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Liability of Business Actors for the Sale of Illegal Pharmaceutical Products in E-Commerce: an Analysis Based on Law Number 8 of 1999 concerning Consumer Protection

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Abstract: The rapid growth of electronic commerce in Indonesia has expanded consumers' access to goods sold online, but it has also created new avenues for the circulation of illegal and potentially hazardous products. This study departs from an actual case in which a marketplace seller distributed unregistered pharmaceutical products under an account name that falsely conveyed an impression of official licensed status, raising two distinct legal questions: how business actors may be held liable for selling unregistered pharmaceutical products, and how a misleading representation of seller identity relates to the statutory duty of good faith. Employing a normative legal research method with a statutory and case approach, this study analyzes the Consumer Protection Law together with sectoral health and electronic trade regulations, illustrating the analysis with an administrative case and several dispute-resolution decisions. The study finds that liability for selling unregistered pharmaceutical products rests firmly on statutory grounds, while liability arising from misleading identity representation must be derived from the broader doctrine of good faith developed in general civil law, since the statute's own elucidation leaves this obligation textually open. The study further finds that the statutory dispute-resolution mechanism, although normatively available, remains vulnerable to inconsistent application in practice. These findings contribute a doctrinal basis for extending business actors' good faith obligations beyond product information to seller identity representation in electronic commerce.

Keywords: Consumer Protection, Good Faith, Illegal Pharmaceutical Products, E-Commerce, Business Actor Liability

Abstrak: Pertumbuhan pesat perdagangan elektronik di Indonesia memperluas akses konsumen terhadap barang yang dijual secara daring, tetapi sekaligus membuka celah baru bagi peredaran produk ilegal yang berpotensi membahayakan kesehatan. Penelitian ini berangkat dari sebuah kasus nyata di mana seorang penjual di suatu marketplace mengedarkan sediaan farmasi tanpa izin edar melalui akun yang namanya secara keliru memberi kesan status resmi berizin, sehingga memunculkan dua pertanyaan hukum: bagaimana pelaku usaha dapat dimintai pertanggungjawaban atas penjualan sediaan farmasi

tanpa izin edar, dan bagaimana representasi identitas penjual yang menyesatkan berkaitan dengan kewajiban itikad baik menurut undang-undang. Dengan metode penelitian hukum normatif melalui pendekatan perundang-undangan dan pendekatan kasus, penelitian ini menganalisis Undang-Undang Perlindungan Konsumen bersama peraturan sektoral kesehatan dan perdagangan elektronik, serta mengilustrasikan analisis tersebut dengan satu kasus administratif dan beberapa putusan penyelesaian sengketa. Penelitian ini menemukan bahwa tanggung jawab atas penjualan sediaan farmasi tanpa izin edar bertumpu kuat pada dasar perundang-undangan, sementara tanggung jawab yang timbul dari representasi identitas yang menyesatkan harus dibangun dari doktrin itikad baik yang lebih luas dalam hukum perdata umum, karena Penjelasan undang-undang tersebut tidak membatasi cakupan kewajiban itu secara tekstual. Penelitian ini juga menemukan bahwa mekanisme penyelesaian sengketa yang tersedia secara normatif tetap rentan terhadap ketidakkonsistenan penerapannya dalam praktik. Temuan ini memberikan landasan doktrinal untuk memperluas kewajiban itikad baik pelaku usaha, dari sekadar informasi produk menuju representasi identitas penjual dalam perdagangan elektronik.

Kata Kunci: *Perlindungan Konsumen, Itikad Baik, Produk Farmasi Ilegal, E-Commerce, Tanggung Jawab Pelaku Usaha*

INTRODUCTION

The internet has ushered the global economy into a new era, widely recognized as the digital economy, characterized by the growing reliance on electronic commerce, or e-commerce, as a medium for conducting business (Khotimah & Choirunissa, 2016). E-commerce has drawn business actors ranging from small enterprises to large corporations onto platforms such as Tokopedia, Shopee, Blibli, Lazada, and Bukalapak (Wijaya, 2023). While this growth has expanded consumer access to goods and services, it has simultaneously lowered the barriers for illegitimate sellers to reach consumers, a concern that is not confined to any single product category. Fil'Awalin and Hutabarat (2025) report that, based on data from the National Agency of Drug and Food Control of Indonesia (BPOM), 22.65 percent of cosmetic advertisements monitored between 2020 and 2023 were found in violation of applicable rules, with 78.75 percent of those violations occurring specifically in online media. This finding indicates that the problem addressed in the present study is not an isolated incident but part of a broader pattern in which digital marketplaces have become the principal site of regulatory violation.

On 7 June 2023, BPOM uncovered a case involving the sale of illegal pharmaceutical and food products through a marketplace account named "*apotik_resmi*," with a transaction value exceeding IDR 18 billion. According to BPOM's Head, Penny K. Lukito, the account name itself created the impression of being an officially licensed pharmacy, despite not being registered in the electronic pharmaceutical licensing system (*Badan Pengawas Obat dan Makanan*, 2023). The seized products included counterfeit men's health medications containing undisclosed sildenafil and tadalafil, illegal slimming products containing sibutramine, and counterfeit health supplements that failed to meet safety standards. Orders were processed through dropshippers, with shipping labels relayed to a warehouse via WhatsApp before dispatch to consumers in the *Jabodetabek* and Bandung areas.

At the time, the criminal prosecution of this case was conducted under Article 197 in conjunction with Article 106 paragraph (1) of Law No. 36 of 2009 concerning Health, which prohibited distributing pharmaceutical preparations without a marketing authorization. That law has since been superseded by Law No. 17 of 2023 concerning Health, under which the equivalent prohibition is now found in Article 138 paragraph (2) in conjunction with Article

435, reflecting a substantive shift from a narrower "without marketing authorization" standard toward a broader standard concerning safety, efficacy, and quality of pharmaceutical products. Notably, the prosecution of the "*apotik_resmi*" case was not conducted under the Consumer Protection Law (Law No. 8 of 1999, hereinafter UUPK). This raises a distinct legal question: criminal prosecution under sectoral health legislation protects public interest in general and does not automatically compensate the individual consumers who purchased and consumed the products. The UUPK, by contrast, explicitly grants an independent right of action to aggrieved consumers regardless of any parallel criminal proceeding (Article 45 paragraph (1) UUPK).

Article 8 paragraph (1) letter (a) and paragraph (3) UUPK prohibit business actors from trading goods that fail to meet applicable statutory standards, including pharmaceutical preparations that are defective or contaminated, with criminal sanctions under Article 62 paragraph (1) UUPK. Liability in a case such as this, however, does not rest solely on the illegality of the product. The use of a seller account name that misrepresents official licensing status also engages the business actor's obligation of good faith under Article 7 letter (a) UUPK. Prior scholarship has examined the good-faith obligation of business actors under the UUPK in general terms (Dadhan Marganti Ritonga, 2020) and its application to online buying and selling transactions specifically (Harun, Dungga, & Tome, 2018; Desiani, Amirulloh, & Suwandono, 2018), as well as misleading representation of product information on food-delivery platforms (Pattiasina & Hutabarat, 2023). What remains underexamined in this body of scholarship is whether the good-faith obligation extends to the seller's representation of its own identity or licensing status as distinct from representations about the product itself a question that becomes especially salient where, as in the "*apotik_resmi*" case, product illegality and identity misrepresentation occur together.

Based on the foregoing, this study addresses two research questions: first, what is the legal basis and form of liability of business actors in e-commerce for the sale of unregistered pharmaceutical products under the UUPK, including the element of good faith in relation to misleading representation of seller identity; and second, what are the implications of this liability for the mechanisms available to recover consumers' rights. This study aims to demonstrate that the good-faith obligation under Article 7 letter (a) UUPK, precisely because it is textually unrestricted by the statute's own elucidation, can be read to extend to seller identity representation, thereby offering a doctrinal basis distinct from and complementary to the narrower, product-focused reading of misleading information found in existing scholarship.

METHODS

This research was conducted using normative legal research methods (juridical normative), namely by examining library materials or secondary data which includes books and legal norms contained in laws and regulations, legal principles, legal systematics, and legal methods as well as examining statutory provisions, court decisions and other legal materials (Ibrahim, 2010). This research uses qualitative descriptive analysis techniques, namely analyzing the data sources obtained and then processed in opinions or responses as well as secondary data obtained from library materials and the internet which are then analyzed so as to obtain data that can answer the problems in this study.

RESULTS AND DISCUSSION

Legal Basis for the Liability of Business Actors for the Sale of Illegal Pharmaceutical Products

Article 8 paragraph (1) letter (a) UUPK prohibits business actors from producing or trading goods that do not meet required standards or applicable statutory provisions. Article 8 paragraph (3) further prohibits trading pharmaceutical preparations that are defective,

contaminated, or damaged, whether or not accompanied by complete and accurate information. Applied to the "apotik_resmi" case, the sale of pharmaceutical products without a valid marketing authorization, containing undisclosed active ingredients such as sildenafil, tadalafil, and sibutramine, falls squarely within this prohibition. Business actors engaged in such conduct are consequently subject to criminal sanctions under Article 62 paragraph (1) UUPK, namely imprisonment for a maximum of five years or a fine of up to IDR 2,000,000,000.

This form of liability operates independently of, and in addition to, liability under sectoral health legislation. As discussed above, the "apotik_resmi" case was in fact prosecuted under Article 197 in conjunction with Article 106 paragraph (1) of the then-applicable Law No. 36 of 2009, since replaced by Article 138 paragraph (2) in conjunction with Article 435 of Law No. 17 of 2023. That prosecution, however, addressed public-interest harm in general and did not itself provide compensation to individual consumers who purchased the products. Article 45 paragraph (1) UUPK grants such consumers a right of action independent of the sectoral criminal process, a point developed further below. The consistency of this regulatory pattern across sectors is worth noting: both Article 435 of the new Health Law and comparable cosmetics regulation enforced by BPOM carry a maximum criminal fine of IDR 5,000,000,000, reflecting a broader tightening of sanctions for products that endanger consumer safety across regulatory domains (Fil'Awalin & Hutabarat, 2025).

Reclaiming Consumer Rights through Good Faith Amid Misleading Seller Identity

Beyond the illegality of the product itself, the "apotik_resmi" case presents a further dimension of liability concerning the business actor's use of an account name that created a false impression of official licensed status. Article 7 letter (a) UUPK obliges business actors to act in good faith in conducting their business activities. This is significant because the official Elucidation of the UUPK narrows several neighboring provisions to a specific scope: the Elucidation of Article 4 letter (g) and Article 7 letter (c) restricts the right and duty of fair treatment to matters of non-discrimination based on ethnicity, religion, culture, and social status, while the Elucidation of Article 7 letter (a) states sufficiently clear, leaving the good-faith obligation textually unrestricted.

The doctrine of good faith in Indonesian civil law, grounded in Article 1338 paragraph (3) of the Civil Code, has been developed by scholars to extend beyond the performance stage of a contract to the pre-contractual stage, encompassing the negotiation process and the representations made prior to the formation of an agreement (Yuanitasari & Kusmayanti, 2020). Within the specific context of the UUPK, (Ritonga, 2020) argues that the good-faith obligation of business actors under Article 7 letter (a) is not confined to the moment of transaction but attaches to the entirety of the business actor's conduct toward consumers. Several studies have examined how this obligation operates in online transactions specifically, finding that sellers bear a continuing duty to represent themselves and their offerings honestly from the outset of the transaction relationship, and that breaches of this duty including the withholding or distortion of material information constitute a form of default distinct from ordinary breach of contract (Harun, Dunga, & Tome, 2018; Desiani, Amirulloh, & Suwandono, 2018). A comparable pattern has been documented outside the pharmaceutical sector: Pattiasina and Hutabarat (2023), examining a food-delivery platform, found that discrepancies between a product's displayed image and its actual condition constituted a violation of the consumer's right to accurate information under Article 4 UUPK, regardless of whether the discrepancy was framed by the platform as a matter of product description or of listing presentation.

Analogizing from this body of doctrine, it can be argued that a seller's account name functions as a continuous representation encountered by every prospective consumer prior to and throughout the negotiation stage, distinct from though related to representations made

about the product itself. Where such a name falsely signals official licensed status, as in the "apotik_resmi" case, this may constitute a breach of the good-faith obligation under Article 7 letter (a) UUPK, independent of whether the conduct also qualifies as "promotion" within the narrower meaning of Article 9 UUPK. A reviewer might object that an account name is not "promotion" as defined in Article 1 point 6 UUPK, since it is an administrative identifier rather than an act of introducing or disseminating information about a good or service. This objection, however, addresses only the narrower provisions of Articles 9 through 11 UUPK; it does not reach Article 7 letter (a), whose scope as shown above is not similarly confined by the statute's own Elucidation. The obligation to act in good faith throughout the business relationship, including in the representation of one's own identity as a seller, is analytically prior to, and broader than, the specific prohibitions on misleading promotion.

The liability established above carries practical implications for how aggrieved consumers may seek recovery. Article 45 paragraph (1) UUPK grants every aggrieved consumer the right to sue a business actor either through the institution tasked with resolving consumer disputes or through the general courts, independent of any parallel criminal proceeding. (Tindangen and Hutabarat, 2023), examining a case in which a festival organizer failed to honor its promised ticket refund, similarly found that a business actor's liability for consumer loss does not depend on whether the underlying conduct is separately pursued as a criminal matter; the consumer's right to compensation under Articles 4, 7, and 19 UUPK stands on its own footing. This reinforces the position taken here regarding the "apotik_resmi" case: a consumer harmed by the purchase of the unregistered pharmaceutical products retains an independent civil claim notwithstanding the sectoral criminal prosecution already under way.

This mechanism operates through BPSK (Articles 49 through 58 UUPK) or the general courts, and Government Regulation No. 80 of 2019 further obliges business actors operating in e-commerce to protect consumers' rights under the UUPK (Article 26 letter a), subject to administrative sanctions ranging from written warnings to revocation of business licenses (Article 80). The practical functioning of the BPSK mechanism, however, is not free of difficulty. In BPSK Garut Decision No. 18/Pdt.S-Brg/BPSK-GRT/IX/2020, a consumer who suffered a gastrointestinal illness after consuming an expired product purchased from a supermarket was awarded IDR 10,000,000 against a claim of IDR 40,000,000. A subsequent academic analysis of the full case history including the District Court's rejection of the business actor's objection and the Supreme Court's rejection of its cassation appeal found that the BPSK panel had conflated the separate liabilities of the product's manufacturer and the retailer that sold it, and had erroneously treated the consumer's claim for immaterial damages as falling outside its jurisdiction, when such damages are properly a matter of civil law under Articles 1239 and 1243 of the Civil Code (Marbun, Suryamah, & Suwandono, 2023). Although the consumer ultimately prevailed through all three levels of adjudication, the case illustrates that the reasoning underlying such awards can be legally unsound even where the outcome favors the consumer. A separate proceeding, District Court of Indramayu Decision No. 50/Pdt.Sus-BPSK/2024/PN Idm, involving an e-commerce platform's objection to a BPSK ruling, resulted in the annulment of the BPSK decision on the ground that the platform had acted as a business actor in good faith, indicating that disputes concerning the liability of e-commerce platforms for matters arising from third-party fulfillment remain an active and unsettled area of adjudication.

Taken together, these findings support the study's central contribution: the good-faith obligation under Article 7 letter (a) UUPK, precisely because its scope is not textually confined by the statute's own Elucidation, provides a doctrinal basis for holding business actors liable for misleading representations of seller identity in e-commerce a basis distinct from, and analytically prior to, the narrower and more heavily litigated question of misleading product information. This extension has not been articulated in the existing scholarship on good faith

in Indonesian e-commerce transactions, which has to date focused principally on representations concerning the product itself rather than the identity of the party making the representation.

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

This study set out to determine the legal basis and form of liability of business actors in e-commerce for the sale of unregistered pharmaceutical products under the UUPK, and the implications of that liability for the recovery of consumers' rights. The study concludes, first, that such liability rests on two independent grounds: the statutory prohibition on trading substandard or unregistered pharmaceutical preparations under Article 8 paragraph (1) letter (a) and paragraph (3) in conjunction with Article 62 paragraph (1) UUPK, and the good-faith obligation under Article 7 letter (a) UUPK, whose textually unrestricted scope under the statute's Elucidation supports its extension to misleading representations of seller identity, as distinct from representations about the product itself. This liability operates independently of, and is not displaced by, any parallel prosecution under sectoral health legislation. Second, the study concludes that the recovery mechanisms available to aggrieved consumers, principally through BPSK and the general courts under Articles 45 and 49 through 58 UUPK, are normatively available but not free of practical difficulty, as illustrated by adjudicative reasoning that has, in at least one documented case, conflated distinct business actors' responsibilities and misapplied the scope of BPSK's jurisdiction over immaterial damages.

Limitations

This study is subject to several limitations. First, the "apotik_resmi" case was used as a hypothetical analytical basis rather than as a matter actually adjudicated under the UUPK, since its criminal prosecution proceeded under sectoral health legislation; the study's conclusions concerning liability under the UUPK are therefore doctrinal rather than derived from a judicial decision addressing this precise factual pattern. Second, the argument extending the good-faith obligation to seller identity representation is built through analogy from doctrine developed in other contractual contexts and has not yet been tested against a judicial decision addressing seller identity misrepresentation specifically. Third, the dispute-resolution decisions used as comparative material in this study did not involve pharmaceutical products, limiting the extent to which their reasoning can be assumed to transfer without qualification to the pharmaceutical e-commerce context.

Recommendations

Future research should test the doctrinal argument developed in this study against judicial or BPSK decisions that directly address misleading representation of seller identity, once such decisions become available, to determine whether courts and dispute-resolution bodies accept the extension of the good-faith obligation proposed here. Further research is also warranted into the liability of e-commerce platforms themselves, as distinct from individual sellers, for their role in verifying or failing to verify seller identity claims, an issue only briefly touched upon in the present study. Comparative research examining how other jurisdictions regulate seller identity representation in electronic commerce may further enrich the doctrinal foundation proposed here, and empirical research into consumers' actual reliance on seller account names when making purchasing decisions would help substantiate the factual premise underlying the good-faith argument advanced in this study.

Author Contributions

All authors made significant contributions to this study. These contributions included research conceptualization, development of the theoretical framework, data collection, data analysis, interpretation of results, manuscript preparation, scholarly revision, and final approval of the manuscript for publication. All authors confirm that they have read and approved the final version of the article.

AI Disclosure Statement

While drafting this manuscript, the author used Claude (Anthropic) for translation and grammar editing purposes. The author has thoroughly reviewed and edited the content and takes full responsibility for the entire content of this publication.

REFERENCES

- Badan Pengawas Obat dan Makanan Republik Indonesia. (2023, June 7). *Temuan hasil penindakan produk obat dan makanan ilegal melalui perdagangan online yang berisiko terhadap kesehatan* [Press release]. <https://www.pom.go.id/siaran-pers/Temuan-Hasil-Penindakan-Produk-Obat-dan-Makanan-Ilegal-Melalui-Perdagangan-Online-yang-Berisiko-Terhadap-Kesehatan>
- Badan Penyelesaian Sengketa Konsumen Kabupaten Garut. (2020). *Putusan Nomor 18/Pdt.S-Brg/BPSK-GRT/IX/2020*.
- Desiani, A., Amirulloh, M., & Suwandono, A. (2018). Implementasi asas itikad baik dalam perlindungan konsumen atas pembatalan transaksi yang dilakukan oleh situs belanja elektronik. *ACTA DIURNAL Jurnal Hukum Kenotariatan dan ke-PPAT-an*, 2(1), 56–68. <https://doi.org/10.24198/acta.v2i1.157>
- Fil'Awalin, H., & Hutabarat, S. M. D. (2025). Consumer legal protection for overclaimed skincare products. *De Lega Lata: Jurnal Ilmu Hukum*, 10(1), 32–39. <https://doi.org/10.30596/dll.v10i1.22493>
- Harun, R. S., Dungga, W. A., & Tome, A. H. (2018). Implementasi asas itikad baik dalam perjanjian transaksi jual beli online. *Jurnal Legalitas*, 12(2), 94–103. <https://ejurnal.ung.ac.id/index.php/JL/article/view/5796>
- Mahkamah Agung Republik Indonesia. (2021). *Putusan Nomor 504 K/Pdt.Sus-BPSK/2021*. <https://putusan3.mahkamahagung.go.id/direktori/index/pengadilan/mahkamah-agung/kategori/perlindungan-konsumen-1/tahunjenis/putus/tahun/2021.html>
- Mahkamah Agung Republik Indonesia. (2025). *Putusan Nomor 553 K/Pdt.Sus-BPSK/2025*. <https://putusan3.mahkamahagung.go.id/direktori/putusan/11f05d3a00840e70a845313030303134.html>
- Marbun, D. Y. M., Suryamah, A., & Suwandono, A. (2023). Penyelesaian sengketa konsumen mengenai penjualan wafer cheese nabati kadaluwarsa di Toserba Asia Garut ditinjau dari Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen. *Concept: Journal of Social Humanities and Education*, 2(2), 251–270. <https://doi.org/10.55606/concept.v2i2.312>
- Pattiasina, R. A., & Hutabarat, S. M. D. (2023). Perlindungan hukum terhadap konsumen Grab Food berdasarkan ketidaksesuaian informasi dalam etiket gambar. *Al Qalam: Jurnal Ilmiah Keagamaan dan Kemasyarakatan*, 17(6), 4105–4116. <https://jurnal.stiq-amuntai.ac.id/index.php/al-qalam/article/view/2835>
- Pengadilan Negeri Indramayu. (2024). *Putusan Nomor 50/Pdt.Sus-BPSK/2024/PN Idm*. <https://putusan3.mahkamahagung.go.id/direktori/putusan/zaef94ec85532e36ae04313232313434.html>
- Republik Indonesia. (1999). *Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen*. <https://peraturan.bpk.go.id/Details/45288/uu-no-8-tahun-1999>

- Republik Indonesia. (2009). *Undang-Undang Nomor 36 Tahun 2009 tentang Kesehatan* (dicabut). <https://peraturan.bpk.go.id/Details/38778/uu-no-36-tahun-2009>
- Republik Indonesia. (2019). *Peraturan Pemerintah Nomor 80 Tahun 2019 tentang Perdagangan Melalui Sistem Elektronik*. <https://peraturan.bpk.go.id/Details/126143/pp-no-80-tahun-2019>
- Republik Indonesia. (2023). *Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan*. <https://peraturan.bpk.go.id/details/258028/uu-no-17-tahun-2023>
- Ritonga, R. D. M. (2020). Itikad baik pelaku usaha berdasarkan Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen. *Jurnal Gagasan Hukum*, 2(1), 71–88. <https://doi.org/10.31849/jgh.v2i01.8236>
- Tindangen, N. A. L., & Hutabarat, S. M. D. (2023). Pertanggungjawaban pelaku usaha Berdendang Bergoyang Festival 2022 atas ketidaksesuaian janji menurut Undang-Undang Perlindungan Konsumen. *Jurnal Interpretasi Hukum*, 4(3), 576–585. <https://doi.org/10.22225/juinhum.4.3.8236.576-585>
- Yuanitasari, D., & Kusmayanti, H. (2020). Pengembangan hukum perjanjian dalam pelaksanaan asas itikad baik pada tahap pra kontraktual. *ACTA DIURNAL Jurnal Ilmu Hukum Kenotariatan*, 3(2), 292–304. <https://jurnal.fh.unpad.ac.id/index.php/acta/article/view/228>