

LEGAL PROTECTION OF CONSUMERS IN USING COSMETICS CONTAINING HAZARDOUS SUBSTANCES

Dimas Adam Satrio Rachmadhanto¹, Rika Permatasari², Fhlorida Agustina Simanjuntak³

^{1,2,3}Institut Teknologi dan Sains Meranti, Indonesia

Corresponden E-Mail: dimas@gmail.com

ABSTRACT

The advancement of technology and the growing public demand for appearance have significantly boosted the cosmetic industry's growth. However, this trend is often exploited by irresponsible business actors who manufacture and market cosmetics containing harmful substances, thereby posing serious risks to consumers. This study aims to examine the legal protection for consumers and the responsibility of business actors in the circulation of hazardous cosmetic products. The research method used is normative juridical, focusing on statutory regulations and legal doctrines. The findings reveal that consumer protection is regulated under Law Number 8 of 1999 concerning Consumer Protection, Law Number 36 of 2009 on Health, as well as technical regulations issued by the BPOM and the Ministry of Health. Consumers are entitled to safety and security, while business actors are obligated to ensure product quality and provide compensation for damages caused. This responsibility includes administrative, civil, and criminal aspects, and is upheld even without proven fault (strict liability). Effective law enforcement, government supervision, and increased public legal awareness are essential to achieving optimal consumer protection in the cosmetic industry.

Keywords: *Consumer Protection; Hazardous Cosmetics; Business Liability; Consumer Protection Law; BPOM*

A. INTRODUCTION

The development of information and communication technology today has significantly changed people's consumption patterns, especially in terms of fulfilling aesthetic needs. Cosmetic products are now an important necessity in supporting the appearance of individuals, especially women, in the midst of modern lifestyle demands. The ease of access to products through digital platforms also encourages the increasing consumption of cosmetics online, without being accompanied by critical awareness of the safety and legality of these products (Sihombing, 2021).

This phenomenon opens up opportunities for irresponsible business actors to market cosmetic products that contain hazardous chemicals, such as Bahan Kimia Obat (BKO), which consists of substances such as mercury, hydroquinone, dexamethasone, and certain antibiotics. In fact, the use of BKO in cosmetics is expressly prohibited by the Food and Drug Supervisory Agency (BPOM) because of its side effects that can cause skin damage, cancer, and other organ function disorders (Food and Drug Supervisory Agency of the Republic of Indonesia., 2023). This condition shows that consumers are in a vulnerable position to exploitation due to the lack of protection and lack of knowledge about their rights as consumers.

One important phenomenon that reflects the urgency of this issue is the increasing number of findings of illegal cosmetics by BPOM every year. Based on BPOM's annual

report, in 2022 more than 15,000 items of illegal cosmetics containing hazardous ingredients were found to be widely circulated in the market, both through physical stores and digital marketplaces. In fact, investigations conducted by national media showed that most of these products did not include the complete composition of ingredients and did not have a distribution permit (Kompas, 2023) . This shows the weakness of supervision and the lack of public awareness of the importance of reading labels and product information carefully.

In the context of Indonesian positive law, Law No. 8/1999 on Consumer Protection (UUPK) has provided a normative basis for the protection of consumer rights. Article 4 of the GCPL emphasizes that consumers have the right to comfort, security, and safety in consuming goods and/or services. However, in practice, violations of these provisions still often occur due to weak supervision, lack of law enforcement, and not maximizing education to consumers. Consumer disputes often occur, especially in cases involving the use of dangerous cosmetic products that cause physical and psychological harm to users (Hadi, 2022) .

The responsibility of business actors in this case is crucial to be reviewed further, considering their legal obligations as stipulated in Article 7 and Article 8 of GCPL. Business actors are prohibited from trading goods that do not meet safety standards and are required to provide correct, clear and honest information about the products offered. Non-compliance with these provisions not only has civil legal implications, but also criminal ones.

Based on this description, this research will examine the legal protection of consumers in the use of hazardous cosmetics, as well as explore the forms of legal responsibility attached to business actors. The purpose of this study is to determine the form of legal protection for consumers who use cosmetics containing hazardous ingredients according to Indonesian laws and regulations and to determine the responsibility of business actors to consumers for losses arising from the use of cosmetics containing hazardous ingredients.

B. METHOD

This research uses a normative juridical approach based on a literature study of written and unwritten legal norms. The research design focuses on the study of legislation, jurisprudence, and legal doctrine relevant to consumer protection in the use of cosmetics made from dangerous ingredients (Ari Atu Dewi, 2018) . This approach was chosen to examine how legal protection is formed, applied, and interpreted in practice. The focus of analysis is directed at Law Number 8 Year 1999 on Consumer Protection, regulations from BPOM, and various other secondary legal sources . This research is descriptive analytical, with the aim of providing a comprehensive picture of the applicable legal construction.

The subjects in this research are primary and secondary legal materials obtained through documentation techniques. Primary legal materials include laws and regulations related to consumer protection and cosmetic product safety. Meanwhile, secondary legal

materials consist of legal literature books, scientific journals, previous research results, and relevant scientific articles. All of these materials are used to examine the legal liability of business actors and the position of consumers in cases of hazardous cosmetic use. Respondents or participants are not used because this research is not empirical.

Data collection instruments used document review techniques or literature studies carried out systematically. The data was analyzed using a qualitative approach through a process of interpretation of the content of legal norms and expert opinions. The review was conducted on the legal structure governing product safety, liability of business actors, and consumer dispute resolution. Data collection steps were carried out through the search for official regulatory documents, court decisions, and scientific publications from trusted academic repositories. The results of the analysis are presented in descriptive form to support the legal arguments built in the discussion.

C. RESULTS AND DISCUSSION

Legal Protection of Consumers Who Use Cosmetics Containing Hazardous Ingredients

The results showed that legal protection of consumers has gained strong legitimacy in the Indonesian legal system through Law Number 8 Year 1999 on Consumer Protection (UUPK). Article 1 point 1 of UUPK emphasizes that consumer protection is an effort to ensure legal certainty for the safety and interests of consumers (Margono, 2019) . This shows that consumer protection is not only an ideal norm, but also a constitutional mandate that must be fulfilled by all parties involved in trade activities. The government acts as a regulator and supervisor, business actors as product providers, and consumers as final recipients who have the right to safe products. The three parties are involved in a balanced and mutually binding legal relationship within the framework of national positive law.

In the context of cosmetics (Kompas, 2023) , problems arise when business actors market products that contain hazardous materials, such as mercury, hydroquinone, or other medicinal chemicals (BKO), without regard to safety standards. This action contradicts Article 4 of GCPL, which guarantees consumers' rights to product safety and security, and Article 7, which requires business actors to guarantee the quality of goods traded. Violation of these provisions shows that some business actors ignore their social and legal responsibilities in carrying out economic activities. In addition to the GCPL, other technical regulations such as Minister of Health Regulation No. 1175/Menkes/Per/XII/2010, Law No. 36/2009 on Health, and BPOM Regulation No. 23/2019 also provide an additional juridical basis for ensuring the safety of cosmetic products. All of these legal instruments form an integral system in providing protection to consumers.

Furthermore, the results of the analysis also found that violations of cosmetic safety standards can lead to consumer disputes that have an impact on physical, psychological,

and economic losses (Hadi, 2022) . Aggrieved consumers have the right to file lawsuits on the basis of violations of their rights as stipulated in Article 4 of the GCPL. The book *Consumer Protection* by Andrian Sutedi emphasizes that consumers are not only entitled to obtain safe products, but are also entitled to compensation if the product is defective or harmful. The rights to honest information, fair treatment, and compensation for losses are part of the legal mechanism to balance the position between business actors and consumers. Therefore, the role of law in regulating the distribution, promotion, and use of cosmetic products is very important in preventing practices that harm the public.

Responsibility of Business Actors for Consumers Who Use Harmful Cosmetics

The legal responsibility of business actors is a major element in the consumer protection system, especially when losses occur due to dangerous products (Hadi, 2022) . This principle of responsibility is regulated in Article 19 of GCPL, which obliges business actors to provide compensation for consumer losses due to goods or services produced or traded (Ahmad & Thalib, 2019) . Compensation can be in the form of a refund, replacement of goods, or other appropriate compensation and must be provided no later than seven days after the transaction occurs. This provision is strengthened by the principle of *strict liability*, where the business actor remains liable even if there is no direct evidence of fault. The purpose of this principle is to provide maximum protection to consumers and encourage business actors to be more careful in every stage of production and distribution (Hadi, 2022) .

Facts on the ground show that violations of this responsibility often occur, especially in cosmetic products marketed online without distribution permits and safety tests. Many consumers have suffered both material and immaterial losses due to the use of products containing hazardous substances. In the framework of civil law, this can be qualified as default and/or unlawful act (PMH), as stipulated in Article 1243 and Article 1365 of the Civil Code. Consumers have the right to demand reimbursement for losses incurred, including the cost of medical treatment or psychological impact due to skin damage. Thus, business actors cannot take refuge behind ignorance or technical negligence, as the law has placed them as fully responsible for product safety.

Implementing regulations such as Minister of Health Regulation No. 1175/Menkes/Per/XII/2010 and technical provisions from BPOM strengthen the responsibilities of business actors. They are not only obliged to ensure that marketed products meet quality and safety requirements, but are also responsible for withdrawing products that are proven to be problematic from circulation. If not done, administrative and criminal sanctions can be imposed in accordance with Article 60 paragraph (2) of GCPL and Article 8 paragraph (4) of GCPL. Product recall is a further form of responsibility that should not be ignored by business actors, even when the product has been in circulation for a long time. Therefore, business actors are required to apply the precautionary principle thoroughly to avoid legal repercussions and maintain consumer confidence in their products.

This discussion emphasizes that the responsibility of business actors does not stop at the product distribution stage, but covers the entire product life cycle to the hands of consumers (Syafitri et al., 2019) . If business actors fail to fulfill these obligations, consumers have the right to resolve disputes through legal mechanisms, both litigation and non-litigation, such as the Consumer Dispute Resolution Agency (BPSK). Consistent law enforcement, public education, and increased awareness of the legal and social impacts of hazardous products are prerequisites for achieving justice for consumers. Therefore, the synergy between regulation, legal awareness, and enforcement of sanctions is the main key in creating a healthy and equitable trade ecosystem.

D. CONCLUSION

Based on the results of a normative juridical study of consumer legal protection in the use of cosmetics containing hazardous ingredients, it can be concluded that the Indonesian legal system has provided a fairly strong foundation through Law Number 8 Year 1999 on Consumer Protection and various other supporting regulations. Consumers have clear rights to security, comfort, and safety in consuming cosmetic products, as well as the right to obtain honest information and compensation for losses experienced. However, in practice, violations of these rights still occur frequently, especially due to business actors who do not meet product quality and safety standards. The legal responsibility of business actors has been explicitly regulated through the provisions of the GCPL and other technical regulations, such as the Minister of Health Regulation and BPOM Regulation. Business actors are required to ensure that the cosmetic products they produce and market do not contain hazardous ingredients and comply with the provisions of the label and distribution permit. In the event of a loss, business actors are legally responsible both in the form of restitution of material and immaterial losses. The principle of strict liability is also an important foothold in providing maximum protection to consumers, without the need to prove the element of fault of the business actor.

To realize more optimal consumer protection, it is recommended that the government strengthen its supervisory function over the circulation of cosmetics, especially those sold online. The expansion of legal education to the public, especially regarding consumer rights and the dangers of using cosmetics without a distribution permit, should also be carried out continuously through digital media and educational institutions. On the other hand, business actors should increase compliance with applicable regulations and prioritize the precautionary principle in the production and distribution process of cosmetic products. It is also recommended that the Food and Drug Supervisory Agency (BPOM) innovate a reporting and product tracking system that is more responsive and open to the public. Thus, consumers can directly verify the safety of a product before making a purchase. Finally, synergy between the government, business actors, and the public is needed to build legal awareness and a healthy

consumption culture, so that the main objectives of consumer protection can be achieved in a comprehensive and equitable manner.

BIBLIOGRAPHY

Ahmad, D., & Thalib, M. C. (2019). Tanggung Jawab Hukum Pelaku Usaha Terhadap Peredaran Kosmetik Yang Tidak Memiliki Izin Edar." *Jurnal Legalitas*. *Jurnal Legalitas*, 12(2), 100–109.

Ari Atu Dewi, A. A. I. (2018). Aspek Yuridis Perlindungan Hukum dan Pemenuhan Hak Penyandang Disabilitas. *Pandecta: Research Law Journal*, 13(1), 50–62. <https://doi.org/10.15294/pandecta.v13i1.13933>

Badan Pengawas Obat dan Makanan Republik Indonesia. (2023). *Informasi Publik tentang Daftar Kosmetik Mengandung Bahan Berbahaya yang Dilarang*.

Hadi, S. (2022). Tanggung Jawab Pelaku Usaha Kosmetik Terhadap Konsumen dalam Perspektif Perlindungan Konsumen. *Jurnal Hukum Dan Keadilan*, 10(2), 154–170.

Kompas. (2023). *BPOM Sita Ribuan Kosmetik Berbahaya dan Ilegal di Marketplace*. Kompas.Com.

Margono. (2019). *Asas Keadilan Kemanfaatan & Kepastian Hukum Dalam Putusan Hakim*. Sinar Grafika.

Sihombing, R. (2021). Kajian Hukum Perlindungan Konsumen Terhadap Produk Kosmetik Berbahaya yang Diperjualbelikan Secara Online. *Jurnal Hukum Replik*, 9(1), 45–56.

Syafitri, Arnia, & Yunita, Y. (2019). Perlindungan Konsumen Terhadap Penjualan Jamu Yang Mengandung Bahan Berbahaya Di Kota Banda Aceh. *Jurnal Ilmiah Mahasiswa Bidang Hukum Keperdataan*, 3(1), 1–9.