

# **Civil Liability of Influencers to Consumers for Promoting Cosmetics Without a Distribution Permit on Social Media in Connection with Law No. 8 of 1999 Concerning Consumer Protection**

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## **ABSTRACT**

The proliferation of cosmetic endorsements on social media has raised legal issues surrounding the distribution of products without distribution permits, which can be detrimental to consumers. This study aims to analyze consumer legal protection and the legal responsibilities of influencers in promoting illegal cosmetic products. The method used is normative juridical, with a statutory approach and literature studies as secondary data sources. The results indicate that although consumer protection regulations are in place, their implementation in endorsement practices is still suboptimal. Influencers can be held civilly liable for misleading information, while business actors remain primarily responsible for the product.

**Keywords:** consumer protection, influencers, endorsements, illegal cosmetics, legal liability.

## **INTRODUCTION**

With the advancement of technology and increasing awareness of appearance, the need to appear attractive and alluring has become increasingly important, especially for women. The desire to look beautiful is not excessive, but rather a form of self-expression and an effort to boost self-confidence. It's not uncommon for many women to spend money on treatments at salons and beauty clinics to achieve their desired appearance. The emergence of several new brands with various marketing methods is clear evidence of the growing development of the cosmetics industry. They also frequently purchase various cosmetic products, both in-store and online, in the hope of achieving satisfactory results. All of this is done solely for the purpose of caring for and beautifying themselves, so they always appear fresh, charming, and in accordance with prevailing beauty standards in society. In this regard, business owners see the high public interest in beauty products as a significant opportunity to market various types of cosmetics with various claimed benefits.

This development is supported by rapid advances in information technology, facilitating widespread product distribution, so that cosmetics circulation is no longer limited by geography. As stated, "the increasing development of technology and information makes it

easier to distribute various products globally, for example in buying and selling transactions via online media using human language."<sup>1</sup>

There are countless products that fall into the cosmetics category, including makeup, skincare, and personal care products like body wash, shampoo, toothpaste, perfume, and more. Cosmetics are used by both men and women, from babies and children to adults and the elderly. Naturally, we as a society want to benefit from the cosmetic products we use and avoid products that are harmful to our skin and body.

According to Regulation of the Head of BPOM RI No. 23 of 2019, the definition of cosmetics is "materials or preparations intended for use on the external parts of the human body such as epidermis, hair, nails, lips and external genital organs, or teeth and oral mucous membranes, especially for cleaning, perfume, changing the appearance and/or improving body odor or protecting or maintaining the body in a condition please preface to avoid plagiarism using human language Good."<sup>2</sup>

Advertising is a marketing medium widely used by businesses to introduce products to consumers. This marketing model has a significant impact because a large portion of the public can decide to purchase or use a product based on the persuasiveness of an advertisement. One form of advertising that is currently growing rapidly is endorsement. Endorsement, or in practice, endorsement, is a form of advertising on social media that involves the services of artists, Instagram celebrities, celebrities, or other businesses commonly known as influencers.

An endorsement is an advertising agreement between a seller as a business owner and an influencer who will be appointed as an endorser.<sup>3</sup> In general, online shops will identify famous or popular people with many followers on Instagram and other social media as endorsers. In an endorsement agreement, the endorser is obliged to promote the seller's product and in return, the endorser will receive payment according to the agreed rate. The influencer will then fulfill their obligation by promoting the product in the form of images or videos accompanied by captions or other text and uploading them to their social media accounts.<sup>3</sup>

Several cases of cosmetics circulating without distribution permits have been discovered on the market. Based on the results of intensified supervision by the Food and Drug Authority (BPOM) for the period of November 2025, 94.3% of illegal cosmetics found in Indonesia were dominated by products without distribution permits (TIE). Most of these products were imported (65% of the total found) and sold online. The illegal cosmetics found came from various regions in Indonesia, with several regions showing quite high levels of findings. Yogyakarta was recorded as the region with the largest value of findings, namely more than IDR 11.2 billion, followed by Jakarta with more than IDR 10.3 billion.

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<sup>1</sup> Amarul Azhar, Yuniar Rahmatiar, and Muhamad Abas, "Legal Review of the Purchase of Reconditioned Electronic Goods", Journal of the Faculty of Law, Buana Perjuangan University, Karawang.

<sup>2</sup> [https://surabaya.pom.go.id/berita/masyarakat-banyuwangi-cerdas-memilih-kosmetika-yang-aman-dan-bermanfaat-bersama-balai-besar-pom-di-surabaya?utm\\_source](https://surabaya.pom.go.id/berita/masyarakat-banyuwangi-cerdas-memilih-kosmetika-yang-aman-dan-bermanfaat-bersama-balai-besar-pom-di-surabaya?utm_source)

<sup>3</sup> Nurintan Latuneimas, Civil Liability of Influencers for Endorsement of Cosmetic Products Without Distribution Permit on Social Media, Thesis, Faculty of Law, Islamic University of Indonesia, Yogyakarta, 2023, p. 10.

Furthermore, Bogor recorded findings of more than IDR 4.8 billion, Palembang around IDR 1.7 billion, and Makassar with IDR 1.3 billion.<sup>4</sup>

In some cases, the harm caused by the use of these products stems from negligence on the part of business actors, such as a lack of transparency in information, the use of prohibited substances, or failure to adhere to production standards set by relevant authorities. Therefore, this situation demands that business actors have a moral and legal responsibility to prioritize consumer safety, comfort, and comfort when producing and marketing cosmetics. They are required to conduct rigorous product testing before distribution, include clear and honest information on packaging labels, and ensure that the products sold have gone through a legal licensing process. These steps are not only intended to protect consumer rights but also to maintain public trust in the cosmetics industry as a whole. However, this phenomenon has also been accompanied by the emergence of various cosmetic products on the market, both those with official permits and those without.<sup>5</sup>

Case that occurred in Banjarmasin In November 2022, the South Kalimantan Regional Police arrested a celebrity with the initials MF who sold various body lotion products without BPOM distribution permits through social media and online shop platforms. The products sold did not have an expiration date and distribution permit which must be held according to BPOM regulations. Investigators applied the provisions of Article 197 of Law of the Republic of Indonesia Number 36 of 2009 concerning Health as amended by Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation, especially in Paragraph 11 of Article 60 number 10, and Article 62 paragraph (1) in conjunction with Article 8 paragraph (1) letter g of Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection.<sup>6</sup>

This case illustrates the importance of applying liability theory as the basis for business actors' accountability. Liability is a situation where an individual or legal entity is obligated to provide compensation for losses resulting from an event or legal action. According to JH Nieuwenhuis, liability is the obligation to bear losses arising from violations of legal norms, whether based on statutory regulations or due to the fault of one party that harms another party. This concept aligns with the provisions of Article 1365 of the Civil Code concerning unlawful acts.

Consumer rights in this case are very clear, they also have the right to receive full protection from potential losses arising from products that are defective, contain hazardous materials, or are marketed without official permits. Therefore, if consumers suffer losses as a result of using products that do not meet established standards, the law provides legitimate space for consumers have the right to file a claim for compensation against business actors. This

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<sup>4</sup><https://databoks.katadata.co.id/demografi/statistik/67bbe427f179c/bpom-temukan-91-merek-kosmetik-illegal-terbanyak-tanpa-izin-didar>

<sup>5</sup><https://jom.unri.ac.id/index.php/JOMFHUKUM/article/viewFile/23204/22466>

<sup>6</sup>Gunawan Widjaja and Ahmad Yani, 2003. Law on consumer protection  
Gramedia Pustaka Utama: Jakarta.

mechanism is designed to create a balance between the business interests of business actors and the basic rights of consumers in order to create fairness in trade transactions. In addition, liability should not be understood only as a mere sanction or legal consequence, but also as an important mechanism to create healthy, transparent, and accountable business conditions. With clear legal responsibilities, business actors are expected to be more careful in the production and marketing processes of goods, so that the quality of the resulting products can be maintained properly. maintained according to applicable standards. This theory is also part of the effort to build trust between producers and consumers, which ultimately affects the sustainability of the business world itself.<sup>7</sup>

## **METHOD**

The research method used to examine the legal responsibility of influencers for products promoted through social media utilizes a normative juridical approach. This approach was chosen because the research focuses on analyzing regulations governing influencer obligations in digital marketing activities, particularly those related to consumer protection. The analysis was conducted by examining various relevant laws and regulations, such as Law Number 8 of 1999 concerning Consumer Protection, the Civil Code (KUHPerdata), and other provisions governing advertising guidelines and social media policies in Indonesia. Furthermore, this research also examines legal doctrines and principles related to legal responsibility in digital promotion practices. Through this approach, the research is able to provide a more comprehensive analysis of the role of influencers as parties who help market products and services to the public, as well as how existing regulations govern their responsibilities for the information conveyed to consumers. Beyond providing theoretical understanding, this research also aims to develop recommendations for stakeholders, including the government, social media platforms, and influencers. These recommendations are expected to encourage the creation of a more transparent and accountable digital marketing ecosystem, so that legal protection for consumers in transactions via social media can be realized more optimally.

## **DISCUSSION**

**The actions of influencers in advertising cosmetic products without permission on social media can be subject to civil liability.**

### **1. Legal Status of Influencers in Endorsement Activities**

The development of information technology has given rise to a new legal entity in digital marketing practices: influencers. Influencers are individuals with the ability to influence consumer decisions through content shared on social media. In a legal context, influencers play a role not only as information providers but also as participants in commercial

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<sup>7</sup>Vina Destiana, Consumer Protection against the Promotion of Illegal Cosmetic Products, p. 20.

activities related to product promotion, thus positioning them as legal entities in the legal relationship between businesses and consumers.<sup>8</sup>

The relationship between influencers and business actors in endorsement practices is essentially a contractual relationship born of an agreement. This aligns with Article 1313 of the Criminal Code, which states that endorsement is an act by which one or more individuals bind themselves to one or more other individuals.<sup>9</sup>In practice, an endorsement agreement is an anonymous agreement that is subject to the principle of freedom of contract as stated in Article 1338 of the Civil Code.<sup>10</sup>

From a consumer protection law perspective, influencers can be positioned as business actors because they play a role in conveying product information to consumers. This aligns with the notion that "a business actor is any person who conducts business activities in various economic sectors related to the production, distribution, and/or marketing of goods and/or services to consumers."<sup>11</sup>This is in line with Article 1 number 3 of Law No. 8 of 1999 concerning Consumer Protection, which defines business actors as any person who carries out business activities in various economic fields.<sup>12</sup>

## 2. Legal Regulations on the Distribution of Cosmetics Without a Distribution Permit

The distribution of cosmetics in Indonesia is strictly regulated to ensure consumer safety. Article 106 paragraph (1) of Law No. 36 of 2009 concerning Health states that pharmaceutical preparations and medical devices may only be distributed after obtaining a distribution permit. This provision emphasizes that every cosmetic product must have a distribution permit before being marketed.<sup>13</sup>

Furthermore, BPOM Regulation No. 23 of 2019 stipulates that cosmetics must meet technical requirements for safe ingredients. Products without a distribution permit may contain hazardous ingredients, including mercury and hydroquinone, which can be harmful to health.<sup>14</sup>Therefore, the promotion of cosmetic products without a distribution permit by influencers can be categorized as a violation of consumer rights.

## 3. Qualifying Influencer Actions as Unlawful Acts

The actions of influencers who advertise cosmetic products without a distribution permit can be categorized as actions that are against the law as stated in Article 1365 of the Civil Code.<sup>15</sup>In legal doctrine, the elements of an act that is contrary to the law include the

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<sup>8</sup>Novi Tri Hariyanti & Alexander Wirapraja, "The Influence of Influencer Marketing as a Digital Marketing Strategy," *Executive Journal*, Vol. 15 No. 1, 2018, p. 133.

<sup>9</sup>Article 1313 of the Civil Code.

<sup>10</sup>Article 1338 of the Civil Code.

<sup>11</sup>Adika Riski Adiguna, Yuniar Rahmatiar, and Muhamad Abas, "Legal Review of the Purchase of Reconditioned Electronic Goods," *Journal of the Faculty of Law, Buana Perjuangan University, Karawang*, 2025.

<sup>12</sup>Article 1 number 3 of Law No. 8 of 1999 concerning Consumer Protection.

<sup>13</sup>Article 106 paragraph (1) of Law No. 36 of 2009 concerning Health.

<sup>14</sup>BPOM Regulation No. 23 of 2019 concerning Technical Requirements for Cosmetic Ingredients.

<sup>15</sup>Article 1365 of the Civil Code.

existence of an act, error, loss, and causal relationship.<sup>16</sup> Illegal product endorsements meet these criteria because the influencer actively promotes the product, there is negligence or intent, and it causes harm to consumers. An act can be classified as unlawful if it violates the perpetrator's legal obligations, violates the subjective rights of others, and causes harm that has a causal relationship with the act itself.<sup>17</sup>

#### 4. Elements of Influencer Error and Responsibility

Misconduct in civil law can be either intentional or negligent. Influencers who fail to verify product distribution permits may be deemed negligent in their duty of care.<sup>18</sup> As stated, business actors in electronic transactions are obliged to provide correct data and are responsible for any losses that arise.

Ridwan Halim stated that legal responsibility arises as a result of carrying out roles that do not comply with legal provisions.<sup>19</sup> Therefore, influencers are obligated to ensure that the information they convey does not mislead consumers. This principle strengthens consumers' position in holding influencers accountable.

#### 5. Consumer Losses and Causal Relationships

Losses are an essential element in civil lawsuits. Losses can be material or immaterial.<sup>20</sup> In the context of illegal cosmetics, losses can include skin damage, health problems, and financial losses.

The causal relationship between influencer actions and consumer harm can be analyzed using the theory of adequate causality, which states that an action is considered a cause of harm if it could reasonably have resulted in that consequence. Thus, influencer endorsements play a significant role in influencing consumer decisions.

#### 6. Forms of Civil Liability of Influencers

Influencers' civil liability generally involves the obligation to pay compensation. This aligns with Article 1365 of the Civil Code.<sup>21</sup> In addition, Article 19 paragraph (1) of the Consumer Protection Law states that business actors are obliged to provide compensation for consumer losses.<sup>22</sup> In practice, liability can be shared between influencers and businesses. Furthermore, the concept of strict liability can also be applied in cases of dangerous products to protect consumers without the need for proof of fault.

**Regulations on consumer protection against the promotion of illegal cosmetic products are linked to Law No. 8 of 1999 concerning Consumer Protection.**

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<sup>16</sup>Salim HS, Contract Law, Jakarta: Sinar Grafika, 2014, p. 99.

<sup>17</sup>Maharani, Raden Bella Bintang, Yuniar Rahmatiar, and Muhamad Abas. "Legal Protection for Consumers Due to Beauty Products That Have Side Effects on the Skin." Jurnal Legisla, Vol. 16 No. 2, 2024.

<sup>18</sup>R. Setiawan, Principles of Contract Law, Bandung: Binabuat, 1999, p. 27.

<sup>19</sup>Ahmad Ridwan Halim, Introduction to Indonesian Law, Jakarta: Ghalia Indonesia, 2011, p. 56.

<sup>20</sup>Abdulkadir Muhammad, Indonesian Civil Law, Bandung: Citra Aditya Bakti, 2010, p. 203.

<sup>21</sup>Article 1365 of the Civil Code.

<sup>22</sup>Article 19 paragraph (1) of Law No. 8 of 1999 concerning Consumer Protection.

## 1. The Concept of Consumer Protection in Indonesian Law

Consumer protection is essentially a systematic effort to create a balance between the interests of businesses and consumers in economic activities. Consumer protection in the modern legal system aims to ensure a balanced position between businesses and buyers, as well as to ensure legal certainty regarding buyers' rights in every transaction, including electronic transactions.<sup>23</sup> According to Shidarta, consumer protection is not only interpreted as protecting consumer interests alone, but also as an instrument for creating a healthy and fair trading system.<sup>24</sup> In this perspective, consumer protection functions as a corrective mechanism for the unequal bargaining position between entrepreneurs and customers.

Furthermore, Az. Nasution stated that consumer protection is a component of economic law that aims to provide legal certainty and protect customers' interests in obtaining appropriate goods and/or services.<sup>25</sup> Therefore, consumer protection has both preventive and repressive dimensions in anticipating and resolving losses experienced by customers.

In the context of the promotion of illegal cosmetic products, this concept is normatively implemented in Law Number 8 of 1999 concerning Consumer Protection, which contains regulations regarding the prohibition on the distribution of goods that do not meet standards and the prohibition on providing misleading information to consumers.<sup>26</sup>

Normatively, the principles of consumer protection include justice, balance, security and safety, and legal certainty. According to Shidarta, the principle of security and safety is the most fundamental because it directly relates to protecting the physical integrity and health of consumers.<sup>27</sup> In the context of illegal cosmetic products, this principle becomes particularly relevant given the potential dangers arising from the use of products that do not meet standards.

The goal of consumer protection is not simply to protect consumers from harm, but also to raise public legal awareness. According to Ahmadi Miru, consumer protection aims to create smart consumers who are able to defend their rights in legal relationships with businesses.<sup>28</sup>

## 2. Consumer Rights in Cosmetic Product Transactions

Consumer rights are a crucial element of legal protection. Article 4 of the Consumer Protection Law provides various rights to consumers, including the right to comfort, security, and safety when using products.<sup>29</sup> In the context of cosmetic products, this right

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<sup>23</sup>Maharani, Raden Bella Bintang, Yuniar Rahmatiar, and Muhamad Abas. "Legal Protection for Consumers Due to Beauty Products That Have Side Effects on the Skin." *Jurnal Legisla*, Vol. 16 No. 2, 2024.

<sup>24</sup>Shidarta, *Indonesian Consumer Protection Law*, Jakarta: Grasindo, 2004, p. 16.

<sup>25</sup>Az. Nasution, *Consumer Protection Law*, Jakarta: Diadit Media, 2001, p. 23.

<sup>26</sup>Republic of Indonesia, Law Number 8 of 1999 concerning Consumer Protection.

<sup>27</sup>Shidarta, p. 27.

<sup>28</sup>Ahmadi Miru, *Consumer Protection Law*, Jakarta: RajaGrafindo, 2011, p. 45.

<sup>29</sup>Article 4 letter a of Law No. 8 of 1999 concerning Consumer Protection.

becomes very important considering the health risks that can arise from using products that do not comply with safety standards.

On the other hand, consumers also have the right to obtain correct, clear and honest information regarding the condition of the goods as stated in Article 4 letter c.<sup>30</sup>In illegal cosmetic promotional practices, information from business actors and influencers often does not correspond to actual conditions, thus potentially misleading consumers.

Furthermore, consumers have the right to obtain compensation or damages as regulated in Article 4 letter h.<sup>31</sup>This right serves as a basis for consumers to file a claim for liability if they experience losses due to the use of illegal cosmetic products.

On the other hand, business actors have obligations as stated in Article 7 of the UUPK, namely to act in good faith in carrying out business activities and to provide information that is correct and not misleading.<sup>32</sup>Violation of this obligation may result in legal liability for the employer.

### 3. Legal Regulations on the Promotion of Illegal Cosmetic Products

Regulation of illegal cosmetic products cannot be separated from the health and consumer protection legal system. According to Munir Fuady, modern law prioritizes consumer protection in all economic activities, especially those involving products that have the potential to harm health.<sup>33</sup>

The ban on the distribution of products without a distribution permit is a form of preventative protection aimed at preventing losses before they occur. According to Janus Sidabalok, this type of regulation represents state intervention to ensure public safety from products that do not meet standards.<sup>34</sup>

In the context of promotions, the prohibition against misleading information is part of the principle of good faith in transactions. According to Ahmadi Miru, businesses are required to convey information transparently because information is the basis for consumer decision-making.<sup>35</sup>Therefore, illegal cosmetic promotions by influencers can be categorized as a violation of the principle of honesty in transactions.

### 4. Forms of Legal Protection for Consumers

Legal protection for customers can be divided into preventive and repressive protection. According to Philipus M. Hadjon, preventive protection aims to prevent disputes, while repressive protection aims to resolve disputes that have already occurred.<sup>36</sup>

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<sup>30</sup>Article 4 letter c of Law No. 8 of 1999 concerning Consumer Protection.

<sup>31</sup>Article 4 letter h of Law No. 8 of 1999 concerning Consumer Protection.

<sup>32</sup>Article 7 of Law No. 8 of 1999 concerning Consumer Protection.

<sup>33</sup>Munir Fuady, *Business Law in Theory and Practice*, p. 89.

<sup>34</sup>Janus Sidabalok, p. 60.

<sup>35</sup>Ahmadi Miru, p. 78.

<sup>36</sup>Philipus M. Hadjon, *Legal Protection for the People in Indonesia*, p. 25.

Preventive protection in the context of cosmetics is carried out through supervision by the BPOM. According to Shidarta, this supervision demonstrates the state's responsibility to ensure the safety of products distributed to the public.<sup>37</sup>

Meanwhile, repressive protection is implemented through the imposition of sanctions on business actors. According to Munir Fuady, legal sanctions serve more than just punishment, but also serve as a means of creating a deterrent effect and maintaining legal order.<sup>38</sup>

## 5. Legal Actions That Consumers Can Take

Consumers who have suffered losses due to the promotion of illegal cosmetic products have various legal remedies. One of these is through out-of-court dispute resolution through the Consumer Protection and Protection Agency (BPSK), as stipulated in the Consumer Protection Law (UUPK).<sup>39</sup> On the other hand, consumers can file a civil lawsuit to claim compensation based on Article 19 of the Consumer Protection Law and Article 1365 of the Civil Code.<sup>40</sup> This lawsuit can be filed if the consumer experiences losses due to the use of illegal cosmetic products.

Consumers can also report business actors to BPOM or related agencies for administrative action.<sup>41</sup> In certain cases, violations can also be processed through criminal law mechanisms if they comply with the elements of a criminal act as stated in the Health Law and the Consumer Protection Law.

## CONCLUSION

1. Influencers involved in the practice of endorsing cosmetic products, particularly those without a distribution permit, have legal standing as subjects participating in commercial activities and therefore cannot be exempt from legal responsibility. The act of promoting cosmetics without a distribution permit can be legally qualified as an act that violates the law, because it is in accordance with the elements of an act, error, loss, and causal relationship. The element of fault in this case is not only limited to intent, but also includes the influencer's negligence in carrying out their duty of care, particularly in ensuring the legality and safety of the product before being promoted to the public. Therefore, influencers can be held civilly liable in the form of an obligation to compensate buyers for losses, either independently or jointly with business actors.
2. Legal protection for consumers in the context of the promotion of illegal cosmetic products is a manifestation of the state's function in guaranteeing consumer rights to security, safety, and correct, clear, and non-misleading information. Consumers

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<sup>37</sup>Shidarta, p. 120.

<sup>38</sup>Munir Fuady, p. 102.

<sup>39</sup>Article 19 UUPK and Article 1365 of the Civil Code.

<sup>40</sup>Article 19 UUPK and Article 1365 of the Civil Code.

<sup>41</sup>BPOM regulations regarding cosmetic supervision.

have the right to obtain products that meet standards and the right to file a claim for compensation if they suffer losses due to the use of products without a distribution permit. Within the national legal framework, this protection is realized through a preventive and repressive approach. Bottom of Form

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