

**ILLEGAL COSMETICS CYBER SNARE: SEEKING CONSUMER JUSTICE
IN THE DIGITAL WORLD BASED ON LAW NO. 8 OF 1999
CONCERNING CONSUMER PROTECTION**Auchia Indah¹, Aryuda²

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KeywordsIllegal Cosmetics,
Consumer Protection,
Online.**Abstract**

The writing of this scientific paper entitled "Legal Protection of Consumers Regarding the Distribution of Illegal Cosmetics Online given Law no. 8 of 1999 concerning Consumer Protection" aims to find out generally and broadly about cosmetics, why illegal cosmetics can circulate online, the distribution of illegal cosmetics according to applicable law. Makeup are items broadly utilized by the open for individual care and appearance. Be that as it may, the circulation of unlawful and perilous makeup postures a extreme danger to the wellbeing and security of shoppers. The most issue in this investigate is how lawful efforts can be given within the prepare of legitimate security against shoppers as clients of unlawful and unsafe makeup. This inquire about points to consider the challenges confronted in securing buyers from the circulation of unlawful and unsafe makeup and analyze how legitimate assurance is given to buyers with respect to the circulation of unlawful and unsafe beauty care products that cause hurt to shoppers. The inquire about strategy used in this inquire about is regulating juridical. Usually based on the arrangements of Law Number 8 of 1999 concerning customer protection, which directs makeup generation and ensures buyer assurance when obtaining restorative items. Within the occasion of the circulation of illicit beauty care products, notices, coaching of commerce on-screen characters, and withdrawal of items that will hurt shoppers will be given. Therefore, expanding supervision of the utilize and checking of the circulation of makeup without BPOM licenses since typically one of the numerous unlawful makeup at this time.

Corresponding Author: Auchia IndahE-mail: Auchiafs20@gmail.com**INTRODUCTION**

Cosmetics are a form of secondary need in people's lives. Based on Article 1 point 1 of the Regulation of the Minister of Health of the Republic of Indonesia Number 1176/Menkes/PER/VIII/2010 concerning Notification of Cosmetics, what is meant by "cosmetics are materials or preparations intended for use on the outside of the human body (epidermis, hair, nails, lips). and external genital organs) Alternatively, teeth and oral mucosa, especially to clean, perfume, change the appearance and improve body odor, protect and maintain the body in good condition (Antara et al., 2022).

In writing a scientific work entitled "Consumer Legal Protection Regarding the Online Distribution of Illegal Cosmetics Regarding the Online Distribution of Illegal Cosmetics Considering Law no. 8 of 1999 concerning Consumer Protection" where this scientific work aims to find out in depth and widely about cosmetics, starting from how illegal cosmetics can be widely circulated both online and how law enforcers behave regarding the problem of the distribution of illegal cosmetics according to regulations. currently applicable law (Mustafa, Sagoni, & Dewi, 2023).

In this series of scientific works, the author uses secondary data methods which obtain valid data that is searched for online and the author also uses primary data where the author also observes directly by distinguishing differences ranging from external physical to the

properties possessed by both illegal to legal products. Through a survey conducted by the author involving 10 illegal cosmetic products and 10 legal cosmetic products, the aim was to differentiate between illegal and legal products. In the process of collecting secondary data, the author made an observation, namely looking at scientific works online which of course had been verified as having valid data.

By combining primary and secondary data that has been written by the author, it was found that there are differences between illegal and legal cosmetic products, where if we look at the external physical appearance of illegal cosmetic products, namely the packaging of illegal products, of course starting from the outer packaging. the quality is not good and if we look at the place where the cosmetic products are, they have very poor materials, which is inversely proportional to legal cosmetic products. If we compare the properties of legal cosmetic products, of course they have visible benefits if the product is used regularly and according to procedures which do not have a negative impact on the user.

With this research, the author aims to analyze legal protection for consumers related to the online distribution of illegal cosmetics, which is based on the Consumer Protection Law, which uses normative research methods and uses both primary and secondary data, which uses a statutory approach.

Cosmetics are essential for people who pay attention to their appearance, and cosmetics—usually done on the body- are considered most dominant to beautify or improve rough skin texture. Using cosmetics can change a person's appearance without changing their functional structure. Cosmetics can change a person's appearance by making them beautiful. It can even simultaneously change their face and appearance (Kusumastuti, 2021).

According to Consumer Protection Against Purchasing Illegal Cosmetics Through Online Sites, cosmetics are still trendy and loved by the public, both women and men. Making cosmetics must be helpful because they are used repeatedly every day, causing people to be more consumptive to get good results and making them more accessible. They are attracting the opposite sex (Han, 2022). Because of this, many cosmetic companies compete to make discoveries and produce more of them. The development of the online trading system brings opportunities for business actors to sell their cosmetic products very quickly, resulting in many online shops popping up, for example, online shops such as Shopee, Tokopedia, Lazada, etc.

The human desire to always look charming and perfect in appearance is used as an opportunity by a group of irresponsible business actors to produce and trade cosmetics that do not meet the requirements of the public and are known as illegal cosmetics. There are two types of illegal cosmetics without a distribution permit (TIE) and fake cosmetics. Cosmetics classified as TIE cosmetics do not have a notification number from BPOM (FAJAR WATI, 2021). Meanwhile, fake cosmetics are made without complying with the rules of good cosmetic manufacturing (CPKB) and using ingredients that should not be used.

According to (Sagala, 2017), most people are very interested in buying products offered online because the advertisements seem promising and trustworthy. People are attracted by the advertisements even though the products they buy do not meet the requirements and are not registered with the BPOM distribution permit. The public's ignorance about illegal cosmetics is a loophole for business actors, even though it will have negative impacts. Illegal cosmetics marketed online are dangerous for skin health, mainly if used continuously. Even though in the Regulation issued by the Minister of Health of the Republic of Indonesia No. 1176/Menkes/PER/VIII2010 concerning Cosmetic Notifications article 2, every cosmetic in circulation must meet the standards or quality requirements for safety and benefits by the provisions of statutory regulations.

There are many ways consumers can avoid illegal cosmetics. Consumers must be able to ensure that the cosmetics or skin care they purchase are legal, safe, and registered with the Food and Drug Monitoring Agency (BPOM). The characteristics of dangerous cosmetics include products that promise instant white skin because, basically, there are no cosmetics that can provide instant white skin, requiring a process (PRATAMA, 2020).

Apart from that, safe cosmetics include having a distribution permit from BPOM, not causing skin irritation or allergic reactions; the packaging still in good condition, having a

production and expiry date that does not contain lead, mercury, or dangerous chemicals, having a clear packaging label and composition (Sartika, 2022).

In the Regulation of the Chief of Police of the Republic of Indonesia concerning Coordination (2007:25), consumers can directly check the distribution permit for the cosmetics they use via the cekbpom.go.id page or via the Check BPOM application, which can be downloaded on Playstore. Apart from consumers, there are many ways the government can do this. One is establishing a body given specific tasks in supervising drugs and food, called the Food and Drug Supervisory Agency, abbreviated as BPOM. This agency will coordinate with the minister of health and social welfare to monitor the distribution of medicines and food in Indonesia, which will be distributed in each province throughout the country. The process of investigating criminal cases involving the distribution of illegal cosmetics, apart from being carried out by investigators from the Republic of Indonesia Police, is also carried out by Civil Servant Investigators from the Center for Drug and Food Control. Civil Servant investigators from the Food and Drug Monitoring Agency continue to coordinate with police investigators in handling investigations into illegal cosmetics. With the enactment of Law No. 8 of 1999 concerning consumer protection, many changes have occurred in consumer protection law, including the legal protection of consumers in the rampant circulation of illegal cosmetics (Natah & Marwanto, 2020).

The manifold benefits of this legal framework extend to various aspects of consumer welfare and market stability. Consumers benefit from enhanced safety as the law mandates compliance with quality standards and ingredients disclosure. Moreover, the legal protection instills confidence in e-commerce, encouraging a greater number of individuals to participate in online transactions without fear of scams or health risks. The law also contributes to economic stability by promoting fair competition and ethical business practices, ultimately creating a secure and reliable environment for online cosmetic distribution. Through consumer education initiatives and dispute resolution mechanisms, the legal protection framework ensures that consumers are informed, empowered, and have effective avenues for addressing issues that may arise in the course of online cosmetic purchases.

The legal protection of consumers in the realm of illegal online cosmetic distribution, as outlined in Law No. 8 of 1999 concerning Consumer Protection, serves a multifaceted set of objectives. Firstly, it strives to safeguard the rights of consumers by ensuring they have access to genuine and safe cosmetic products when engaging in online transactions. This involves preventing fraudulent practices, deceptive activities, and the distribution of counterfeit or substandard cosmetics. The law establishes clear legal standards, fostering market integrity and business accountability in the online cosmetic sector. Additionally, it aims to uphold product safety through regulations such as proper labeling and adherence to health standards, contributing to the overall well-being of consumers.

RESEARCH METHODS

In this research, a normative legal research method was used whose reference focused on Law Number 8 of 1999 concerning Consumer Protection. Normative legal research in this research is a vague norm. Because in Law Number 8 of 1999 concerning Consumer Protection there are still no clear regulations regarding consumers who use illegal cosmetics, and there are also no implied regulations regarding consumers who use dangerous cosmetics in Law Number 8 of 1999 concerning Consumer Protection. The data collection method used by library research is research carried out by collecting data from books, literature, statutory regulations, regulations, books, court decisions, legal articles and journals. -law journals and others related to this research problem. Searching for legal materials is done by reading, listening, using the internet, etc. "This method was used to deepen theories related to the problems faced by the author in conducting research." The data analysis that the author used in this research used prescriptive analysis. Namely, the author analyzes based on the data collected, then obtains clues and finally draws conclusions and suggestions regarding what should be done to resolve this research. In this research, the data used are laws and regulations relating to consumer protection, including illegal cosmetics. The laws and

regulations studied include Law Number 8 of 1999 concerning Consumer Protection, Government Regulation Number 81 of 2019 concerning the Distribution of Cosmetics, and Regulation of the Food and Pharmaceutical Cosmetics Supervisory Agency Number 17 of 2014. Data were analyzed qualitatively using analytical methods fill (Dai, Kasim, & Martam, 2019).

RESULTS AND DISCUSSION

In the business world, several business actors highly uphold economic principles in order to achieve the desired profits (Aisyah, 2015). The economic principle in question is obtaining maximum profits through specific capital owned. However, currently, business actors tend to need to be more pushy in obtaining high profits, but the capital they have is very minimal, so this will also have an impact on consumers (Rumagit, 2023). Due to minimal capital, the quality of the product could be more guaranteed and safe for consumers to use. This is what causes harm to consumers' interests. There are legal regulations that stipulate consumer protection, providing legal certainty so that business actors do not behave arbitrarily and harm consumers (Pratiwi, 2020).

According to the KBBI (Big et al.), consumer loss is the condition of someone who does not make a profit after what they have spent as capital. In the legal context, two (2) classifications can be separated into losses, including (Putri & Reykasari, 2023) :

1. Material loss is an apparent loss suffered by the buyer.
2. Immaterial losses are losses that are likely to be received by the buyer in the future or losses due to loss of profit that may be received by the buyer in the future.

The Civil Code explains that losses can come from default, as stated in Article 1238 in conjunction with Article 1243, and Unlawful Acts, as stated in Article 1365 of the Civil Code, which regulates unlawful acts which read, "Every unlawful act which thereby causes loss to another person. , requires the person whose fault caused the loss to compensate the loss." Non-fulfillment of an agreement or default can occur intentionally or unintentionally (Dinata, 2022).

Weak awareness and lack of understanding of the public as consumers means that consumers often feel disadvantaged by the actions of business actors who are not responsible for their actions (Oktaviani, 2016). Thus, it is clear that product responsibility is any form of legal responsibility for a person or business actor who produces a product or from a person or business actor whose movement is in a way to produce a product or a person who buys and sells and distributes the product (Munthe et al. al., 2021). The responsibilities of business actors according to Article 19 of the Consumer Law include:

1. "Business actors are responsible for compensating for damage, pollution, and loss to consumers resulting from consuming goods and services produced or traded."
2. "Compensation, as intended in paragraph (1), can be in the form of a refund or replacement of goods and services of the same or equivalent value, or health care and provision of compensation by the provisions of the applicable laws and regulations."
3. "Compensation is provided within 7 (seven) days after the transaction date."
4. "Providing compensation as intended in paragraphs (1) and (2) does not eliminate the possibility of criminal prosecution based on further evidence regarding the existence of an element of error."
5. "The provisions referred to in paragraphs (1) and (2) do not apply if the business actor can prove that the error is the consumer's fault."

There is also Minister of Health Regulation Number 1175 /Menkes/Per/XII/2010 concerning Cosmetic Notifications, which regulates responsibility for cosmetic products through contracts. The contents of this Regulation are expressly stated in Article 16, which reads:

1. "The cosmetics industry, cosmetics importers, or individual businesses/business entities that carry out production contracts are responsible for the cosmetics that are distributed."
2. "If losses or undesirable events occur due to the use of cosmetics, the cosmetics industry, cosmetics importers, or individual businesses/business entities that carry out

production contracts have the responsibility to handle complaints and withdraw the cosmetics in question from circulation."

3. "Cosmetics industries, cosmetics importers, or individual businesses/business entities carrying out production contracts must report to the Head of the Agency if cosmetics that have been notified are no longer produced or imported."
4. "The cosmetics industry, cosmetics importers, or individual businesses/business entities that carry out production contracts are responsible for cosmetics that are no longer produced or imported that are still in circulation."

The contents of the UUPK article state that business actors are obliged to compensate consumers for losses incurred (Perdana, 2021). Apart from the contents of article 19 UUPK regarding the responsibilities of business actors, the Civil Code in article 1365 stipulates the responsibilities of business actors, namely, "Every act that violates the law and causes loss to another person requires the person who caused the loss through his fault to compensate for the loss." Prohibitions regarding the activities of business actors in producing and trading products are contained in Article 8 paragraph (2) UUPK, namely, "business actors are prohibited from trading damaged, defective or used, and contaminated goods without providing complete and correct information." The meaning of the words contaminated, defective, damaged, and used, in terms of the mixture used, packaging, and the inclusion of unclear information, can be said to be dangerous to consumer health in cosmetics containing hazardous ingredients. Therefore, business actors are obliged to carry out their obligations by Article 8 paragraph (4), which states, "Business actors who commit violations as stated in paragraphs (1) and (2) are prohibited from trading in said goods and services and are obliged to withdraw them from circulation." This is also in the Regulation of the Minister of Health regarding Cosmetic Notifications, which regulates responsibility for cosmetic products through production contracts for business entities.

With this prohibition, it is hoped that the safety of goods distributed by business actors will be guaranteed and suitable for sale and purchase on the market because standardization of a product is closely related to safety and comfort in a product used by consumers. Business actors must accommodate their responsibilities for losses experienced by consumers due to wearing/consuming products distributed widely by business actors, providing compensation, for example, returning money equivalent to the price of the goods. In law, the principle of responsibility is divided into 5, namely:

1. Liability based on fault or element of error
2. Presumption of liability or presumption of always being responsible
3. Presumption of non-liability or presumption of not always being responsible
4. Strict liability or absolute responsibility
5. Limitation of liability or limitation of responsibility.

The responsibility of business actors in buying and selling cosmetics containing dangerous ingredients is included in the principle of absolute liability (strict liability). The principle of absolute responsibility explains that business actors are required to be responsible for consumers harmed due to using/consuming cosmetic products. This principle of absolute responsibility aims to eliminate business actors whose intentions are unfair and cunning in buying and selling dangerous cosmetics so that losses for consumers can be reduced. Suppose the business actor is not responsible based on the rules in Article 19 UUPK. Therefore, business actors can be sued through the Consumer Dispute Resolution Agency, or consumers can propose a lawsuit to the court in the area where they live by the provisions of Article 45 paragraph (2). Article 45, paragraph (2) states, "Consumer dispute resolution can be reached through court or outside court based on the voluntary choice of the parties to the dispute." The explanation of Article 45 paragraph (2) of the UUPK mandates that regardless of legal means based on demands, consumers have the right to carry out their efforts through a negotiation mechanism, which is based on Article 19 paragraph (1) and paragraph (20) of the UUPK (Nainggolan, 2018).

The role of the Food and Drug Supervisory Agency in monitoring the sale of illegal cosmetics is as follows:

- a. Supervise cosmetics in modern and traditional retail facilities regularly by collaborating with related sectors, namely the Health Service, Industry, and Trade Services, carried out from upstream to downstream.
- b. Supervision through cosmetics content sampling and testing is carried out at the Food and Drug Monitoring Center (BBPOM) in Kota Baru.

Regarding law enforcement against business actors who sell fake/illegal cosmetic products that can cause harm, the following will be carried out:

1) Warning

Business actors who sell cosmetics or who own shops, kiosks, and food stalls are warned with a statement letter that they have indeed sold cosmetics without a distribution permit, which contain dangerous ingredients and can be detrimental to consumers' health, and promise not to repeat this action. If, after making the statement, they still sell dangerous cosmetics, the business actor or seller will be prosecuted, and the shop will not be closed because it is not under the authority of the POM Agency.

2) Coaching

Coaching the business actors in question is counseling for business actors. Business actors here are considered legally competent because obtaining permits involves quite complicated stages. The POM Agency intends to provide a deterrent aspect to business actors who commit crimes. Shops that sell dangerous and illegal products are not simply immediately sealed, but with the intention that business actors are free to sell legal products because the guidance carried out is expected to deter business actors from repeating their actions. Suppose during this process, the business actor is caught selling dangerous and illegal products. In that case, the punishment will be more severe, namely aggravation.

3) Destruction, withdrawal, and confiscation of goods or products

Destruction, withdrawal, and confiscation were carried out at cosmetic factories and shops, which, after being examined by laboratory results, were proven to be producing, selling, and distributing dangerous and illegal cosmetics that did not comply with the provisions for making cosmetics. Destruction, withdrawal, and confiscation of cosmetics must be carried out by existing regulations and cannot be done arbitrarily as regulated in the Regulation of the Head of the Food and Drug Supervisory Agency of the Republic of Indonesia Number 11 of 2017 concerning Criteria and Procedures for Withdrawal of Cosmetics Destruction (Khodijah, Junus, & Achir, 2022).

CONCLUSION

Therefore, the scientific work carried out by this author regarding the distribution of illegal cosmetic products is certainly aimed at providing knowledge on how to recognize illegal cosmetic products and legality, ensuring the safety and suitability of cosmetics for both sellers and buyers, and providing a number of examples relevant to the issues at hand. A good move if readers are obliged to contribute to the continuation of illegal cosmetic products, with the aim of ensuring that no other party is harmed. Efforts to prevent future violations related to illegal cosmetic products based on current legal regulations. The protection of consumers is the absolute responsibility of business actors responsible for buying and selling cosmetics that do not comply with standards. A business actor must comply with all the rules and contents of the Consumer Protection Law. However, the fact is that there are still many business actors who violate this. Business actors or manufacturers tend to take shortcuts by selling illegal cosmetics, which can harm consumers. Weak awareness and lack of understanding of the public often feel disadvantaged by the irresponsible actions of business actors. A business actor is fully responsible for the products distributed. Looking at the contents of the articles on consumer protection law, business actors are obliged to compensate consumers. In Article 8, paragraph (2) of the Consumer Protection Law, business actors are prohibited from trading damaged, defective, or used goods without clear information. With this prohibition, it is hoped that business actors will guarantee the safety of products distributed before they reach consumers. The Food Drug

Monitoring Agency (BPOM) has made various efforts to monitor the sale of illegal cosmetics. They monitor illegal cosmetics in modern and traditional retail facilities and conduct sample tests on cosmetics in circulation. Not only that, but the Food and Drug Supervisory Agency also provides law enforcement in the form of warnings to business actors, guidance to business actors, and destruction of goods or products. This action should provide a deterrent effect for business actors so that they do not repeat it in the future.

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