

## **Inclusion of Halal Product Provisions Consumption in order to meet the ethics of business competition**

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### **ABSTRACT**

**Keywords:** halal, products, indonesian ulema council (MUI), halal product assurance agency (BPJPH).

In 2024, the Muslim population in the world in general and in Indonesia in particular is increasing. Of course, this is also followed by market demand for consumption products that are guaranteed to be halal. In the past, halal certification of products was carried out by the Indonesian Ulema Council institution based on applicable laws and regulations. Currently, there are improvements both in terms of regulation and in terms of the authorized institution in issuing halal certification for a consumer product, one of which is the formation of the Halal Product Assurance Agency (BPJPH) which is authorized to issue halal certification for consumer products. This research is a normative legal research that uses a legislative approach, and a conceptual approach to answer legal issues and produce a finding regarding the authorized institution in issuing halal certification of applicable consumer products.



### **Introduction**

The word halal itself is a term in Arabic in Islam which means "allowed" or "allowed". Etymologically, halal means that something can be done because it is free or not bound by prohibitive provisions (Amalia, 2013). In a broader context, the meaning of halal means everything including behaviour, activities, ways of dressing and so on that are allowed or permitted by Islamic law. Burhanudin said that regarding the requirements for halal products according to Islam, they are halal in their substance, halal in the way of obtaining them, halal in the process, halal in their storage, Dalal in their transportation and halal in their presentation (Arsanti & Mahmud, 2023).

While the second term of the next study is halal. The word halal (حلال) comes from Arabic taken from the root word ha-la-la (ح-ل-ل). It is a mashdar form of the word ḥalla, yaḥullu, ḥillan, wa ḥalālan, wa ḥulūlan. From its various forms, this word has quite diverse meanings, including; leaving an activity, halal, stopping or staying (dwelling) in a place, releasing or describing bonds or describing words, overriding (an event occurs), obliging, determining, liberating, for example, freeing (a person) from kaffarat oath, and

others (Karina, 2019). Etymologically, this word contains the meaning of liberating, leaving, breaking, dissolving and allowing. In Munjid, halal is interpreted as letting go of bonds. *ḥalāl* noun حلال It is the opposite of the word *haram* (حرام).

The number of Muslim population globally in 2021 will reach 1.8 billion people with the potential for spending on halal products to reach 2.2 trillion USD. Based on data from the Ministry of Home Affairs of the Republic of Indonesia, the number of Muslims in Indonesia reaches 237 million people (Rahman, Nainggolan, & Sinambela, 2023). Indonesia is predicted by the Ministry of Industry to experience an increase in consumption of halal products by 3.2 trillion rupiah in 2024. Based on the 2022 State of The Global Islamic Economy (SGIE) Report, it was found that Indonesia ranked 2nd in halal food products. This shows that halal food consumption in Indonesia has a considerable dominance in the global Sharia market (Musataklima, 2021).

As one of the products needed by humans, food is a basic need that is the most important. Regarding food, this has been guaranteed in the constitution Article 28C paragraph (1) of the Constitution of the Republic of Indonesia in 1945 (Constitution of the Republic of Indonesia in 1945), stipulating that everyone has the right to develop themselves through the fulfilment of their basic needs, thus food is a basic need that is part of Human Rights and the state has a constitutional obligation to realize availability, affordability, and the fulfilment of sufficient, safe, quality and balanced nutritious food consumption (Rahman et al., 2023). Safe food is needed to prevent biological, as well as chemical contamination that can interfere with and harm human health and does not contradict the religious norms, beliefs and culture of the community (Ningrum, 2022).

In the legal context in Indonesia, it is regulated in Article 1 number 5 of Law Number 33 of 2014 concerning Halal Product Assurance (Law 33/2014) it is stated that a halal product guarantee is the legal certainty of the halalness of a product as evidenced by the existence of a halal certificate, while the product referred to here is goods and/or services related to food, beverages, medicines, cosmetics, chemical products, biological products, genetically engineered products, and consumer goods that are used, used, or utilized by the community (Sari, 2018).

Currently, the Halal Product Assurance Agency (BPJPH) has been formed, which is an institution authorized by the state to implement norms, standards, procedures and criteria for Halal Product Assurance as mandated by Law 33/2014 (Aziz, 2017). This regulation has also changed as regulated based on Law Number 6 of 2023 concerning the Stipulation of Government Regulations instead of Law Number 2 of 2022 concerning Job Creation into Law (Law 6/2023). Of course, in Indonesia, a country with the majority of followers of Islam, in the circulation of consumer goods, it is mandatory to meet halal standards for products marketed (BADZLINA, 2021).

Talking about institutions or agencies related to halal certification of a consumer product before the enactment of Law 33/2014 which was updated through the Job Creation Regulation which was stipulated as Law 6/2023, several institutions are policymakers related to the halal issue of a product, namely:

- a. Fatwa Commission of the Indonesian Ulema Council as the issuer of the halal fatwa and the party that issues the Halal certification;
- b. MUI Institute for the Assessment of Food, Drugs, and Cosmetics (LLPOM) as a researcher on halal products from a scientific aspect;
- c. the Food and Drug Supervisory Agency (BPOM) as the licensee of the halal label;
- d. The Ministry of Religion is the party that makes policies, conducts socialization, and education to the community; and
- e. Other relevant ministries.

Based on Article 48 number 3 of the Job Creation Regulation which amends Article 5 paragraph (1) of Law 33/2014 states that the Government is responsible for organizing Halal Product Guarantees. The implementation of the Halal Product Guarantee is carried out by the Minister of Religion. Based on the implementation of the Halal Product Guarantee from the Government, the Halal Product Assurance Agency (BPJPH) was formed which is located under and responsible to the Minister of Religion. The BPJPH here replaces the role of the Indonesian Ulema Council (MUI) as the holder of halal certification authority (Harahap, 2019). Furthermore, based on Article 48 number 1 of the Job Creation Perpu, it is stated that the Halal Inspection Agency (LPH) is an institution that replaces the role of the MUI Food, Drugs, and Cosmetics Assessment Institute (LPPOM MUI) which is in charge of inspecting and/or testing the halalness of a product.

Based on this, Islamic morality must be reflected in every action taken by economic actors. Morality occupies a special position related to the teachings of Islam, because the formation of a person who has good morals (akhlaqul karimah) is the highest goal of all Islamic teachings. However, the reality that is happening today is that there is still a high number of business actors who put aside ethical and moral values in doing business (Nafis, 2019).

The regulation of the obligation to include halal certification is a revival of the halal trend for products in Indonesia to be able to compete comparatively, especially when competing with products that are not halal-certified. Comparative advantages that are also the urgency of halal certification of a product can be grouped into several elements as follows:

- a. Authority, to provide legal certainty that the products and services provided are by sharia law regarding halal and create a mechanism to monitor compliance with guidelines and standards of raw materials and production processes;
- b. Belief, to assure Muslim consumers (and other consumers who have dropped their preference for halal products);
- c. Competitive Advantage, to expand market coverage towards readiness to meet global needs;
- d. Quality, to show that their products have met halal requirements and hygiene and strict health practice standards; and
- e. International acceptance and import-export market guarantee the product or identity.

Apart from all that, the obligation to provide true and honest information on every product produced by producers or business actors is one of the obligations regulated under

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Law Number 8 of 1999 concerning Consumer Protection (Law 8/1999). One of the rights of consumers is the right to comfort, safety and security in consuming a product of goods and/or services, thus the urgency of halal consumption products are non-negotiable considering the increasing number of imported packaged consumption products produced outside Indonesia, especially in countries where the majority of the population is not Muslim.

Halal certification and halal labelling are 2 (two) different activities, will still have a relationship with each other. The result of the halal certification is the issuance of a halal certificate if the product in question has met the requirements as a halal product. Halal certification is carried out by an institution that has the authority to carry out it, the ultimate goal of halal certification is a formal legal recognition that the products issued have met halal provisions. Meanwhile, halal labelling is the inclusion of halal writing or statements on product packaging to show that the product in question has the status of a halal product.

## **Research Methods**

This research is legal. Research means piencarian return to answer the problem of scientific research. The research method also contains aspects including the stages of activities carried out and research procedures.

## **Results and Discussion**

### **Authority in Issuing Product Halal Certification**

Based on the mandate of Law 33/2014, it is stated that in the first stage, namely food and beverage products, must start implementing halal certification for their products, this obligation will end on October 17, 2024. It is hoped that after that date, all food and beverage products (consumption) must be halal certified. The obligation of halal certification on October 17, 2024, will begin with the obligation of halal certificates for food products, beverages, slaughter products and slaughter services, raw materials, food additives, and auxiliary ingredients for food and beverage products.

The Halal Product Assurance Agency (BPJPH) is one of the divisions under the Ministry of Religious Affairs. Formed based on the mandate of Law 33/2014, by Presidential Regulation (Perpres) Number 83 of 2015 concerning the Ministry of Religion (Perpres 83/2015) BPJH is led by a Head of Agency. The existence of BPJPH is also regulated based on the Regulation of the Minister of Religion (PMA) Number 42 of 2016 concerning the Organization and Work Procedures of the Ministry of Religion (PMA 42/2016) and the Decree of the Minister of Religion (KMA) Number 270 of 2016 concerning the Business Process Map of the Ministry of Religion (KMA 270/2016).

Based on Article 6 of Law 33/2016, it is stated that in the implementation of JPH, BPJPH is authorized to:

1. Formulate and establish JPH policies;
2. Establish JPH norms, standards, procedures, and criteria;
3. Issuing and revoking Halal Certificates and Halal Labels on products

4. Register Halal Certificates on foreign products
5. Conducting socialization, education, and publication of Halal Products
6. Accreditation of LPH;
7. Register as a Halal Auditor;
8. Supervise JPH;
9. Conducting Halal Auditor training; And
10. Collaborate with domestic and foreign institutions in the field of JPH implementation.

It does not stop there, based on Article 51 of Law 33/2016 it states that BPJPH and related ministries and/or institutions that have the authority to supervise JPH can carry out supervision individually or jointly which is carried out based on the provisions of applicable laws and regulations.

Furthermore, regarding the role of MUI, BPJPH, and LPH related to halal product certification, each institution already has responsibilities in the halal certification stage, starting from the submission of the product owner to the issuance of the halal certificate as follows:

**Table 1**  
**The Role of BPJPH, MUI, and LPH in the Issuance of Halal Certificates**  
**Based on Law 33/2014**

BPJPH	MUI	LPH
It has the task of setting rules/regulations, receiving and verifying product submissions to be certified halal from business actors (product owners), and issuing halal certificates along with halal labels.	It has the task of determining the halalness of products through halal fatwa sessions. This halal stipulation is both related to standards and halal products.	Have the task of conducting halal inspections and/or testing. This inspection is carried out by a halal auditor owned by LPH.

Looking at the table above, BPJPH cannot issue a halal certificate if there is no halal stipulation from the MUI (through a fatwa session). It can be said that Law 33/2014 concerning Halal Product Assurance states that there are at least 3 (three) interrelated institutions. Each institution involved in the process has its authority in carrying out its duties by conducting a check and balance process by its authority. The role of LPH in the scheme for issuing halal product certificates also needs to be observed, considering that the role of LPH as previously in LPPOM MUI has shifted to LPH which can be filled by independent parties (the community).

Regarding the process of issuing halal certificates for a product by referring to the Decree of the Head of the Halal Product Assurance Agency Number 12 of 2020 concerning Procedures for the Implementation of BPJPH Halal Certification Services and the Regional Halal Certified Service Task Force (Decree of the Head of BPJPH 12/2020), this regulation was issued in order to provide ease of access and acceleration of halal certification services to the public, BPJPH and implementing a simplification of the halal certification service process that can reach and approach business actors. The halal certification service places are carried out at One-Stop Integrated Service (PTSP) of the Central Ministry of Religion, Jalan Lapangan Banteng Barat Number 3-4, Central Jakarta and PTSP Regional Office of the Ministry of Religion and/or Regency/City throughout Indonesia.

Technically, the requirements for applying for halal certificates submitted by Business Actors through BPJPH and Regional Task Forces (via PTSP) as stipulated in Chapter II of the Decree of the Head of BPJPH 12/2020 must be completed with the following documents:

1. Halal Certificate Application Letter, addressed to the Head of the Halal Product Assurance Agency (Head of BPJPH);
2. Halal Certification Registration Form by attaching the following documents:
  - a. The legal aspects of the company include a copy of the Business Identification Number (NIB). If you do not have a NIB, you can replace it with SIUP/IUMK/IUI/API or others. Especially MSME business actors can be replaced with a Taxpayer Identification Number (NPWP);
  - b. Halal supervisor documents include Copy of ID card, Copy of decree on the determination of halal supervisor, curriculum vitae, Copy of halal supervisor certificate (if any);
  - c. Copy of distribution permit/certificate of fitness for health.
3. List of product names and ingredients/menus/goods;
4. Product processing process, containing information on purchase, receipt, storage of materials used, processing, packaging, storage of finished products, and distribution
5. Halal Product Assurance System (SJPH):
  - a. The Halal Product Assurance System (SJPH) is a management system document that is prepared, implemented, and maintained by business actors to maintain the continuity of the halal production process. This Halal Product Assurance System will be established by BPJPH;
  - b. Regarding the fulfilment of current requirements, the SPJH document used is the halal assurance system that applies at LPH today.
6. Power of Attorney, for direct applications made by persons other than the person in charge of the Company
7. A copy of the halal certificate issued by MUI for products that have been halal certified.

Furthermore, regarding the system, mechanism, and procedures for halal certification services in the following stages:

1. Submission of halal certificate application
2. Checking the completeness of documents;
3. Determination of LPH to conduct halal product inspection/testing
4. Product inspection and/or testing;
5. Submission of the results of the inspection and/or testing of halal products from LPH to BPJPH;
6. Submission of the results of product inspection and/or testing of halal products from BPJPH to MUI;
7. Determination of halal products by MUI;
8. Submission of the results of the determination of halal products from MUI to BPJPH;
9. Issuance of halal certificates based on the results of the determination of halal products from MUI by BPJPH;
10. Submission of halal certificates from BPJPH to business actors.

There is a fundamental difference in Article 4 of Law 33/2014 as amended by the Job Creation Law which states that the obligation of halal-certified products for Micro, Small and Medium Enterprises (MSMEs) products is based on the statement of business actors (self-declaration). In the Job Creation Law, between Article 4 and Article 5, 1 (one) article is inserted, namely Article 4A which stipulates that (paragraph 1): for Micro and Small Business actors, the obligation to be halal certified as referred to in Article 4 is based on the statement of Micro and Small Business actors. (paragraph 2): Statement of Micro and Small Business actors as referred to in paragraph (1) based on halal standards set by BPJPH.

The statement of Micro and Small Business actors in the halal self-declaration is also needed to accompany the Halal Product Process (PPH) through verification and validation of the self-declaration. Self-declaration according to the Job Creation Law is only intended for Micro and Small Business actors. Furthermore, the state through Article 44 of the Job Creation Law states that halal certification for Micro and Small Business actors is not subject to fees in its management.

### **The Relationship Between Product Halal Certification and Business Competition Ethics**

Definisi persaingan usaha sendiri menurut Black's Law Dictionary adalah "The effort or action of two or more commercial interest to obtain the same business from thior d parties". Selanjutnya Ernest Gelhorn dan William Kovacic menyatakan pendapatnya sebagai berikut: "The antitrust laws seek to control the exercise of private economic power by preventing monopoly, punishing cartels and otherwise protecting competition. Examining the origins of the antitrust laws help to understand and interpret them. Their historical lineage extends from common law actions which limited restraints of trade and, so some extend, sought ti proscribe monopoly power and middlemen profits."

The Head of the Halal Product Assurance Agency (BPJPH) of the Ministry of Religion of the Republic of Indonesia, Muhammad Aqil Irham, revealed that halal is currently a global trend. Along with this, the competition of consumer products consisting

of food, beverages, cosmetics and so on is also increasingly competitive. According to data compiled by BPJPH of the Ministry of Religion of the Republic of Indonesia, there are already 45 (forty-five) countries with 117 (one hundred and seventeen) products that have carried out the process to get recognition from BPJPH. Based on this, the positive trend of various countries to get recognition from BPJPH, so the competition between foreign products and domestic products will be more competitive. For example, if the products of countries in the world that have been halal certified enter Indonesia, while domestic products are not halal certified, then there can be a loss in market competition.

As an example of the use of halal products, statistics show that spending on cosmetics is estimated to increase from \$61 Billion in 2019 to \$90 Billion in 2023. The Royal Islamic Strategic Study Centre (RISSC) estimates that there will be 231.06 million Muslims in Indonesia in 2023. Indonesia is a significant market. From the buyer's point of view, halal-certified products are considered to have met high quality standards and are considered an innovation and revolution in the cosmetics sector. There is also a stigma that a product that has been certified halal has passed various strict inspections and supervision. A product is considered halal when the ingredients of the product are in accordance with sharia. Materials such as alcohol and substances derived from free animals should not be used in the production process.

As one of the leading cosmetic brands in Indonesia, "Wardah" is a manufacturer of beauty products that produces a variety of products. Currently, Wardah holds a market share of 30% (thirty percent) where sales of 50% (fifty percent) are on the island of Java. Wardah is one of the local cosmetic brands that promotes a halal brand image in its products. This is because Wardah is the first cosmetic brand to receive halal certification from LPPOM MUI in collaboration with the Ministry of Health (Depkes) and the Department of Religion (Depag). Such a large market share owned by Wardah as a pioneer of Halal cosmetics in Indonesia makes Wardah almost control 50% of the market share. This is considering the difficulty of managing halal product certificates to LPPOM MUI, but now with the mandatory halal certification for goods and/or services, it is hoped that it will be easier to manage halal products by BPJPH. This is regulated in such a way as to realize consumer protection. Regulations can also be expanded to ensure a strong consumer protection mechanism. Through consumer protection regulations, it can target the responsibility of business actors in marketing their products.

Based on Law Number 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition (Law 5/1999). The activities regulated in Articles 17 to 24 do not provide a definition of which activities are included in monopolistic practices and unfair business competition. If in the prohibited agreement it is a two-party legal act, then in the prohibited activity it is a unilateral legal act. The prohibited activities are as follows:

1. Monopoly. In terms of monopoly, it comes from the Greek language, namely "monos" and "polyen". Monos means alone, and Polien means seller, If the two words are combined, it will mean that monopoly is "selling alone" which means being a sole seller. Market control over the sale or offer of goods or services. Monopoly is the



- activity of controlling the production or marketing of goods and controlling the use of services by one business actor or a certain group of business actors.
2. Monopsoni. It is an activity of controlling the receipt of the supply of goods or services in a market by one business actor or a certain group of business actors.
  3. Market Dominance. There are several market control activities that are prohibited, namely: (rejecting or obstructing the entry of new business actors, preventing consumers from contacting their business actors, restricting the circulation or sale of goods or services of other business actors, discriminating against other business actors, selling at a loss/slamming prices).
  4. Plot. It is a form of cooperation carried out by business actors with other business actors with the intention of controlling the market for the benefit of conspiring business actors. It is an activity in order to win an unfair business competition in the form of a conspiracy to win a tender, a conspiracy to steal the secrets of a rival company, a conspiracy to damage the quality or image of a rival product
  5. Dominant position. This means that the influence of business actors is very strong, Article 1 number 4 of Law 5/1999 refers to it as a situation where business actors do not have competitors which means in the market concerned in relation to the share that is controlled by financial ability, the ability to access supply, sales and the ability to adjust the supply and demand for certain goods and/or services.
  6. Dual Positions. Based on Article 26 of Law 5/1999, it is regulated that a person who holds a position as a director or commissioner of a company, at the same time is prohibited from concurrently being a director or commissioner of another company.
  7. Stock Ownership. Based on Article 27 of Law 5/1999, it is stated that business actors are prohibited from owning majority shares in several similar companies, carrying out business activities in the same field at the time concerned or establishing several companies of the same kind.
  8. Mergers, Smelting, and Extractors. It is regulated in Article 28 of Law 5/1999 that business actors who are legal entities and non-legal entities that run companies are fixed and continuous with the aim of making profits.

## **Conclusion**

The authority to issue halal certification in Indonesia has been held by the Indonesian Ulema Council (MUI) and LPPOM MUI as its technical unit. However, since the promulgation of Law 33/2014, it has been under the Halal Product Assurance Agency (BPJPH) which is an institution under the Ministry of Religion (Kemenag) of the Republic of Indonesia. In carrying out its duties, BPJPH collaborates with relevant ministries and/or institutions, the Halal Inspection Agency (LPH), the Halal Product Process Assistance Agency (LP3H), the Indonesian Ulema Council (MUI), and the Halal Product Fatwa Committee. Each of these institutions has authority in every stage of the halal product certification process. It is no longer only issued by one institution. This is certainly closely related to business competition. Indirectly, consumer products that have been labeled halal will be more enjoyed by the market. Halal certification is often

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considered that a product has phenomenal innovations or findings, but this is not the case. Regarding halal certification, it is also necessary to supervise every product that already has halal certification whether it remains consistent in its application.

### Bibliography

- Amalia, Euis. (2013). Mekanisme Pasar dan Kebijakan Penetapan Harga Adil dalam Perspektif Ekonomi Islam. *Al-Iqtishad: Jurnal Ilmu Ekonomi Syariah*, 5(1).
- Arsanti, Sahda Julia, & Mahmud, Mahmud. (2023). Penentu Niat Beli Produk Kosmetik Halal Wardah pada Konsumen Generasi Z. *Jurnal Ekonomi Dan Bisnis*, 2(3), 125–137.
- Aziz, Muhammad. (2017). Perspektif Maqashid Al-Syariah dalam penyelenggaraan jaminan produk halal di Indonesia pasca berlakunya Undang-Undang Nomor 33 tahun 2014 tentang jaminan produk halal. *Al Hikmah: Jurnal Studi Keislaman*, 7(2), 78–94.
- BADZLINA, NEDIA A. Y. U. (2021). *Analisis Pengaruh Citra Merek (Brand Image), Harga Dan Kualitas Produk Terhadap Keputusan Pembelian Wardah Lipcream Matte*. Universitas Islam Kalimantan MAB.
- Harahap, Hakim Muda. (2019). Epistemologi Etika Perdagangan Internasional Dalam Konsep Alquran. *AL QUDS: Jurnal Studi Alquran Dan Hadis*, 3(2), 221.
- Karina, Aisyah Dinda. (2019). Praktik Monopoli Dan Persaingan Usaha Tidak Sehat Terhadap Pelaku Usaha Di Pasar Tradisional. *Jurnal Ilmiah Dunia Hukum*, 3(2), 55–67.
- Musataklima, Musataklima. (2021). Self-Declare Halal Products for Small and Micro Enterprises Between Ease of Doing Business and Assurance of Consumer Spiritual Rights/Self Declare Produk Halal Usaha Kecil Mikro Antara Kemudahan Berusaha dan Jaminan Hak Spiritual Konsumen. *De Jure: Jurnal Hukum Dan Syar'iah*, 13(1), 32–52.
- Nafis, Duratun. (2019). *Implementasi Etika Bisnis Islam Dalam Usaha Rumah Makan (Studi Kasus Usaha Rumah Makan Wong Solo Batoh, Kec. Lueng Bata Kota Banda Aceh)*. UIN Ar-Raniry Banda Aceh.
- Ningrum, Ririn Tri Puspita. (2022). Problematika Kewajiban Sertifikasi Halal bagi Pelaku Usaha Mikro dan Kecil (UMK) di Kabupaten Madiun. *Istithmar*, 6(1), 43–58.
- Rahman, Kholilur, Nainggolan, Samuel Dharma Putra, & Sinambela, Jamalum. (2023). Pendekatan Hukum Pidana Terhadap Kartel Dalam Persaingan Usaha di Indonesia. *Notary Law Research*, 5(1), 66–77.
- Sari, Desi Indah. (2018). Perlindungan hukum atas label halal produk pangan menurut undang-undang. *Repertorium: Jurnal Ilmiah Hukum Kenotariatan*, 7(1), 1–14.