

Client Alert

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For More Information:

Cahyani Endahayu
Partner
+62 21 2960 8515
cahyani.endahayu
@bakermckenzie.com

Reagen Mokodompit
Associate
+62 21 2960 8530
reagen.mokodompit
@bakermckenzie.com

Food and Drugs Supervisory Agency Unifies Processed Food Label Provisions

Background

In October 2018, the Food and Drugs Supervisory Agency (*Badan Pengawas Obat dan Makanan* or "**BPOM**") enacted Regulation No. 31 of 2018 on Processed Food Labels ("**BPOM Regulation 31**"). Before the issuance of BPOM Regulation 31, labeling rules on processed foods were governed under the following BPOM regulations:

- (a) BPOM Regulation No. 27 of 2017 on Processed Food Registration
- (b) BPOM Regulation No. 23 of 2016 on Labeling and Advertising of Information for Non-Additive Food
- (c) BPOM Regulation HK.03.1.23.06.10.5166 of 2016 on Origins of Certain Material, Alcohol Content, and Expiration of Drug Labels, Traditional Drugs, Food Supplements and Food Information

BPOM Regulation 31 revokes the aforementioned regulations. With the issuance of BPOM Regulation 31, most provisions on processed food labeling are merged into one unified regulation.

Content and implications

BPOM Regulation 31 requires business actors to provide complete and accurate information on the label of their processed food products. The regulation contains very technical descriptions of what information business actors must put on the labels of their processed food products and how they must be written, e.g., font, size and format.

Generally, BPOM Regulation 31 can be broken down into the following key matters:

- (a) general provisions and requirements on labeling for processed foods (e.g., definition, applicability of the requirement, language requirement)
- (b) information that must be included on the label
- (c) prohibited actions
- (d) sanctions



With the issuance of BPOM Regulation 31, all business actors must check whether the labels of their processed food products comply with BPOM Regulation 31. Business actors must adjust the labels to be in compliance with BPOM Regulation 31 within 30 months after BPOM Regulation 31 was enacted.

Notable Provisions in BPOM Regulation 31

1. Definition

BPOM Regulation 31 defines 'food' and 'processed food' as follows:

- (a) 'Food' means anything that originates from biological sources of agriculture, plantation, forestry, fishery, husbandry, sea and water products, whether processed or not, designated to be eaten and drunk for human consumption, including food additive materials, food ingredients and other materials used in the process of preparation, processing and/or the making of food beverages.
- (b) 'Processed food' means any food and beverages that result from a process, using a certain way or method, with or without food additives.

BPOM Regulation 31 defines 'processed food labels' as annotations on processed food in the form of: picture, writing, combination of picture and writing, or in any other forms, that are included on the processed food, inserted inside, attached to or as part of the packaging of the product.

2. Applicability

The labeling requirements set out under BPOM Regulation 31 are only applicable to processed foods that are locally manufactured in Indonesia or imported to Indonesia (from offshore), and that are intended to be further sold in 'retail packaging'. Retail packaging means the final packaging of the food that (i) cannot be opened to be further re-packaged into smaller packages, and (ii) is ready to be sold to the customer.

3. Over Labeling

It is unclear whether over-labeling is allowed under BPOM Regulation 31. For context, over-labeling means affixing a label on top of another or pre-existing label (most commonly, through '*stickering*'). Usually this method is used to rectify wrong information or to add new information to the label. Over-labeling is also used to include information for compliance purposes, and usually takes place post-border or after importation.

The regulation only states that the importer must affix labels on processed foods upon entry into Indonesian territory. From our latest discussion with officials from BPOM, we have received confirmation that over-labeling is allowed for processed foods. It remains to be seen whether BPOM has changed its view with the issuance of BPOM Regulation 31.



4. Label Criteria

Labels of processed foods that are sold in retail packaging must at least contain the following information:

- (a) name of the product
- (b) list of ingredients used:
 - (i) basic ingredients
 - (ii) food additives material (*Bahan Tambahan Pangan* or "**BTP**")
 - (iii) auxiliary material
- (c) net weight or net content
- (d) name and address of the manufacturing and importing company
- (e) halal logo (if applicable)
- (f) date and code of production
- (g) expiration date
- (h) marketing authorization number
- (i) origins of certain food ingredient
- (j) nutrient and/or non-nutrient contents

If the relevant processed food is sold to a business actor to be re-processed, then the label on the processed food must contain at least the following information:

- (a) name of the product
- (b) net weight or net content
- (c) name and address of the manufacturing company and importing company
- (d) date and code of production
- (e) expiration details



5. Other Information

The following table shows the additional information that must be included on labels for processed foods.

No.	Information	Specific Conditions
1.	Health message	A health message must be added to labels of products, which contain information on sugar, salt and/or fat that is consumed in amounts that could cause non-communicable diseases.
2.	Intended users	Information regarding the intended users or target consumers of the product must be added to labels for processed foods which are consumed only by certain people, for instance, products that are only intended for babies, pregnant mothers, breastfeeding mothers or people with certain diseases.
3.	Method of serving	Information regarding method of serving must be added to labels for processed foods that must be prepared before being served to the consumers, e.g., dissolved in water, boiled or fried.
4.	Storage	Information regarding storage of a processed food must be added to the labels of processed foods the shelf life of which could be affected by the storage conditions and that must be stored in a special container.
5.	Allergen content	Information regarding allergen content must be added to the labels of processed foods that contain allergens.
6.	Warning	A warning must be added to the labels of alcoholic beverages, dairy products and condensed milk products that inform the customers of the content and consumption of the products.
7.	Organic processed food	Information that the processed food is an 'organic processed food' must be added to the labels of organic processed foods based on the prevailing laws and regulations.
8.	2D Barcode	Two-dimensional barcodes must be affixed to the labels of processed foods products in accordance with the prevailing laws and regulations.



6. Language, Writing and Drawing Requirements

The details on the label should be written or printed using Indonesian language. Business actors are allowed to use other languages if there are no Indonesian language equivalents for the words written in the label. These letters must be clear, easy to read and should not easily fade.

7. Prohibited Actions

BPOM Regulation 31 prohibits business actors to include the following information on the labels of their processed foods:

- (a) statement that a processed food contains better nutrients than other processed foods
- (b) statement that a processed food may promote health
- (c) statement or information in any form indicating that a processed food may have a medicinal function
- (d) statement that a processed food may promote intellect
- (e) statement that a processed food is superior to other processed food, while in fact the superiority does not come entirely from the consumption of the processed food alone (rather it is due to the shared use with other processed food products)
- (f) statement that a processed food does not contain a component, while in fact the component naturally does not exist in the processed food from the beginning, unless there is any supporting data/general standard on the processed food that contains that component
- (g) statement that a processed food does not contain an ingredient while in fact it does, either not deliberately or as a carry-over ingredient/compound
- (h) writings or drawings indicating that a synthetic food material is processed from nature
- (i) names, logos or identities of institutions that provide: (i) development care, (ii) recommendation and/or (iii) analysis about food
- (j) pictures or information related to health experts, religious leaders or public officers (even using actors who are only acting as these professions)
- (k) names and pictures of figures that belong to the public domain, unless with the consent of the relevant individual



- (l) statement or information that is directly or indirectly condescending to other goods and/or services owned by other parties
- (m) information, writing or pictures that offend certain ethnic groups, religions, races and/or groups
- (n) information about sweepstakes, contests, prizes and any writing that is not in line with the label
- (o) statement, writing or images that are contradictory to and are prohibited by laws
- (p) information that promotes perspectives/perceptions contrary with norms, ethics or public order
- (q) statement that consumption of a processed food could satisfy all nutritional needs
- (r) information stating that a processed food has the characteristics of a tonic, because it contains alcohol, sugar or other carbohydrates, proteins, caffeine, or substances derived from hydrolysis protein or purine derivative
- (s) logos or other information in a processed food that are not related with the processed food or contain an exaggeration
- (t) information suggesting that the product contains latest/modern/up-to-date technology or similar sentences which may be affected by time
- (u) claims on nutrients, health and any other claims on labels of processed foods for babies
- (v) claims on processed foods for children aged one to three years old that: (i) the product has other functions, (ii) the product could mitigate the effects of disease and (iii) the product does not contain added sugar
- (w) statement/visualization describing that condensed milk and its analogues are served as a single dish in the form of milk beverages and as the only source of nutrition
- (x) statement/visualization that only portray children under five years old on condensed milk products and their analogues
- (y) statement/visualization describing that a processed food is reserved for certain groups while in fact the processed food may be consumed by people in general
- (z) information that the processed food does not contain BTP, unless the inclusion of the information is specifically sanctioned under the laws and regulations



BPOM Regulation 31 also prohibits business actors from manufacturing processed foods that use trademarks and designs that are identical to those reserved for special medical needs. Further, business actors are also prohibited from erasing, pulling off, closing, changing, over-labeling and/or replacing the date, month, and expiration date of processed foods that are already being distributed to the public.

8. Sanctions

Failure to comply with the provisions under BPOM Regulation 31 could lead to the following administrative sanctions:

- (a) temporary suspension of activity, production and/or distribution
- (b) forced product recall by the manufacturer
- (c) revocation of license (e.g., distribution license or trade license)

There is no criminal sanction applicable for failure to comply with the provisions under BPOM Regulation 31.

9. Transitional Provision

Business actors must adjust the label of their processed food products within 30 months after BPOM regulation 31 is enacted. As BPOM Regulation 31 was enacted on 19 October 2018, business actors must adjust their labels by 19 April 2021 at the latest.



www.hhp.co.id

HHP Law Firm
Pacific Century Place, Level 35
Sudirman Central Business District
Lot. 10
Jl. Jenderal Sudirman Kav. 52-53
Jakarta 12190
Indonesia

Tel: +62 21 2960 8888
Fax: +62 21 2960 8999