

PARADIGM SHIFT FROM CAVEAT EMPTOR TO CAVEAT VENDITOR IN CONSUMER FOOD RIGHTS PROTECTION

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ABSTRACT

This study analyzes the paradigm shift from caveat emptor to caveat venditor in the protection of consumer food rights in Indonesia to formulate a holistic regulatory model. Using a mixed-methods sequential explanatory approach, the study examined regulations (Law No. 8/1999 and the Food Law), court decisions for the 2019–2024 period, and empirical data from consumers, producers, and regulators through surveys, interviews, and legal analysis. The findings reveal three systemic dysfunctions that hinder the implementation of caveat vendors: regulatory asymmetry (73% of derivative regulations without proportionate sanctions and 60% of court decisions still burden proof on consumers), polarization of implementation between business actors (only 30% of corporate products meet labeling standards), and failure of restitution (73% of consumers do not receive full compensation and 82% of new product recalls are made after the emergence of victims). Low consumer legal literacy and regulatory gaps exacerbate this condition. It was concluded that the paradigm shift to caveat venditor has not been optimal due to five critical factors: weakness of regulatory design, reactive law enforcement, inaccessible justice mechanisms, information asymmetry, and low legal literacy. The effectiveness of consumer food rights protection requires comprehensive reform through regulatory harmonization, increasing the adaptive capacity of business actors, and strengthening pro-consumer access to justice.

Keywords: Paradigm Shift, Caveat Emptor, Caveat Venditor, Food Consumer Protection, Holistic Regulation.

1. INTRODUCTION

The ease of international trade through e-commerce platforms has caused a surge in imported food products entering Indonesia. This is partly due to the convenience and variety offered by online marketplaces, which attract consumers to buy foreign goods (Soeyatno et al., 2024). However, this wave of imported products also brings new challenges related to safety, authenticity, and quality assurance, which demand a more robust legal framework. In the context of this market disruption, the protection of consumer rights in the food sector has undergone a significant evolution towards more balanced justice through the transformation of the legal paradigm (Sato et al., 2025). The shift from caveat emptor to caveat venditor reflects the increased responsibility of sellers in ensuring product safety and quality, as well as providing stronger legal protections for consumers. It is part of the evolving evolution of business ethics to adapt to changing environments and the expectations of modern society (Wang & Tan, 2023). Contemporary producer-consumer relations are increasingly colored by producer responsibility as a form of recognition of consumers' fundamental right to safe and informative food (Sheridan et al., 2008). The adoption of the caveat venditor principle in the dynamics of the food market reflects a global commitment to consumer empowerment and the sustainability of consumer protection systems (Amasah et al., 2022). This paradigmatic transformation is the progressive foundation for the creation of a fair transaction ecosystem, where producers actively ensure the fulfillment of consumers' food rights as part of corporate obligations (Dussauge, 2025).

Despite the paradigm shift to caveat, information asymmetry between producers and consumers in the food industry is still often used to hide product risks, composition, or expiration dates, thereby hindering the fulfillment of consumers' rights to honest and transparent information (Socoliuc et al., 2022). The weak supervision and law enforcement mechanism for food producers' obligations causes the caveat venditor principle to not fully guarantee product safety, as evidenced by the numerous instances of food not meeting food safety standards that endanger consumer health. There are significant challenges in enforcing food safety regulations, including inconsistent definitions, scattered oversight, and inadequate resources (Pacholczyk-Sienicka, 2024). These issues contribute to continued food safety violations and undermine consumer

confidence (Lu et al., 2024). The unequal bargaining position of consumers in dealing with large food corporations makes it difficult to prosecute rights when violations occur, especially in proving the manufacturer's negligence (burden of proof), so that the caveat venditor principle has not been optimal to protect vulnerable consumers (Sánchez Hernández, 2022). The limitations of legal literacy and consumer awareness about their right to safe and quality food have a significant impact on the enforcement of the caveat venditor principle. This results in a lack of proactive compliance from manufacturers. Improving consumer education, improving regulatory frameworks, and addressing legal deficiencies are important steps to empower consumers and ensure food safety. Increased awareness and understanding of food safety can drive better compliance from producers and ultimately protect consumer health (Madilo et al., 2024). Inconsistencies in the application of sanctions for violations of consumer rights are a complex issue influenced by national policies, the balance between public and private law enforcement, and the specific legal framework that applies. To improve consumer protection, more harmonious and bold measures are needed that ensure effective, proportionate and deterrent sanctions across Member States (Steennot, 2020). In the context of food safety, the lack of effective oversight and enforcement of labeling requirements has led to widespread non-compliance, which further weakens the deterrent effect and leaves consumers vulnerable to the risks associated with unlabeled food products (Tahir et al., 2023).

This research is crucial to overcome systemic failures in the implementation of the caveat venditor principle, which includes information asymmetry, weak law enforcement, and consumer powerlessness as a strategic issue, considering that the fulfillment of the right to safe food is a non-derogable human right (Agung Prasetyo, 2022). The integration of risk-based supervision with the concept of burden reversal of proof and digital legal literacy platforms offers a comprehensive solution to improve Indonesia's food security system (Dhal & Kar, 2025). This approach not only improves food security but also ensures all stakeholders are informed and accountable, leading to a safer and more reliable food supply chain (Gravitiani et al., 2025). This research aims to formulate a holistic regulatory model that integrates proactive law enforcement, progressive sanctions based on health hazards, and consumer empowerment. This approach will help create a balanced and effective food safety system that protects consumers and holds producers accountable (Dudeja & Singh, 2017).

2. METHOD

This study adopts a mixed-methods sequential explanatory design approach to answer the complexity of the paradigm shift from caveat emptor to caveat venditor (Wipulanusat et al., 2020). The initial stage involves the implementation of a quantitative explanatory survey to map consumer food protection practices empirically. This survey aims to collect data on various aspects of food handling, storage, and consumption practices among consumers. For example, a study in the Netherlands used a food consumption and handling survey to collect quantitative data on consumer practices, which included the status of processing in retail, storage, preparation, and consumption by consumers (Chardon & Swart, 2016). The second integration is to review applicable laws and regulations related to food safety and consumer protection. For example, studies have analyzed legal frameworks governing food safety, such as the Codex Alimentarius and the WTO's SPS and TBT Conventions, to understand their application and enforcement at the national level (Silvee & Wu, 2023).

The research population includes two main scopes: doctrinal (all food consumer protection regulations, such as Law No. 8/1999, the Food Law, and court decisions for the 2019–2024 period) and empirical (food consumers in five provinces prioritized for food security, MSME producers/corporations, and regulators such as BPOM/Health Office). Sampling was carried out in a combined manner using total sampling for core regulations and purposive sampling of 30 court decisions containing caveat venditor. At the same time, empirical data were taken by stratified random sampling for 400 consumers (margin of error 5%, CI 95%), as well as purposive sampling for producers and regulators based on criteria of a minimum of five years of experience and involvement in food disputes.

The research instrument was developed according to the characteristics of the data: a structured questionnaire (Likert scale 1–5) measured the four pillars of caveat venditor (information transparency, product safety, indemnity accountability, and producer self-monitoring) with a

reliability coefficient of α -Cronbach >0.85 ; The semi-structured interview guidelines explore implementation challenges through critical questions such as product recall dynamics; and the legal analysis matrix serves as a doctrinal verification tool to test regulatory consistency with the parameters of producer obligations, proportionality of sanctions, and restitution mechanisms. The research procedure is carried out in four systematic stages: Phase 1 includes secondary data collection and instrument validity test by consumer law experts; Phase 2 includes conducting interviews with key stakeholders, including regulatory authorities, food producers, and consumer representatives, to gain insights into the practical implementation of food safety regulations and the challenges faced. In-depth interviews are a valuable qualitative research method that allows for an in-depth understanding of stakeholders' perspectives and motivations (Knott et al., 2022); Phase 3 formulates a gap analysis-based solution model that is validated via focus group discussion (FGD). This methodological series ensures replicable and applicable findings, as well as answers research ethics through the principles of informed consent, respondent anonymity, and respondent validation for interview transcripts.

3. RESULT AND DISCUSSION

Table 3.1. Analysis of Regulations and Court Decisions Related to Producer Obligations

Legal Documents	Sum	Critical Findings
Regulation (UU/PP/PerBPOM)	15	73% do not regulate proportionate sanctions for <i>caveat venditor</i> violations
Court Decisions (2019-2024)	30	60% still burden the consumer with proof (<i>onus probandi incumbit actori</i>)
BPOM Report	12	82% of product recalls are only made after there is a health casualty

Table 3.2. Frequency of Food Consumer Rights Violations by Type

Types of Violations	Cases (2020-2023)	Perpetrator Dominance
False/misleading information	120 cases	UMKM (65%)
Food Does not Meet Safety Standards	89 cases	Corporations (70%)
Denial of Indemnity	47 cases	Corporations (83%)

The results of the study confirm **three systemic dysfunctions** that hinder the effectiveness of the *caveat venditor* principle in the protection of food consumer rights. **First**, there was a *regulatory asymmetry* between Law No. 8/1999 on Consumer Protection and Law No. 18/2012 on Food. Document data shows that 73% of derivative regulations (PP/PerBPOM) do not regulate proportionate sanctions for violations of producer obligations (Table 3.1). In comparison, 60% of court decisions (2019-2024) still impose the burden of proof (*onus probandi*) on consumers, a contradiction that dwarfs the spirit of *caveat emptor* into mere legal rhetoric.

Second, there is a *polarization of implementation* between corporate producers and MSMEs. Field observations revealed that 30% of corporate products meet labeling standards (Table 3.2). In-depth interviews reveal the root of the problems of MSME producers, complaining about the complexity of regulations and the lack of legal assistance, while corporations tend to be reactive. This phenomenon exacerbates the *inequality of bargaining power*, especially in traditional markets that lack a standard grievance channel.

Third, *restitution failure* emerged as a crucial problem. BPOM data shows that 73% of consumers do not receive full compensation due to two things: (a) unregulated *class action* mechanisms specific to food disputes, and (b) low legal literacy of consumers who understand the right to information on food composition. More worryingly, 82% of product recalls are only carried out after health casualties (Table 3.1), indicating the weak *precautionary principle* in supervision.

3.1 Confirmation of Information Asymmetry Institutionalized by Weak Regulation

Manufacturers' practices that exploit information asymmetry to hide product risks, which hinder consumers' right to honest information (Woolcott Oyague & Ramírez Gómez, 2024). The findings of the study empirically confirm and deepen this problem. Field observations that reveal that only 30% of corporate products fully meet labeling standards are clear evidence that

information asymmetry is not just negligence, but a practice that is still rampant even at the corporate level.

Furthermore, the finding that 82% of product recalls are only made after the emergence of health casualties shows that the principle of proactive transparency does not work. Manufacturers tend to be reactive, hiding risks until they can no longer be covered. While the shift to “caveat vendendo” aims to protect consumer rights, there are still significant challenges in achieving true transparency (Norval et al., 2022). Addressing these challenges requires a combination of better disclosure practices, strong regulatory oversight, and a cultural shift within the organization toward greater openness and accountability (Culnan & Bruening, 2018). This phenomenon indicates that the shift to caveat venditor has not been able to change the industry culture from information concealment to disclosure. Consumers’ right to honest and transparent information is hampered not only by the manufacturer’s intentions, but also by a supervisory system that fails to encourage best practices.

3.2 The Illusion of Protection Due to Weak Law Enforcement and Supervision

The Caveat Venditor principle shifts responsibility to the seller, ensuring they are responsible for any defects or safety issues in their products. These principles are designed to protect consumers from harm and ensure they receive a safe and reliable product (Carr, 2015). However, the effectiveness of this principle is often hampered by weak oversight, a fragmented regulatory environment, and challenges in law enforcement. Strengthening this mechanism is critical to ensure that caveat venditor can effectively guarantee product safety and protect consumers (Covolan & Bender, 2022). The research findings provide strong quantitative evidence to support this statement. It was found that 73% of derivative regulations (PP/PerBPOM) do not regulate proportionate sanctions for violations of producer obligations.

The lack of firm and proportionate sanctions weakens the caveat venditor principle, so that the responsibility of producers seems more theoretical than practical. Effective enforcement of EPR policies requires clear and consistent regulation and proportionate sanctions to ensure that manufacturers are held accountable for the lifecycle impacts of their products. This approach can help transform producer responsibility from a normative concept to a strong, enforceable practice (Gupta & Dash, 2023). This compounded oversight in product safety is often reactive, addressing problems only after they occur, rather than preventing them. This can be seen from the reliance on product recalls to manage safety issues (Beckers et al., 2003). As a result, caveat venditor has become only legal rhetoric, while consumers continue to bear the health risks of products that do not meet safety standards. While the precautionary principle is a valuable tool for preventing harm, its practical implementation requires a shift from reactive to proactive measures. This includes integrating precautionary measures into the regulatory framework, focusing on alternative assessments, and improving oversight systems to monitor and address safety issues before they result in hazards (Venkatesan et al., 2023).

3.3 Bargaining Position Inequality Exacerbated by Structural Barriers

Unequal bargaining power is a common issue in consumer contracts, which often leads to unfair provisions such as pre-defined damages and limitation clauses (Alias & Ghadas, 2012). This imbalance is exacerbated by the knowledge and market power that superior manufacturers have, which they can exploit to impose unfavorable terms on consumers (Reilly, 2025). Traditional producer responsibility models have proven inadequate in addressing the complexities of modern mass production. This inadequacy encourages reliance on non-contractual solutions to guarantee consumer protection (D’Alessio, 2021). The concept of ‘behavioural asymmetry’ has been proposed to address this problem by holding manufacturers accountable if their products are not safe enough for the average user, taking into account cognitive bias and other behavioural shortcomings (Verheyen, 2021). The findings of the study strongly prove that this problem is structural and systemic. Data on the analysis of court decisions (2019-2024) shows that 60% of cases still impose the burden of proof on consumers, which is a fatal legal anomaly. This practice is directly contrary to the essence of caveat emptor, where responsibility should rest on the shoulders of the manufacturer.

Findings at the implementation level further exacerbate this inequality. The polarization between corporations and MSMEs, where MSMEs struggle to meet complex regulations while 100% of traditional markets do not have standardized complaint channels, creates a very unfriendly ecosystem for consumers. In addition, the absence of a specific class action lawsuit mechanism

for food disputes makes it difficult for collective legal remedies to be effective. This is seen in various sectors where collective bargaining is underutilized or faces significant procedural constraints (Engstrom, 2018). In the context of food safety, the implementation of class action lawsuits can help address systemic problems, but the current framework is inadequate (Li, 2021). Thus, the institutionalization of inequality of bargaining position through class action lawsuit mechanisms and inadequate judicial practices in food disputes highlights the need for comprehensive legal reform. A practical collective action framework is essential to address systemic issues and protect the rights of the weaker parties in the food supply chain.

3.4 Low Legal Literacy as an Obstacle to the Effectiveness of Caveat Vendor

Low legal literacy makes consumers unable to understand or enforce their rights, so caveat vendor cannot be effectively implemented (Samsudin et al., 2020). Consumers who do not understand their rights are less likely to sue the seller for defective or non-compliant products (Pleasence et al., 2017). The results of the study confirm this and show its crucial impact on the compensation mechanism. The finding that 73% of consumers do not receive full compensation is one of the reasons for low consumer legal literacy regarding their rights, including the right to information on food composition.

A lack of understanding of consumers and demands on their rights can lead to producers being less motivated to meet their obligations proactively (Matusiková, 2011). This highlights the importance of consumer education, an adequate legal framework, and economic incentives to ensure that consumers and producers meet their respective responsibilities (Loer, 2024). The caveat vendor principle, which is supposed to encourage producers to be more responsible, becomes dull because there is no significant pressure from the demand side (consumers) (Sim & Kim, 2021). This creates a lack of awareness and action from consumers, creating a vicious circle where producers feel no need to take responsibility because there is no pressure from consumers, and consumers remain silent because they are not aware of the rights they are exercising (ANTONY et al., 2025). So it is necessary to improve consumer education programs that not only focus on consumer rights but also psychological aspects such as self-confidence (ANTONY et al., 2025), Strengthen regulations and enforcement to ensure manufacturers are accountable for their products (Solaiman, 2013), and the use of technology to increase transparency and make it easier for consumers to access information about products (Schenten et al., 2020).

3.5 Regulation Loopholes and Inconsistencies in Sanctions That Weaken the Deterrent Effect

Ambiguity in the laws and regulations in their implementation can create significant gaps. For example, discrepancies between stated policy objectives and their implementation can lead to ineffective enforcement and compliance issues (Frost, 2024). This ambiguity can be intentional, allowing for selective law enforcement and creating legal loopholes that regulated entities can exploit. The inconsistent application of sanctions can lead to uncertainty and a lack of trust in the regulatory system. For example, in animal welfare governance in Norway, the use of administrative sanctions to enforce lax legal norms produces unforeseen results, triggers resistance from regulated parties, and ultimately weakens compliance (Gezelius, 2025). These inconsistencies can result in regulated entities deeming law enforcement unfair or arbitrary, further weakening the deterrent effect. The findings of the study on regulatory asymmetry between the Consumer Protection Law (Law No. 8 of 1999) and the Food Law (Law No. 18 of 2012) both aim to protect consumers, but have different focuses and enforcement mechanisms. The Consumer Protection Act generally covers consumer rights and business practices, while the Food Act specifically addresses food safety and quality (Widiarty & Fahim, 2024).

Specifically, the data that 73% of derivative regulations do not have proportionate sanctions is at the core of the weak deterrent effect. Administrative sanctions are often the main consequence for producers when regulations are violated. These sanctions may result in economic losses for consumers and business actors, but do not necessarily guarantee accountability or a substantial deterrent effect (Gurvich et al., 2021). The balance between consumer protection and the interests of producers often results in a system whose responsibilities are more administrative. This can be seen from how liability laws are structured to maintain a fair balance, which allows producers to avoid liability under certain conditions (Verheyen, 2021). So that violations are considered as “cost of doing business” that can be calculated, not as legal risks that must be

avoided. As a result, the caveat venditor principle fails to create a deterrent effect capable of forcing producers to comply fundamentally.

Overall, although the caveat venditor principle is intended to enhance consumer protection, its practical application is often inadequate due to regulatory inadequacies, enforcement costs, information overload, and the persistent practice of caveat emptor. Therefore, the assumption that the application of caveat venditor automatically increases consumer protection is not supported by the evidence (Iheme, 2022). Inconsistent regulations can lead to confusion and violations of the law. For example, in the context of consumer protection in the United States, there are inconsistencies between state regulations and private litigation that can produce conflicting results (Helland & Klick, 2012). In addition, overly detailed and paternalistic regulation can result in ineffective overregulation (Weber, 2021). Uneven implementation of regulations is also a problem. In some countries, despite strict regulations, their implementation is often ineffective. For example, in the European Union, despite various initiatives to improve access to justice for consumers, implementation at the national level is often inadequate (Straetmans & Vereecken, 2024). This is also seen in the context of consumer protection in Brazil, where, despite a strong legal framework, implementation and enforcement still face many challenges (Pubel & Marighetto, 2025). Access to effective justice mechanisms is often limited, especially for vulnerable consumers. Despite developments in alternative dispute resolution (ADR) and online dispute resolution (ODR) mechanisms, many consumers still struggle to access justice due to high costs, complexity of procedures, and language barriers (Sahin-Sengül & Kaya, 2025). In the European Union, despite efforts to expand competence in access to justice, the issue of litigation costs remains a significant challenge (Benöhr, 2013).

Within the framework of Legal Efficacy Theory, this study proves that the success of this legal paradigm shift does not just happen, but depends on three fundamental pillars that must be built simultaneously: regulatory consistency through the harmonization of norms and sanctions; the adaptive capacity of business actors which is realized through MSME assistance and strict supervision of corporations; and pro-consumer access to justice through burden of proof reversal and a simple redress mechanism (Santos Campos, 2016). Thus, the transition from caveat emptor to caveat venditor is not just a change in legal concepts, but an agenda to carry out a complete reboot of the food consumer protection system. Without a holistic overhaul of the three pillars, the findings of the study confirm that this paradigm shift will only be a legislative symbolism that fails to provide absolute protection.

4 CONCLUSION

The shift from caveat emptor to caveat venditor in the protection of food consumers in Indonesia has not yielded optimal results. The challenges are systemic and multidimensional, including regulatory weaknesses, reactive and uneven law enforcement, inaccessible justice mechanisms, institutionalized information and behavioral asymmetry, and low consumer legal literacy. Without a complete reboot that touches on the three pillars of Legal Efficacy Theory (consistent regulation, adaptive capacity of business actors, access to pro-consumer justice) simultaneously and supported by increasing literacy and the use of technology, the caveat venditor principle will only become legislative symbolism that fails to provide real protection for food consumers. The value of this research lies in comprehensive diagnosis and concrete recommendations to realize effective and equitable food consumer protection.

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