national development.
4. Protecting consumer needs to ensure that the source of development comes from the consumer community (Atikah, 2020a).

Law Number 8 of 1999 concerning Consumer Protection is only a general provision in implementing economic activities involving consumers and business actors, including rights and obligations and prohibitions of business actors in preventing consumer loss. However, it does not explicitly regulate price gouging and business actor sanctions. There are ten consumer rights in consumer protection law in Indonesia:

1. Obtain safe and guaranteed protection. This ensures the safety and security of consumers in using the goods or services to avoid losses (physical and psychological) in consuming a product.

2. Collect information about goods. This data is crucial because the product information is not well conveyed to consumers to avoid its defects. The aim of having clear and correct information is to help consumers obtain accurate and proper knowledge about a product to be purchased.
3. Have the right to vote. Consumers are allowed to select products without any pressure. All consumers choose certain products because if the producer controls the development, no one can choose. Thus, sellers are strictly prohibited from engaging in monopolistic practices and unfair business competition, such as refusing certain business actors from carrying out the same business activities, preventing other competitors from buying goods from other business actors, limiting the sale of goods and circulation of goods and services sold in the same market, and discriminating certain sellers.
4. Be aware of product specifications. Consumers must be able to view products sold by business actors who provide unclear information or to complain about a product through asking questions or giving opinion concerning government policies on consumer interests.
5. Consumers have the right to a good life. This fundamental principle represents the right to life for consumers. Every consumer has the right to fulfill their needs in the form of goods or services to survive.
6. Have rights to education as consumers. This right is provided for consumers to obtain knowledge to avoid losses due to product use. Through education, consumers can be more careful in selecting products.
7. Have the right to a clean and healthy environment. This right is essential for consumers to live in a clean and healthy environment.
8. Obtain goods at the exchange rates provided. The consumer has the right to obtain protection against losses from unfair price practices by the seller. Consumers must pay for a product at an unreasonably high price in certain circumstances, but the product quality is not guaranteed. This right is regulated in Article 5 paragraph (1) of the Law on Unfair Business Competition Number 5 of 1999. A seller cannot agree with others to hold the price of goods and services that consumers must pay for transactions.

9. Obtain the proper treatment. Consumers have the right to seek redress through legal channels for the losses they experience due to product use. Therefore, consumers have the authority to hold businesses accountable for the products sold that do not provide consumer safety and security.
10. The right to a fair remedy law. This right is, of course, meant to restore the condition of consumers harmed through the use of the product through legal channels. These ten consumer rights are almost equal to the consumer rights formulated in article 4 of the consumer protection law (Miru & Yodo, 2014).

Every consumer needs protection through a binding and written legal force, although the law does not have definite power if an official institution has not regulated it. Since the consumer protection regulations has come into force, its relevance is significant in the agreements made by consumers and sellers for purchasing goods or in efforts that prompt contract making with regard to product marketing, packaging, advertising, and information on goods. In analyzing the existence or absence of clauses on the nature of anti-competitive selling and resale prices, each party must make sure whether the license allows for determining a sufficient price level of a particular product according to market needs and the rationale of the product investment concerned. The parties must also understand that price limits can lead to competition between the business activities of license holders and distributors, which may result in low business competition and hampered production. Therefore, a clause in the agreement that guarantees a sale or resale price through setting a lower price is a clear sign of anti-competitive behavior.

Consumers must understand the products that they buy because knowing information on a product is a must for consumers. The law stipulates that a consumer who voluntarily buys a product automatically agrees with the seller. In the real market, consumers almost always have less power and information than suppliers. The law considers the consumer's action to buy a commodity as a contract, an agreement-based free activity. However, the action consequence taken by the consumer without knowing the product is an essential factor. As such, this requires changes made by law to provide more specific and stronger protection when suppliers sign a contract (Goldring, 2006).

Black's Law Dictionary states that product accountability is the responsibility of producers and sellers to provide compensation to

consumers due to product damage during transaction. Consumers have the right to file lawsuits due to defective products sold by producers. Manufacturers are responsible for the goods they produce, including product health and safety for consumers. Thus, implementing these rules has met the *ius constituendum* as a legal rule that is aspired in a country (Black, 1983).

Article 5 of the Consumer Protection Law regulates the obligations of consumers, including reading or following information instructions and procedures for the use or utilization of goods or services, for security and safety, having good faith in transactions, paying according to agreements, and following efforts to resolve protection laws. Apart from consumers, business actors also have rights and obligations stipulated in the consumer protection law.

In addition to consumers, business actors must also fulfill their rights and obligations to consumers. Article 6 of the consumer protection law regulates the rights of business actors to receive payment according to consumers' agreement, both the conditions and the selling price of goods and services, and to obtain legal protection for illegal acts. Both from consumers, acting in self-defense in resolving consumer disputes, and clearing one's name if proven innocent and punishing consumers, and all other rights regulated in the provisions of the law. Whereas the obligations of business actors in article 7 state that business actors must carry out all trade transactions in good faith to consumers; provide correct, precise, and honest information regarding the condition and guarantee of goods and services, including how to use, repair, and maintain. Performing consumer services correctly and honestly without discriminating; guaranteeing the quality of goods and/or services produced or traded by the quality standards of goods; giving tests to consumers for specific goods or services and providing guarantees for goods made; providing compensation for losses from the use of goods sold, as well as providing payment for goods or services not received in the agreement.

Indonesian Trade Law Regulations against Price Gouging During the Covid-19 Pandemic

According to studies by the Center for Indonesian Policy Studies (CIPS), consumer protection during the spread of Covid-19 was weak. Weak consumer protection could be identified through the price of essential goods, which caused panic buying. Research done

by Nielsen (BPKN-I, 2020) claimed that there were several stages of panic buying during the Covid-19 pandemic. Phases I and II indicated panic in buying health and personal protection products such as health supplements, masks, and hand sanitizers. The scarcity of these items in the market due to panic buying had increased up to 10 times in many cities in Indonesia, such as Depok, Denpasar, Jakarta, Medan, Pontianak, Samarinda, Purwakarta, and in almost all cities in Indonesia (BPKN-I, 2020).

During the pandemic, many consumers had financial problems; as a result, many of them were unable to pay their debts, lost their jobs, and had to cope with the rising price of goods (Riefa, 2020). The economic activities in the trade sector are the main driving force in national economic development that provides state income in producing goods, creates employment, increases exports and foreign exchange, distributes income, and improves domestic product reciprocity for national interest, and not only limited to economic transaction activities for goods and services; both export and import are prioritized in the interests of the country. These interests align with the concept of regulation in the trade sector, which follows the ideals to establish this nation, namely a just and prosperous society based on the Preamble to the 1945 Constitution of the Republic of Indonesia. The government has come a long way in applying price controls to manage price increase (FitzGerald, 2019).

Shauki (1999) proposes three kinds of anti-competitive actions that often occur in Indonesia, including strategies to harm other competitors, such as vertical integration, resale power, and market allocation. Thus, anti-competitive activities carried out by sellers with government approval include cartel behavior through associations and monopoly rights granted to individuals. Other anti-competitive practice includes establishing a state-owned company with a religious type of business that can contribute to the country's economy by producing goods sold to the public (Maarif, 2001).

In a monopoly, sellers who either act individually or collectively can manipulate prices by changing the number of goods and stock of products (Poster, 1976). The sellers in this category have been continuously observed by economists with their knowledge of economics, except for the involvement of legal studies. Economic

studies show that competitive processes can optimally manage limited resources to meet unlimited human needs (Miceli, 2008). This right is the key to explaining the answer to monopoly and is an essential part of the justification for the prohibition of trust (Johan, 2015). Methodological Individualism and Rational Action (MIRA) is a working system used to maximize social welfare in a competitive market under the following premises: (1) an individual can be declared prosperous based on their personality, but there are no cross differences, (2) maximum use is defined as Pareto efficiency, meaning that individuals acquire the maximum limit in obtaining profit without being harmed. For a situation that cannot be managed, the Kaldor-Hicks work method is applied. The economic acceleration emphasizes more optimal results if more capable in theory to help those who lack the knowledge to convey the disadvantages, and (3) externalities in economic competitions are non-existent, and of course, competitions require business ethics; therefore, more profits show the fact that products and production factors will affect the same price as marginal costs, meaning that the exchange rate ratio will provide a positive impact on people's welfare (Perloff, 2018).

Sellers who deliberately sell goods at a higher price, without an after-stock inventory of goods, are considered universal criticism. This is proven in what is known as "price gouging". "Gouge" as a verb rarely has a positive meaning. Selling goods at a higher price than usual, so there is no sympathy and empathy when disaster strikes a region. The idea that sellers are required to apply justice to consumers is not something new. The concept relates to the fair use of some of the world's earliest laws (Brewer, 2007).

Legal and regulatory approaches play an important role in providing consumer protection. According to Sonny Zulhuda (as cited in Santoso, 2012) there are two approaches in protecting consumers online, namely the Legislative Approach: by developing and enforcing laws that cover consumer protection in electronic commerce, and the Self-Regulatory Approach: by making a new or model code on e-commerce consumer protection to be adopted by e-commerce entities and consumer associations.

An essential indicator in Trade Regulation Number 7 of 2014, which regulates trade, can improve consumer protection. Consumer

protection is an integral part that this country cannot ignore to create a better national trade system. Therefore, supervision is needed as regulatory assistance, which is enforced periodically to protect the consumers effectively from business practices that business actors do not carry out. The government has the duty and authority to carry out trade guidance and control as regulated in Article 93. Thus, controlling price gouging during COVID-19 is the government's responsibility to alleviate the burden of the pandemic.

The realization of the mentioned description will reduce obstacles in implementing the main objectives of the law concerning the prohibition of monopolistic practices and unfair business competition as stipulated in Article 3 of Law Number 5 of 1999:

- a. Safeguard public interest and protect customers;
- b. Foster a healthy business environment;
- c. Ensure safe and equal business opportunities for everyone;
- d. Prevent monopolistic practices and unfair business competition caused by rights-holders;
- e. Create effective and efficient business activities to contribute to the national economy and to improve the welfare of society (Faujura et al., 2021).

The needs of Indonesian consumers for products during the COVID-19 pandemic are demanding, even for retailers who sold products at high prices. According to WHO regulations, mask represents the main protective tool to prevent the spread of the coronavirus. Nevertheless, the scarcity of this item during the pandemic caused the government to conduct direct surveillance to solve the issue of mask hoarding and fraud to obtain profit.

Such disasters can influence the definition of a market by changing from substitution to demand. Changes in consumer behavior in disaster situations include increased search costs and a higher assessment of specific product characteristics to reduce the demand side limiting unilateral pricing standards by firms, at least in certain types of markets. This will imply a narrower product and geographic market and increase market power (Boshoff, 2020).

Sandel (in Giberson, 2011) characterizes the notion of law enforcement on price-gouging as a lousy form of greed and an immoral way of

making an agreement, which primarily causes everyone to harm others unknowingly. More than personal crimes, it opposes civic virtue. Excessive greed should be avoided by good societies if possible. The law on price-gouging cannot eliminate the term 'greed'. Nevertheless, there is response from online consumers with regard to price rejection by desirous sellers. By punishing this greedy behavior, the community explicitly asks sellers in disaster conditions to have compassion for people experiencing economic difficulties (Giberson, 2011). The legislation is the main bulwark of government power to prevent people from making agreements opposing the regulations.

The government has imposed strict civil sanctions on sellers who deliberately hoard goods, which can cause scarcity when consumers need them during the COVID-19 pandemic. Article 107 of Law Number 7 of 2014 states that sellers who store basic food and necessities in a certain amount and time and the cases of rare goods, price fluctuations, and goods trade as mentioned in Article 29 paragraph (1) deal with the sanctions, i.e., a five-year sentence and a maximum fine of IDR 50,000,000,000. Article 103 explains that those involved in the law enforcement process concerning price-fixing other than investigators of the Indonesian National Police and civil servants of the trade government agency are given the primary task as investigators based on the code to conduct investigations by law.

In the provisions on the prohibition of monopolistic business actors and unhealthy businesses (Anti-Monopoly Law No. 5/1999 Article 4), sellers cannot enter into contracts with others in the context of controlling production or marketing of goods and services, which may result in monopolistic actions and unfair business. Business actors are also suspected or considered jointly managing the production and marketing of goods and services based on paragraph (1) provisions if two or three sellers or groups of traders control more than 75 percent of the economic market for specific goods or services.

In addition to the study by Akerlof (1980), Kahneman et al. (1986) highly contributed to this research. They studied whether community standards of justice were necessary when it came to pricing. From the results of the survey via telephone, different opinions were identified. In particular, buyers were less likely to make repeat purchases from fraudulent sellers. A salesperson who overloaded future sales was

effectively associated with a seller whose reputation mattered. In this explanation, the regulations naturally reflected their opinion. One crucial difference was that although they used telephone surveys, pricing was the actual evidence (Cabral & Xu, 2020).

Price cuts can occur when sellers charge exorbitant prices for products and services during the pandemic. There is no federal law governing pricing, although members of Congress have submitted such proposals in recent weeks. However, most countries have issued explicit regulations prohibiting price cuts during emergency notifications, such as natural disasters and disease outbreaks. Some countries charge unlawful prices based on their prohibitions through unfair or deceptive trading practices. Sellers offering products through online markets deal with law enforcement in many states.

An economic analysis showed that the impact of the sharp price increases has panicked market supply and demand. Price constraints will hinder the distribution of goods when orders are soaring. At the same time, price restriction is an extra effort to bring goods in high demand to affected areas. Sowell (2017) explains that laws set price limits to prevent goods from reaching consumers. This is an outcome that state legislators do not expect, but it is entirely predictable.

According to Montgomery et al. (2007), argued that price-gouging has been thoroughly researched in terms of its legal effects. It can be inferred from their assessment of the proposed national pricing law that the federal law will increase the total economic loss to two billion due to the disaster by hurricanes Katrina and Rita and the supply chain disruptions of goods and services to the areas. Besides, they found that national price-gouging laws would contribute more economic burden in the nearby states of Louisiana and Mississippi, reducing the economic impact in other states. Their statement was written and published in 2007 (Giberson, 2011). The state is very active in monitoring product prices to combat the coronavirus and creating significant law enforcement risks for companies selling these goods. During the COVID-19 pandemic, the need for PPE (personal protective equipment), food, and other relevant materials have increased dramatically and created significant pressure on stocks. Under normal circumstances, everyone has healthy finances, and no one cares about the seller's unilateral decision to increase prices in

response to higher consumer demand. Thus, in most cases, a price increase can occur during an emergency, even if it only affects a few countries. High price-fixing can result in high civil administration fines and imprisonment under state laws prohibiting price-gouging (Dubrow & Greene, 2020).

The Indonesian government has a long-standing law regulating price gouging that adversely affects conditions of unhealthy trade transactions. Hoarding goods during a pandemic by making unreasonable prices is held in Article 107 and Article 29 (1) of the Trade Law Number 7 of 2014. The prohibition is intended to prevent the accumulation of goods so that it is challenging to obtain needs and interests, in this case, masks for consumers. The ban is designed to prevent hoarding, which creates difficulties in buying needed goods, such as masks.

CONCLUSION

Price gouging is a form of greed and a despicable strategy implemented by business actors who deliberately harm others. Consumer protection of goods prices during the Covid-19 pandemic is imperative for the Indonesian government to achieve price stability in business transactions. This implementation refers to several articles stipulated in the law, where sellers may not deliberately hoard or increase the price of goods needed in the Covid-19 disaster, especially masks and hand sanitizers. The Indonesian government has not issued the latest regulations, but the current rules are declared in effect during the Covid-19 outbreak. However, strict supervision from the Indonesian government is needed to avoid cheating by business actors in pricing. After strict surveillance by the government, with several policies issued during the pandemic and established rules set out in existing legal regulations, resale prices returned to normal, and fraudsters were punished for failing to exercise justice and honesty during the pandemic.

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REFERENCES

- Akomolede, I. T., & Oladele, O. (2006). Consumer protection in a deregulated economy: The Nigerian experience. *Research Journal of International Studies*, (3), 13-23.
- Arifin, R. (2020). Legal reform discourse in Indonesia and global context : How does the law respond to crime. *Journal of Law and Legal Reform*, 1(2), 193–196. <https://doi.org/10.15294/jllr.v1i2.37057>
- Ariyaratna, B. A. R. R. (2018). Protection of consumer rights on the internet: Prospects and challenges for the Sri Lankan legal system. *OUSL Journal*, 13(2), 5. <https://doi.org/10.4038/ouslj.v13i2.7439>
- Atikah, I. (2020a). *Perlindungan hak-hak konsumen dalam Hukum Negara*. Media Madani Publishing.
- Atikah, I. (2020b). Consumer protection and fintech companies in Indonesia: Innovations and challenges of the financial services authority. *Jurnal Hukum dan Peradilan*, 9(1), 132. <https://doi.org/10.25216/jhp.9.1.2020.132-153>
- Black, H. C. (1983). *Black's law dictionary* (S. P. Mini (ed.)). West Publishing Co.
- Boshoff, W. H. (2020). The competition economics of excessive pricing and its relation to the COVID-19 disaster period. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3593292>
- Brewer, M. (2007). Planning disaster: Price gouging statutes and the shortages they create. *Brooklyn Law Review*, 72(3), 1–38. <https://brooklynworks.brooklaw.edu/blr/vol72/iss3/5>
- Badan Perlindungan Konsumen Nasional (BPKN-RI). (2020, April 6). *Perlindungan konsumen saat pandemi Covid-19 di Indonesia dinilai peneliti lemah*. <https://www.bpkn.go.id/posts/show/id/1515>
- Budianto, E., & Wulandari, D. A. (2020). Critical study of criminal aspects of Law Number 8 of 1999 concerning consumer protection. *Journal of Law and Legal Reform*, 1(2), 333–352. <https://doi.org/10.15294/jllr.v1i2.36623>
- Cabral, L., & Xu, L. (2020, May 7). Seller reputation and price gouging: Evidence from the COVID-19 pandemic, covid economics vetted and real-time papers. *Voxeu CEPR*. <https://voxeu.org/article/seller-reputation-and-price-gouging>
- Dubrow, J. B., & Greene, N. F. (2020). Price gouging in the crosshairs during COVID-19. *The National Law Review*. <https://www.natlawreview.com/article/price-gouging-crosshairs-during-covid-19>

- Efendi, J., & Ibrahim, J. (2016). Metode penelitian hukum normatif dan empiris. Kencana.
- Faujura, R. P., Gultom, E., & Sudjana. (2021). The monopoly practice and unfair business competition in the technology transfer activity through the foreign patent in Indonesia. *UUM Journal of Legal Studies*, 12(1), 69–91. <https://doi.org/10.32890/uumjls2021.12.1.4>
- FitzGerald, P. (2019). State regulation of generic drug price gouging. *Belmont Health Law Journal*, 2(7), 1–25. <https://repository.belmont.edu/cgi/viewcontent.cgi?article=1011&context=healthlaw>
- Giberson, M. (2011). The problem with price gouging laws: Is optimal pricing during an emergency unethical? *Regulation, Spring*. <https://www.cato.org/sites/cato.org/files/serials/files/regulation/2011/4/regv34n1-1.pdf>
- Goldring, J. (1996). Consumer protection, the nation-state, law, globalization, and democracy. *Journal of Computer-Mediated Communication*, 2(2). <https://doi.org/10.1111/j.1083-6101.1996.tb00057.x>
- Haupt, S. (2003). An economic analysis of consumer protection in Contract law. *German Law Journal*, 4(11), 1137–1164. <https://doi.org/10.1017/S2071832200012013>
- Johan, A. (2015). Monopoly prohibition according to Islamic law: A law and economics approach. *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada*, 27(1), 166. <https://doi.org/10.22146/jmh.15904>
- Maarif, S. (2001). *Competition law and policy in Indonesia*. https://www.jftc.go.jp/eacpf/02/indonesia_r.pdf
- Marzuki, Peter Mahmud. (2005). *Penelitian hukum*. Kencana.
- Mathios, A., Micklitz, H.-W., Reisch, L. A., Thøgersen, J., & Twigg-Flesner, C. (2020). Journal of Consumer Policy's 40th anniversary conference: A forward looking consumer policy research agenda. *Journal of Consumer Policy*, 43(1), 1–9. <https://doi.org/10.1007/s10603-019-09446-9>
- Miceli, T. J. (2008). *The economic approach to law* (2nd ed.). Stanford University Press. <https://www.sup.org/books/title/?id=27372>
- Montgomery, W. D., Baron, R. A., & Weisskopf, M. K. (2007). Potential effects of proposed price gouging legislation on the cost and severity of gasoline supply interruptions. *Journal of Competition Law and Economics*, 3(3), 357–397.

- Miru, A., & Yodo, S. (2014). *Hukum perlindungan konsumen*. PT. RajaGrafindo Persada.
- News, L. (2020, March 1). Attorney General warns against price gouging, phishing. *Fulton Son*. <https://www.texasattorneygeneral.gov/news/releases/ag-paxton-warns-price-gouging-texans-prepare-prevent-spread-coronavirus>
- Perloff, J. M. (2018). *Microeconomics* (6th ed.). Pearson. <https://www.perlego.com/book/810829/microeconomics-global-edition-pdf>
- Posner, R. A. (1976). *Antitrust law : An economic perspective*. University of Chicago Press.
- Rief, C. (2020). Coronavirus as a catalyst to transform consumer policy and enforcement. *Journal of Consumer Policy*, 43(3), 451–461. <https://doi.org/10.1007/s10603-020-09462-0>
- Ruhl, G. (2011). Consumer protection in choice of law. *Cornell International Law Journal*, 44(3), 570–600. <https://scholarship.law.cornell.edu/cilj/vol44/iss3/4>
- Santoso, E. (2012). Consumer protection for online banking scams via e-mail in Malaysia. *UUM Journal of Legal Studies*, 3, 1-22. <http://e-journal.uum.edu.my/index.php/uumljs/article/view/4547>
- Sowell, T. (2017). Thomas Sowell provides some much-needed education on the obvious implications of anti-price-gouging law. <https://www.aei.org/carpe-diem/thomas-sowell-provides-some-much-need-education-on-the-obvious-implications-of-anti-price-gouging-laws/>
- Team, F. (2020, March 24). *Price gouging laws by State*. FindLaw. <https://consumer.findlaw.com/consumer-transactions/price-gouging-laws-by-state.html>
- Team, J. S. (2020). *Price gouging complaint*. Attorney General Josh Stein. <https://ncdoj.gov/file-a-complaint/price-gouging/>
- Wibowo, D. E. (2020). How consumers in Indonesia are protected fairly? *Indonesian Journal of Advocacy and Legal Services*, 2(1), 57–70. <https://doi.org/10.15294/ijals.v2i1.36546>