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IMPLICATIONS OF BPOM SKINCARE PRODUCT OVERCLAIM ADVERTISEMENTS FOR CONSUMER PROTECTION

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Abstract
This article discusses the rapid growth of the cosmetics industry in Indonesia, especially skincare products, in the digital era, which is marked by a significant increase in the number of industries and products that have obtained distribution permits from BPOM. BPOM data shows that in the last five years there has been an increase in the cosmetics industry to 1,249 units, with 283,391 cosmetic products having obtained distribution permits, the majority of which are local products. However, the emergence of overclaim practices regarding product benefits that are not supported by adequate scientific evidence has become a serious problem that is detrimental to consumers. Consumers who are influenced by these claims often have unrealistic expectations that then lead to disappointment, financial losses, and health risks. This study uses a normative legal approach to analyze laws and regulations and related legal documents, including the Consumer Protection Law and various BPOM regulations, in order to evaluate the effectiveness of supervision of cosmetic product claims. The results of the analysis show that although BPOM has implemented a supervision strategy through pre-market approval, post-market monitoring, and law enforcement, the supervision mechanism applied still uses a curative method rather than a preventive one. The weaknesses of pre-market laboratory testing, reliance on public reports, and lack of routine supervision of products in circulation are the main factors that allow products with overclaims to enter the market. The implications of these findings underline the need to reconstruct the role of BPOM to be more proactive by increasing the frequency of inspections, utilizing modern technology, and developing preventive evaluation mechanisms. In addition, regulatory updates and stricter and more consistent law enforcement are needed to protect consumers. Consumer education about their rights is also considered crucial to ensure effective access to dispute resolution mechanisms. With synergistic efforts between regulators, business actors, and law enforcement officers, it is hoped that the e-commerce ecosystem in the cosmetics sector can become more transparent, fair, and safe for consumers.

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I. INTRODUCTIONs

The beauty industry, especially skincare products, has experienced rapid growth in the digital era. According to BPOM data, the cosmetics sector in Indonesia has shown significant growth in the last five years. By the end of October 2024, the number of cosmetics industries reached 1,249 units, an increase of 16.40% compared to the previous year. In the same period, 283,391 cosmetic products were recorded as having obtained distribution permits or notifications from BPOM, with 68.80% of them being local products. These figures underline the important role of the cosmetics industry as a major contributor to the national economy [1].

Although these products have been approved by the Food and Drug Supervisory Agency (BPOM), the practice of overclaiming has become increasingly common in advertisements displayed through various online platforms. This overclaim is in the form of excessive claims regarding the efficacy of the product that are often not supported by adequate scientific evidence, thus misleading consumers. Consumers who are tempted by promises of instant benefits and dramatic changes tend to have unrealistic expectations. As a result, their purchasing decisions are negatively influenced, which can ultimately lead to disappointment, financial loss, and decreased trust in skincare brands. This situation raises serious problems in maintaining fairness and transparency of information received by the public. There is research showing that many consumers are less aware of the potential risks and dangers posed by skincare products that contain hazardous chemicals or do not match advertising claims, so they often end up buying products that do not meet their expectations.[2]

Such practices clearly ignore the rights of cosmetic consumers, so business actors should bear full responsibility for the promises they make in order to comply with the provisions of the Consumer Protection Act (UUPK). Business actors are required to convey product information clearly, honestly, and accurately. This is very crucial in e-commerce transactions, considering that consumers cannot see or try the product directly before making a purchase. Therefore, sellers must transparently disclose details about the benefits, composition, and side effects of skincare products to prevent fraud and excessive claims.

In addition, BPOM as the main regulator in supervising cosmetics in Indonesia has set strict regulations regarding ingredients and claims on cosmetic products, including skincare. The term overclaim refers to claims that are not permitted by BPOM, as explained in the appendix to BPOM Regulation Number 3 of 2022 concerning the technical requirements for cosmetic claims, especially regarding the use of percentage content claims on skincare products. BPOM requires that every skincare product claim meet seven criteria: comply with the law, truth, honesty, fairness, can be proven, is clear and easy to understand, and must not be presented as if it were a medicine or has a function to prevent disease.

To improve consumer protection and supervision of traded goods or services, BPOM is expected to continue to monitor and provide warnings to manufacturers who market skincare products with excessive claims or containing hazardous materials. In accordance with Government Regulation No. 80 of 2017, Article 2, BPOM has the task of carrying out supervision in the field of drugs and food

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[1] BPOM, "Kinerja BPOM | Badan Pengawas Obat dan Makanan," 2024, https://www.pom.go.id.
[2] Andreas Tedy Mulyono dan Rudy Pramono, "The Regulatory Status Analysis for Updating the Public Legal Awareness on Human Rights in Indonesia," *Jurnal HAM* 13 (2022): 459.

in accordance with statutory provisions. Effective implementation of supervision is expected to reduce the circulation of skincare products that make overclaims in their descriptions.[3]

In the fast-paced digital era, consumer protection is very urgent. Consumers need access to accurate and accountable information in order to make rational purchasing decisions. Therefore, a synergistic effort is needed between regulatory updates, strict supervision, and consumer education to ensure that every claim in skincare product advertisements is in accordance with the honesty standards set by BPOM and related authorities. This step will not only increase consumer protection, but also strengthen market confidence in the digital beauty industry.

II. METODE PENELITIAN

This study uses a normative legal approach that aims to examine laws and regulations and other legal documents, as well as examine relevant legal theories related to the role of BPOM in supervising overclaims of skincare products. The approaches used include the Statute Approach to analyze related regulations, and the Conceptual Approach to examine the legal concept of BPOM supervision and consumer protection. The sources of legal materials used consist of Primary Legal Materials, namely Law Number 8 of 1999 concerning Consumer Protection, BPOM Regulation Number 23 of 2019 concerning Technical Requirements for Cosmetics, and BPOM Regulation Number 18 of 2024 concerning Labeling, Promotion, and Advertising of Cosmetics; as well as Secondary Legal Materials such as textbooks, scientific articles, and legal journals that discuss the topic of consumer protection and cosmetic supervision.

The technique of collecting legal materials is carried out through literature studies, by collecting data from literature and legal documents. The analysis of legal materials is carried out in stages, starting with descriptive analysis to describe the contents of relevant regulations and policies, followed by evaluative analysis to assess the advantages and disadvantages of existing regulations, and ending with prescriptive analysis to formulate a more proactive supervision model based on normative studies.

III. HASIL PENELITIAN DAN PEMBAHASAN

As the digital world and e-commerce grow rapidly, especially in skincare product transactions, increasingly pressing problems have emerged in Indonesia related to inadequate supervision and ineffective regulations. In this digital era, consumers can easily access various products through e-commerce platforms, but this also opens up opportunities for irresponsible business practices.

[3] Sania Nabila Zein, “PERAN BPOM DALAM MEMBERIKAN PERLINDUNGAN HUKUM BAGI KONSUMEN PENGGUNA PRODUK SKINCARE ILEGAL DI KOTA SEMARANG” (undergraduate, Universitas Islam Sultan Agung Semarang, 2023), https://repository.unissula.ac.id/28817/.

Especially for skincare products, which often do not meet safety standards or contain excessive claims, legal protection for consumers is crucial so that they are not deceived or buy products that do not match the promises made.[4]

One of the critical issues that emerged was the ineffective implementation of laws in regulating products in the online market. Weaknesses in law enforcement and consumers' lack of understanding of their rights are major factors contributing to the suboptimal supervision of products traded through e-commerce.[5] The Food and Drug Supervisory Agency (BPOM) as a state institution tasked with controlling the safety of drugs and food has a legal and moral obligation to protect consumers from products that have the potential to harm their health or finances. Based on Law No. 8 of 1999 concerning Consumer Protection, specifically Articles 8 and 9, every business actor is required to provide accurate, transparent, and correct information regarding the goods traded. In addition, the Regulation of the Head of BPOM Number 11 of 2020 concerning cosmetics emphasizes that cosmetic product claims must be supported by valid scientific data.

BPOM implements three main strategies in supervising products, namely pre-market approval, post-market monitoring, and law enforcement. These strategies are designed to ensure that products in circulation are not only safe, but also provide benefits according to their claims, so that consumers are protected from potential losses. At the pre-market approval stage, skincare products are required to meet safety, quality, and effectiveness standards before being allowed to be distributed by BPOM.[6] This approach is regulated through various regulations. For example, Law Number 36 of 2009 concerning Health, specifically Article 106 paragraph 1, requires that medical devices and pharmaceutical preparations may only be distributed after obtaining marketing approval. In addition, BPOM Regulation Number 23 of 2019 concerning cosmetic technical criteria stipulates that any claim regarding product benefits must be supported by adequate scientific evidence. In Indonesia, all cosmetic products must go through the BPOM pre-circulation notification process, as mandated by the Minister of Health Regulation No. 1176/MENKES/PER/VIII/2010.

Based on BPOM Regulation Number 12 of 2023 concerning Supervision of the Manufacture and Distribution of Cosmetics, supervision is carried out through two main aspects, namely inspection of the facilities and the cosmetic products themselves. Inspection of facilities includes verification of facilities owned by the Notification Number holder, including distribution facilities and product refill facilities. Holders of this Notification Number include the cosmetics industry, importers, and individual

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[4] Yuyut Prayuti, "Perlindungan Konsumen dalam Transaksi Produk Kesehatan Online: Analisis Regulasi dan Praktik," *Syntax Idea* No. 04 (2024), https://doi.org/10.46799/syntax-idea.v6i4.3154.
[5] Bayu P Wicaksono, "Perlindungan Hukum Terhadap Pengguna Skin Care HN (Hetty Nugrahati) Yang Tidak Terdaftar BPOM," *JCL* 1 No. 01 (2024), https://doi.org/10.47134/jcl.v1i1.2290.
[6] Muhlis, Hijrah Adhyanti Mirzana, dan Lisa Nursyahbani, "Penegakan Hukum Pidana Terhadap Pelaku Peredaran Kosmetik Illegal Di Kota Makassar," *PETITUM 9*, 2022, 161–70.

business actors or business entities in the cosmetics sector. Meanwhile, inspections of cosmetics are carried out by evaluating the legality, safety, benefits, quality, and accuracy of information on product labels, claims, and advertisements. Inspections should be carried out routinely to ensure that production and distribution facilities meet the standards and requirements set out in laws and regulations, while incidental inspections are carried out in response to findings or indications of violations.[7]

Although BPOM plays an important role in overseeing cosmetic excellence claims, the reality is that many skincare products continue to make excessive promises and overclaim product content. This certainly puts consumers in a difficult position. As consumers who are in a lay position and have no knowledge of product content, it is difficult to find out the truth of the content. However, in this digital era, there is a lot of content about lab tests and knowledge about skincare, one of which is a detective doctor. Based on the results of lab tests conducted by Detective Doctor, the following are examples of skincare products that do not meet the claims they provide. For example, Bioaqua Facial Wash claims to contain 5% niacinamide, but laboratory test results show that there is only 0.010% niacinamide. Likewise, Gluta Bright B3 Serum Origin which claims to contain 10% niacinamide turns out to only contain 4.97% niacinamide according to testing. Likewise with Azarine Serum which states that it contains 10% niacinamide, but lab tests show that the niacinamide content is only 0.45% .[8]

Even on another occasion, Detective Doctor managed to reveal the content of skincare belonging to another doctor named Richard Lee who was suspected of overclaiming his product. This news revealed surprising facts related to the White Tomato product marketed by Dr. Richard Lee, which is known to contain far from the advertised claims. Although White Tomato is promoted as an effective solution for brightening and caring for the skin, laboratory test results show that the composition of its active ingredients is L Reduce Glutathione o3-mini and does not match the promises made in the advertisement. Consumers who are attracted by the claims of instant benefits of this product are at risk of getting a product with misleading quality, which not only has the potential to cause financial losses but can also threaten the health of their skin. In fact, the two ingredients actually have a very striking price comparison. For the L Glutathione product, it is only priced at under IDR 700 thousand for 80 capsules, while the Dr. Richard Lee white tomato product is around IDR 1.5 million for 30 capsules. This of course makes consumers feel disadvantaged.[9]

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[7] JDIH, "Peraturan BPOM No. 12 Tahun 2023," 2023, https://peraturan.bpk.go.id/Details/263241/peraturan-bpom-no-12-tahun-2023.

[8] Fendy Hermansyah, "Viral! Dokter Detektif Bongkar Produk Kecantikan Overclaim Yang Marak Di Indonesia - Radar Mojokerto," Viral! Dokter Detektif Bongkar Produk Kecantikan Overclaim Yang Marak di Indonesia - Radar Mojokerto, 2024, https://radarmojokerto.jawapos.com/sambel-wader/825395577/viral-dokter-detektif-bongkar-produk-kecantikan-overclaim-yang-marak-di-indonesia.

[9] Jumaiyah Hops, "Yakin masih mau pakai White Tomato dari Dr Richard Lee? Dokter Detektif ungkap kandungan produk ini menipu - Hops ID - Halaman 2," Yakin masih mau pakai White Tomato dari Dr Richard Lee? Dokter Detektif ungkap kandungan produk ini menipu - Hops ID - Halaman 2, 2024,

Based on Article 7 letter a of Law Number 8 of 1999 concerning Consumer Protection, every business actor is required to convey authentic, clear, and honest information regarding the goods and/or services they offer, a provision that is violated by this behavior. In addition, according to Article 10 of the same law, companies are prohibited from making statements that do not reflect the actual conditions.

In addition, the Consumer Protection Law stipulates that business actors are required to fulfill and protect consumer rights as stated in Article 4, including the obligation to provide accurate, clear, and honest information. In the context of buying and selling cosmetic products that make overclaims, this clearly violates these provisions because business actors fail to provide information that should be correct and in accordance with the condition of the product. Furthermore, this practice of excessive claims also violates the rules contained in Articles 8 to 17, which regulate the prohibition for business actors from taking actions that are detrimental to consumers. Thus, overclaims on cosmetic or skincare products indicate that the information provided is inaccurate or dishonest, and uses exaggerated terms.

The lab results above also show a gap in the BPOM supervision system. Although BPOM has the authority to ensure that product claims have undergone scientific evaluation in accordance with BPOM Regulation Number 23 of 2019 concerning Technical Requirements for Cosmetics, the supervision mechanism applied still tends to be reactive and curative. The regulation focuses more on setting safety and quality standards for cosmetic ingredients rather than regulating preventive supervision procedures. As a result, BPOM usually takes action after receiving reports or finding violations in the field.

Based on applicable legal provisions, the effectiveness of BPOM supervision is hampered by several factors. First, pre-distribution laboratory testing is not carried out thoroughly, so products with excessive claims can still enter the market. Second, BPOM only relies on reports from the public, which indirectly makes consumers additional supervisors even though there is no optimal prevention system. Third, the lack of routine supervision of products that are already in circulation makes it difficult to ensure that the quality and quality of the products remain consistent.

Reconstruction of BPOM's role is essential to ensure that claims for skincare products circulating in the market are in accordance with the established safety and quality standards. This means that BPOM must transform into a more proactive institution, not only waiting for reports of violations from the public, but also conducting intensive supervision independently. Strengthening this role can be realized through the following two main steps:

1. Strengthening BPOM's More Proactive Supervision Mechanism

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https://www.hops.id/unik/29413911915/yakin-masih-mau-pakai-white-tomato-dari-dr-richard-lee-dokter-detektif-ungkap-kandungan-produk-ini-menipu?page=2.

a. Intensive Inspection Throughout the Supply Chain: BPOM needs to increase the frequency and scope of inspections, both at the pre-distribution stage (before the product enters the market) and post-distribution (after the product is distributed).
b. Utilization of Modern Technology: Integrating information technology-based monitoring tools and systems, such as sophisticated laboratory testing and real-time detection systems, so that product claim evaluations can be carried out quickly and accurately.
c. Preventive Evaluation System: Developing a mechanism that automatically detects deviations between claims given and laboratory test results, so that preventive actions can be taken immediately before the product reaches consumers.

2. Stricter Regulation and Law Enforcement
   a. Regulatory Updates: Update and detail the regulations governing product claims, to be more in line with technological developments and e-commerce market dynamics, and set clearer standards regarding the information that must be conveyed to consumers.
   b. Strict Sanctions for Violators: Set heavier penalties for business actors who are proven to have made overclaims or are misleading, thus creating a deterrent effect and encouraging compliance with regulations.
   c. Cross-Agency Cooperation: Improve coordination between BPOM, authorities, and the public to build an effective and responsive violation reporting system, so that any indication of violations can be followed up immediately.

Consumers as the weaker party may find it more difficult to fight for their rights. Lack of understanding on how to resolve disputes and file for compensation is a major obstacle for consumers in obtaining their rights. Although e-commerce platforms provide channels for filing complaints, information on how to access these channels is often unclear or difficult to understand, especially for consumers who are not familiar with legal procedures or do not know their rights in depth. Many consumers do not know the right steps to file a complaint or claim for compensation, which ultimately makes them feel hopeless and helpless when faced with problems.[10] The lack of education on consumer rights further exacerbates the situation, leaving consumers feeling they do not have access to effective channels to seek justice. In addition, the lack of transparency in the dispute resolution process is also a major challenge.

[10] Afifah Abdatillah dan Ulfi D Hamida, "Peran Promosi Online Shop Instagram Dalam Menarik Minat Beli Produk Skincare Di KDKoreamask Kediri," *Istithmar Jurnal Studi Ekonomi Syariah* 6, no. 2 (2022): 84–95, https://doi.org/10.30762/istithmar.v6i2.315.

Speed and effectiveness in resolving disputes also play a crucial role in determining consumer satisfaction with the compensation process. Many consumers complain about the length of the settlement process which often does not meet expectations. The results of the study show that slow procedures often make consumers feel frustrated and ultimately choose not to continue with claims or demand their rights. This finding highlights the importance of improving the dispute resolution system on e-commerce platforms through the implementation of more efficient and responsive mechanisms.

In addition to the difficulty in gaining access to the dispute resolution process, there is also the issue of business actors' responsibility. Many consumers complain that sellers often do not take responsibility for the products they offer, especially when the products are proven to be defective or not as promised. Leonita said that consumers often experience obstacles in getting compensation or returning goods because business actors are reluctant to admit mistakes or provide clear explanations. This condition is very detrimental to consumers, who should receive full protection under the law, but in practice they feel they do not receive adequate support.[11]

To overcome the obstacles experienced by consumers in obtaining dispute resolution and compensation, it is necessary to revise stricter regulations and increase supervision of e-commerce platforms and business actors. The results of the study show that although there are regulations aimed at protecting consumers, their implementation is often inconsistent, especially in online transactions. Therefore, regulatory updates that provide clearer dispute resolution mechanisms and enforce the responsibilities of business actors are very important to provide optimal protection to consumers.

In addition, increasing the capacity of law enforcement officers is needed to handle cases related to e-commerce and products sold online. This includes providing more in-depth training for supervisory officers and strengthening the reporting system so that consumers can easily submit complaints and get the right response. With stricter regulations and a more effective monitoring system, it is hoped that consumers will feel safer and more protected when transacting online, and can access compensation mechanisms more easily if there is a problem with the product they purchased.[12]

Although the cosmetics industry in Indonesia has experienced significant growth in the digital era, the practice of overclaiming skincare products remains a serious challenge that disrupts consumer protection. Weaknesses in law enforcement, lack of preventive supervision by BPOM, and minimal consumer understanding of their rights have resulted in financial losses and potential health risks. Therefore, it is necessary to update stricter regulations and improve proactive supervision mechanisms,

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[11] Leonita, "THE IMPACT OF CELEBRITY ENDORSEMENT ON PURCHASE INTENTION OF LOCAL SKINCARE BRAND: THE ROLE OF PERCEIVED QUALITY AND PERCEIVED VALUE |," *JOURNAL OF BUSINESS STUDIES AND MANAGEMENT REVIEW*, 2023, https://online-journal.unja.ac.id/jbsmr/article/view/24608.

[12] Fransiska N Eleanora, "Pembuktian Tanggung Jawab Produk Bagi Konsumen Terkait Cacat Tersembunyi," *Morality Jurnal Ilmu Hukum* 9, no. 02 (2023): 107, https://doi.org/10.52947/morality.v9i2.338.

accompanied by comprehensive consumer education. Synergistic efforts between regulators, business actors, and law enforcement officers are expected to create a transparent and fair e-commerce ecosystem, so that consumer trust in the beauty industry can be rebuilt and consumer protection can be optimized.

IV. KESIMPULAN

Although the cosmetics industry in Indonesia has shown significant growth with many skincare products having obtained distribution permits from BPOM, the practice of overclaiming in product advertising is still a serious problem. Many products claim excessive benefits without adequate scientific data support, thus misleading consumers and creating unrealistic expectations. This has a direct impact on consumers, who are at risk of disappointment, financial loss, and even health risks due to purchasing products that do not match the promises made. On the other hand, the practice of overclaiming also erodes public trust in the beauty industry, and reveals shortcomings in the supervision system that has so far been curative. The implications of these findings encourage the need to increase BPOM supervision through more proactive mechanisms and stricter law enforcement, accompanied by clearer regulatory updates and synergy between regulation, supervision, and consumer education. With these efforts, it is hoped that the skincare market can become safer, more transparent, and fairer for all consumers.

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