

Analysis Of Excise Policy On Sweetened Packaged Drinks: Consumer Protection Legal Perspective

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Abstract.

This research aims to analyze health policies related to excise on sugary drinks and packaging labeling regulations, with a focus on public health implications in Indonesia. Normative research method to analyze Consumer Protection Laws and regulations from other countries that have implemented excise taxes on sweet drinks in an effort to reduce excessive sugar consumption. Supporting data from other countries includes the implementation of excise tax on sugary drinks, its impact on people's consumption patterns, and evaluation results related to reducing the prevalence of diabetes. This research uses a comparative approach to evaluate the effectiveness of sugary drink excise policies and labeling regulations on product packaging in reducing sugar consumption in various country contexts. Countries that implement excise taxes on sweet, high-calorie drinks have succeeded in reducing the prevalence of diabetes by influencing consumer behavior to choose products with lower sugar content. Countries that have implemented excise taxes on sweet, high-calorie drinks generally have a significant positive impact on reducing the prevalence of diabetes in society because they influence people's purchasing behavior to prefer healthier foodstuffs (lower sugar content). Therefore, legal reconstruction is needed regarding the application of excise and labeling regulations on product packaging regarding sugar content information with certain classifications for sweet drinks in order to reduce the prevalence of diabetes in Indonesia. It is hoped that the results of this research will provide insight to the Indonesian government in developing effective strategies to reduce the prevalence of sugar-related diseases and improve overall public health.

Keywords: Health Policy, Excise On SSB and Public Health.

I. INTRODUCTION

Indonesian Basic Health Research (Riskesdas) data 2018 shows that the level of consumption of sweet drinks in Indonesia is high, even though there have been recommendations regarding limits on daily sugar consumption. According to Minister of Health Regulation Number 30 of 2013 concerning the Inclusion of Information on Sugar, Salt and Fat Content and Health Messages for Processed Foods and Ready-to-Eat Foods, ideal sugar consumption is 10% of total energy or around 50 grams per day per person. Excessive consumption can increase the risk of diabetes mellitus and other health problems. Diabetes mellitus is a chronic disease which was the 3rd highest cause of death in Indonesia in 2019, with a rate of around 57.42 deaths per 100,000 population according to the Institute for Health Metrics and Evaluation. Data from the International Diabetes Federation (IDF) shows an increase in the number of diabetes sufferers in Indonesia in the last ten years, with an estimate of reaching 28.57 million in 2045, an increase of 47% from 19.47 million in 2021 (Diabetes is the Highest Cause of Death in Indonesia: Limit it with Healthy Snacks Low in Sugar – Directorate of Business Development, nd). According to the World Health Organization (WHO), the number of sufferers continues to increase and reaches 422 million people worldwide, a fourfold increase from the figure 30 years ago (Diabetes: Sufferers in Indonesia Could Reach 30 Million People in 2030 - P2PTM Directorate, nd).

The increase in diabetes rates due to lack of control over the consumption of sweet foods and drinks is very high in Indonesia, especially the low level of public literacy in terms of scientific literacy, Indonesia is ranked 72nd out of 77 countries participating in PISA in 2018, with an average score of 396 (Yusmar & Fadilah, 2023). Because food and beverage prices influence choices in everyday food purchases, implementing excise taxes could be an effective means of reducing consumption of less healthy products. It is hoped that this will have implications for reducing chronic diseases such as diabetes mellitus which is currently spreading to children. In January 2023, the prevalence of diabetes cases in children will increase

drastically according to IDI data. The number of sufferers reaches 2 per 100,000 people, with the majority of cases being type 1. IDAI recorded 1,645 children with diabetes spread across 13 Indonesian cities, with almost 60% of sufferers being women (Directorate General of Health Services , nd) . If this situation is not addressed, the nation's next generation will experience serious health problems, impacting the country's future productivity.

II. METHODS

This research is normative legal research, namely research whose study is carried out by analyzing library sources or secondary data from various literature, books, legislation and other sources (Soerjono Soekanto, 2013) . Normative legal research is a step to identify legal rules, legal principles and legal doctrines to overcome the legal problems faced (Marzuki, 2007) . The approach method used is a statutory approach (*statue approach*) and examines various statutory regulations of countries that implement health policies on excise on high-calorie sugary drinks and their implications for life patterns and public health, especially in Indonesia Minister of Health Regulation Number 30 of 2013 concerning the inclusion of information on sugar, salt and fat content as well as health messages for processed food and ready-to-eat food, legal reconstruction can be carried out based on health policy considerations in other countries, namely the implementation of excise and mandatory labeling for sugar on sweet, high-calorie drinks which are considered effective. in reducing the prevalence of diabetes in society. Using a *comparative approach*, this research will evaluate the effectiveness of sugary drink excise policies and labeling regulations on product packaging regarding sugar content information with certain classifications (sugar mandatory label FoP) in reducing sugar consumption and its impact on public health in various country contexts.

III. RESULTS AND DISCUSSION

A. Public Health Level and Influence of Food Supplies

The increase in diabetes cases in Indonesia is influenced by the availability of foods with high calories, easily available, in the form of ultra-processed products that are very tasty and financially affordable as well as goods that are not controlled by the government. Even though there is increasing awareness of the importance of a healthy lifestyle, the uncontrolled availability of high-calorie sugary foods and drinks on the market has become a major factor in increasing diabetes rates in Indonesia. The imbalance between consumer demand for unhealthy food and beverage products and inadequate government regulations in monitoring the market has left people vulnerable to diabetes. This shows the need for firmer steps from the government in regulating the market and encouraging healthier consumption patterns to overcome this problem. According to Satjipto Rahardjo, one of the functions of law is to unite and coordinate interests that may conflict with each other (Rahardjo, 1996) . The theory of development law put forward by Mochtar Kusumaatmadja has similarities with Satjipto Rahardjo's views on law and social change. The function of law as a tool for post-reform societal reform, especially in the context of the environment and natural resources, must be revised to focus more on community welfare and economic sustainability.

The state has an obligation to fulfill the economic, social and cultural rights of citizens because these rights are part of human rights. Laws that do not have an operational dimension will not be effective in regulating behavior and controlling daily human interactions. Therefore, law formulators must strive to compose legal provisions clearly and logically, so that they can be well understood by all legal subjects. (Kusumohamidjojo, 2016; Nugroho, 2017; Rahardjo, 2010) .The government should consider health policies to overcome existing problems, by ensuring the interests of all parties are met, especially in supporting the health and welfare of society as a whole. Through policy instruments in the health sector, especially the provision of foodstuffs that are distributed throughout the community for daily consumption, especially sweet, high-calorie drinks, which significantly reduce the level of public health for both children and adults, so that the prevalence of diabetes is currently very high. Health is a basic human need and is therefore recognized as a right protected by law for every individual in society. All countries realize that health is the main key in achieving social prosperity.

B. Consumer Protection Law

Consumer protection law [11] is regulated in Law Number 8 of 1999 concerning Consumer Protection (UUPK) Article 4 letter c, consumers have the right to correct, clear and honest information regarding the condition and guarantee of goods and/or services. In addition, consumers are obliged (article 5 UUPK) to read or follow information instructions and procedures for the use of goods and/or services for the sake of security and safety. Furthermore, business actors are obliged (article 7 UUPK) to provide correct, clear and honest information regarding the condition and guarantee of goods and/or services as well as providing explanations of use, repair and maintenance. Regarding advertising regulations, business actors are prohibited from producing advertisements (article 17 letter d UUPK) that do not contain information regarding the risks of using goods and/or services. The government through the Consumer Protection Agency is tasked with (Article 44 paragraph (3) letter a) disseminating information to increase consumer awareness and caution in consuming goods and/or services. The role of supervision by the government and non-governmental organizations includes.

Monitoring market goods, loading information about the risks of using goods if required, placing labels, advertising, etc. as required based on the provisions of laws and regulations and customs in business practice. Law Number 39 of 1999 concerning Human Rights [12], article 64 regulates the guarantee that every child has the right to be protected from all forms of economic exploitation and work that have the potential to endanger them, which can disrupt education, physical health, social life, where sweet drinks are very popular. by children faced with low control from both the child and parents regarding the dangers of consuming excessively sweet, high-calorie drinks. The tendency of children to like sweet foods and drinks such as candy, ice cream, cake, chocolate, packaged milk high in sugar and others is a form of economic exploitation which has the potential to harm them, especially reducing their health, including cavities, obesity and diabetes mellitus. Children tend to only eat foods they like and do not consider health problems. Parents play an important role in controlling the food consumed by children, and the government is obliged to ensure that the food available meets the safe consumption threshold based on BPOM (Food and Drug Monitoring Agency). Government preventive efforts are also needed by providing education: choosing healthier foods to consume and the dangers of excessive sugar consumption. The government's obligations and efforts are implemented through health policy instruments and consumer protection institutions to increase consumer awareness and caution. For example, by implementing SSB excise and mandatory sugar label FoP (Front of Pack).

C. Health Policy regarding Excise on Sweet Drinks and Its Effectiveness in Various Countries

Article 5 paragraph (1) Minister of Health Regulation Number 30 of 2013 concerning the Inclusion of Information on Sugar [13], Salt and Fat Content and Health Messages for Processed Food and Ready-to-Eat Food [14], regulates the obligation for producers of ready-to-eat food containing sugar, salt and/or fat to provide information on the content of these ingredients as well as health messages through information and promotional media whose supervision is carried out by the Head of the Provincial and Regency/City Health Services. Unfortunately, this nutritional content information policy has not been implemented properly, such as health warnings when consuming certain amounts. Information on serving sizes and sugar or sodium content in grams also provides information that is not easily accepted by the public simply, for example the use of tablespoons or tea spoons which are familiar in everyday life. In addition, health warning labels on packaging with certain indicators are not required in this regulation. Mandatory labels for sugar are not specifically regulated in Indonesia, only limited to including information on nutritional value based on laboratory tests. FOP (*front of pack*) nutrition labels have significant implications for public consumption. The value of understanding the HSR (*health star rating*) label is the highest value in the level of understanding the nutritional content of a single product and comparison with other products.

The FoP nutrition label is considered to make it easier for consumers to compare nutritional quality, most preferably because it has a simple appearance. As a result, products with FoP have the highest understanding of HSR at 63.7% among high school teenagers in Depok, Indonesia (Ikrima et al., 2023). Mandatory sugar labels have been implemented in various countries, for example research results from

Chile show that mandatory food labeling policies can have a significant impact on food supply, both food and drink. A recent evaluation of the Food Labeling and Advertising Act found that there was not only a reduction in sugar in beverages and milk, but also in foods high in sodium (Taillie et al., 2020). The Chilean nutritional profile model sets standards for food and beverages, with different criteria for liquid products and solid foods. Solid foods are considered regular if they contain more than certain limits for sugar, saturated fat, sodium or calories per 100grams of product. Meanwhile, liquid products have lower limits. Products can receive up to four labels warning consumers about high calories, saturated fat, sugar, and/or sodium. This model was chosen to evaluate the impact of policy interventions because it has become the basis of policies in Latin America, including in Colombia (Lowery et al., 2020). There was a change in sales of sweetened drinks (SSB) and water after the SSB excise tax of 1 peso per liter was implemented in Mexico in January 2014.

A decrease in SSB sales per capita was 7.3% and an increase in plain water sales per capita was 5.2% in 2014–2015 compared to the pre-excite period (2007–2013) (Colchero et al., 2016). Furthermore, the successful implementation of the first SSB excise in Berkeley was supported by policy characteristics such as simplicity of excise and synergy between components, internal and external support conditions such as pro voters and city priorities, as well as a policy process including discussion and involvement of various parties. This excise tax generated more than \$9 million in revenue from 2015 to 2021 for public health and justice, with the assistance of the SSBPPE Commission representing the public and experts, and provided a level of accountability in the use of these funds [19]. A 10% excise tax on sugary drinks has been shown to reduce purchases and consumption by 8-10%. Evidence from countries such as Barbados, Catalonia, Chile, Hungary, and others shows a positive effect on sales and consumption of SSBs. The implementation of tiered excise tax in the UK has succeeded in encouraging the reformulation of sweet drinks with a decrease in the market share of SSBs containing >5g/100 ml from 49 to 15%. Children were the group that benefited most, with a significant decrease in consumption of SSBs in Mexico and Thailand, as well as an increase in drinking water purchases. The 20% excise tax on SSBs also reduces the prevalence of overweight and obesity by 1-4%, especially in children. Additionally, excise on SSBs can reduce cases of type-2 diabetes, heart disease, stroke and premature death. Socio-economically, excise on SSBs increases government revenues without a significant negative impact on employment [20].

The long-term impact of the Sweetened Beverage Tax in Seattle, Washington, on prices, sales volume, and cross-border shopping, is analyzed using a difference-in-differences estimation approach. Universal product level code store scanner data was used to compare taxed and nontaxed beverages one year before the tax and two years after, with Portland, Oregon, as the comparison site. A tax on sugar-sweetened beverages could result in a sustained reduction in demand for sugar-sweetened beverages and associated health impacts [21], [22]. The idea to implement excise on sweetened drinks has emerged since 2016, with the drafting of the Excise Policy on Sweetened Packaged Drinks (MBDK) emerged in response to the health impacts that consumption of these drinks has on society. Apart from that, there is potential income that can be obtained by the state through the implementation of this excise. In February 2020, Minister of Finance Sri Mulyani told Commission XI DPR RI that the potential income from excise on sweetened drinks could reach IDR 6.25 trillion. Unfortunately, its implementation did not meet the target in 2023 and was postponed again due to considerations of Indonesia's economic conditions [23]. In 2019, sweetened drinks became the main consumption choice with a prevalence reaching 61.3 percent of the total sweetened foods and drinks consumed. This high prevalence is the trigger for the high number of diabetes sufferers in Indonesia. The high number of diabetes sufferers increases the financial burden of health insurance. Ali Ghufroon Mukti, Main Director of BPJS Health, revealed that the total claim costs for BPJS Health participants who suffer from diabetes increased from IDR 4.9 trillion in 2018 to IDR 6.4 trillion in 2022 [24]. Public health issues are also important and should be a serious concern for the government.

D. Legal Reconstruction of Health Policy in the Sector of Sweet Drinks in Indonesia

The impact on public health found that SSB excise was working as expected, Canadians tended to buy products with moderate sugar content which were in the lower group of 10% where all sweet drinks were subject to 20% excise. The FoP indicator provides a pattern of HSR exposure leading to many

purchases of 100% fruit juice [25]. Policies aimed at reducing consumption of processed foods, such as the implementation of excise taxes on sweetened beverages (SSB) and mandatory front-of-pack (FOP) warning labels, may encourage manufacturers to reformulate their products in an effort to avoid sanctions [17]. SSBs (sugar-sweetened beverages) excise can be imposed on a) all products of a certain type (i.e. all non-alcoholic drinks containing free sugar and artificial sweeteners), or b) based on nutritional content criteria (e.g. products containing ≥ 5 g of added sugar per 100ml) [26]. The importance of imposing SSBs excise is to encourage changes in people's lifestyles and increase government revenue originating from excise. For example Of all 989 products, 393 (39.7%) had a sugar content below 6 g/100 mL and were subjected to zero tax [27]. California SB 347 is a bill that would require warning labels to be placed directly on SSB containers. Despite passing the California Senate in 2019, the bill ran into resistance from industry in the State Assembly, leading to a delay until 2020 to fix the warning requirements. This bill appears to address some of the weaknesses in San Francisco's regulations.

It is unclear whether this warning was considered reasonable or too burdensome. The bill regulates the size of the warning text, with the proportion of the label varying depending on the size of the package. Unlike the San Francisco legislation, SB 347 would add a yellow warning symbol, which could raise uncertainty about the bill's constitutionality [28]. According to research [29], sugar excise is expected to have a positive effect on obesity levels. Previous research on the application of excise taxes to food and beverages in other countries, as well as modeling, shows that they are effective in reducing purchases (Powell et al., 2013; Thow, Downs, & Jan, 2014; Cornelsen & Carreido, 2015; Colchero et al., 2016), and there is a clear correlation between sugar-sweetened beverage consumption and body weight (Vartanian, Schwartz, & Brownell, 2007; Hu, 2013). Law Number 8 of 1999 concerning Consumer Protection (UUPK) Article 4 letter c, consumers have the right to correct, clear and honest information regarding the condition and guarantee of goods and/or services. Indonesian people's awareness of health information, especially regarding food and nutritional value, is still lacking. It is not uncommon for manufacturers to use the pronoun sugar composition with other equivalent words such as sucrose, fructose, lactose, maltose, caramel, syrup or concentrate. Business actors have an obligation as regulated in Article 7 UUPK, to provide correct, clear and honest information regarding the condition and guarantee of goods and/or services as well as providing explanations of use, repair and maintenance. In this case, the government has an important role in educating the public as consumers on how to increase awareness of healthier food or drink consumption patterns. National Health Insurance (JKN) is part of the National Social Security System (SJSN) which is regulated by Law no. 40 of 2004 concerning SJSN.

This program is a government initiative to provide comprehensive health insurance to all Indonesian citizens with the aim of enabling them to live healthy, productive and prosperous lives. The benefits of this program include comprehensive health services, including promotive, preventive, curative and rehabilitative aspects, including medicines and medical equipment, which are provided through quality management and controlled costs [30]. In this case, the government has an obligation to make preventive efforts to overcome health problems, especially the prevalence of diabetes in Indonesia. Legal reconstruction is needed considering that the phenomenon of increasing diabetes has increased significantly. Although from 2020 until now, the Indonesian government, through the Ministry of Health and the Ministry of Finance, has worked together to carry out analyzes related to determining excise policies on packaged sweetened drinks (MBDK). The big impetus for this policy comes from the strategy set out in the 2020 - 2024 RPJMN in the health sector, which aims to find new sources of financing. Excise tax on MBDK is considered the right option to create a new source of financing for health, considering that MBDK consumption in Indonesia is the third largest in South East Asia. Market price elasticity and a company's pricing strategy determine how much excise tax is ultimately applied to consumers at retail prices. Prices in the market and the income available to consumers in turn influence the level of affordability, which refers to the relative price of SSBs compared to income.

Furthermore, the level of affordability and consumer preferences influence purchasing decisions and consumption quantities. The economic rationale behind the use of excise taxes to control consumption is due to the price elasticity of demand for such beverages, which is often estimated to be around 1% or more (e.g.,

1.2% on average in the United States, France, Brazil, and Mexico), although there are variations between studies. [31]. First, humans have a tendency to act rationally, but not always in a way that optimizes the use of resources. They have the ability to consider and change their responses to various options. Second, the influence of choice architecture on problems such as obesity is much more complex than behaviorists assume. For example, replacing sugary foods with healthy options at supermarket check-out may have only a limited impact on purchasing behavior, especially if food manufacturers continue to have strong economic incentives to produce foods with high levels of sugar and fat and tight profit margins. big. The behavioral approach tends to focus on the influence of individual choices in the short term and does not consider the broader social, economic and political factors that influence decision making [29].

IV. CONCLUSION

The policy of implementing excise on high-calorie sweetened drinks (SSB) can have a positive impact in reducing the prevalence of diabetes by influencing consumer behavior in choosing low-sugar products. The price of food and drinks influences choices in daily food purchases, implementing excise can be an effective means of reducing consumption of unhealthy products. This emphasizes the importance of consumer protection in providing accurate and honest information about the products consumed, as well as the role of the government and consumer protection institutions in increasing consumer awareness and caution. The application of excise on food and beverages in other countries shows that the application of excise is effective in reducing the purchasing power of SSBs. There is a need for legal reconstruction regarding regulations for implementing excise duty on sweet drinks and sugar labeling in order to reduce the prevalence of diabetes in Indonesia and improve public health and ensure that the interests of all parties are met, especially in supporting the health and welfare of society as a whole.

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