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The Liability of Cosmetics Business Operators For The Impact of Hazardous Product: Pinkflash Cosmetics Brand on Consumers

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Abstract: Consumer protection in the cosmetics industry is a very important aspect in realizing justice, safety, and legal certainty, especially when dangerous products can threaten public health. This article aims to analyze the legal responsibilities of cosmetics businesses and the legal protection provided to consumers in the case of Pinkflash products containing dangerous ingredients such as mercury and hydroquinone. The research method used is normative legal research with a legislative, conceptual, and case approach. The results show that cosmetic businesses bear civil, criminal, and administrative legal responsibility, including the obligation to compensate consumers, criminal sanctions in the form of imprisonment and fines, and administrative sanctions in the form of product recalls and revocation of distribution permits by the Indonesian Food and Drug Administration (BPOM). Legal protection for consumers is carried out preventively through product supervision and distribution permits, as well as repressively through the application of the principle of strict liability, legal sanctions, and dispute resolution through the Consumer Dispute Settlement Agency (BPSK). Although the legal framework in Indonesia is comprehensive, its implementation is still weak due to a lack of post-distribution supervision and low consumer awareness. Therefore, improved coordination between institutions and public education are needed to achieve effective consumer protection.

Keyword: Consumer Protection Act, Legal Liability, Indonesian Cosmetics Law

INTRODUCTION

Consumer protection plays a crucial role in ensuring consumers' rights, providing legal certainty, and upholding justice in business relations, since consumers often occupy a weaker and less advantageous position compared to business owners (Panjaitan, 2021). However, violations of consumer rights still frequently occur, one of which involves the case of hazardous cosmetic products under the brand *Pinkflash* in Indonesia.

In 2022, The Indonesian Drug Authority or the National Agency of Drug and Food Control (BPOM) discovered 55 local and imported cosmetic products containing hazardous substances, including several products from *Pinkflash*. *Pinkflash* stated that it remains committed to maintaining the quality and safety of its products, asserting that the incident involving their hazardous cosmetics occurred because a manufacturing partner unilaterally

substituted raw materials without prior notice, approval, or compliance with safety regulations set by BPOM.

Based on the results of testing by the Food and Drug Authority or the National Agency of Drug and Food Control (BPOM), several Pinkflash cosmetic products were found to contain hazardous substances and were banned from distribution. The Pinkflash Pro Touch Eyeshadow Palette PF-E15 - #02 (NA11211201040) contains the banned dyes Red K3 and Red K10, while the Pinkflash L01 Lasting Matte Lip Cream - R04 (NA11211300237) contains the banned dye Red K3. In addition, the Pinkflash Multi Face Palette PF-M02 - #01 (NA11211200494) product was found to contain Acid Orange 7. These substances are known to be carcinogenic and have the potential to damage liver function, thereby endangering consumer health. As a legal measure, the Drug Authority or the National Agency of Drug and Food Control (BPOM) has revoked the distribution permits for these three products and ordered their withdrawal from circulation and the destruction of all existing stock on the market. (BPOM Cooperation and Public Relations Bureau, 2024).

Many consumers are unaware of the risks of certain cosmetic chemicals that can cause health problems, ranging from mild irritation to serious issues. Consumer ignorance and the lack of oversight of illegal cosmetic distribution increase the likelihood of people being exposed to harmful products (Azhara & Khasanah, 2021). Oversight of the circulation of illegal cosmetics containing hazardous substances is still ineffective, leaving consumers vulnerable to health risks (Sembiring & Pratama, 2022).

Regulations such as Consumer Protection Act No. 8 of 1999 and The Drug Authority or the National Agency of Drug and Food Control Regulation (BPOM) No. 12 of 2023 provide oversight and protection aimed at creating a transparent and safe skincare and cosmetics market for consumers. However, given the numerous violations of claims in online media, oversight in the digital age remains a major problem (Fil' Awal & Hutabarat, 2025). The Pinkflash case is clear evidence of the importance of strong legal protection to ensure consumer safety and hold businesses accountable.

This case is important because it shows that there needs to be legislation that requires businesses to ensure that the cosmetic products they market are safe and protect customers from physical and mental harm caused by products that do not meet standards. To maintain justice and legal certainty for consumers, cosmetic manufacturers must be fully responsible for the effects of the hazardous products they sell, both civilly and criminally, according to consumer protection legal experts. The author's objectives in researching this article are to determine the form of legal responsibility of cosmetic business operators related to the distribution of three hazardous Pinkflash products according to Indonesian legislation and to determine the legal protection provided to consumers in cases of hazardous cosmetic products, particularly in the case of Pinkflash products.

METHOD

The type of research used in this study is normative legal research, which examines law as a set of norms or rules contained in legislation, jurisprudence, doctrine, and the opinions of legal scholars (Soekanto & Mamudji, 1995). This research does not rely on field data but focuses on a comprehensive analysis of legal materials through literature study.

The approaches employed include the statute approach, the conceptual approach, the comparative approach, and the case approach. The statute approach involves analyzing relevant laws and regulations, particularly Law Number 8 of 1999 on Consumer Protection Act and Law Number 17 of 2023 on Health Act. The conceptual approach is used to explore theoretical foundations related to consumer rights and business responsibility in the cosmetics industry. The comparative approach serves to compare legal norms and their implementation in similar

contexts, while the case approach is applied to examine violations related to the circulation of dangerous cosmetic products such as Pinkflash.

This study applies the deductive method, which draws conclusions from general legal principles to specific cases (Ulum, 2022). The analysis also includes an interpretation of legal doctrines and authorities, as well as an examination of the practical application of legal norms in consumer protection enforcement. The qualitative normative analysis aims to interpret legal materials systematically to obtain conclusions that answer the research problems.

RESULTS AND DISCUSSION

The legal responsibility of cosmetic businesses for the distribution of hazardous Pinkflash products according to Indonesian Statute Law and regulations

The legal liability of cosmetic businesses such as Pinkflash that manufacture and distribute hazardous products can be categorized into three main areas, namely civil, criminal, and administrative liability. These three forms of liability are an implementation of the principle of Consumer Protection Act as stipulated in Law Number 8 of 1999 on Consumer Protection Act, Law Number 17 of 2023 on Health Act, Indonesian Civil Code (KUHPerdata), and The Drug Authority or the National Agency of Drug and Food Control (BPOM) Regulation Number 12 of 2023 on Supervision of Cosmetics Manufacturing and Distribution.

Normatively, the Consumer Protection Act emphasizes that consumers have the right to comfort, security, and safety in consuming goods and/or services as stipulated in Article 4 letter a, and business owners are required to provide accurate, clear, and honest information about product conditions and guarantees based on Article 7 letter d. Business owners are also prohibited from trading goods that do not meet safety requirements or contain hazardous substances according to Article 8 letter d. In the Pinkflash case, products proven to contain hazardous substances such as mercury and hydroquinone violate these provisions because they do not meet the product safety standards set by The Drug Authority or the National Agency of Drug and Food Control (BPOM) (Biro Kerja Sama dan Hubungan Masyarakat, 2024).

Based Law Number 36 of 2009 on Health Act, Article 197 in conjunction with Article 106 regulates the prohibition of the production or distribution of products containing hazardous substances that do not meet safety standards. Companies that intentionally import or distribute hazardous cosmetics are subject to criminal sanctions. To protect users from serious health risks caused by the use of dangerous cosmetics, these criminal sanctions are enforced (Lestari & Elina 2015).

In the context of civil liability, Article 1365 of Indonesian Civil Code is the main legal basis for claims for unlawful acts (*Onrechtmatige daad*). Manufacturers or distributors who cause losses due to hazardous products are obliged to compensate consumers, either in the form of replacement goods, health care, or other compensation. The Consumer Protection Act reinforces this provision through the principle of strict liability as stipulated in Article 19, paragraph (1). Based on this principle, business owners must still bear the losses of consumers even if they are not proven guilty, as long as it is proven that the products they distribute cause losses. Thus, in the Pinkflash case, the company is liable for the losses suffered by consumers due to the use of unsafe products, without having to prove fault (Gusti & Karolina, 2021).

Meanwhile, criminal liability arises if a business owner intentionally or negligently produces and distributes hazardous cosmetics that do not meet safety and quality standards. Based on Article 62 paragraph (1) of the Consumer Protection Act, business owners can be sentenced to a maximum of five years in prison or a maximum fine of two billion rupiah if they violate the provisions of Article 8. In addition, Article 435 of Law Number 17 of 2023 on Health Act also provides for criminal penalties of up to twelve years' imprisonment and a maximum fine of five billion rupiah for anyone who intentionally produces or distributes pharmaceutical preparations, including cosmetics, that do not meet safety, efficacy, and quality

requirements (Winata, 2022). These provisions indicate that the state places consumer safety as a top priority in public Health Act, and business owners cannot hide behind administrative negligence.

Administrative responsibility is carried out by BPOM as the main supervisory agency for the distribution of cosmetics in Indonesia. Based on BPOM Regulation Number 12 of 2023, The Drug Authority or the National Agency of Drug and Food Control (BPOM) has the authority to recall products from circulation, revoke distribution permits, stop production, and destroy products that do not meet safety standards or contain hazardous ingredients. In the Pinkflash case, The Drug Authority or the National Agency of Drug and Food Control (BPOM) has announced the revocation of distribution permits and ordered the recall of products from the market, which is a concrete form of administrative responsibility for businesses that violate regulations (Aprilia & Rini, 2024). These administrative sanctions are preventive and repressive in nature, namely to stop potential dangers and provide a deterrent effect for other businesses.

In addition to these three forms of responsibility, business owners also have a moral and legal obligation to provide accurate and transparent information to consumers, as stipulated in Article 9 of Law Number 11 of 2008 on Electronic Information and Transactions. In the context of digital marketing, including through platforms such as TikTok and e-commerce, business owners are required to include complete information regarding the composition of ingredients, risks of use, and product distribution permits. Failure to fulfill these obligations can be categorized as a violation of consumer rights and form the basis for additional legal claims (Erlinawati & Nugrahaningsih, 2017).

Analysis of the research results shows that although Indonesia's legal framework is quite comprehensive in regulating the responsibilities of cosmetic businesses, implementation in the field still faces serious obstacles, especially in terms of monitoring the distribution of imported products and online transactions (Magfirah, 2009). The Pinkflash case illustrates that weak post-distribution supervision and low public awareness of the need to verify product legality exacerbate the risks to consumers. Therefore, there is a need for increased coordination between The Drug Authority or the National Agency of Drug and Food Control (BPOM), the Ministry of Trade, e-commerce platforms, and law enforcement agencies to strengthen the supervisory system and ensure that any violations are dealt with firmly.

From this description, it can be concluded that the legal responsibilities of cosmetic business owners in the Pinkflash case include the obligation to provide compensation (civil liability), subject to criminal sanctions for violating product safety and quality regulations, and subject to administrative sanctions in the form of product recalls and revocation of distribution permits by The Drug Authority or the National Agency of Drug and Food Control (BPOM). These three forms of responsibility complement each other and aim to create a balance between the interests of business operators and consumer protection. With consistent implementation, this legal system is expected to encourage more responsible cosmetic business practices and ensure consumer safety in Indonesia.

Legal protection provided to consumers in cases involving hazardous cosmetic products, particularly in the case of Pinkflash products

Legal protection for consumers is a fundamental aspect of a modern economic legal system that is oriented towards justice, security, and legal certainty. In the case of cosmetic products, legal protection is increasingly important because these products come into direct contact with the human body and pose a high risk to health if they contain hazardous ingredients. Legal protection for consumers in the case of dangerous cosmetic products, such as the Pinkflash case, is very important given the risk of health damage experienced by

consumers due to the use of products that contain hazardous ingredients and do not meet safety standards, because consumer protection is also part of human rights (Zulham, 2017).

The case of hazardous Pinkflash brand cosmetics released by The Drug Authority or the National Agency of Drug and Food Control (BPOM) in December 2024 is one actual example that illustrates the importance of effective legal protection mechanisms for consumers. Based on BPOM press release Number HM.01.1.1.12.24. 99 of 2024, a number of cosmetic products circulating in the market—including those sold through online platforms—were found to contain hazardous ingredients such as mercury and hydroquinone, which can cause skin disorders, kidney damage, and carcinogenic effects if used continuously (BPOM Cooperation and Public Relations Bureau, 2024).

Legal protection for consumers in the Pinkflash case can generally be divided into two forms: preventive protection and repressive protection. Preventive protection is provided through supervision and regulation mechanisms before a cosmetic product is distributed in the market. Based on Article 4 letter a of Law Number 8 of 1999 on Consumer Protection Act, every consumer has the right to comfort, security, and safety in consuming goods and/or services, as well as the right to accurate, clear, and honest information regarding the condition and warranty of goods businesses are responsible for providing accurate and honest information that does not mislead customers. They are also responsible for providing compensation if the products they distribute cause losses to customers. If Pinkflash contains hazardous substances such as mercury, business operators may be held strictly liable, meaning they may be liable for all damages caused by the product without having to prove that they were at fault (Utomo, 2025).

The implementation of this right is realized through a cosmetic distribution monitoring system by The Drug Authority or the National Agency of Drug and Food Control (BPOM), which requires every cosmetic product to have a Notification Number or Distribution Permit Number (NIE) (BPOM Drug and Food Data and Information Center, 2023). This mechanism aims to ensure that the composition of ingredients, production processes, and product labeling meet established safety standards. In the case of Pinkflash, this form of preventive protection should serve to prevent products containing hazardous ingredients from entering the market. However, the fact that these products are still circulating indicates weaknesses in the distribution monitoring system, especially in cross-border online sales, which are difficult to control (Azhar & Khasanah, 2021). This weakness poses a challenge for the government to strengthen cross-authority coordination mechanisms and update digital-based surveillance policies to keep pace with developments in e-commerce and cosmetic product imports.

Legal protection does not stop at the prevention stage. When a hazardous product has been distributed and causes harm to consumers, protection shifts to a repressive form that aims to restore the rights of victims and impose sanctions on business owners. Based on Article 19 paragraph (1) of the Consumer Protection Act, it is evident that business operators are subject to strict liability for damages arising from unsafe products (Sari, 2023). The principle of strict liability under Article 19 of the Consumer Protection Act, imposes liability on business operators regardless of fault, emphasizing that the obligation to ensure product safety rests entirely on the producer (Sinduningrum, A., & Marlina, H. 2023). This principle is complemented by the good faith principle under Article 7, requiring business operators to provide accurate information and ensure transparency in labeling and distribution. This makes it easier for consumers to claim their rights without being burdened by the complexity of proving the manufacturer's fault.

The burden of proof lies with the business operator, who must prove that the damage was not caused by the product they distributed. Compensation that can be claimed by consumers may take the form of a refund or replacement of a similar item, as well as medical treatment and/or compensation in accordance with the provisions of the law (. In the case of Pinkflash,

business owners or distributors can be held legally liable if they are proven to have distributed products without a distribution permit or with contents that are harmful to consumers. Also consumers who suffer losses, such as skin irritation, allergies, or medical expenses, can sue the manufacturer or seller based on civil torts (breach of contract, violation of law, or product liability) (Kusumadewi, 2022).

In addition to civil liability, Consumer Protection Act and Health Act also provide for criminal prosecution of business operators who deliberately or negligently distribute hazardous products. These criminal sanctions are intended to serve as a deterrent and ensure that business operators exercise greater caution in the production and marketing of goods. As a technical agency, The Drug Authority or the National Agency of Drug and Food Control (BPOM) also has administrative authority to recall products from the market, revoke distribution permits, order the destruction of products, and announce lists of hazardous products to the public (Rihi, 2024). These measures not only serve as law enforcement, but also as a form of direct protection for the public so that they are not continuously exposed to the risks of hazardous products.

In the repressive protection mechanism, the aspect of consumer rights recovery is also regulated through various dispute resolution channels. Based on the Consumer Protection Act, aggrieved consumers can seek dispute resolution through the courts (litigation) or outside the courts (non-litigation), such as mediation, conciliation, and arbitration organized by the Consumer Dispute Settlement Agency (BPSK) (Shidarta, 2006). This non-litigation channel provides convenience because it is fast, inexpensive, and less formal, thereby ensuring greater access to justice for consumers. In addition, the existence of the Independent Consumer Protection Agency (LPKSM) is also an important element in providing legal assistance, advocacy, and education to consumers who are victims of hazardous products (Rihi, 2024). In the Pinkflash case, the role of BPSK and LPKSM was very strategic in promoting efficient dispute resolution and ensuring that consumer rights were not ignored by business owners.

From the results of legal analysis, it can be interpreted that although Indonesia's legal framework for consumer protection is complete, ranging from product safety regulations to complaint mechanisms and sanctions, its implementation still faces obstacles. The main challenges lie in the weak supervision of online sales, low public awareness of the importance of checking product distribution permits, and the limited capacity of supervisory agencies at the regional level. This means that ideal legal protection has not yet been fully realized in substance. In the case of Pinkflash, these weaknesses highlight the need to reformulate supervisory policies to be more adaptive to changes in consumption patterns and digital commerce, as well as to improve consumer literacy through ongoing public education (Fil Awalin & Hutabarat, 2025)

In addition, coordination between The Indonesian Drug Authority or the National Agency of Drug and Food Control (BPOM), the Ministry of Trade, e-commerce platforms, and law enforcement agencies must be strengthened to ensure that supervision and law enforcement are carried out synergistically. Business owners must also be required to conduct due diligence on the products they distribute, while online sales platforms need to have legal responsibility for selecting the products advertised on their sites. Thus, the legal protection system for consumers is not only the responsibility of the government, but also a shared responsibility between business owners, the community, and law enforcement agencies.

In terms of post-market surveillance and responsibility in digital marketplaces, Indonesia's Consumer Protection Act is still less strict than those of the US Federal Food, Drug, and Cosmetic Act (FDCA) and the European Union's General Product Safety Regulation (GPSR). Indonesia still mostly depends on administrative sanctions applied after infractions happen, even though the US and the EU place proactive obligations on online platforms to guarantee product compliance (Magfirah, 2009).

CONCLUSION

The liability of cosmetic businesses for the distribution of dangerous products such as Pinkflash covers three main aspects, namely civil, criminal, and administrative liability in accordance with the provisions of Law Number 8 of 1999 concerning Consumer Protection, Law Number 17 of 2023 concerning Health, the Civil Code, and The Indonesian Drug Authority or the National Agency of Drug and Food (BPOM) Regulation Number 12 of 2023. In civil matters, business operators are required to provide compensation to consumers based on the principle of strict liability; in criminal matters, business operators may be subject to imprisonment and fines for producing or distributing dangerous cosmetics; while in administrative matters, BPOM has the authority to revoke distribution permits and recall and destroy products that do not meet safety standards. Although the legal framework is comprehensive, its implementation still faces obstacles in the form of weak supervision and low public awareness, requiring stronger coordination between institutions to realize consumer protection and ensure that the legal responsibility of business operators is effectively enforced.

Consumer Protection Act in cases involving dangerous cosmetic products such as Pinkflash covers two main forms, namely preventive protection and repressive protection, as stipulated in Law Number 8 of 1999 concerning Consumer Protection, Law Number 17 of 2023 concerning Health, and BPOM Regulation Number 12 of 2023. Preventive protection is carried out through distribution permit supervision, product safety standards, and the obligation of business actors to provide clear and honest information before the product is distributed. However, the Pinkflash case shows weak supervision of imported product distribution and online sales. Meanwhile, repressive protection is provided after consumer losses occur through the application of the principle of strict liability, criminal and administrative sanctions by BPOM, and dispute resolution through BPSK or consumer protection agencies. Thus, although the legal framework for consumer protection in Indonesia is quite strong, its implementation needs to be strengthened through increased supervision, consumer literacy, and inter-agency coordination so that legal protection can be more effective.

The enforcement of legal liability in the Pinkflash case demonstrates Indonesia's commitment to the realization of consumer safety and public health as fundamental human rights (Zulham, 2017). Strengthening regulatory enforcement, enhancing public awareness, and promoting due diligence among cosmetic producers are essential to achieving substantive justice and consumer protection in the digital marketplace.

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