

MISBRUIK VAN OMSTANDIGHEDEN AS A CHALLENGE  
TO THE IMPLEMENTATION OF PROCESSED FOOD  
PRODUCT LABELING IN MICRO BUSINESSES IN  
INDONESIA

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**Abstract**

Labeling of packaged processed food products plays a crucial role in ensuring food safety and protecting consumers' right to obtain accurate information about the products they consume. Although various regulations have governed labeling obligations, such as NA-DFC Regulation No. 31/2018, NA-DFC Regulation No. 22/2019, and Law No. 18/2012 on Food, implementation still faces significant challenges, especially in the microbusiness sector in Indonesia. This study examines the level of compliance and challenges faced by micro businesses in complying with labeling requirements through a case study of the Enak Bangett seblak chips business, which has not fully included information according to applicable standards. The results show that limited capital, knowledge of regulations, and technical constraints are the main obstacles for micro businesses in meeting labeling standards. This non-compliance can be categorized as Misbruik Van Omstandigheden, where business actors take advantage of low consumer literacy regarding labeling, so that consumers do not have access to adequate information about the food products they consume. The legal implications of non-compliance may also result in administrative and criminal sanctions. This study recommends that the government should play an active role in providing training, subsidies, and ease of certification process for micro enterprises, to support compliance with labeling standards, improve product competitiveness, and protect consumers more effectively.

**Keywords :** *Misbruik Van Omstandigheden, Consumer protection, Labeling.*

**INTRODUCTION**

Packaged processed food is one of the fastest-growing sectors in Indonesia as people's need for convenient and long-lasting food products increases. However, behind this encouraging growth, there are a number of serious problems related to the safety and quality of processed food products. One of the fundamental issues is the abuse of



circumstances or *Misbruik Van Omstandigheden*, which is an act committed by another party bound by an agreement by taking advantage of the unequal position of one of the parties with the aim of taking economic advantage only. And which refers to unethical practices in the production of processed food that can endanger the health of consumers. Guaranteeing the safety of a food product so that it will not cause harm to consumers can be imposed on business actors, because business actors know the composition of what has to do with the safety of food products. Guaranteeing the safety of consumers in consuming a product should be a top priority for business actors. This is because consumers in consuming food, especially food, of course, really consider the comfort and safety of their health. These considerations include the content of the ingredients used in food, then what nutritional content is in the food, what kind of processing of food ingredients in the process of producing, packaging, storage, and expiration. (Pratiwi, 2019)

Based on these considerations, food safety is the main quality requirement. It is meaningless to talk about taste and nutritional value or good properties if food products are not safe for consumption by consumers. So in food safety is classified into two, namely physical and spiritual food safety. What is meant by physical food safety is that consumers believe that they are free from various forms of food ingredients that endanger their health or humans when consuming the food, and spiritual food safety is related to the spiritual or ethical aspects of the food consumed, which can vary depending on beliefs or religions such as halal food for Muslims must be ensured to be free from haram ingredients that are processed in accordance with Islamic law. (Taroreh, 2014)

Processed food micro-businesses offer products that are attractive and beneficial to the community, but it is not uncommon to find practices that do not comply with food safety standards. Among those that often occur include the use of unregistered additives, violations of expiration dates, and packaging that does not meet hygienic requirements. Law No. 18/2012 concerning Food Article 1 paragraph 36 states that: "Food quality is the value determined on the basis of food safety criteria, nutritional content and trade standards for food and beverage ingredients". In order to maintain the safety of food products, the provisions of Law No. 18/2012 on Food in Article 1 Paragraph (5) states that: "Food safety is a condition and effort needed to prevent food from possible biological, chemical, and other contaminants that can interfere with, harm, and endanger human health and are not contrary to the law, religion, beliefs, and culture of the community so that it is safe for consumption." This provision is very contributive for consumers towards their safety in consuming products traded by business actors, because it covers all aspects of consumer life, namely things that are detrimental both in terms of health, religion that each consumer believes in.

Bangkalan Regency has no less than 166,768 micro, small and medium enterprises that continue to grow. (Qomaro, 2023) The great potential in the processed food

industry in this region poses various challenges, especially in terms of fulfilling labeling requirements according to government standards. Amidst the many existing micro food businesses, "Enak Bangeet" was chosen because it has been in operation for three years, thus providing an opportunity to explore the application of labeling regulations on a more mature micro scale. It also reflects the realities faced by many small businesses in rural areas, such as lack of knowledge about regulations and limited resources to comply with food safety standards.

## LITERATURE REVIEW

### Definition of Abuse of Circumstances (Misbruik Van Omstandigheden)

Misuse of circumstances (Misbruik Van Omstandigheden) is a teaching that states when an agreement is made, there is a weakness or unbalanced situation between the parties, then the stronger party knowing the weakness of the weaker party takes advantage of the situation of the weaker party so that the weaker party cannot refuse the agreement. The implication of the abuse of circumstances is that the agreement in question was made not with the free will of both parties, thus violating the first requirement for the validity of an agreement based on Article 1320 of the Civil Code, namely an agreement between the parties. Therefore, agreements made with abuse of circumstances can be canceled. (Rifqi Fadilla, 2021)

The doctrine of misuse of circumstances or Misbruik Van Omstandigheden was first applied through the Decision of the Hoge Raad in 1957 in the BOVAG arrest II-HR case dated January 11, 1957 where the Hoge Raad stated: "An agreement may lack a valid cause, in connection with special influences, which were at play at the time of the making of the agreement, whereby the aggrieved party bears a burden which is not equal to that which would otherwise have been due to the pressure of circumstances and conditions abused by the counterparty. (Clarins)

From these considerations, we can know that the Hoge Raad recognizes the existence of Abuse of Circumstances or Misbruik Van Omstandigheden as a reason for cancellation of the agreement. (Pangabeian, 2021) In this case, according to the Hoge Raad, the abuse of circumstances that occurred was an abuse of economic advantage. Hoge Raad concluded that there are two conditions that must be met so that it can be said that there is an abuse of circumstances in the agreement. The first is that it harms the counterparty to the agreement. The latter is the existence of the abuse of circumstances itself carried out by the stronger party. Thus, one party as a result of the abuse of circumstances committed by the opposing party against the first named party who is in this situation and condition, entered into an agreement, then this agreement does not have a lawful cause because it is contrary to decency, so that it is thus canceled the circumstances committed by the opposing party against the first named party who is



in this situation and condition, entered into an agreement, then this agreement does not have a lawful cause because it is contrary to decency, so that it is thus canceled.

The conditions to be said to be abuse of circumstances are: The first is that one of the parties must have an advantage either economically or psychologically. (Saputra Belassa, 2003) While the second requirement is the existence of other parties who are forced because of their weaker situation than the superior party at the time of entering into an agreement with the superior party. What is meant by the word "forced" in the second criterion mentioned above is not coercion as referred to in the well-known defect of will such as coercion from outside / physically, but forced because of a situation either economically or psychologically.

If explained in the context of the food and beverage business *Misbruik Van Omstandigheden* can occur in several ways, namely: (1) Unreasonable Pricing Sellers can take advantage of emergency situations, such as natural disasters or pandemics, to unreasonably increase the price of food and beverages, (2) Misinformation Misleading: Sellers may take advantage of consumer ignorance by providing false or misleading information about the product, for example regarding nutritional content or origin of food ingredients. (3) One-sided Agreements Business actors may take advantage of their strong bargaining position to impose agreements or terms of sale that are detrimental to consumers, such as no right of return or product warranty.

Abuse of circumstances by business actors, who are often dominant parties, can occur through various means, including the utilization of economic and psychological advantages. In the context of economic advantage, financially stronger business actors can force weaker parties to agree to agreements that are actually unfavorable to them. Economic dependence leaves the weaker party with little choice, so it is forced to accept onerous conditions. In addition, abuse of circumstances can also occur through psychological advantage. For example, consumers who are addicted to a product can be manipulated by businesses to continue buying without considering the negative impacts. Furthermore, special psychological conditions such as lack of Poor experience, knowledge, or physical condition are also often exploited by dominant parties to gain an unfair advantage, putting consumers in a vulnerable position without realizing the consequences of the decisions they make.

### **Legal Requirements for Labeling of Processed Packaged Products**

The legal awareness of business actors towards laws and regulations, especially in the labeling of processed food products, is not necessarily followed by the compliance of producers who are the object of this research study, and the problem of labeling processed food products that have been in effect for a long time, but not necessarily adhered to by business actors. (al, 2021) Small businesses are productive economic businesses that stand alone, which are carried out by individuals or business entities that are not subsidiaries or branches of companies that are owned, controlled, or are directly

part of medium or small businesses as described in the law. Article 3 states that MSMEs aim to grow and develop the national economy based on equitable democracy. (Rosyidatush Shofiyah, 2022)

A label is a part of a product that conveys information about the product and its seller. An ordinary label is part of the packaging or can also be a label (identifier) attached to the product. Currently, labels can become product identities, consumers tend to choose products that have labels over products without labels. Based on BPOM Regulation No. 31/2018 concerning processed food labels, BPOM Regulation No. 16/2020 concerning the inclusion of nutritional value information for processed food produced by MSMEs and BPOM Regulation No. 22/2019 concerning nutritional value information on processed food labels, processed food labels are any information about processed food in the form of images, writing, a combination of both, or other forms that are included in processed food, inserted into, attached to or are part of food packaging. Processed food labels contain at least information on: Product name, list of ingredients used, net weight or net contents, name and address of the producing or importing party, halal for those required, production date and code, expiration information, distribution license number and origin of certain food ingredients.

If consumers suffer losses as a result of consuming the product, all packaged processed food MSME businesses in Bangkalan are willing to take responsibility for consumer losses. The forms of responsibility of business actors include replacing with new products, refunding payments, and helping with consumer medical expenses. (Qomaro, 2023) Several problems regarding products occur in Indonesia, until now we still often find food circulating in the community that does not heed the provisions regarding the inclusion of labels, thus disturbing the public. In accordance with the provisions of Article 19 of the Consumer Protection Law which explains that business actors manufacturers and / or distributors in general, to provide compensation for damage, pollution and / or consumer losses due to consuming goods and / or services produced or traded, provided that the compensation can be made in the form of: refunds or replacement of goods and / or services of similar or equivalent value, or health care and / or compensation in accordance with the provisions of applicable laws and regulations. The compensation must have been given 7 (seven) days from the date of the transaction.

Processed products that are required to include labeling are products that have gone through the final packaging process and are ready for trade and do not apply to food that is wrapped in front of the buyer. Government Regulation No. 69/1999 provides exceptions for: a) Food whose packaging is too small to include all the information; b) Food sold and packaged directly in front of the buyer in small quantities; c) Food sold in bulk. Law No. 18/2012 on Food and its implementing regulations have stipulated the minimum information that should be included in food labels. The concern in the regulation is that the information included in the label is guaranteed to be correct and





not misleading. One of the provisions in the regulation related to this matter is that when a food product includes a label, the business actor is responsible for its correctness. The truth of a label statement is not only proven in terms of raw materials, food additives, or auxiliary materials used, but must also be proven in the production process. Halal value chain activities that generate added value in every process that includes production, distribution, and marketing or services to consumers. (Mumfarida, 2021)

Sanctions for violating the obligation to label food (in packaging) are further regulated in Law No. 23 of 1992 concerning Health. Article 84 of Law No. 23 of 1992 states that "distributing food without labeling is declared a criminal offense with a maximum imprisonment of 1 year and or a maximum fine of Rp 15,000,000.00 (fifteen million rupiah). Administrative sanctions are given in the form of license revocation or business license suspension, while provisions concerning protection to consumers in the event of a violation of the sanction obligations given to entrepreneurs as producers of products and services do not exist. On the other hand, consumers who are harmed do not have any rights to violations committed by entrepreneurs whose licenses are revoked or suspended.

### **Consumer Protection in Misbruik Van Omstandigheden**

Consumers to protect themselves and supported by fostering the attitude of responsible business actors. The obligation to ensure the safety of a Food products so as not to cause harm to consumers are charged to business actors, because business actors who know the composition and problems regarding the safety of a particular product. As for the problem of Misbruik Van Omstandigheden on food or drinks that are not labeled, it is wrong, because food and drinks served directly on the spot are mandatory and must be labeled but very many business actors do not know that it is misusing the situation. (Saputra Belassa, 2003)

In addition to the rights in article 4 of the GCPL, there are also consumer rights where the right to comfort and safety in consuming goods and services, the right to choose goods or services and obtain goods or services in accordance with the exchange rate and conditions and guarantees promised, the right to correct and clear and honest information regarding the conditions and guarantees of goods or services, and the obligations of business actors contained in article 7 of the GCPL, namely to act in good faith in carrying out their business activities, provide correct, clear and honest information about the conditions and guarantees of goods or services and provide explanations for use, repair and maintenance, and treat or serve consumers correctly and honestly and non-discriminatorily, guarantee the quality of goods and services produced or traded based on the provisions of applicable quality standards for goods or services. And in article 8 of the GCPL, business actors are prohibited from producing or trading goods or services that do not meet or do not comply with the required standards and provisions of laws and regulations, do not match the quality, level, composition, process,

processing, fashion style, or certain uses as stated in the label or description of the goods and services, do not include the expiration date or the best period of use / utilization of certain. The sanctions contained in Article 62 where business actors who violate the above provisions are punished with a maximum imprisonment of 5 (five) years or a maximum fine of Rp.2,000,000,000.00 (two billion rupiah).

Business actors or producers need to realize that the survival of their business is highly dependent on consumers. For this reason, they have an obligation to produce goods and services as well and safely as possible and strive to provide satisfaction to consumers. Providing correct information about related issues of security, health and safety of consumers.

## **RESEARCH METHODS**

The type of research used by the author in this case is qualitative research. This method is also applied to examine problems that exist in society and certain conditions so that researchers can get a new picture or strengthen existing ones or even vice versa. (Jaya, 2020) This qualitative research data uses descriptive qualitative data in the form of words, pictures, and not in the form of numbers. Data obtained through in-depth interviews, such as data on consumer protection analysis of Misbruik Van Omstandigheden on processed food packaging of seblak chips. The data analysis techniques used in this research are: (1) Observation is a data collection technique carried out by conducting careful research and systematic recording. The observation technique in this study is by making direct observations in Alang-Alang Village, Tragah Kec. Tragah, Kab. Bangkalan. (2) Interview is a data collection technique that is carried out by meeting face to face with the subject. (Sapto Haryoko, 2020) The sources come from business actors kripik seblak enak bangeet and consumers (3) Documentation studies in the form of processed product packaging kripik seblak enak bangeet.

## **RESULTS AND DISCUSSION**

### **Analysis of Stages and Raw Materials of Seblak Enak Bangeet Chips**

The Enak Bangeet seblak chips production site in Alang-Alang Village, Tragah District, Bangkalan Regency, owned by Nanda Atiqoh, has been operating since 2021. The production of these chips goes through several stages, starting from the selection of raw materials, production process, packaging, to distribution. In terms of raw materials, the business owner obtains basic ingredients such as raw crackers and seblak special spices from the local market. The quality of the raw materials greatly affects the taste and quality of the final product. The production process includes frying, mixing seasonings, and cooling to avoid moisture that can reduce crispness. After the cooling process, the products are packaged in hygienic plastic bags, maintaining quality and durability. However, the packaging only comes with a sticker of the product name without any official labeling or halal certification, which opens up opportunities for



potential misuse as there is not enough information for consumers to ensure product safety. Distribution is done through school canteens and social media.

Enak Bangett entrepreneurs prioritize low costs by using cheap raw materials and simple production methods, allowing for affordable selling prices. This low price is a strategy to make the product more recognizable in the market. Unfortunately, without official labeling and certification from regulatory agencies such as BPOM, these products do not fully meet food safety standards. The lack of labeling information also indicates an information defect, which poses a risk to consumers. Consumers need labels that include basic information such as net weight, expiration date, and ingredient composition, as mandated by food regulations.

Based on interviews with three consumers, it was found that many were unaware of the importance of labeling on these products. Ms. Hafsa admitted that she was unaware of the need for labeling and bought the product because she was close to a seller she knew. On the other hand, Ms. Nur Laila expressed doubt because unlabeled packaging does not include information such as composition, nutritional content, halal certification or expiry date. Mr. Hamzah, another consumer, stated that he did not mind if the product did not have a label, as he considered it a light snack. This finding demonstrates consumers' lack of understanding of the importance of food labeling information. Although labels are mandatory for safety, business owners acknowledge financial barriers in obtaining official certification, especially for small businesses. This leads to a situation of misuse of circumstances, or "Misbruik Van Omstandigheden," where entrepreneurs take advantage of consumer ignorance.



In the food industry, consumer label reading behavior is crucial to ensure that the products purchased are safe and healthy. Food labels serve as a key guide to understanding nutritional content and ingredients, which is crucial for consumers with certain health conditions.

### **Legal Awareness of Business Actors and Labeling Practices of Processed Food Products**

Labeling of packaged food products has a very important role in protecting consumer rights and supporting food safety in Indonesia. Based on NA-DFC Regulation No. 31/2018 and NA-DFC Regulation No. 22/2019, processed food producers are required



to provide basic information on product labels, including ingredient list, net weight, expiration date, and distribution permit number. This obligation is reinforced by Law No. 18/2012 on Food, which emphasizes that every producer must provide minimum relevant information on their products to enable consumers to make informed decisions in consuming the products. In addition, Law No. 23 of 1992 on Health threatens penalties for violations of this provision, with imprisonment of up to one year or a maximum fine of IDR 15 million. These regulations demonstrate the importance of labeling as an instrument of consumer protection and food safety.

However, in its implementation, many micro, small and medium enterprises (MSMEs) face various challenges in meeting these labeling requirements. Most micro enterprises in Indonesia, including the Enak Banggett seblak chips business, face resource and knowledge constraints that limit their ability to meet the labeling standards. The process of obtaining a distribution permit or halal certification is often costly, time-consuming and complicated administrative procedures. This challenge is an additional burden for micro-entrepreneurs who generally have limited capital. This creates an imbalance between regulatory demands and the ability of micro businesses to comply.

However, microenterprises in Indonesia have some significant strengths, such as flexibility in adapting to local market conditions and proximity to consumers. In many regions, microenterprises play a major role in providing affordable products to low-income households and generating employment for local residents. However, the main weakness of micro enterprises is their limited access to capital, technology, and information on regulations. The lack of training and infrastructure support also further exacerbates the gap between legal requirements and the capacity of micro enterprises to meet labeling standards. This shows that while micro enterprises have great potential, they still need government support to achieve the expected standards.

Conditions in the field show that micro businesses, especially in rural areas, often face barriers in understanding regulations and adapting to applicable standards. In rural areas, such as where Enak Banggett seblak chips are produced, many consumers are not yet aware of the importance of product labeling. This opens up opportunities for businesses to ignore labeling requirements without worrying about decreased demand from local consumers. This highlights the need for consumer education and increased regulatory literacy, so that public awareness of food safety can be improved.

The absence of adequate labeling on Enak Banggett's seblak chips can be considered a form of *Misbruik Van Omstandigheden*, which is an abuse of circumstances committed by businesses that take advantage of consumer ignorance regarding food regulations. This not only poses legal risks for business actors but also shows the need for education and technical support for MSMEs to understand labeling standards. Increased government support, whether in the form of easing the certification process, subsidizing costs, or training on food regulations, is urgently needed so that micro-enterprises can develop and meet food safety standards in a sustainable manner.



## CONCLUSIONS

Labeling of packaged food products is an important aspect of consumer protection and food safety in Indonesia, but its implementation faces constraints among micro enterprises, such as limited capital, regulatory literacy, and access to the certification process. For example, the Enak Bangett seblak chips microbusiness has not met the labeling standards set by regulations, potentially posing health and legal risks, and is considered a form of *Misbruik Van Omstandigheden* that takes advantage of consumers' lack of knowledge. Therefore, increased government support in the form of subsidies, ease of certification, as well as regulatory education and training would greatly help micro enterprises to comply with food safety standards and improve product competitiveness in the wider market.

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