

LEGAL REVIEW OF THE SALES OF NON-BPOM CERTIFIED COSMETICS IN E-COMMERCE REVIEWED FROM RI LAW NUMBER 8 OF 1999 CONCERNING CONSUMER PROTECTION AND BPOM REGULATIONS

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Abstract

With the rapid technological developments that are occurring today, it has greatly influenced the technology of the cosmetics industry in making cosmetic products easily, which has led to the proliferation of producers trading in cosmetics without distribution permits and of course this violates consumer rights as regulated by Article 4 and Article 5 of the Law. Law Number 8 of 1999 concerning Consumer Protection and Regulation of the Food and Drug Supervisory Agency Number 17 of 2023 concerning Guidelines for Cosmetic Product Information Documents. The Head of BPOM reiterated that the use of cosmetics without a distribution permit and/or containing prohibited ingredients in cosmetics in accordance with the technical requirements for cosmetic ingredients is very risky for health. Health risks that have the potential to occur due to the use of cosmetics containing prohibited ingredients in cosmetics.

Keywords: *Cosmetics Distribution, E-Commerce, BPOM, Consumer Protection*

1. INTRODUCTION

Buying and selling online via internet facilities is increasingly popular in Indonesia as a positive impact of the increasing development of information and communication technology. Cosmetic products are one of the objects of buying and selling carried out online, where cosmetics are an important component in the world of beauty and are really needed by women who want to look fashionable and to highlight her beauty. With the rapid technological developments that are occurring today, it has greatly influenced the technology of the cosmetics industry in making cosmetic products easily, which has led to the proliferation of producers trading in cosmetics without distribution permits and of course this violates consumer rights as regulated by Article 4 and Article 5 of the Law. Law Number 8 of 1999 concerning Consumer Protection and Regulation of the Food and Drug Supervisory Agency Number 17 of 2023 concerning Guidelines for Cosmetic Product Information Documents. Apart from that, cosmetics are also required to have a distribution permit before being distributed to the public. All cosmetic provisions must meet health standards and also guarantee the quality of the cosmetics. Because in the process of granting a distribution permit, you must apply the Good Manufacturing Practices for Cosmetics (CPKB) and technical requirements (safety requirements, ingredients, marking and claims). This is also regulated in Regulation NUMBER 1176/MENKES/PER/VII/2010 Article 5 paragraphs 1 and 2. To recognize illegal cosmetic products on the market, you can look at their physical identity in the form of a production code and also a production permit number from BPOM. This is what should be suspected because unregistered cosmetics tend to contain dangerous chemicals such as mercury (Hg) and various other dangerous ingredients. . In fact, the problem of buying and selling cosmetics becomes more complicated when the transaction process is carried out online.

2. LITERATURE REVIEW

Cosmetics that do not meet CPKB standards must of course be held accountable by the producer and are prohibited from being distributed to consumers whether sold directly or through the marketplace, in this case there are several cosmetic products that do not pass CPKB standards

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and are not registered with BPOM which should not be distributed in the community, and These products should be disseminated early and disseminated for the benefit of the general public, in order to protect the public from bad effects which will later be fatal for users of the product, the protection aspect in the implementation of transactions is not a primary consideration and there is a lack of awareness of the parties' rights and obligations. arising from online transactions carried out, especially regarding protection for consumers of online transactions as parties who are weaker than business actors.

3. PROBLEM

- a. Why are we still frequently found selling cosmetics that do not have a BPOM distribution permit on E-commerce pages in accordance with Law Number 8 of 1999 concerning Consumer Protection and Regulation of the Food and Drug Supervisory Agency Number 17 of 2023 concerning Guidelines for Cosmetic Product Information Documents?
- b. What are the factors that influence the widespread sale of cosmetics that do not have a BPOM distribution permit on E-commerce pages in accordance with Law Number 8 of 1999 concerning Consumer Protection and Regulation of the Food and Drug Supervisory Agency Number 17 of 2023 concerning Guidelines for Cosmetic Product Information Documents?

4. RESULTS AND DISCUSSION

BPOM is an institution that carries out government duties in the field of drug and food supervision in accordance with statutory provisions. Medicines and food as intended consist of medicines, medicinal ingredients, narcotics, psychotropics, precursors, addictive substances, traditional medicines, health supplements, then cosmetics and processed foods. The POM Agency carries out routine supervision over the distribution of cosmetics on the market. So if the POM agency receives a report regarding the distribution of dangerous drugs or cosmetics, the BPOM investigation section will immediately carry out a check. When checking drugs or cosmetics that are suspected to contain dangerous ingredients, BPOM does not immediately confiscate or destroy the products, but instead purchases one or two medicinal or cosmetic products using state money and tests them in the laboratory. And if it is true that there is distribution of drugs or cosmetics containing dangerous ingredients in a drug or cosmetics shop, BPOM will carry out this in accordance with the SOP (Standard Operational Procedure) then the drugs or cosmetics will be confiscated and if approval has been obtained from the court then investigators will destroy them. then burned in a landfill. The supervision carried out by BPOM is only limited to product security and confiscation of products or goods. There are several methods of law enforcement against business actors selling drugs or cosmetics that do not have a distribution permit and are indicated to be dangerous and can harm the public, including:

- a. Repressive efforts against crimes in the production and distribution of illegal whitening cosmetics that have occurred through law enforcement and through coaching actions.
- b. Preventive efforts by intervening in systems/policies related to the production and distribution of illegal cosmetics that do not have a BPOM distribution permit, as well as consumers of illegal cosmetics.

The following are several factors that cause the frequent distribution of cosmetics without BPOM distribution permits on E-commerce pages, including:

- a. The first factor is the lack of public knowledge and understanding, especially regarding cosmetics that do not have a BPOM distribution permit. This is triggered not only by the public's mindset or knowledge, but also the awareness of business actors not to sell or distribute cosmetics that do not have a distribution permit. BPOM on the E-commerce page, as well as cosmetics that have BPOM distribution permits, often do not pay attention to product quality. Consumers are only tempted by fast and cheap results without knowing the side effects of prolonged use.

- b. The second factor is the lack of supervision from the drug and food regulatory agency where supervision by BPOM is based on government regulation number 28 of 2004 article 42 concerning food safety, quality and nutrition. "Every product, whether produced domestically or abroad, which is imported into Indonesian territory for trade, before being distributed, must have a registration approval letter determined by the head of the agency, and if a product commits a violation which is not in accordance with food quality standards or is proven to contain ingredients that is dangerous, then the drug and food inspector has the authority to withdraw the product from circulation." Apart from that, the POM Agency also took action after reporting by the public regarding alleged sales of cosmetics that did not have a distribution permit on the e-commerce page.
- c. The third factor is economic factors, where consumers are tempted by cheap cosmetic prices on E-commerce pages without thinking about the side effects of prolonged use of cosmetics. Apart from that, consumers are also required to be wise in choosing products to use, but often consumers do not know whether the product is or not. obtaining marketing authorization, and the resulting side effects.
- d. The fourth factor is due to the still high consumer demand for these cosmetic products on E-commerce pages which is often the cause of distribution of cosmetics without BPOM permission.

With the increasing prevalence of Cosmetic Products that do not have a distribution permit from the Food and Drug Supervisory Agency, it is very clear that they are violating the provisions of the Legislative Regulations, including:

- a. First, namely producing or distributing pharmaceutical preparations and/or medical devices that do not have a business license as intended in Article 197 Jo. Article 106 paragraph (1) Republic of Indonesia Law Number 36 of 2009 concerning Health as amended in Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation with the threat of imprisonment for a maximum of 15 (fifteen) years and a maximum fine of IDR 1 billion .
- b. Second, namely producing or distributing pharmaceutical preparations that do not meet the standards and/or requirements for safety, efficacy or usefulness, and quality as intended in Article 196 Jo. Article 98 paragraph (2) and paragraph (3) Republic of Indonesia Law Number 36 of 2009 concerning Health. This crime is punishable by a maximum imprisonment of 10 (ten) years and a maximum fine of IDR 1 billion.
- c. Third, namely trading goods that do not meet or are not in accordance with the required standards and provisions of statutory regulations as intended in Article 62 paragraph (1) Jo. Article 8 paragraph (1) letter a Republic of Indonesia Law Number 8 of 1999 concerning Consumer Protection. This crime is punishable by a maximum imprisonment of 5 (five) years or a maximum fine of IDR 2 billion.

Apart from that, the Head of BPOM often educates the public about the dangers of Cosmetics that do not have a BPOM distribution permit because it is impossible to know what things are contained in Cosmetics sold on the E-commerce page. Following this, the Head of BPOM again emphasizes the use of cosmetics without a distribution permit and/or contains prohibited ingredients in cosmetics according to the technical requirements regulations for cosmetic ingredients which are very risky for health. Health risks that have the potential to occur due to the use of cosmetics containing prohibited ingredients in cosmetics are as follows :

- a. Hydroquinone, can cause ochronosis effects (skin turns black);
- b. Retinoic Acid/Tretinoin can cause skin irritation, itchy skin, swelling, redness, dryness, or peeling and is teratogenic (causing birth defects in the fetus).
- c. Resorcinol can cause skin irritation and disrupt the immune system. The danger of using resorcinol on injured or irritated skin is symptoms of dermatitis; irritation of eyes, skin, throat, upper respiratory tract; methemoglobinemia (inability of red blood cells to circulate oxygen in the body); bluish skin (cyanosis), convulsions, increased heart rate, stomach

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acid disease (dyspepsia), drastic decrease in body temperature (hypothermia), and the presence of urine in the blood (hematuria);

- d. Clindamycin can cause skin irritation, one of which causes complaints of peeling skin; And
- e. Fluocinolone can cause itching, burning, peeling, and dry skin, swollen or inflamed hair follicles (folliculitis), discoloration of the skin, and crusting of the skin.

Therefore, BPOM always urges the public to continue to improve literacy and increase knowledge and insight, so that they become smart and empowered consumers by not using cosmetics without a distribution permit. In this case, this includes concocted products without a distribution permit and/or cosmetics containing prohibited ingredients in accordance with the technical requirements for cosmetic ingredients. BPOM also appealed to health workers to encourage patients who need medication in the form of cream or lotion to obtain it through official means. The official facility in question is a pharmacy that can carry out compounding with personnel who have the expertise and authority. When purchasing cosmetics, always try to buy and obtain cosmetics from clear, precise and trusted sales facilities, both offline and online sales facilities. If you shop for cosmetics online, buy from an official online shop, and always apply the KLIK Check (Check Packaging, Label, Marketing Permit and Expiration) before buying or using cosmetics. Legal certainty to provide protection to consumers includes, among other things, increasing the dignity of consumers and opening access to information about goods and/or services for them, and fostering an honest and responsible attitude among business actors. Whereas Article 7 of Law Number 8 of 1999 concerning Consumer Protection requires traders to carry out their business in good faith to provide correct, clear and honest information about the terms and guarantees of goods or services as well as explaining their use and repairs. Therefore, sellers should not sell cosmetics on e-commerce sites if they do not have a BPOM distribution permit so as not to harm the public in order to provide quality goods or services to guarantee the goods or services produced. or traded based on quality standard provisions that apply to goods or services.

5. CONCLUSION

Factors that cause the frequent distribution of cosmetics without BPOM distribution permits on E-commerce pages include: Lack of public knowledge and understanding, especially regarding cosmetics that do not have BPOM distribution permits, lack of supervision from the drug and food regulatory agency where supervision by BPOM, Economic factors and There is still high consumer demand for these cosmetic products on E-commerce pages. Apart from that, the factor that is an obstacle in eradicating the sale of cosmetics that do not have a BPOM distribution permit on the E-commerce page is that the POM Center is experiencing difficulties due to the lack of information about business actors who sell cosmetics without a distribution permit and the lack of BPOM members who can take action against business actors.

6. SUGGESTION

Some suggestions that can be made to reduce the sale of cosmetics that do not have a BPOM distribution permit during E-commerce are cosmetic consumers to be more careful in choosing the cosmetics they use so that they are not easily tempted by cheap cosmetics that do not have a BPOM distribution permit. Apart from that, consumers must First look for information about the cosmetic product on the BPOM page via Check KLIK (Check Packaging, Label, Marketing Permit and Expiration) before buying or using cosmetics. Apart from that, business actors must have good intentions in carrying out their business, don't just think about personal gain without thinking about the dangers of cosmetics without a distribution permit where it is not known what ingredients are in the cosmetics. And the most important thing is for the POM Center to further increase education about the dangers of cosmetics without a distribution permit so that cosmetic consumers understand more about the dangers of cosmetics without a distribution permit.

This is because it is impossible to know what ingredients are contained in cosmetics distributed without a BPOM distribution permit

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