

## **CHAPTER IV**

### **THE EFFECTIVENESS OF BPOM'S SUPERVISION IN CENTRAL JAKARTA ON THE HALAL-LABELLED FOOD PRODUCTS.**

#### **A. DATA ANALYSIS**

##### **1. BPOM RI**

Since the Indonesia independence days in 1945, Indonesia has been trying to achieve its aspiration which attached in the opening of the 1945 Constitution of the Republic of Indonesia on the fourth paragraph: (1) to protect the Indonesian people and the Indonesian country (2) promote public welfare, (3) the intellectual life nation, (4) participate in the establishment of a world order based on freedom, lasting peace and social justice.<sup>1</sup> And one of the government's efforts is provide protection against the Indonesian people who become consumers of food they consume daily by the form of regulation in the form of Act No. 8 year 1999 on Consumer Protection. In chapter 30, this regulation stated that the supervision of the implementation of consumer protection and the application of the provisions of the legislation is organized by the government, public and non-governmental consumer protection agencies. This regulation aims are to create the effective supervision, so that the public can be protected as a consumer. Food is a basic human needs, including people in

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<sup>1</sup> Paragraph IV the opening of UUD 1945 (Indonesia Basic Law)

Indonesia who have to consume food every day to do any activities well.

In the provisions of Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, confirmed that "Indonesia is a State of Law". Refers to that statement, it can be concluded that everything associated with the life of Indonesian society is organized in the form of regulations in Indonesia itself.

Especially for food supervision, Indonesian government has established an institution to supervise food and drinks circulating in Indonesian society which is medicine and food supervisory institution (BPOM). In the Presidential Decree No. 103 of 2001 on the Position, Duties, Functions, Structure and Work Non Departmental Government Institutions as amended several times, most recently by President Regulation No. 64 of 2005 states that BPOM is one Officials (Government Agency Non-Department) which has the task in the field of medicine and food supervision accordance with the provisions of the legislation in force.

BPOM RI is food and drug supervision center in Indonesia. Medicine and food supervisory institution (BPOM) is located in Central Jakarta Street Percetakan Negara No. 23 Central Jakarta, Building F 2nd floor zip code 10560 Tel / Fax 021 421 1759/021 425 3856. For official address specific website BPOM is [www.pom.go.id](http://www.pom.go.id).<sup>2</sup>

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<sup>2</sup> BPOM RI "Home" <http://www.pom.go.id/webreg/> accesible on 27<sup>th</sup> January 2015

## **2. Supervising Authority of BPOM On Halal Label For Food Products**

There are several regulations that provided the basic law for the BPOM authority to supervise Halal Label for Food Products,<sup>3</sup> those are:

- a. Act Number 8 of 2012 on Food (Article 69, Article 95, Article 97, Article 101).

In Article 69 explained that one of the food security is about the presence of halal label on the packaging of food products.

In this regulation there is also a special section that describes the halal product assurance that is in the eighth section, there are 2 chapters which explain that the government and local government supervise the halal product assurance. The meaning of the government in this case is the medicine and food supervisory institution (BPOM) that is located in Central Jakarta, while the definition of local government is BPOM (medicine and food supervisory center) in each region, currently BPOM located in 31 regions in Indonesia.

- b. Act Number 8 of 1999 on Consumer Protection (Article 3, Item e, Article 4 Item c, Section 8 Items a and h).

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<sup>3</sup> Riana, Interview (Central Jakarta, 13<sup>th</sup> January 2015)

In this rule there is no specific chapter that discusses the halal label. However, in the fourth section, it discusses the prohibited act for businesses, one of them is not to follow the provisions of the production for halal production as the statement "halal" are included in the label.

- c. Government Regulation No. 69 of 1999 on Food Labeling and Advertisement (Article 10, paragraph 1, article 11 paragraph 1 and 2)

This rule explained that businesses that produce or import any food that is packed into Indonesian territory must take the responsibility on halal statement license in the packaging if there is a label.

- d. Government Regulation No. 28 of 2004 concerning safety, Quality and Nutrition (Article 2, Article 3, Article 6)

In this rule is described on the Guidelines How Good Processed Food Production. In second article, it also explained that every person who is responsible for the implementation of the activities include the production, storage, transportation, and distribution of food is required to fulfill requirements in accordance with the legislation obtained.

- e. The Charter of Cooperation Ministry of Health, Ministry of Religious and the Indonesian Scholar Council in 1996 on the Implementation of the Food Labeling Halal.

In this cooperation charter, it was agreed that a food and drinks products in circulation can be expressed lawful only on the basis of a fatwa from Indonesian Scholar Council, after passing through a series of examinations (audits). Halal labeling is regulated by the Ministry of Health. In addition to improve the coordination and cooperation on the implementation of the labeling Halal, Minister of Health formed a coordination team that includes representatives from the Ministry of Health, the Ministry of Religion and the Indonesian Scholar Council. For further explanation, that can be found in appendix charter cooperation in this study.

- f. Health Ministerial Decree No. 82 / MenKes / SK / 1996 on the Inclusion Posts Halal Food.

This rule described that the word halal marked on food labels can only be done after obtaining the approval from the Directorate General. Halal posts must be written in Arabic and Latin alphabets are green with a size of at least medium corps 12 with a number of certificates such as the following example:



Figure 4.1: Official Label For Halal MUI

- g. Health Ministerial Decree No. 924 / Menkes / SK / VIII / 1996 on the Amendment to the Decree of the Minister of Health No. 82 / MenKes / SK / 1996 on the Inclusion Posts Halal Food. This regulation amends and adds provisions in several articles, namely article 8, article 10, article 11, article 12 and article 17. This regulation explained that the manufacturer or importer should submit a request of halal mark and be ready to be examined by the team of officials Collaboration of Indonesian Scholar Council (MUI) and The Medicine and Food Supervisory Institution (BPOM) designated by the directorate-general.
- h. Decree of the Head of BPOM No. HK.00.05.23.1.23.3.3516 2009 on the Marketing Authorization of Medicinal Products, Traditional Medicines, Cosmetics, Food Supplements Originating, Containing of Materials and or Containing Alcohol. This rule explained that the food products which come or contain or derive from pork can be legalized with conditions that must meet the requirements of safety, quality, nutrition, and food labeling requirements, as well as showing the words and images "containing pig + image" in the box red black and white on a base color on the label, such as the example shown below.

## MENGANDUNG BABI



Figure 4.2: Contains Pork Food Labels

In the Food and Supervisory Institution (BPOM) RI, there are 3 Sub-Directorate, those are:<sup>4</sup>

1. Sub-Directorate of Inspection Food

This Sub-directorate of BPOM performs functions on the food produced and circulated in the community in general.

2. Sub-directorate Halal

This Sub-directorate of BPOM perform functions on the foods using halal label on the packaging.

3. Export and Import Sub-directorate

This Sub-directorate performs functions of BPOM in the food and drinks that are not produced in the country or incorporated into the country.

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<sup>4</sup> Riana, Interview (Central Jakarta, 13<sup>th</sup> January 2015)

## **B. Analysis Discussion**

### **1. The Effectiveness of Supervision by Medicine and Food Supervisory Institution (BPOM) RI on The Halal Label for Food Products**

#### **a. The Supervision Mechanism of BPOM**

##### **1. Standard Procedures for Food and Drug Supervision of General Product**

System supervision is done based on regulation and standardization, food safety assessment, product quality, sampling and laboratory testing, as well as a warning to the public that is supported by law enforcement. In order to protect consumers against food products that do not fulfill security requirements and food nutritional quality, it is necessary to control not only do before products circulate in society (pre-market evaluation) but also have to be done after the supervision of products circulating in society (post-market).<sup>5</sup> That is done to maintain food safety circulation in society.

Pre-market evaluation is monitoring food product before the product is circulated in the community. Supervision is the form of a security assessment, quality, nutrition, and so forth through observing raw materials,

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<sup>5</sup> BPOM RI, *Panduan Teknis Pencantuman Tulisan Halal Pada Label Makanan*, (Jakarta: Direktorat Inspeksi dan Sertifikasi Pangan BPOM), p. 7



food additives, and additional food materials. Type supervision is part of the procedure distribution license of a food product. Before the food circulated in the community, the product should be checked by BPOM to obtain a valid marketing authorization. The definition of a marketing authorization in the Regulation of the Head of National Agency of Drug and Food of the Republic of Indonesia Number HK.00.05.1.23.3516 about Marketing Authorization of Medicinal Products, Traditional Medicines, Cosmetics, Food Supplements, and the food is sources Containing Alcohol precisely in article 1 explained that the marketing authorization is the the approval form for the registration of medicinal products, traditional medicines, cosmetics, food supplements and food issued by the medicine and food supervisory institution (BPOM) RI, so that the product can be lawfully marketed in the territory of Indonesia.

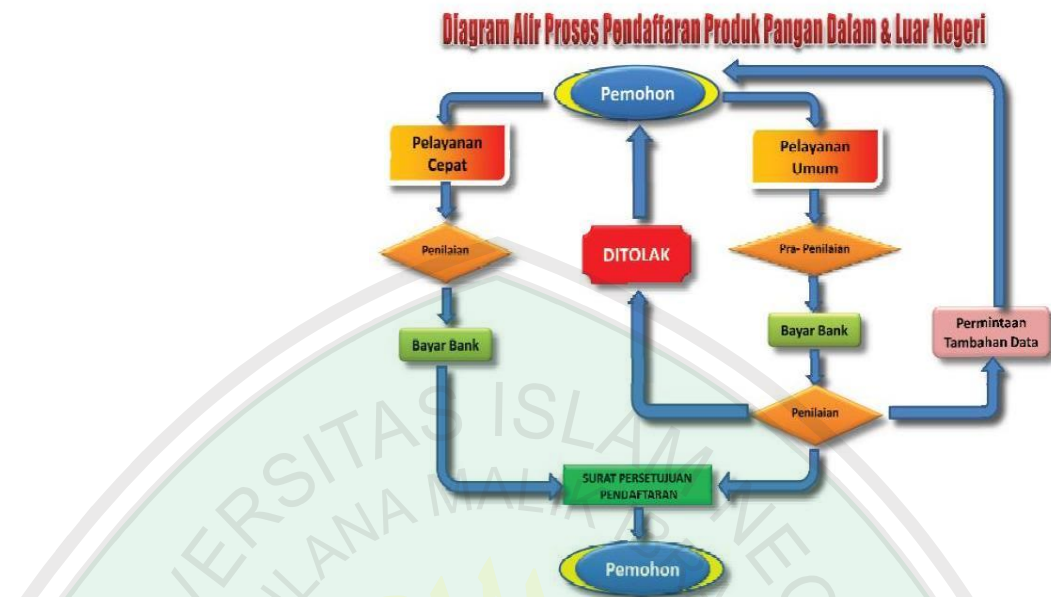


Figure 4.3: Food Products Registration Procedures  
in BPOM

The process of application for marketing authorization in the National Agency of Drug and Food can be explained as follows:<sup>6</sup>

a. Domestic Products

The minimum requirements for General registration MD products:

1. Copy of industrial license from the Ministry of Industry and Trade or Investment Coordinating Board (BKPM).
2. Results of laboratory analysis (original) associated with products such as nutrition (nutrition claims), a substance

<sup>6</sup> Brochure of BPOM Central Jakarta

which is claimed in accordance with the label, chemical testing, microbiological contamination and metal contamination. The validity of the results of the analysis is valid for 6 months from the date of testing.

3. The design of the label which similar with the product which will be circulated and product samples.
4. The application form has been filled completely.

b. Foreign Products (Import)

The minimum requirements for general registration of ML products:

1. The letter of appointment of the origin factory (the original letter is shown while the photocopy attached).
2. Health or free sale certificate from the competent authority in the country of origin (the original letter is shown while the photocopy attached).
3. The results of laboratory analysis (original) associated with product among other nutrients (nutrient claims), a substance which is claimed in accordance with the label, chemical testing, microbiological contamination and metal contamination. The validity of the results of the analysis is valid for 6 months from the date of testing.
4. The design of the label according to which will be circulated and product samples.

5. The application form which had been completely filled

Post-market surveillance related to food or drinks products that have gone through the application process and the product distribution license have been granted permission to distribute food or drinks that are produced in society. In this case the product included MD (Food In), ML (Food Affairs) and PIRT (Production Housewife). Since the products circulate in the community, it will be supervised continuously through inspections both for distribution and production facility. In the post-market, surveillance is carried out by taking a sample in the market, shops, cafes and supermarkets. Then the result is taken to be examined by a team of supervisors.

In the sampling inspection, there are some things which are checked by a team of BPOM, including:<sup>7</sup>

- a. Name of factory
- b. Factory address
- c. No Registration
- d. Production code
- e. Expiration date
- f. Composition
- g. Netto

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<sup>7</sup> SOP Supervision Of BPOM

- h. Weights Completed
- i. Language Warning
- j. Posts / Pictures
- k. Special Remarks

The duration of supervising by BPOM officers is conducted periodically, which the implementation could be once or more in each month. Although it does not have a fixed date to conduct surveillance, but BPOM always routinely conduct post-market surveillance. Supervision is carried out by three Sub-Directorate as well as the Sub-Directorate inspections of food, halal and Sub-Directorate Sub-Directorate of import and export. However, each Sub-Directorate also can conduct surveillance on their own field, but the team supervisor must conduct examination that should be carried out by other Sub-Directorate.

The surveillance can be conducted with the demand or request from the other party. To evaluate that supervision food products circulating in society would not be accomplished well if only by of BPOM, other agencies can take part to supervise the of BPOM if it finds violations committed by business actors in the field.

In addition to of BPOM, there are some relevant agencies with the task of oversight of the food supply in Indonesia, they are:

a. Department of Commerce / Office of Trade

Supervision by the Department of Commerce is related to licensing regulations as importers and distributors and regulatory policies in the field of import. For any surveillance mechanism conducted by the Department of Commerce is a periodic check on the field. The examination is conducted to determine the physical state of food products circulating in society, such as the examination registration code contained in the product packaging. This rule is regulated in chapter 4 KEPMENPERINDAG No. 634 / MPP / Kep / 9/2002 concerning the terms and procedures for supervision circulation of goods and or services in the market which is done toward standards of quality supervision, labeling, standard clauses,

b. Customs Supervision by the Directorate General of Customs and Excise related to the validity of documents imported food.

This agency is responsible for providing technical support supervision in customs office and including traffic supervision what goes in and out of Indonesian area. It also conduct technical officer of Customs and Excise Directorate General when checking imported

goods such as checking importer document examination, now valid Certificate Import (SKI) is released for final letter from BPOM.

c. Consumer Protection Agency Organization

YLKI role in exercising social control. Consumer Protection Agency Task Organization include:<sup>8</sup>

1. Disseminating information in order to raise awareness of the rights and obligations and caution consumers to consume goods and / or services
2. Providing advice to consumers who need it.
3. Collaborating with relevant agencies in efforts to achieve consumer protection.
4. Assisting consumers in the fight for their rights, including receiving complaints and complaints from consumers.
5. Conducting supervision with government and society towards the implementation of consumer protection.

## **2. Procedures and Standards Supervision of Food Products Labelled Halal**

In order to protect consumers against food products that do not meet security requirements and nutritional quality of food and the

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<sup>8</sup> Article 4 UUPK

inner peace, especially for Muslim, it is needed to conduct a necessary comprehensive oversight. Labeled food control activities is not only done by the National Agency of Drug and Food RI only, but supervision is also done by the Center / Center for Food and Drug Administration in all regions in Indonesia. In this case conducted by the Directorate of Food Inspection and Certification. Currently there are 31 Center / Center for Food and Drug Administration, including:<sup>9</sup>

1. BPOM in Banda Aceh
2. BPOM in Medan
3. BPOM in Pekanbaru
4. BPOM in Batam
5. BPOM in Padang
6. BPOM in Jambi
7. BPOM in Bengkulu
8. BPOM in Palembang
9. BPOM in Louth
10. BPOM in Bandar Lampung
11. BPOM in Serang
12. BPOM in Jakarta
13. BPOM in Bandung
14. BPOM in Semarang

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<sup>9</sup> BPOM RI “BPOM Daerah” <http://www.pom.go.id/webreg/> accessed on 25<sup>th</sup> January 2015



15. BPOM in Yogyakarta
16. BPOM in Surabaya
17. BPOM in Denpasar
18. BPOM in Mataram
19. BPOM in Kupang
20. BPOM in Pontianak
21. BPOM in Palangkaraya
22. BPOM in Samarinda
23. BPOM in Banjarmasin
24. BPOM in Manado
25. BPOM in Gorontalo
26. BPOM in Palu
27. BPOM in Makassar
28. BPOM in Kendari
29. BPOM in Ambon
30. BPOM in Manokwari
31. BPOM in Jayapura

The Committee of Medicine and food supervisory center has the same task as medicine and food supervisory institution. It was formed as a form of autonomy to facilitate supervision of food security in the region in Indonesia.

In the supervision of food halal-labeled products, halal Sub-directorate is authorized to handle it. Sub-directorate is one of three existing Sub-Directorate Agency for Drugs and Food. Special to BPOM RI is located in Central Jakarta, consists of 3 main staff and 2 staff aides, including:

|                             |   |
|-----------------------------|---|
| Chairperson Sub-Directorate | : Meutia  |
| Staff                       | : 1. Emma Erlia<br>2. Mohammad Yahya                  |
| Staff Assistant             | : 1. Reni Erlina<br>2. Reni Chandra<br>3. Agus Arifin |

Basically, BPOM does not supervise the Halal food products themselves, but in cooperation with several other agencies. It is based on the The Charter of Cooperation Ministry of Health, the Ministry of Religion and the Indonesian Scholar Council in 1996 on the Implementation of the Food Labeling Halal. Based on the cooperation charter, duties and authority of each agency as follows:<sup>10</sup>

a. Department of Religion

The institution is tasked to provide guidance to the management company and the sharia Muslim employees.

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<sup>10</sup> The Charter of Cooperation Ministry of Health, the Ministry of Religion and the Indonesian Ulema Council in 1996 on the Implementation of the Food Labeling Halal

b. National Agency of Drug and Food Control

The institution is tasked to give the approval halal labeling on the packaging of food products. The institute is also in charge of examining the application of CPMB (How Good Food Production). BPOM also tasked to conduct supervision on food products labeled as halal.

c. LP POM MUI

In accordance with the vision of LP POM MUI to be a reliable certification body and the world to provide peace for Muslims it is the duty of LP POM MUI to conduct an examination of the materials used, the production for processes and the application of halal assurance system. Thus, MUI will provide Halal certificate after passing the examination by the LP POM to a food product.

It is not slightly different from BPOM supervision of the general food products and food products labeled as halal. This is because that the halal label is part of the label which become the object of supervision of BPOM. It is based on Article 10 of Government Regulation No. 69 of 1999 on Food Labeling and Advertisement. In supervision food products labeled as halal, BPOM also monitors the pre-market and post-market. This is done to maintain food security include halal products in packaging that is circulating in society.

Pre-Market Supervision in the form of food products labeled Halal is in the form of Halal certification and the approval of the inclusion of halal logo. Before it is labeled halal on the packaging, the product must obtain halal certificate issued by the MUI with the examination conducted by the LP POM.

1. Any manufacturer who apply for Halal Certification for its products, must fill out Form provided. The accreditation form contains information about the company's data, the type and name of the product and the materials used
2. Form was completed, along with the supporting documents which are returned to the secretariat of LP POM MUI for completeness checked, and if not adequately, company must complete based on the regulation.
3. LPPOM MUI will inform companies about the audit schedule. Team LPPOM MUI Auditor will conduct inspection / audit to the location of the manufacturer and at the time of the audit, the company must be in a state to produce products that are certified.
4. The results of inspection / audits and laboratory results (if necessary) evaluated in LPPOM MUI Auditor Meeting. The audit results are not yet meet the requirements notified to the company through the audit memorandum. If it is met the requirements, the auditor will make the audit report submitted

to the Assembly for the MUI Fatwa Commission to get halal status.

5. Audit report submitted by the Board LPPOM MUI Fatwa Commission Trial Mui at a predetermined time
6. Session MUI Fatwa Commission may reject the audit report if it does not meet all the requirements that have been determined, and the results will be communicated to the applicant producers of halal certification.
  - a. Halal Certificate issued by the Indonesian Ulama Council as defined by the halal status MUI Fatwa Commission.
7. Halal Certificate valid for two (2) years from the date of the fatwa.
8. Three months before the validity period of the Halal Certificate expires, the manufacturer must apply for an extension of the halal certificate in accordance with established rules LPPOM MUI.

The entire procedure can be performed in the LP POM in their respective areas. Currently LP POM already established in 33 regions in Indonesia including:<sup>11</sup>

1. LP POM MUI West Java
2. LP POM MUI Lampung
3. LP POM MUI Jakarta

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<sup>11</sup> LP POM MUI, "LP POM MUI Seluruh Indonesia" [http://www.halalmui.org/mui14/index.php/main/go\\_to\\_section/16/42/page/1](http://www.halalmui.org/mui14/index.php/main/go_to_section/16/42/page/1), accessed on 27<sup>th</sup> January 2015

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4. LP POM MUI Riau Islands
  5. LP POM MUI Yogyakarta
  6. LP POM MUI Southeast Sulawesi
  7. LP POM MUI Central Sulawesi
  8. LP POM MUI West Sumatra
  9. LP POM North MUI Sulawesi
  10. LP POM MUI Aceh
  11. LP POM MUI West Papua
  12. LP POM MUI Central Java
  13. LP POM MUI North Maluku
  14. LP POM MUI NTT
  15. LP POM MUI NTB
  16. LP POM South Sulawesi
  17. LP POM MUI Banten
  18. LP POM MUI South Kalimantan
  19. LP POM MUI East Java
  20. LP POM MUI Gorontalo
  21. LP POM MUI Jambi
  22. LP POM MUI Bali
  23. LP POM MUI Central Kalimantan
  24. LP POM MUI Southeast Sulawesi
  25. LP POM MUI North Sumatra
  26. LP POM MUI Maluku

27. LP POM MUI Pacific Islands
28. LP POM MUI East Kalimantan
29. LP POM MUI West Kalimantan
30. LP POM MUI Papua
31. LP POM MUI Bengkulu
32. LP POM MUI South Sumatera
33. LP POM MUI West Sulawesi

This time, one of the MUI effort is to provide service of the society to optimize the technology.<sup>12</sup> In October 2014 ago, LP POM MUI signed a MoU (Memorandum of Understanding) with Telkom Group in the field of technology utilization to improve service of halal certification. Through this cooperation LP POM designing certification by online registration payment points of PT Mandiri Pojok Celebes.

After a thorough examination in the LP POM, the product will get halal certification from MUI, in the condition of fulfilling the terms. If the product does not fulfill the terms and conditions of the LP POM, it will be returned to the company concerned to improve the products manufactured. For a product which get halal certification cannot directly put halal logo on the packaging, the product must obtain approval from the BPOM in advance.

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<sup>12</sup> Halal Journal November-December "Mengoptimalkan Peran IT", p. 2

Approval of halal labeling will only be given to products which certified halal by the MUI only. It is based on Article 10 of the Decree of the Minister of Health Decree No. 924 / Menkes / SK / VII / 1996 on the Amendment to the Decree of the Minister of Health No. 82 Menkes / SK / I / 1996 about Inclusion of Posts Halal on Food Labels.

Approval halal labeling is given by:

- a. Having Halal Product Certificate issued by the MUI<sup>13</sup>
- b. The products have been listed in BPOM as (MD / ML) or (P-IRT)
- c. The company meets the requirements of the way of production of processed good food.
- d. Report on the implementation of CAPA (Corrective and Preventative) audit results.

After getting the approval from BPOM, the company permitted to put a halal label on the packaging. The license is valid for 2 years in accordance with halal certificate. Three months before it expired, the manufacturer must apply for an extension of halal labeling on the packaging.<sup>14</sup> And for producers who did not make any request for extension of halal labeling, it cannot be labeled halal on the packaging.

Meanwhile, for the supervision of Halal food products, it does not have different system from the post-market supervision on food products in general, by sampling in the market, shops, cafes and

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<sup>13</sup> Appendix 3a and 3b

<sup>14</sup> Brosur Penerbitan Surat Persetujuan Pencantuman Label Hlal di BPOM



supermarkets. Then sampling is taken to be examined by a team of supervisors. This is because there is supervision of the products that using halal label on the packaging that circulating in society in the supervision activities of the food in general.

Post-market supervision is conducted by the National Agency of Drug and Food conducted on the means of production and distribution facilities. The production facility is the company that manufactures food products and distribute these products in society. While the definition of distribution is a distribution of food products or places where food products in circulation and can be consumed by people such as shops, markets, supermarkets and so forth.

### **3. The Supervision of BPOM on The Distribution Facilities**

Distribution Facility is a facility that mediates producers and consumers. It is to facilitate people to consume the food produced by the manufacturer. There are so many forms of distribution facilities in the community, start from small to large as markets, supermarkets and others. Circulation of food products requires more community control of the government so that people can consume a good meal. The supervision by BPOM is conducted by sudden inspection / checks suddenly in places that became the location of the circulation of food products. The supervision activities is conducted by BPOM every month with no fixed schedule / flexible. The place and time are not

fixed, to obtain accurate information. Supervision is a form of post-market evaluation, the technical of taking the product sampling which is in the distribution facilities that the security products are to be checked.

Product safety checks are carried out by examining the sampling that has been taken from the means of distribution. The few things that examined are:

- a. Finding a product name
- b. Packaging quantities
- c. Damage
- d. Label
- e. No Registration
- f. Name of Manufacturer / Importer
- g. Address of Manufacturer / Importer
- h. Name and address food sampling

After examination, the team supervisor will report the results of monitoring conducted in distribution facilities in writing to the BPOM. This is to determine the follow-up of the implementation of oversight find finding food products in the means of distribution.<sup>15</sup>

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<sup>15</sup> Appendix 10

#### 4. The Supervision of BPOM To Production Facility

Facility of production is the origin of a food products which are made. In food production, activities are conducted by companies or individuals also requiring supervision of the government. This was done to keep the supervision of food production companies and to maintain the quality of products produced food security.

In the supervision of the means of production, BPOM works with LP POM MUI and Religious Affairs. In the provision of Halal certificate from MUI and Halal Labeling Approval Letter published by BPOM, this emerge an obligation to the company to provide internal audit report every 6 (six) months from the issuance of the certificate. This was done to control the company in order to continue applying halal assurance system for halal applicable certificate.

The Company is also obligated to accept inspections of BPOM team or LP POM to check the production activities in the company which has been certified. In this case, the Internal Auditor Halal (AHI) companies is responsible for halal products and to maintain the safety, quality and nutrition.

In the supervision of the production facility, some things checked are:

- a. The environment Products
- b. the production space

- c. The completeness production space
- d. The Storage
- e. The production of equipment
- f. The water supply
- g. Tool washing / cleaning
- h. facilities Hgienis
- i. Employee Health
- j. Employee hygiene
- k. Food labels
- l. management supervision
- m. Recording and documentation
- n. Training of employees

After examination at a production facility, the team will report the results of the investigation to the BPOM. Then BPOM will provide the inspection report to the institutions authorized to follow up on the findings obtained by the supervisory team. For findings related to halal product, report will be submitted to the LP POM, MUI. But, for the finding relating to coaching of Syariah then the report will be submitted to the Department of Religion. This is done to determine the follow-up activities to the competent institutions

**b. The Effectiveness of Supervision by Medicine and Food Supervisory Institution (BPOM) in Central Jakarta on The Halal Labe Food Products**

Measuring the effectiveness of the organization is not a very simple, because effectiveness can be reviewed from various viewpoints, and depend on who is judging and interpreting them. The level of effectiveness can also be measured by comparing the predetermined plan with tangible results that have been realized. However, if the business or the results of the work do not act right, causing the target goal is not achieved or expected, then it is said to be ineffective.

In this study, the authors measure the effectiveness of the supervision by BPOM by comparing the results of research in the field with the regulations relating to food products labeled as halal. The data have been obtained by the author through observation, and interviews will be presented clearly. After that, the author will compare the results of the exposure to the legal basis of food products labeled as halal. This is done to facilitate the author's conclusion on the first formulation of the problem.

Basically there are no specific rules governing the supervision of kosher products to date. Although The Regulation of Halal Warranty was legalized d by Parliament on 25 September, but it is not applicable

yet.<sup>16</sup> Therefore, the provisions regarding the supervision of halal products still follow the rules of supervision on food labels. This because halal logo is part of the label.

In measuring the effectiveness of supervision of food products labeled as halal, there are some rules that will be used as a measure of the effectiveness of supervision BPOM to label food products. Among them are Law No. 8 of 2012 on Food, Charter Cooperation Ministry of Health, Ministry of Religious Affairs and the Indonesian Ulema Council in 1996 on the Implementation of Halal Labeling on Food, Law No. 8 of 1999 on Consumer Protection, and Government Regulation No. 58 2001 about the Development and Control of Consumer Protection.

For more details, here is a measurement of the effectiveness of supervision by BPOM RI halal labels that have been studied with some of the rules that the legal basis labeled halal product assurance.

#### **1. Analysis Based Undang-Undang No. 8 of 2012 on Food**

In Chapter IX of Article 108 of the Oversight mentioned some rules about monitoring should be done by BPOM, including:

- (1) In carrying out the Implementation of Food, Government is authorized to supervise.
- (2) Supervision as meant in paragraph (1) shall apply to fulfillment:
  - a. Availability and / or sufficiency of Staple Food safe, nutritious, and affordable by the community; and

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<sup>16</sup> Appendix 12

- b. Requirements for Food Safety, Food Quality and Nutrition and Food labeling requirements and advertising.
- (3) Supervision of:
  - a. Availability and / or adequacy of Staple Food referred to in paragraph (2) letter a is implemented by government agencies that administer the affairs of government in the field of Food;
  - b. Requirements for Food Safety, Food Quality and Nutrition, as well as labeling and advertising requirements of Food referred to in paragraph (2) b, for the Processed Food, implemented by government agencies that carry out government duties in the field of food and drug supervision; and
  - c. Requirements for Food Safety, Food Quality and Nutrition, as well as labeling and advertising requirements of Food referred to in paragraph (2) b, for the Fresh Food, implemented by government agencies that administer the affairs of government in the field of Food.
- (4) The Government conducting program monitoring, evaluation and periodic monitoring of the activity or process of production, storage, transport, and / or by the Food Distribution Food business communities.

In this article explained that each clan food circulating in society should not be misleading. Labeling requirements listed in the labeling of food products must also fulfill the regulatory procedures that have been established by the Government of Indonesia. This should be done by the BPOM to provide assurance to consumers toward food products circulating in society. However, the number of violations found in businesses in the

community, especially in terms of food products labeled as halal.<sup>17</sup>

There are still many businesses that include labels that do not fulfill the terms.<sup>18</sup>

Previously described forms of violations found by BPOM.<sup>19</sup> Mentioned that BPOM still find businesses that labeled halal but does not meet the requirements. For example, businesses that do not have a halal certificate issued by the MUI, businesses that have not been approved to label halal food products that distributed in society. Such violations prove that supervision by BPOM still not effective.

## **2. Analysis Based on Law No. 8 of 1999 on Consumer Protection**

Consumer protection is said to be effective if consumers' rights are met. In Article 4 of Law No. 8 of 1999 on Consumer Protection mentioned consumer rights are:

- a. Right to comfort, security and safety in the consumption of goods and or services
- b. The right to choose the goods and or services as well as goods and or services in accordance by exchange rate and conditions and warranties of goods or services
- c. The right to get correct information, clear and honest about the condition and guarantee of goods and or services
- d. The right to be heard of opinions and complaints over the goods and / or services used
- e. The right to advocacy, protection, and mediation in consumer protection is worth.
- f. The right to receive guidance and consumer education
- g. The right to be treated or serviced properly and honestly and not discriminatory

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<sup>17</sup> Appendix 4

<sup>18</sup> Mohammad Yahya, Interview (Central Jakarta, 13<sup>th</sup> January 2015)

<sup>19</sup> Appendix 9



- h. The right to obtain a dispensation, compensation and / or replacement if the goods and / or services received which are not in accordance with the agreement or not as it should be
- i. The rights which is set in the provisions of other laws and regulations.

This regulation is issued to protect consumers from bad actions conducted by businesses. In reality, with still many products labeled halal food but do not meet the legal requirements applied in Indonesia, so the consumer protection aspects related to the right of consumers to obtain comfort, security and safety to consume goods or services that have not been fulfilled. The right of consumers to obtain a clear and honest information about the condition and guarantee of goods and or jacket also have not fulfilled. This is because BPOM is often late in providing clarification regarding the truth of the rumors circulating in the community. For example in the case of Ajinomoto which became the main news in the year 2010. POM also is often late in conducting the examination or assessment of halal food products.

BPOM should be more concerned about the community, for example by submitting a progress reports with a clear and rapid response, or publishing any results of research conducted by BPOM. Public warning should be detail about finding halal food products labeled false. BPOM should also give more appeal to the public to avoid eating foods that do not meet the requirements of good food.

Hopefully the people get the knowledge that is clearly associated with the development of food products labeled as halal.

Under this regulation, supervision BPOM has not been effective, under the evidence of non-fulfillment of the rights of the Muslim community, especially as consumers.

### **3. Analysis Based on Government Regulation No. 58 Year 2001 About the Development and Control of Consumer Protection**

Chapter III will explain about the supervision rules which consists of 5 chapters. Specifically related to the supervision of BPOM is explained chapter 7 and 8. In Chapter 7 explained that the monitoring of the implementation of consumer protection can be done by a third party, namely:

- a. Government
- b. Society
- c. Consumer Protection Agency Organization

Further supervision by the government, in chapter 8 mentioned several provisions. The contents of this article 8 are:

- (1) Supervision by the government done to businesses in meeting the quality standards of production of goods and / or services, labeling and standard clauses, as well as after-sales service of goods and / or services

(2) Supervision referred to in paragraph (1) shall be conducted in the production process, promotion, advertising, and sales of goods and / or services.

Under this regulation, supervision by BPOM should be done in the production process, offers, promotions, advertising and sale of goods and / or services. However, in monitoring the implementation BPOM on 2 facilities,<sup>20</sup> which are the means of production and distribution facilities. The definition of production is the company that manufactures food products labeled as halal. While distribution means distributing products in the community are like shops, markets, supermarkets and others.<sup>21</sup>

BPOM has not made the maximum supervision of the advertising agency, this is due to the limited number of staff so that BPOM focused on two of these facilities. This is the reason for the ineffectiveness of supervision by BPOM for Halal food products.

#### **4. Analysis based SOP Monitoring BPOM RI**

Under the terms set by the BPOM supervision, follow-up monitoring to is as follows:

1. Under the terms set by the BPOM supervision, follow-up monitoring is as follows Directorate of Inspection and

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<sup>20</sup> Reni Chandra, Interview (Central Jakarta, 13<sup>th</sup> January 2915)

<sup>21</sup> Agus Arifin, , Interview (Central Jakarta, 13<sup>th</sup> January 2915)

Certification of Food / Great Hall POM follow up according to the type of violation. Follow-up products MD / ML is conducted by the Directorate of Inspection and Certification of Food and follow-up of products PIRT conducted by Center / POM

2. Inspection and Certification of Food Directorate issued the first warning to the manufacturer / importer with a copy to the Center / POM reporter and Center / POM in locations manufacturers.
3. If the first ignore the warning letter, the Director of Food Inspection and Certification issued a second warning that contains a command to execute a command on the first warning letter within 1 (one) month after the second warning letter is received.
4. If a second warning letter is ignored, then there will be a stern warning letter containing a command to execute a command on the second warning letter within 1 (one) month after a stern warning letter received. If the testing of the product concerned subsequently obtained similar findings, the Director of Inspection and Food Certification publish a stern warning that includes:
5. If the stern warning letters are ignored or rediscovered in the same offense, the Directorate of Inspection and Certification of Food publish the revocation of approval of food products to the Directorate of Food Safety Assessment.

6. If a stern warning letters are ignored or rediscovered the same offense, offense history inputs / importer concerned submitted to the Civil Servant (investigators) of BPOM RI to get the act of pro justitia.

In its provisions, BPOM should send warning letters to companies that perform violations. However, on the packaging of food products that do not include the complete address of the company, it would block BPOM supervision. With such vague address, BPOM cannot send a letter of reprimand, so the company cannot be controlled maximally.

If a company does not get a warning letter, then it is threatened as continuously violation. So that food safety for the society cannot be guaranteed. BPOM effort to find the address of the company in violation should be more active. This is to provide assurance to the public. However, until now it still become obstacles of BPOM in conducting surveillance on food products labeled as halal. So it can be concluded that the surveillance conducted BPOM has not been yet effective

Observing from BPOM supervision to the implementation of the monitoring task conducted by BPOM for Halal food products in Indonesia, which has been analyzed by the rules mentioned above, it can be said that the implementation is less effective. This can be seen

by the many obstacles faced by BPOM in conducting surveillance. In addition, the most crucial thing is about the fulfillment of the right of consumers to obtain security against products using halal label. Whereas the purpose of the supervision of Halal food products is to provide protection to consumers, especially Muslim consumers

## **2. The Obstruction to Supervise the Circulation of Halal Food Products By BPOM**

### **a. The Forms of Businessmen Violations In The Halal Food Product Label**

The main goal is to keep doing surveillance of halal food security in the community to stop the violations or fraud committed by businesses. It cannot be denied that the offense can be committed by businessmen to win the competition in the product market. To that end, the government has to protect consumers from that bad behavior with consumer protection laws. The regulation described obligation to do by the business include:<sup>22</sup>

- a. Goodwill
- b. Providing correct information, clear and honest about the condition and guarantee the goods and / or services as well as giving explanation use, repairing, and maintenance.
- c. Treating or serving customers properly and honestly and not discriminatory.

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<sup>22</sup> Article 7 UUPK

- d. Guarantee the quality of the goods and / or services produced and / or traded under the provisions of the quality standards of goods and / or services that apply
- e. Giving the opportunity to consumers to test and / or try the goods and / or services as well as provide guarantees and / or service warranties on goods manufactured and / or traded.
- f. Giving compensation, payback the loss and / or replacement or loss due to the use, consumption and utilization of goods and / or traded services.
- g. Giving compensation, payback the loss and / or replacement if the goods and / or services received or used does not comply with the agreement.

The regulation aims to protect consumers, but do not leave the consumer's obligation to fulfill their obligations before demanding the rights. This Regulation is made with are basically 6 things:<sup>23</sup>

- a. Utility Function
- b. principle of Justice
- c. principle of balance
- d. Security Principles
- e. Consumer Safety Principles
- f. Principle of Legal Certainty

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<sup>23</sup> Article 2 UUPK

With these regulations, businesses are expected to have a good intention in business, especially in the trade of food products which are produced. This is because businessmen are fully responsible for the products they produce. In the principle of absolute liability (Strict Product Liability), the manufacturer is responsible for the losses suffered by consumers for the use of products that they sell. Therefore, businesses should be careful in doing the marketing of products in the community.

The existence of the principal responsibility is to keep the businessmen not to do things that can harm the public as consumers. In chapter 8 BFL also mentioned some of the prohibited acts committed by businesses, including:

- a. Prohibition to produce and / or trade of goods and / or services:
  1. It does not meet the standards that have been determined by regulations in Indonesia.
  2. Listing the net weight, net, and matters relating to the label on the packaging
  3. The size, proportions, weights and number in the count does not match
  4. What is stated in the label does not comply with the conditions, warranties, and product features
  5. Description or label does not match with the quality, grade, composition, processing, or actual use.



6. The promises stated in the labeling, advertising or sales promotion are not fulfilled
  7. The expired date is not specified
  8. Do not follow the provisions of the production of halal as halal statements included in the label.
  9. Do not put a label
  10. Omitting information or instructions for use
- b. Businessmen are prohibited to trade any damaged goods, defective or used and polluted without providing complete and correct information.
  - c. Businessmen are prohibited to sell any pharmaceutical equipment that damaged and contaminated without providing complete and correct information.

One of the prohibited acts for businesses is not to follow the provisions of halal production as written in the label. It's important to keep an eye on food products using halal label, this is done to maintain the confidence of halal label issued by the MUI. In addition, the Muslim community must also be protected from unlawful food circulating in Indonesian. Therefore, the government should make efforts to accomplish that purpose.

Based on the data obtained from BPOM RI in central Jakarta in 2014, there were still a lot of violations of the "halal"

food products circulating in Indonesian. The forms of the offense as follows:

a. The Validity of Certificate is Expired

Under the provisions of the halal certificate published by the MUI, the validity period of the certificate is 2 years after the certificate is assigned. Then, any factories are required to submit a certificate extension. It is based on the decree of the Minister of Health No. 924 / Menkes / SK / VIII / 1996 on the Amendment to the Decree of the Minister of Health No. 82 / MenKes / SK / 1996 on the Inclusion Posts Halal food. It explains that the extension must be made three months before the deadline for the completion certificate. The procedure for extension of halal certificates as follows:

1. Manufacturers must register and fill the form provided
2. The form completion is adjusted with the latest developments of products.
3. The manufacturer is obligated to complete the list of raw materials, matrix materials and specifications of products versus halal certificate and latest process water chart
4. The inspection procedure is performed as new product registration procedures
5. The company must already have a manual Halal Assurance System within certification rules and procedures above.

b. Do not have a MUI Halal Certificate

In the provision of halal labeling, manufacturers must have a halal certificate published by the MUI from the examination conducted by the BPOM. Company which put halal label but do not have a halal certificate is accused of predefined rules.

c. Labeling Halal Approval Yet

In its provisions, the labeling of halal food packaging can be done after getting approval from the Ministry of Health, the authority of the National Agency of Drug and Food. BPOM will provide an approval if the food product has a halal certificate published by the MUI. It is stipulated in Article 6 the Minister of Health Decree No. 82 / MenKes / SK / 1996 on the Inclusion Posts Halal Food

d. Putting the Wrong Halal Logo

Putting any halal mark on the product is easy. With the sophistication of the Internet, manufacturers can copy halal logos available on the internet. Therefore, many false logos which do not obey the rules are found. The halal logos that are found in the packaging of food products in the society based on image below.



Figure 4.4 : Circulating Halal logo in Society

In the government rule, in Article 4 of Decree of the Minister of Health No. 82 / MenKes / SK / 1996 about the Inclusion Posts of Halal food, the word “Halal” is the writing that was written in Arabic and Latin alphabets in green with a size of at least medium corps unvers 12 coming with a certificate number.

For importers who import food products with halal label on the packaging must be responsible for the information of the product to the appropriate authorities. It is stipulated in Government Regulation No. 69 of 1999 on Food Label and Advertisement. In this case, what is meant by the authorities is the LP POM MUI, because BPOM will only give halal approval labeling on the packaging of food products based on halal certificate published by the MUI. This is already provided for in Article 11 Health Ministerial Decree No. 924 / Menkes / SK / VIII

/ 1996 on the Amendment to the Decree of the Minister of Health  
No. 82 / MenKes / SK / 1996 on the Inclusion Posts Halal Food.

#### **b. BPOM Actions For Violations**

Each year BPOM always finds violations committed by company manufacturing food. Forms of violations mentioned above is a violation of some rules that exist in Indonesia, including:

##### **1. Act No. 18 year 2012 on Food**

In Article 101 paragraph (1) states that every person who declared in the label that traded food is halal according to the requirements in its responsibility. Described in the most recent Food Act, any person who claimed in advertisements that traded food is halal in accordance with the requirements shall be liable for the truth. Company that violate the rule, in article 106 described will get administrative sanctions, such as:

- a. Fine
- b. Temporary cessation of activities, production, and / or circulation
- c. Pulling food from the market by the manufacturer
- d. compensation
- e. revocation of business permission

##### **2. Act No. 8 year 1999 on Consumer Protection**

In Article 8, paragraph (1) letter h mentioned that companies are prohibited from producing and / or trading of goods and / or services:

h: do not follow the rules of halal production, halal statement as set out in the label.

3. Government Regulation No. 69 of 1999 on Food Label and Advertisement.

In Article 5 paragraph (1) explains that the information or statements on the food labels must be true and not misleading, both about writing, drawing, or any other form.

4. Decree of the Minister of Health No. 924 / Menkes / SK / VIII / 1996 on the Amendment to the Decree of the Minister of Health No. 82 / MenKes / SK / 1996 on the Inclusion Posts Halal Food
5. Decree of the Head of BPOM No. HK.00.05.23.1.23.3.3516 2009 on the Marketing Authorization of Medicinal Products, Traditional Medicines, Cosmetics, Food Supplements Originating, Containing of Materials and or Containing Alcohol. In Article 24, paragraph (1) The principal can cancel registration of approval if the food product supply does not accord with the data that was approved at the time of obtaining registration approval letter.

One way to reduce the number of offenders who commit violations related halal label, BPOM should take legal action against offenders. The actions can be describe as follows:

1. Directorate of Inspection and Certification of Food / Great Hall  
POM follows up the infraction according to the type of violation. This Follow-up products MD / ML is conducted by

the Directorate of Inspection and Certification of Food and follow-up of products of PIRT conducted by Center / POM

2. Inspection and Certification of Food Directorate published the first warning to the manufacturer / importer with a copy to the Center / POM reporter and Center / POM in locations manufacturer (if the manufacturer is outside the area catchment Center / POM reporter) that contains order to:
  - a. Especially for marking halal: ordering manufacturers to change the label by removing the logo / word halal.
3. If the first warning letter is ignored, the Director of Food Inspection and Certification publish a second warning that contains a command to execute a command on the first warning letter within 1 (one) month after the second warning letter received. If in the testing of the product in question subsequently obtained similar findings, then Director of Food Inspection and Certification published a second warning which includes:
  - a. The command as the first warning letter without warning letter points during 1 (one) month after the second warning letter received
  - b. Recalling that the means of production / importer has made a statement to refrain from similar violations and get a warning (a statement and a warning letter attached)

4. If a second warning letter is ignored, then a stern warning letter containing a command to execute a command on the second warning letter within 1 (one) month after a stern warning letter received is published. If the testing of the product in question subsequently obtained similar findings then Director of Food Inspection and Certification published a stern warning that includes:
  - a. command as in the second warning letter for 1 (one) month from the stern warning letter received
  - b. Reecalling the company that the means of production / importer has made a statement to refrain from similar violations and get two (2) times warning (a statement and a warning letter attached)
5. If a stern warning letters is ignored or rediscovered the same violation, the Directorate of Inspection and Certification of Food published revocation of approval of food products to the Directorate of Food Safety Assessment.

If a stern warning letters are ignored or rediscovered for the same offense, offense history inputs / importer concerned submitted to the Civil Servant (investigators) BPOM RI to get the act of pro justitia.



**c. The Obstruction To Supervise The Circulation Of Halal Label Food Products By BPOM**

Various attempts has been made to improve the monitoring carried by BPOM to form a partnership with several institutions, since the approval of the Charter of Cooperation Ministry of Health, Ministry of Religious Affairs and the Indonesian Scholar Council in 1996 on the Implementation of the Food Labeling Halal. Ideally, monitoring should be carried out by three institutions as well as that of Religious Affairs, Institute for Food Drug and Cosmetic, and the National Agency of Drug and Food. Supervision by an arbitrary division will create maximum supervision.

The cooperation is conducted to provide assurance to the public, especially for Muslim. In the cooperation charter of LP POM MUI duty to conduct an examination of halal materials used, production processes and the application of halal assurance system. Thus, MUI will provide Halal certificate after passing the examination by the LP POM.

Meanwhile, BPOM has a duty to give halal labeling on the packaging of food products. The institution is also in charge of examining the application of CPMB (The Way Good Food Production). In addition, Religious Affairs is in charge to provide guidance to the management company and the sharia Muslim employees. However, based on a survey conducted in BPOM RI, up to know the supervision is carried out by their own institutions. This is due to the schedule in conducting surveillance.

With the non-performance to the maximum cooperation, BPOM should conduct surveillance by optimizing its performance. However, staff employed by BPOM RI is still very limited. With a limited number of staff, it is very difficult for BPOM to supervise effectively.

Fundamentally, in the Act No. 8 year 1999 on Consumer Protection explained that supervision is not only conducted by the government, but also can be done by the the public it. However, public awareness for conducting the inspection of food products consumed daily is still low. So that people cannot make a complaint or reporting to the government related to the findings of violations of fake halal labeling.

From the explanation above it can be concluded that the constraints faced by BPOM in the supervision of food products labeled as halal in Indonesia are internal and external. Internal constraints include:

- a. The small number of BPOM staff who are in the center or even in the province make the task of monitoring performance BPOM not optimal. BPOM RI has 3 Sub-Directorate, specifically for halal Sub-Directorate staff have the 3 main and 3 additional staff. Very limited number of staff will affect the execution tasks of BPOM to oversee food products labeled as halal. With a very wide working area, staff, amounting to a total of 6 people this makes the control ineffective.
- b. The separation and labeling certification institution inhibit the implementation of supervision. LP POM MUI is a non-governmental

organization that has the authority to give halal certificate. While BPOM is the government agency that has the authority to give consent halal labeling. Therefore, the separation of the two close institution inhibits the surveillance.

- c. BPOM supervision is conducted periodically and random lead to false halal food products labeled free from supervision. Surveillance system which periodically and randomly will certainly affect the scope of controlled food products. Therefore, it affects the production of which is not affordable by any supervision by BPOM. As it cannot be treat as a certainty in the discovery of food products in one place, it also can represent the products findings in the entire place. Therefore, it is necessary to strengthen the pre-market surveillance conducted by BPOM.
- d. The cooperation of these three institutions are not maximal. In Cooperation Charter Ministry of Health, Ministry of Religious Affairs and the Indonesian Scholar Council in 1996 on the Implementation of the Food Labeling Halal, it is clearly stated to give tasks to each agency to oversee food products. However, such cooperation is not running optimally due to differences in place and the other tasks of the agency. So time to conduct deliberations was not optimal.

While the internal constraints in BPOM surveillance are:

- a. Addresses that are not clear written. One of the violations committed by businesses is not writing the complete address of the company. As the picture below.



Figure 4.5 : The Wrong Packaging

In the example above, it stated that the company is located in Jakarta. The impact of incomplete address of some company is that it will be an obstacle BPOM to follow up on budgeting done by the company such as sending a letter of warning.

- b. There is still a lack of knowledge from companies to register their products on the BPOM. In Indonesia so many UKM (Small and Medium Enterprises) that are able to compete independently for producing their own products. SMEs are often started by entrepreneurs who have less than perfect in education. So that they do not know the procedures in accordance with the rules to legally get halal label in the community.

- c. The awareness of the businessmen for acting in good faith is still low. Because of a competitive market situation, businessmen are encouraged to take a lot of advantages. It happens to meet the needs of businesses themselves.
- d. The law awareness of consumer to make a complaint or report to the government or non-governmental consumer protection agencies related to the fake halal label on the packaging of food products consumed by society is still low.

