

Legal Responsibility For The Distribution Of Cosmetics Without Bpom Permit

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Abstract

The distribution of cosmetics without permits from the Food and Drug Monitoring Agency (BPOM) remains a common problem in society, particularly through social media and e-commerce platforms. These unlicensed cosmetic products can pose a risk to consumer health because they do not undergo safety, quality, and quality inspections in accordance with existing regulations. The purpose of this study is to identify law enforcement methods against businesses that distribute cosmetics without permits from BPOM, the challenges faced by law enforcement and the BPSK, and forms of legal protection for consumers. The approach used in this study is an empirical legal method with a sociological approach. Data were collected through interviews with Tipidter investigators at the Cirebon City Police and the Cirebon Consumer Dispute Resolution Agency, and supported by literature studies. The research findings indicate that law enforcement is carried out through stages of investigation, inquiry, confiscation of evidence, and the imposition of criminal and administrative sanctions. However, in its implementation, various obstacles remain, such as difficulties in tracking online business actors, low public legal awareness, and limited supervision. Therefore, better cooperation is needed between law enforcement officials, BPSK, and BPOM to provide effective protection for consumers.

Keywords: *Illegal Cosmetics, Consumer Protection, Law Enforcement.*

INTRODUCTION

The development of contemporary business in Indonesia, both in-person and online, has led to an increasing variety of food, pharmaceutical, and cosmetic products available to the public. Easy access through e-commerce and social media opens up significant opportunities for entrepreneurs to promote their products widely. However, this situation has also created a serious problem: many products are circulating without distribution permits (NIE) or labels from the Food and Drug Monitoring Agency (BPOM).

The BPOM label is a vital sign that indicates a product has undergone safety, quality, and compliance assessments according to Indonesian regulations. Without a BPOM label, a product's safety cannot be guaranteed and can pose various health risks to users, such as allergic reactions, poisoning, organ damage, and other long-term effects.

This problem is further complicated by the growth of digital commerce, which is often difficult to effectively monitor. Many businesses are taking advantage of this situation to sell illegal goods, such as cosmetics containing hazardous substances, unauthorized imports, and processed foods that fail to meet clear hygiene and legal standards. Furthermore, consumers' lack of awareness about the importance of BPOM labels makes them easily swayed by low prices and attractive offers without considering the safety aspects of the products.

One example of this situation is the distribution of counterfeit cosmetics under the Theraskin brand name. In this case, individuals acting as sellers repackage the products with substandard ingredients and lacking the authentic formula. They then resell the products through digital platforms like Shopee and Instagram. This practice not only harms buyers but also represents a breach of the business's responsibility to guarantee the safety and quality of the goods sold.

Legally, Indonesia has various regulations governing the responsibilities of business actors and consumer protection, including Law Number 8 of 1999 concerning Consumer Protection

which regulates the rights and obligations of consumers and the responsibilities of business actors.

However, in reality, the implementation of legal responsibility for businesses and consumer protection has not been functioning effectively. Many businesses ignore their legal obligations, while consumers are often left vulnerable. Law enforcement against violations involving the distribution of cosmetics without BPOM permits has also been ineffective, with monitoring, enforcement, and sanctions failing to provide a deterrent effect.

Given this situation, a more thorough analysis of the legal responsibilities of business actors involved in the distribution of cosmetics without BPOM permits is crucial, including the types of legal protection available to consumers, and the enforcement actions taken by the government and law enforcement agencies to address the distribution of these illegal products. This is crucial for ensuring legal certainty, fairness, and maximum consumer protection when using food, pharmaceutical, and cosmetic products in Indonesia.

RESEARCH METHODS

The research method employed in this paper is an empirical sociological legal study, which is legal research that analyzes the function and application of law in society. This research is not limited to legal norms recorded in statutes but also explores the behavior of business actors and consumers, and the effectiveness of law enforcement in practice, particularly regarding the distribution of cosmetics without permits from the Food and Drug Monitoring Agency (BPOM).

The approaches applied in this research consist of a case study and a sociological approach. The case study approach analyzes real-life examples related to the distribution of cosmetic products without BPOM permits, such as the sale of illegal cosmetics on e-commerce platforms and social media. Furthermore, the sociological approach is applied to explore various factors contributing to violations, such as a lack of legal understanding among business actors and weak oversight.

The primary data is obtained directly from the source through interview methods and/or observations of relevant individuals, such as business actors (cosmetic resellers), consumers, and also supervisory authorities, including officers or officials related to BPOM.

Secondary data was obtained by researching literature, including primary legal documents such as Law Number 8 of 1999 concerning Consumer Protection and Law Number 36 of 2009 concerning Health, as well as secondary legal materials such as books, scientific articles, previous research, and other reliable sources related to this research.

Tertiary data consists of supporting materials such as legal dictionaries, encyclopedias, and other sources that help explain the terminology and concepts applied in the research.

Information collection techniques included interviews, observations, and document analysis. Interviews were conducted in a planned or semi-planned format to gain a deeper understanding of the distribution practices of cosmetics not registered with the Food and Drug Authority (BPOM). Observations were conducted to directly observe events occurring in the community, particularly those surrounding online buying and selling activities. Document analysis was conducted by reviewing various relevant documents, such as surveillance reports, news reports, and official data.

RESULTS AND DISCUSSION

Forms of Legal Responsibility

Law enforcement for consumer protection against the circulation of illegal cosmetic products in Indonesia is based on various integrated national legal instruments. One of the main

legal foundations is Law Number 8 of 1999 concerning Consumer Protection, which guarantees consumers' rights to obtain safe, comfortable, and high-quality goods and/or services. The law also stipulates the obligation of business actors to provide correct, clear, and honest information regarding the condition and characteristics of the products being traded, including the potential risks they may pose to consumers.

The oversight mechanism for the distribution of cosmetics is further regulated in more technical terms through the Food and Drug Monitoring Agency (BPOM) Regulation Number 12 of 2023 concerning the Supervision of Drugs, Food, Cosmetics, Specially Processed Food Ingredients, and Toxic Chemicals. This regulation provides the operational basis for BPOM to carry out oversight, ranging from inspections and product testing to confiscation and destruction of products that do not meet applicable licensing requirements and safety standards.

To ensure consumer protection and the quality of cosmetic products, the Indonesian government has established various Indonesian National Standards (SNI) and technical regulations as guidelines for the production, testing, and distribution of cosmetics. These standards ensure that products in circulation meet safety, quality, and efficacy requirements, thereby preventing the distribution of cosmetics that are harmful to public health.

This standard covers product quality requirements, the use of safe raw materials, and the control of microbiological contamination and heavy metals such as mercury, lead, arsenic, and cadmium. To ensure compliance with this standard, every cosmetic product must undergo laboratory testing in accordance with applicable regulations.

In addition, the cosmetics industry is required to implement Good Cosmetic Manufacturing Practices (CPKB), a production system that consistently and controlledly regulates all stages of cosmetic manufacturing to ensure quality and minimize the risk of contamination. By implementing SNI (Indonesian National Standard), safety testing, and CPKB, the government is establishing a comprehensive oversight system to protect consumers and increase the competitiveness of the national cosmetics industry.

Consumer protection efforts are implemented not only through regulation and supervision, but also through outreach and education activities involving various stakeholders. The National Standardization Agency (BSN) regularly holds training for business actors on SNI certification procedures, product technical requirements, and the legal consequences of non-compliance with applicable standards. Meanwhile, the Food and Drug Authority (BPOM) conducts public campaigns through mass media, digital platforms, and direct educational activities to raise awareness about the importance of using cosmetics with distribution permits and the dangers posed by illegal cosmetics. Furthermore, collaboration with various e-commerce platforms is also being carried out to implement distribution permit verification mechanisms before a product can be marketed online.

Based on interviews with investigators from the Cirebon City Police's Specific Crimes Unit (Tipidter), law enforcement against businesses distributing cosmetics without BPOM distribution permits is carried out through a series of stages in accordance with statutory provisions. The process begins with an investigation to determine suspected criminal activity, which is then continued with an investigation, evidence collection, witness and suspect examinations, confiscation of evidence, and the transfer of the case to the public prosecutor if all elements of the crime have been met.

In practice, businesses found to be distributing cosmetics without a distribution permit can be subject to various forms of legal liability, including administrative sanctions, imprisonment, fines, and the obligation to compensate consumers who suffer losses due to the use of these products. However, research shows that the implementation of these sanctions has not been entirely deterrent. Businesses are still found to be committing similar violations due to the high economic profits obtained from selling illegal cosmetics, particularly through social media and e-commerce platforms.

Furthermore, law enforcement officials also face various obstacles in the law enforcement process. Some of the obstacles frequently encountered include the use of fake identities by business actors, the use of anonymous accounts in digital transactions, the extensive distribution network through online platforms, and limited human resources and monitoring facilities. Therefore, strengthened coordination and synergy between the police, the Food and Drug Monitoring Agency (BPOM), local governments, digital platform operators, and the public are needed to increase the effectiveness of monitoring and enforcement against the circulation of illegal cosmetics.

The development of the cosmetics industry itself shows significant transformation over time. Initially, cosmetic products were made from natural ingredients such as clay, vegetable oils, and plant extracts, used for cultural and ritual purposes. With the advancement of science and technology, the cosmetics industry has evolved into an economic sector with high strategic value. In Indonesia, the cosmetics industry is growing rapidly, with the presence of various local and international brands that meet the increasingly diverse needs of consumers.

In the context of supervision, the BPOM, as the authorized agency, continues to intensify oversight of the circulation of illegal cosmetics through an integrated approach. Supervision is conducted both offline at production and distribution facilities and online through cyber patrols on various e-commerce platforms. This approach aims to prevent the circulation of non-compliant cosmetics and provide optimal protection to consumers.

In addition, the BPOM also conducts thematic monitoring focused on uncovering illegal cosmetics distribution networks. This activity is carried out through intelligence operations, follow-up on public reports, and monitoring online trading activities. If indications of violations are found, law enforcement measures include temporarily suspending business activities, confiscating products, and further investigations to identify and prosecute all parties involved in the illegal cosmetics distribution chain. Thus, law enforcement against the distribution of cosmetics without marketing authorization serves not only as a means of enforcement but also as an instrument for consumer protection and comprehensive public health.

Forms of Legal Protection for Consumers

Based on information obtained from interviews with the BPOM (Indonesian Food and Drug Supervisory Agency) in Cirebon City, legal protection for consumers is provided through non-litigation dispute resolution using mediation, conciliation, and arbitration. Consumers who feel they have been harmed by the use of cosmetics not licensed by the BPOM can file a complaint with the BPSK, providing proof of purchase, product identification, and evidence of the loss they have suffered.

Research results indicate that the BPSK's conflict resolution method is considered faster, easier, and less costly than court proceedings. During this process, consumers can receive legal protection in the form of compensation, refunds, or other forms of compensation in accordance with the BPSK's decision. However, the effectiveness of this protection is still influenced by business actors' compliance with BPSK decisions. If a business actor does not voluntarily implement the decision, the enforcement of the decision must be submitted to the District Court.

In practice, the BPSK also faces a number of challenges, such as limited authority in handling criminal acts, difficulties in bringing business actors operating online to justice, a lack of evidence submitted by consumers, and a low public understanding of their rights as consumers. Therefore, legal protection for consumers does not only depend on the role of the BPSK, but also requires support from the BPOM, law enforcement officials, and increased education for the public to be more careful in choosing cosmetic products that have received distribution permits from the BPOM.

CONCLUSION

The conclusion based on research findings, law enforcement related to the distribution of cosmetic products without permission from the BPOM is carried out through collaboration between Tipidter investigators from the Cirebon City Police, BPSK, and the Food and Drug Monitoring Agency (BPOM). Tipidter is responsible for the investigation stage, gathering evidence, and submitting cases to the public prosecutor, while BPSK provides legal protection for consumers by resolving disputes through non-litigation methods such as mediation, conciliation, and arbitration. Although the law enforcement mechanism has been running according to applicable regulations, its implementation still faces various challenges, such as difficulties in tracking business actors operating in cyberspace, the use of invalid identities, limited supervision, and a lack of legal awareness among the public regarding the selection of cosmetic products that have distribution permits.

The research findings also revealed that legal sanctions and fines imposed on businesses have not yet fully deterred consumers, while decisions from the BPSK (Indonesian Food and Drug Supervisory Agency) have been quite helpful in obtaining compensation for consumers, although their implementation remains dependent on business compliance. Therefore, increased oversight of the cosmetics trade, particularly on digital platforms, enhanced communication between the Anti-Corruption Agency (Tipidter), BPSK, and BPOM, and increased public education on the importance of using cosmetics with distribution permits are needed. These measures are expected to enhance legal protection for consumers and reduce the circulation of illegal cosmetics in Indonesia

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