



LEGAL IMPLICATIONS ON THE VIOLATION OF THE LEGALITY COSMETICS BUSINESS

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Abstract

This study aims to analyze the legality of the cosmetic business in Indonesia with a focus on cases of illegal cosmetics circulating without permission from the Food and Drug Supervisory Agency (BPOM). Cosmetic businesses that do not comply with regulations have a high risk to consumer health and create unfair business competition. In this study, a normative legal research method with a qualitative descriptive approach is used to understand how cosmetic business regulations are applied and their legal implications for business actors. The results of the study show that existing regulations, such as Law Number 8 of 1999 concerning Consumer Protection, Law Number 7 of 2014 concerning Trade, and Regulation of the Food and Drug Supervisory Agency (BPOM) Number 12 of 2023 concerning Technical Requirements for Cosmetic Products, have clearly regulated the legality of cosmetic products. This study also highlights that supervision of cosmetic products is carried out in two stages, namely supervision before circulation (Pre-Market) and supervision after circulation (Post-Market). Although the Food and Drug Supervisory Agency (BPOM) has a mechanism to control product safety, there are still challenges in ensuring business actors' compliance with applicable regulations. Therefore, a more effective strategy is needed to improve consumer education and strengthen supervision of illegal cosmetic businesses.

Keywords: *Legal Implications, Legality, Cosmetic Busines.*

Abstrak

Penelitian ini bertujuan untuk menganalisis legalitas bisnis kosmetik di Indonesia dengan fokus pada kasus kosmetik ilegal yang beredar tanpa izin dari Badan Pengawas Obat dan Makanan (BPOM). Bisnis kosmetik yang tidak memenuhi regulasi memiliki risiko tinggi terhadap kesehatan konsumen dan menciptakan persaingan usaha yang tidak sehat. Dalam kajian ini, digunakan metode penelitian hukum normatif dengan pendekatan deskriptif kualitatif untuk memahami bagaimana regulasi bisnis kosmetik diterapkan dan implikasi hukumnya terhadap pelaku usaha. Hasil penelitian menunjukkan bahwa regulasi yang ada, seperti Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen, Undang-Undang Nomor 7 Tahun 2014 tentang Perdagangan, serta Peraturan Badan Pengawas Obat dan Makanan (BPOM) Nomor 12 Tahun 2023 tentang Persyaratan Teknis Produk Kosmetik, telah mengatur secara jelas legalitas produk kosmetik. Penelitian ini juga menyoroti bahwa pengawasan terhadap produk kosmetik dilakukan melalui dua tahap, yaitu pengawasan sebelum beredar (Pre-Market) dan pengawasan setelah beredar (Post-Market). Meskipun Badan Pengawas Obat dan Makanan (BPOM) telah memiliki mekanisme untuk mengontrol keamanan produk, masih terdapat tantangan dalam memastikan kepatuhan pelaku usaha terhadap regulasi yang berlaku. Oleh karena itu, diperlukan strategi yang lebih efektif dalam meningkatkan edukasi konsumen serta memperkuat pengawasan terhadap bisnis kosmetik ilegal.

Kata Kunci : *Implikasi Hukum, Legalitas, Bisnis Kosmetik.*

INTRODUCTION

The development of the times from time to time makes the desire of humans, especially women, to look beautiful and attractive. This is natural when looking at the current era that is increasingly advanced. In addition, other lives and not to trade. Rapid economic development and progress Technology and science have caused rapid changes in cosmetic products, the pharmaceutical industry, indigenous Indonesian medicines and medical devices, so that many industries have been established, especially the new cosmetic products industry.

The cosmetics industry is one of the fastest growing business sectors in Indonesia, driven by increasing consumer demand for beauty and personal care products. Ease of access through e-commerce has opened up more opportunities for business actors to sell cosmetic products to the wider community. However, the development of this business is also accompanied by challenges in terms of legality and compliance with regulations. In a case that occurred in Semarang in 2023, a young man named Raka Krisdian Prihananto ran a cosmetics business without an official permit. Products such as teeth whiteners, toners, eyebrow growth, underarm whiteners, and body scrubs were sold through an e-commerce platform without obtaining certification from the Food and Drug Supervisory Agency (BPOM). Illegal practices like this not only pose a risk to public health but also violate the legal provisions in force in Indonesia. Business actors must understand that the legality aspect in running a cosmetics business is very important to ensure the quality, safety of the product, and the sustainability of the business itself. With this case, it is relevant to examine the legal implications of violations of the legality of the cosmetics business and how regulations are applied in dealing with problems like this.

The cosmetics business involves the process of designing, developing, producing, marketing, and sales of beauty products. It involves various aspects such as material research, product formulation, safety and quality testing, branding, marketing strategies, and customer relations (Anwar, et al. 2023). Violations of legality in the cosmetics business can have significant consequences, both for consumers and business actors. Cosmetic products that do not have a land permit to use hazardous ingredients have the potential to harm consumer health, which in turn can reduce the level of public trust in the industry. In addition, business actors who do not comply with the legal provisions can face administrative sanctions, fines, and even criminal charges. This shows the importance of implementing strict regulations and compliance with business actors in running their business.(Angga, et al., 2022).

Health is a human right and one of the elements of welfare that must be realized in accordance with the ideals of the Indonesian nation referred to in Pancasila and the Constitution of the Republic Indonesia in 1945 has been described in Law Number 36 of the Year 2009 about health. In the field of health, this cosmetic section is widely negative opportunities taken advantage of by the business actors concerned. This illegal cosmetic seller has a target of women who will be easily interested in buying cosmetic products at low prices. This is because women who really want to always look perfect, other than that they have prestige will use local products or not from well-known and expensive brands, making them look for a cheap way by buying these products even though they do not meet the requirements. Cosmetics in circulation must meet these quality, safety, and usefulness requirements must be in accordance with the Indonesian cosmetic codex and other requirements set by the minister who organizes government affairs in the health sector.

Law Number 8 of 1999 concerning Consumer Protection (hereinafter referred to as the UUPK) states in article 8 that business actors It is prohibited to produce and/or/trade goods and/or services that do not meet or do not comply with the required standards and the provisions of laws and regulations. Although the development of the cosmetics industry has increased, there are still many business actors as well as illegal distributors and commit violations in providing and/or distributing

cosmetics. Therefore this study aims to analyze the legality of the cosmetic business in Indonesia with a focus on cases of illegal cosmetics circulating without permission from the Food and Drug Supervisory Agency (BPOM).

RESEARCH METHODOLOGY

The research method used in this article is a normative legal research method, which focuses on the analysis of regulations and legal regulations applicable in the cosmetic business. This research was conducted by examining various laws and regulations governing the legality of the cosmetic business, such as Law Number 8 of 1999 concerning consumer protection, as well as regulations from the Food and Drug Supervisory Agency (BPOM) which regulates the safety standards of cosmetic products. The type of data used in this study is secondary data, obtained from various sources such as business law books, academic journals, and relevant regulatory documents. This secondary data is used to understand how the law is applied in cases of illegal cosmetic businesses and how regulations can provide protection for consumers and legal certainty for business actors.

The data collection technique was carried out through literature study, namely by collecting and analyzing various literature related to business law and cosmetics industry regulations. In the context of the cosmetics business, the regulations in force in Indonesia include several important regulations, such as the Regulation of the Food and Drug Supervisory Agency (BPOM) Number 12 of 2023 concerning Technical Requirements for Cosmetic Products, which regulates the safety standards and distribution permits of cosmetic products before being sold to the public. In addition, Law Number 7 of 2014 concerning Trade* also regulates aspects of business legality, including the obligation of business actors to ensure that the products sold meet the standards set by the government. The data analysis technique in this study uses a qualitative descriptive approach, which means that data is analyzed by reading, understanding, and interpreting information from various legal sources. This study examines the regulations that apply to the cosmetics business, such as Law Number 8 of 1999 concerning consumer protection and regulation of the food and drug supervisory agency (BPOM) Number 12 of 2023 concerning Technical Requirements for Cosmetic Products. The analysis was carried out in several stages, namely: First, collecting legal materials, such as laws and academic journals. Second, interpreting legal regulations to understand how regulations are applied to illegal cosmetics businesses. And Third, compiling conclusions to provide recommendations on how legal regulations can be strengthened to be more effective in protecting consumers and ensuring the legality of the cosmetics business.

RESULT & DISCUSSION

Business legality refers to compliance with legal regulations governing the operation of a business. In the cosmetics industry, legality includes aspects of licensing, product safety standards, and consumer protection. Business establishment regulations in Indonesia cover various aspects, including business licensing and compliance with applicable regulations. Every business must have legal documents such as a Trade Business License (SIUP) and a Business Premises License (SITU) to ensure that business operations are in accordance with the law.

The results of the study show that the illegal cosmetic business has a negative impact on consumers and the industry as a whole. Products that do not have a distribution permit from the Food and Drug Supervisory Agency (BPOM) are at risk of containing hazardous materials that can cause serious side effects for users. In addition, the distribution of illegal cosmetics also harms business actors who have complied with regulations, because it creates unhealthy competition in the market. This study shows that supervision is carried out in two stages, namely supervision before circulation (Pre-Market) and supervision after circulation (Post-Market). Supervision before circulation includes

the preparation of product safety standards, while supervision after circulation is carried out through laboratory tests on products circulating on the market. In addition, research conducted by Fella Fahitta Ayu Mareza in the journal *Legal Protection for Consumers in the Use of Non-BPOM Skincare* highlights how consumers can claim compensation if they experience losses due to the use of illegal cosmetic products. Based on Article 62 of the Consumer Protection Law, business actors who sell products without a permit can be subject to criminal and administrative sanctions.

Legality in the cosmetics business is an important pillar in ensuring the quality and safety of products circulating in the community. Without compliance with applicable regulations, business actors have the potential to cause serious impacts not only on consumers as the most vulnerable party, but also on the integrity of the industry and market stability. This study aims to understand in full how cosmetic business law is applied in Indonesia, by highlighting the legal consequences for business actors who do not have official permits and identifying the health risks that can be caused by the use of illegal cosmetic products. Indonesian law has provided a fairly clear framework regarding the legality of a cosmetic product. Some of the main regulations that govern this include Law Number 8 of 1999 concerning Consumer Protection, Law Number 7 of 2014 concerning Trade, and Regulation of the Food and Drug Supervisory Agency (BPOM) Number 12 of 2023 concerning Technical Requirements for Cosmetic Products. These three regulations expressly state that every product marketed must meet safety standards and go through strict licensing procedures. This process not only includes administrative registration, but also involves laboratory testing, checking of active ingredients, and safety certification by the Food and Drug Supervisory Agency (BPOM). In other words, the existence of a distribution permit from the Food and Drug Supervisory Agency (BPOM) is not just a formality, but a representation of a guarantee that the product is suitable for use and safe for the public. However, even though the regulations have been well-drafted, violations of these legal provisions still often occur in the field. The phenomenon of the circulation of illegal cosmetics in Indonesia, especially those sold online through e-commerce platforms, shows that business actors deliberately avoid the legal process in order to gain quick profits. These products are widely sold to the public without any guarantee of safety and without adequate information on the active ingredient content. This kind of practice is a direct violation of applicable laws and regulations and reflects a disregard for consumer safety.

The actions of business actors in selling cosmetic products without a distribution permit have serious legal consequences. Based on Article 62 of the Consumer Protection Law, business actors who trade goods and/or services that do not comply with the required standards can be subject to a maximum imprisonment of five years or a maximum fine of two billion rupiah. In addition to criminal sanctions, there are also administrative sanctions such as revocation of business licenses, withdrawal of products from circulation, and prohibitions on operations. This shows that the legal system has provided sufficient protection for consumers and has a deterrent effect on business actors who do not comply with the provisions. However, in its implementation, law enforcement against violations of cosmetic legality has not been fully effective. One of the main obstacles is the low level of consumer awareness of the importance of permits from the Food and Drug Supervisory Agency (BPOM). Many people are tempted by the cheap prices and promises of instant results from illegal products without considering the risks involved. On the other hand, illegal business actors often take advantage of digital gaps by operating anonymously through social media or e-commerce, making it difficult for authorities to identify and take legal action. This is exacerbated by the limited direct supervision by the Food and Drug Supervisory Agency (BPOM), especially in the post-market stage or after the product is circulated in the community. Although the Food and Drug Supervisory Agency (BPOM) has a two-stage supervision mechanism, namely pre-market and post-market, the challenges in the field

remain significant considering the wide distribution and many sales channels that are not optimally supervised.

The impact of the circulation of illegal cosmetics does not stop at the legal aspect, but also has a direct impact on consumer health. Products that have not been tested and do not have a distribution permit are at risk of containing hazardous materials such as mercury, hydroquinone, and steroids in uncontrolled levels. The use of these materials without medical supervision can cause various disorders such as irritation, hyperpigmentation, skin cancer, and long-term hormonal disorders. When consumers suffer losses due to the use of illegal products, the process of obtaining compensation or accountability becomes very difficult because the perpetrators do not have a clear business identity or cannot even be traced. This situation clearly contradicts the principle of consumer protection as stated in Article 4 of the Consumer Protection Law, namely the right to comfort, security, and safety in consuming goods.

On the other hand, the circulation of illegal products also creates market distortions and violates the principle of fairness in business. Legal business actors who have complied with regulations must bear the burden of production costs, laboratory tests, and the registration process at the Food and Drug Supervisory Agency (BPOM). Meanwhile, illegal actors ignore the entire process and sell products at much cheaper prices. This causes business competition to become unbalanced and harms parties who operate honestly. If this condition is allowed to continue, it can damage the integrity of the national cosmetics industry and reduce public trust in supervisory institutions such as the Food and Drug Supervisory Agency (BPOM). Therefore, this study emphasizes that the eradication of illegal cosmetics must be carried out comprehensively and collaboratively. The government needs to strengthen supervision by utilizing digital technology to track the distribution of illegal products on e-commerce. In addition, cooperation with marketplace platforms must be improved so that they are also responsible for filtering and blocking sellers of unlicensed products. On the other hand, education for the public must be encouraged massively so that consumers have legal and health awareness in choosing cosmetic products. Business actors also need to be given guidance and easy access to information so that they are encouraged to follow legal licensing procedures. Only with a comprehensive approach like this can the circulation of illegal cosmetics be minimized, consumer rights can be protected, and the Indonesian cosmetics industry can develop healthily and sustainably.

CONCLUSION

Based on the results of the discussion, it can be concluded that legality in the cosmetics business is very important to ensure consumer safety and maintain trust in the cosmetics industry in Indonesia. Cosmetic products in circulation must have a distribution permit from the Food and Drug Supervisory Agency (BPOM) as a form of supervision and legal protection. This permit proves that the product has passed safety tests and meets the standards set by the government. However, in reality, there are still many business actors who ignore this obligation, such as in the case in Semarang City, where the perpetrator sold cosmetics without a permit from the Food and Drug Supervisory Agency (BPOM). This violation results in business actors being subject to criminal or administrative sanctions based on the Consumer Protection Law and the Trade Law. The use of illegal cosmetics poses a high risk to consumer health because these products can contain hazardous materials that can cause skin disorders, allergies, and the risk of serious diseases. In addition, the circulation of illegal products also creates unhealthy business competition because legal business actors are harmed by non-standard buying and selling practices. Given these various problems, it is important for the government, the Food and Drug Supervisory Agency (BPOM), and the public to strengthen supervision, increase consumer education about the importance of choosing licensed products, and impose strict sanctions

on business actors who violate. These efforts are needed so that consumers are better protected, business actors are more law-abiding, and the cosmetics industry in Indonesia can grow safely, healthily, and sustainably.

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