

DOI: <https://doi.org/10.38035/jlph.v4i4>

Received: 17 May 2024, Revised: 29 May 2024, Publish: 4 June 2024

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## Consumer Protection Against The Rampant Circulation of Cosmetics Without Bpom Permission In The Practice of Buying and Selling In E-Commerce

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**Abstract:** The aim of this research is to determine the legal protection sought for consumers purchasing cosmetics against the widespread distribution of cosmetics without BPOM permission in e-commerce. The method used in this research is a normative legal research method with a statutory regulatory approach. The research results show that consumers who experience losses due to purchasing fake beauty products have legal protection as regulated in Law no. 8 of 1999 concerning Consumer Protection (UUPK). Regarding legal protection for consumers who experience losses due to the use of cosmetics, producers are obliged to provide compensation (restitution) to consumers in accordance with the provisions in Article 19 paragraphs (1) and (2) UUPK. Regarding the role of the Food and Drug Supervisory Agency (BPOM) in monitoring illegal cosmetics, BPOM has carried out supervision through an online site, namely cyber patrol. Apart from that, to ensure the authenticity of cosmetic products, you can check them online using an application or by scanning a barcode. This process involves checking the product name, dosage form, registrant name, and registration number.

**Keyword:** Consumer Protection, Cosmetics, Buying and Selling.

### INTRODUCTION

Today we are entering an era called globalization where technology is developing very rapidly without limits. The development of this era of globalization has a significant influence on aspects of human life. In this case, which is growing rapidly in the era of globalization, namely the technological aspect. Technology can be interpreted as one of the main aspects that are very influential in human life and society. Technology seems to be something that cannot be separated from the line of daily human life. Like staple foods, epidemic technology is felt from the age of children to the elderly. Used in everyday life or household needs even to a large scale requires technology.

In the economic aspect, the existence of technology is considered to be able to alleviate and facilitate people's lives, namely in terms of efficiency. Suppose in the business of buying and selling or in business and trade activities. Generally, trading or buying and

selling activities are carried out conventionally and directly, but since the development of technology, conventional trading activities have begun to be distracted by computer media, namely the internet or online which is more precisely known as online trading or e-commerce namely an electronic system used for buying and selling activities that rely on internet media or software.

E-commerce online shopping is a technology involved in digital-based online transactions, using software as a platform to facilitate interaction between people. The main activity in e-commerce is buying and selling including goods, equipment, household needs, and services. The use of this technology greatly facilitates people's various activities, allowing them to buy goods online without having to meet in person. With the development of the times, there are many platforms e-commerce such as Sociolla, Shopee, etc. E-commerce providing products that are of interest to the public without the need for direct visits to stores, so it becomes the main choice for the community.

In e-commerce businesses can market their products with a variety of products ranging from daily necessities to essential items. One of the products marketed and offered in e-commerce is Cosmetics. Cosmetics is a substance or object that is used to treat the skin or for beauty and aesthetics. Cosmetics, which used to be considered a tertiary need, has now become a primary need that is in demand by consumers, especially women and men. Cosmetics have benefits in caring for the body when used regularly. By using cosmetics regularly and efficiently, will be able to give the desired result. The prices of cosmetics offered on e-commerce platforms tend to be more affordable and cheaper compared to cosmetics sold directly in official stores. This is the reason many consumers choose to buy cosmetics online rather than directly in official stores. This opens up opportunities for rogue business actors and manufacturers to sell cosmetics without regard to standardization, procedures, licensing, and without complying with legality requirements.

The rampant circulation of counterfeit products, especially cosmetics, on e-commerce platforms is an indication of lack of control or supervision from the government, especially by Badan Pengawas Obat dan Makanan (BPOM). As a result, many illegal or counterfeit beauty products that do not comply with applicable procedures and standards, are on the market and in the hands of consumers. This can cause harm to the consumer, for example, the product can cause skin irritation, redness, or even the development of inflamed acne. A concrete example of fake cosmetic products without BPOM permission that are widely circulated on e-commerce platforms is Temulawak face cream. Temulawak face Cream has become a public spotlight where after investigation, it is known that the product is not registered with BPOM. Furthermore, BPOM examination also found mercury content in the product. Thus, many consumers have experienced disadvantages and negative effects due to the use of this product, including skin irritation, redness, and even inflamed acne<sup>1</sup>.

In this context, the circulation of counterfeit products can cause danger and harm to consumers themselves and violate the provisions of consumer rights stipulated in the legislation, namely the UUPK. Especially in Article 4 letter c of the UUPK. In addition, the indecent act of a person trying to fake cosmetic products and sell them to consumers is a violation of the manufacturer's responsibility as described in the Consumer Protection Law, in particular Article 7 letter b. This article mandates that businesses have an obligation to provide a true, honest, and clear explanation of the warranty and condition of the goods or services, including providing an explanation of the use, maintenance, and repair. So, based on what has been said, there is an interest in raising the title of "Consumer protection against the rampant circulation of cosmetics without BPOM permission in the practice of buying and selling in E-Commerce".

## METHOD

This research adopts normative legal method which is characterized by the existence of Norm emptiness, norm vagueness, or norm contradiction. The focus of this normative legal research is analyzing written regulations and relevant literature. The object of research study includes legislation and related literature sources. The approach used in addressing research problems is the statutory approach (statute approach), where research is carried out by studying and researching legislation related to the legal issues discussed. This study uses secondary data consisting of primary and secondary legal materials. The technique of searching for materials in this study uses the study of documents, in which the relevant materials are collected and then analyzed qualitatively and thoroughly.

## RESULTS AND DISCUSSION

### **Legal protection against the rampant circulation of cosmetics without BPOM permission in the practice of buying and selling in E-Commerce**

In practice, humans tend to have a strong urge to try new things, especially beauty products, which often follow trends and developments of the Times. Gadgets, for example, are no longer only used for communication and information exchange, but have also become an indispensable part of everyday life, being used in various activities such as buying and selling, marketing, education, among others. This has an impact on increasing the popularity of products in the market, including beauty products or cosmetics.

However, along with the increasing consumer demand for cosmetic products, there are also products that do not get adequate protection, such as legal protection that should provide guarantees of product quality and safety. As a result, consumers often try products without knowing in detail about the content, composition, benefits, and whether the product has been officially registered with the Food and Drug Supervisory Agency (BPOM) or not. High consumer demand for cosmetic products encourages businesses and manufacturers to produce and sell products without regard to legal certainty or official permission from BPOM. This can harm and harm consumers because the products may not meet established safety and quality standards. The circulation of cosmetics without a BPOM marketing license is often in demand by consumers because the price is more affordable. However, this implies risks for consumers because they cannot guarantee the safety and quality of the products they use. Therefore, it is important for consumers to be more careful in choosing cosmetic products and ensure that they have been officially registered by BPOM to avoid unwanted risks.

In Indonesia, legal protection for consumers is regulated in law No. 8 in 1999 about Consumer Protection (UUPK). Article 4 of the UUPK establishes "consumers' rights", while actions prohibited for producers or business actors are regulated in Article 8 of the UUPK". In the context of the illegal circulation of cosmetics on e-commerce platforms, manufacturers or business actors may violate the rights or authority of consumers as stipulated in Article 4 letter A, which affirms "the right of consumers to obtain security, safety and comfort when using goods or services". Furthermore, Article 8 of the UUPK also confirms "the prohibition for business actors to trade pharmaceutical preparations such as drugs and cosmetics in a defective, damaged, or used state". This indicates that business actors are not allowed to circulate cosmetic products that do not meet established safety or quality standards. If business actors continue to insist on circulating products that violate the provisions of Article 8 of the UUPK, it can have a detrimental impact on consumers who have purchased the product. "In this case, business actors are required to provide compensation or compensation to consumers in accordance with the provisions stipulated in Article 4 letter H of the UUPK". If on the way cosmetics are found that contain ingredients that can harm the consumer, strict measures will be taken, and the product will be deprived of it. Furthermore, if approval and permission have been given by the court, the destruction of the cosmetics will be carried out,

usually by burning it in a landfill. Thus, the regulation in the UUPK provides important legal protection for consumers in the face of cases of illegal circulation of cosmetics that can endanger their safety and health.

Regarding the legal protection of consumers who experience losses due to illegal cosmetic purchases through e-commerce platforms, this has been regulated in elucidation of Article 19 paragraphs (1) and (2) of the UUPK. Substantially, the explanation confirms that business actors are obliged to provide compensation or compensation to consumers as a result of the use of goods or services that have been marketed. The purpose of compensation or indemnity is to provide a return or recovery of funds to consumers in the form of equivalent value or in accordance with the losses suffered. In this context, business actors are responsible for reimbursing the amount of consumer money commensurate with the value of the losses that have been incurred. It is important to note that the provision of compensation as described in Article 19 paragraphs (1) and (2) of the UUPK does not eliminate the possibility of prosecution of business actors based on the element of focal error in evidence. This means that even though consumers receive compensation, it does not preclude enforcement proceedings against business actors if they are proven to have made mistakes in transactions or product sales.

Thus, consumers who experience problems or disputes related to illegal cosmetic purchases can take legal steps by filing a lawsuit through the Consumer Dispute Resolution Agency (BPSK). BPSK has a function to solve and handle problems between consumers and businesses at the regional level, both at Level II districts/cities built by local governments. The dispute resolution process is carried out outside the court and BPSK is in charge of closing problems between consumers and business actors in various ways, including through mediation or peace. However, if the settlement through BPSK does not produce results or does not close the dispute, the consumer has the right to file a lawsuit in court in accordance with the provisions set forth in Article 23 and Article 62 of the UUPK. Thus, there is a clear and structured process for consumers who want to resolve disputes related to illegal cosmetic purchases through e-commerce platforms, starting from settlement through BPSK to court if needed. This confirms the existence of legal protection given to consumers in an effort to deal with problems arising from the purchase of goods or services.

### **The role of BPOM against the rampant circulation of counterfeit products in E-Commerce.**

Trading activities involving producers and consumers, including online transactions through e-commerce platforms, have become common in recent times. Technological advances have a positive impact on society by facilitating life, especially in terms of Technology, Information, and communication. However, there are parties who are not responsible for utilizing these technological advances to carry out manipulation in buying and selling transactions. Most people, especially women, tend to use e-commerce platforms to buy cosmetics, products that are in great demand. The high demand for cosmetics has resulted in many counterfeit products circulating on e-commerce platforms. It is exploited by irresponsible manufacturers to spread fake products. Law enforcement against illegal cosmetic products is still limited due to the limited security of the pom. Although the POM has carried out special monitoring, intensification and enforcement of the law against the circulation of illegal cosmetics, this issue remains a concern.

BPOM also conducts monitoring using social media, where they observe the circulation of illegal cosmetic products on the market through online technology using computer and other devices. This monitoring is carried out regularly by BPOM with the help of a cyber patrol team that works together and has a close relationship with the Ministry of communication and information. The purpose of this monitoring is to monitor the circulation of illegal cosmetics that do not have permission from BPOM and are sold freely through e-

commerce platforms. BPOM also uses an application or performs barcode scanning to identify the authenticity of cosmetic products. This step is done to ascertain whether the product is genuine or fake. This process involves checking the name of the product, dosage form, name of the registrar, as well as the registration number of the product.

In an effort to deal with the circulation of illegal cosmetics, every year The Pom conducts checks in places suspected of selling illegal cosmetics without permission. However, the pom usually responds when people complain about the circulation of fake cosmetics. Therefore, consumers should be careful and meticulous when buying cosmetics, especially through e-commerce platforms. Badan POM has functions regulated in Article 68 of Presidential Decree number 103 of 2001 on functions, duties, organizational structure, position, Authority, organizational structure, and work procedures of non-departmental government agencies. Although Presidential Decree No. 103 of 2001 is no longer valid and replaced by Presidential Regulation No. 80 of 2017 concerning the Food and Drug Supervisory Agency, but Article 68 of Presidential Decree No. 103 of 2001 can still be used as a guideline in dealing with the illegal circulation of cosmetics on e-commerce platforms. Based on Law No. 26 of 2017 concerning the organization and working procedure of the Food and Drug Supervisory Agency, especially in Article 3, it is explained that, "drug and food supervision aims to:

1. Ensure the requirements and standards of Medicine and food in circulation.
2. Protect the public from the use of drugs and foods that do not meet applicable requirements and standards.
3. Prevent incorrect use of drugs and food so as not to cause harm to consumers.
4. Prevent the abuse of drugs and food.
5. Provide proper legal certainty.
6. Creating a healthy business climate in making and distributing medicine and food.
7. To guide, develop, and facilitate BPOM to improve competitiveness.
8. Strengthen institutional coordination across programs and across sectors in the drug and Food Control."

Based on Article 106 of Law No. 36 of 2009 on health, "beauty products must obtain a circulation permit from BPOM, provided that the permit includes qualifications and objective integrity and does not complicate or corner. Violation of these conditions will result in sanctions in the form of withdrawal of circulation permits by the government and the destruction of products in accordance with applicable regulations. Furthermore, related to criminal sanctions for business actors, both manufacturers and parties who distribute beauty products or cosmetics without a circulation permit in accordance with law no. 36 of 2009 on health, Article 197".

Thus, protection for consumers is not only the task of the government alone, but by producers and business actors. The government has an active role in enforcing the law on the supervision of goods, both exports and imports, but business actors must also be committed to complying with the regulations that have been determined. Therefore, responsibility is the most important element that must be fulfilled by companies and manufacturers in carrying out their business, taking into account the safety of consumers in using products sold through e-commerce platforms.

## **CONCLUSION**

Based on the study, the authors concluded that consumers who experience losses due to the purchase of fake beauty products have legal protection provided for in law No. 8 of 1999 on Consumer Protection (UUPK). Consumers have the rights stipulated in Article 4 of the UUPK, while the prohibition against acts by producers is described in Article 8 of the UUPK. If the manufacturer nevertheless sells cosmetics that are harmful and do not correspond to the composition of the ingredients, then they can be confiscated directly.



Furthermore, regarding legal protection for consumers who experience losses due to the use of these cosmetics, manufacturers are obliged to provide compensation (compensation) to consumers in accordance with the provisions of Article 19 paragraphs (1) and (2) of the UUPK. Related to the role of the Food and Drug Supervisory Agency (BPOM) in the supervision of illegal cosmetics, BPOM has conducted surveillance through an online site, namely cyber patrol. In addition, to ensure the authenticity of cosmetic products, it can be checked online using an application or by scanning a barcode. This process involves checking the product name, dosage form, name of the registrar, as well as the registration number.

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