



## PROTECTION FOR CONSUMERS AGAINST BUSINESS PEOPLE WHO TRADE UNNOTIFIED BOOSTERS FROM PACKAGED SKINCARE VIA E-COMMERCE

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### Keywords: *Abstract*

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*Consumer Protection; Business actors use internet media as a new transaction system Businessmen; Skincare; E-Commerce. known as e-commerce (electronic transactions). In practice, there are many problems that harm consumers as a result of using buying and selling transactions via e-commerce, one of which is the circulation of cosmetic (skincare) products without BPOM notification. The problem raised in this research is how to protect consumers against business actors who buy and sell boosters without BPOM notification from packaged skincare via e-commerce. The research method in this study uses a normative juridical approach as a legal research carried out by examining library materials or secondary data. The research results obtained show that consumer protection is carried out by forming a special team, namely cyber patrol, using an application or by means of barcodes, skincare products are distributed that have notification labels from BPOM. This form of consumer protection from e-commerce is done by providing reporting facilities, selecting sellers and providing guarantees.*

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### A. Introduction

Currently, modern life makes people have the desire to present themselves in the best and most attractive way. To get the ideal appearance, everyone does special treatment for the facial area using various kinds of cosmetic products which are commonly known as skincare. Skincare is a series of facial skin care activities to maintain the health and appearance of the skin, as well as overcome various problems with facial skin. This activity consists of using several types of products, each has a different functions according to the content in them (Agustin, 2023). Many people like skincare products because of their functions and benefits, this encourages business actors to produce, market and sell skincare products under various brands.

Business actors often use internet media as a new transaction system known as e-commerce or electronic transactions. E-commerce brings changes to business actors

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who have been managing their business in the real life, then developing their business into the cyberspace (Agustanti, 2021). This change can be seen by many business actors who market their products on e-commerce such as Shopee, Tokopedia, Lazada and others to carry out buying and selling by online. The high desire of consumers to buy skincare is not proportional to their knowledge about how to choose good, genuine and safe skincare products, but rather many consumers choose alternative paths such as wanting to get a beautiful and handsome face with the type of skincare that is purchased instantly, low prices and fast efficacy.

Existing regulations have not had a major impact on the circulation of illegal cosmetics in Indonesia, due to the fact that up to now there has been an increase in the circulation of illegal cosmetics (skincare). For example, the distribution of packaged skincare products in e-commerce, in this case on Shopee. In the skincare package there is a booster item in the form of cream in a small package that doesn't have BPOM (The Indonesian Food and Drug Authority) notification. The circulation of these products endangers consumers because there is not obvious information or any guarantee that the products are made with ingredients that are safe for use. This certainly violates consumer rights in Article 4 UUPK (the consumer protection law) which states that consumers have the right to obtain correct, clear and honest information regarding the condition and guarantee of goods.

## **B. Method**

This research uses a normative juridical approach, namely doctrinaire legal research which refers to legal norms (Waluyo, 1997). Soerjono Soekanto provides a view on the definition of a normative juridical approach as legal research carried out by examining library materials or secondary data alone or called library legal research (Mamudji, 2019). The type of approach used in this research is a statutory approach. The legal approach is carried out by reviewing all laws and regulations related to the legal issue being handled (Sunggono, 2008).

This research is based on secondary data which is divided into primary legal materials, namely primary legal materials that are authoritative, meaning they have authority consisting of official legal records or minutes in making legislation and judges' decisions (Marzuki, 2008). Secondary legal materials, secondary data sources, namely data that provides an explanation of primary data, obtained by reading, searching for data and information, information that is relevant to the research context and reviewing other literature (Waluyo, 2002). Tertiary legal materials as support for primary and secondary sources of legal materials, tertiary legal materials are legal materials that provide guidance or provide explanations for primary and secondary legal materials in the form of non-legal research reports or non-legal journals as long as they are relevant to the title of this thesis (Marzuki, 2008).

In collecting data, the author used the library research method, namely by studying legal literature relating to the subject matter, a collection of statutory regulations, legal articles and various other written sources (Paendong, 2017). In data

analysis the author uses qualitative analysis, namely by analyzing data in the form of concepts, opinions, opinions obtained from library research, then processed, generalized and designed to answer problems, then a conclusion is drawn (Fatima, 2020).

## C. Result & Discussion

### 1. Protection for consumers against business actors who trade boosters without BPOM notification from packaged skincare via e-commerce

Based on actual news from the Cosmetics Supervision Directorate, the number of cosmetics industries in Indonesia has increased significantly every year. Based on data obtained by BPOM, the number of cosmetics industries reached 64.91 percent. In 2019 there were 565 cosmetics industries and at the end of 2023 the number of industries reached 1,067. However, in accretion the cosmetics industry still has several problems, such as there are still products that contain dangerous ingredients and do not have distribution permits.

One of the packaged skincare booster cream products, booster cream is a mixture of chemicals that are effective in triggering a series of skincare products to work optimally and produce instant results. For example, in the distribution of booster cream from skincare packages sold by business actors, namely JB, through e-commerce, in this case Shopee. The booster cream traded by these business actors does not have a notification label from BPOM. This action can be said to be illegal because the product being traded does not yet have a distribution permit due to the absence of a BPOM notification label. Distribution of unnotified boosters can endanger consumers because there is not obvious information or any guarantee that the product is made with safe ingredients. This certainly violates consumer rights as stated in Article 4 of the UUPK which states that consumers have the right to obtain correct, clear and honest information regarding the condition and guarantee of goods.

The increase in production and distribution activities for cosmetic products, especially in e-commerce, has quite broad implications for control and supervision. Efforts to monitor and control cosmetics are the responsibility of the government together with the community. Community participation, including producers, needs to be increased as well as control and supervision carried out by the government which includes:

- a. Arrangements, regulations and standardization
- b. Industrial licenses and certificates in the pharmaceutical sector based on good production methods
- c. Evaluate the product before allowing it to circulate
- d. Post marketing vigilance includes sampling and laboratory testing
- e. Inspection of production, distribution, investigation and law enforcement facilities
- f. Research on the implementation of drug and food control policies

- g. Communication, information and public education including public warnings.

Be in accordance with the increasing cases of illegal cosmetics distribution, BPOM carries out regular monitoring, intensification, or law enforcement with specific targets. In carrying out its monitoring, BPOM utilizes social media by observing the circulation of illegal cosmetic products on the market online using computers and other devices. Monitoring using the social media system is carried out regularly by BPOM, including:

- a. Configure a special team, namely a cyber patrol, which collaborates and has close relations with the Ministry of Communication and Information, which aims to monitor the distribution of illegal cosmetics that do not have a distribution permit from BPOM that sell via e-commerce platforms.
- b. Using an application or by means of a barcode, this effort is carried out by checking the product based on the product name, registrant name, dosage form and registration number.

Regarding the problem of securing cosmetic trade transactions in e-commerce, it is considered not to be ideal and significant because there is always an increase in illegal cosmetic products sold through e-commerce platforms. Until now, regulations regarding the distribution of online cosmetics have not been clearly regulated, however, efforts have been made regarding the widespread sale of illegal cosmetics online. In this way, e-commerce such as Shopee, Lazada, Tokopedia and so on can select accounts that have permission to trade products that already have a distribution permit from BPOM. So with this reality, Indonesia really needs a special system or regulations regarding illegal cosmetic products circulating online (e-commerce) in order to provide protection to consumers.

Protection is defined by BPOM as carrying out supervision and investigations related to cosmetic products that are circulating on the market. Supervision is carried out by the government which then collaborates with the BPOM headquarters, the police and the local Health Service. Supervision here continues to carry out predetermined rules. Supervision carried out by BPOM as a form of legal protection consists of:

1. Pre-Market Surveillance

This supervision covers the areas of certificates and consumer information services. Supervision is carried out before cosmetic products enter the market. This supervision includes:

- a. Cosmetic product certificates and registration
- b. Halal certificate and inclusion of halal label on cosmetics
- c. Approvals for opening pharmacies, factories, and new suggestions
- d. Serving consumer information and complaints regarding cosmetics
- e. Educational training for district or city government human resources, producers, retailers and the public.

2. Post-Market Surveillance

Post-Market supervision is carried out by the BPOM agency when cosmetic products are already large on the market. However, supervision is not limited to products in circulation. Cosmetics manufacturing facilities and places were also inspected. Post-Market supervision itself is carried out by inspecting facilities and places where cosmetics are made. Inspecting and taking cosmetics circulating on the market. The sampling activity here aims to see the conformity of the product to standards.

Furthermore, regarding forms of consumer protection from e-commerce platforms, this is done by, namely:

a. Provide reporting facilities

In this case, e-commerce provides a form of protection by providing adequate reporting facilities for any complaints or reporting of non-conforming products or reporting of business actors who commit fraud. This has been reflected in the existence of a 24-hour complaint facility via Shopee customer care or via email. Consumers can submit all complaints via the available contacts by showing valid evidence, then e-commerce parties such as Shopee will investigate the complaint.

b. Selecting sellers

E-commerce has the responsibility to select sellers who want to open their shops on the platforms they use. In this case, e-commerce requires every prospective seller to fill out the registration form correctly, and is supported by uploading a photo of their Resident's Identity Card as proof that the prospective seller These are real individuals and not fictitious sellers. Apart from that, e-commerce must also select and check the authenticity of the products sold by business actors, for example cosmetic products where the product must have a distribution permit to be traded.

c. Provision of guarantee

Every purchase made by consumers will be protected by the guarantee provided. For example, the guarantee on Shopee, this guarantee is valid for 7 days. If the buyer/consumer wants to complain about goods that are not suitable and wants to make a claim for compensation from the seller, the claim must be made within 7 days. If within 7 days a new buyer submits a complaint, the complaint cannot be processed, therefore consumers who make Shopee transactions are expected to always keep proof of invoices or electronic purchase receipts in transaction activities on all e-commerce platforms.

Legal protection can be sought by the public as consumers whose rights have been harmed in connection with the distribution of illegal cosmetic products, namely by making a report through the Court (Litigation) and by carrying out Mediation, Arbitration and through the Consumer Dispute Settlement Board (BPSK). Based on the Consumer Protection Law, business actors will be given sanctions according to the elements they violate and BPSK also provides criminal sanctions and

provides compensation in accordance with the Consumer Protection Law Number 8 of 1999.

Despite the number of benefits obtained from selling booster products from skincare packages, there are still problems. This problem occurs with booster items where the product marking in the form of a BPOM notification is not included. In order to create security and guarantee the quality of skincare products used by consumers, every product circulating on the market or sold via e-commerce must be safe, high quality, useful and produced in accordance with the standards set out in statutory regulations.

Article 142 Paragraph 4 of Law Number 17 of 2023 concerning Health stipulates that: "Pharmaceutical preparations in the form of cosmetics must meet standards and/or requirements, in the form of the Indonesian cosmetic codex and/or other recognized standards."

The article above is intended to guarantee that the cosmetics produced must meet certain standards and be safe for use by consumers. In general, the skincare production process is in accordance with CPKB (Procedures for Making Proper Cosmetics) guidelines, BPOM regulation Number 25 of 2019 is with the following stages (Sulistiyowati, 2024):

- a. Receipt of Raw Materials and Packaging  
Disinfection of raw materials and temperature control is carried out, after that it is passed on to the quality control team for internal identification via a barcode system, then a weighing system is carried out to weigh and re-weigh raw materials one by one and there is an alarm system to suspend work if there is a difference in weight.
- b. Examination and Examination of Microorganisms  
Color, aroma and texture of raw materials are checked. Microorganism examination to detect contamination, water content test, viscosity test, vibration test.
- c. Mixing and Filling  
After the material is measured the barcode system will confirm the material, after confirmation the raw material will be mixed and distributed to the relevant production machine. The manufacturing process includes dissolving, filling, cooling, filtering. The formulation will be filled in appropriate packaging.
- d. Appearance Testing and Inspection of Semi-finished and Finished Products  
Semi-finished products and finished products are inspected to determine their color, texture and aroma, as well as testing the shelf life of finished products.
- e. Delivery  
After passing all testing and screening the product is forwarded to the warehouse. Products pass through an automated system to be sent to consumers.

Article 2 Paragraph 1 of the Food and Drug Supervisory Agency Regulation Number 25 of 2019 concerning Guidelines for Good Cosmetics Manufacturing Methods states that: "The cosmetics industry in carrying out cosmetics manufacturing activities is obliged to implement the CPKB guidelines."

Business actors are required to follow all procedures in producing skincare by complying with the standards and requirements as contained in the CPKB guidelines. The implementation of CPKB guidelines by business actors is very important to guarantee the quality and safety of skincare products that are circulated and traded, so that consumers' rights to safety in using skincare products can be fulfilled.

Article 3 Paragraphs 1 and 2 Regulation of the Minister of Health of the Republic of Indonesia No. 1176/MENKES/PER/VIII/2010 concerning Cosmetic Notifications stipulates that: (1) "Every cosmetic can only be distributed after obtaining a distribution permit from the Minister.", (2) "The distribution permit as intended in paragraph (1) is in the form of a notification."

Furthermore, Article 5 Paragraphs 1 and 2 of the Regulation of the Minister of Health of the Republic of Indonesia Number 1176/MENKES/PER/VIII/2010 concerning Cosmetic Notifications further stipulates regarding cosmetic notifications as follows: (1) "Notified cosmetics must be made by implementing the CPKB and meeting the requirements "technical.", (2) "Technical requirements as intended in paragraph (1) include requirements for safety, materials, marking and claims."

Skincare products that will be distributed on the market must receive cosmetic notification from BPOM, based on Article 1 Number 2 of BPOM Regulation Number 21 of 2022 concerning Procedures for Submitting Cosmetic Notifications. Cosmetic notifications from BPOM can be obtained by business actors if the business actor has fulfilled the requirements to apply for a cosmetic distribution permit. In this case, packaged skincare booster products produced by business actors must meet technical requirements, where the technical requirements in question are requirements related to safety, ingredients, claims and cosmetic labeling. Referring to the provisions of Article 5 Paragraph 1 of BPOM Regulation no. 30 of 2020 concerning Technical Requirements for Cosmetic Marking, which provides provisions related to standards for marking cosmetics as follows: (1) Information on the Labeling shall at least be information regarding: Name of Cosmetic, Benefit/use, Method of use, Composition, Country of manufacture, Full name and address Owner Notification Number, Batch number, Size, contents or net weight, Expiration date, Notification number, 2D Barcode and Warning.

The packaged skincare booster products that were produced and distributed were found to be plain products that did not have any markings, meaning that the packaged skincare booster products did not meet the standards for cosmetic labeling. Thus, skincare item booster products are included in the illegal product category because they don't have a distribution permit in the form of a BPOM notification label.

Article 3 Regulation of the Minister of Health of the Republic of Indonesia No. 1175/MENKES/PER/VIII/2010 concerning Cosmetics Production Permits states that: "The manufacture of cosmetics can only be carried out by the cosmetics industry." It is then reaffirmed in Article 4 Paragraph 1 that: "Cosmetics industries that will make cosmetics must have a production permit."

In fact, there are booster products from packaged skincare that are produced by business actors through beauty doctors, but in the end these products are produced and distributed without a distribution permit because there is no BPOM notification. In this case, those permitted to produce cosmetics are cosmetic industries which in producing cosmetics have met the standards or in accordance with CPKB BPOM guidelines, and the cosmetics industry (business actor) must have a production permit. In producing and selling packaged skincare booster products that do not have a distribution permit, business actors do not care whether the ingredients contained therein can harm consumers or not, business actors are more concerned with large profits than consumer safety and security. Before skincare products are produced and traded, they must be thoroughly tested to ensure that they are safe for use by consumers. In this case, consumers' rights to security and safety have not been fulfilled, business actors must provide clear and accurate information to consumers, ensure that the products sold are safe to use and meet applicable standards so that consumer trust can be created.

#### **D. Conclusion**

Consumer protection is carried out by monitoring using a social media system which is carried out routinely by BPOM by forming a special team, namely cyber patrol, to monitor the distribution of illegal cosmetics that do not have a distribution permit from BPOM which are traded via e-commerce and using applications or by means of Barcoding is done by checking the product based on the product name, registrant name, dosage form and registration number. Apart from that, skincare products that will be distributed on the market must receive cosmetic notification from BPOM, based on Article 1 Number 2 of BPOM Regulation Number 21 of 2022 concerning Procedures for Submitting Cosmetic Notifications. Then there is a form of consumer protection from e-commerce, this is done by providing reporting facilities, selecting sellers and providing guarantees.

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