

Juridical Review of the Spread of Pinkflash Dangerous Cosmetics in the Perspective of Legal Protection of Consumers in Indonesia

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Abstract—The development of the times and the advancement of technology, namely social media, causes someone to want to look beautiful, especially for women. This can be seen by the many transactions of buying and selling various cosmetic products either through direct shopping to the store or using applications such as Shopee and Tokopedia online. Some cosmetic products on the market contain harmful substances. These cosmetics are certainly dangerous if applied to facial skin. The most fatal negative impact can cause cancer or damage to facial skin. The purpose of writing this journal is so that women or other consumers are more sensitive and vigilant in choosing and using cosmetics on the market. The writing method used is normative legal research, with a legal approach, cases and reviewing secondary legal materials as the main data source. The problem in this study is how to protect consumers due to the spread of cosmetics from pinkflash products that contain harmful ingredients. The results of the study found that several types of cosmetics from the Pinkflash brand contain harmful substances. This product is known to have spread widely in the market, so it is important to do several strategic ways through the UUPK and the Health Law in resolving risks. The form of legal protection provided is in the form of preventive and repressive protection.

Keywords: consumer protection; harmful cosmetics; legal protection

Introduction

The development of technology in the field of social media today makes someone have to look attractive. Someone who is focused on in this discussion is women, where women want to beautify themselves to get a life partner or improve their quality into a job. Cosmetics comes from the word *cosmein* (Greek) which means decorative. The ingredients used in an effort to beautify oneself used to be concocted from natural ingredients found around it. However, now cosmetics are not only from natural ingredients but also artificial ingredients for the purpose of enhancing beauty. In addition, technological developments have a positive effect on the world of beauty. The graph of the increase in cosmetics purchases by women shows positive things in terms of economic growth and other things in the form of beautifying appearance. Considerable hope that you can follow the artist or model who is used as a beauty benchmark, not thinking

about the various side effects that will arise due to the application of cosmetics to the skin of the face. The texture of facial skin that was previously fine can become spotty and even worse, causing permanent damage to facial skin.

This modern era has changed the pattern of human life towards convenience. In the past, the sale and purchase of cosmetics could be done in *the department store*. Now, the existence of online sales applications or *e-commerce*, makes it easier for consumers to shop by indulging themselves in making transactions via phones that have been installed with Shopee, Tokopedia, Tiktok applications. But of course, there is a risk behind the convenience of this technology. Based on Law No. 8 of 1999 concerning Consumer Protection (UUPK), a Consumer is every user of goods and/or services available in society, either for the benefit of oneself, family, other people, or other living beings and not for trading. In this case, the consumer in question is a person who buys cosmetics and also wears the product. Cosmetic entrepreneurs are referred to as business actors and carry out various promotional ways to increase sales and production targets. The promotion method in question is an advertisement that is displayed in the form of images or videos. The airing of this advertisement both on social media and television by showing the appearance of the product as attractive as possible and the efficacy of the product to steal the attention of the audience, namely women. The increasing movement of consumer purchasing power, especially cosmetics, makes entrepreneurs in this field create a variety of new products and prices vary and the quality produced is certainly different.

The prices offered at online stores are usually much cheaper than the prices at supermarkets or other cosmetic stalls. The number of cosmetic brands on the market makes consumers compare prices. So that this competitive price competition is also one of the impacts that arise. The existence of price competition makes the rulers seek profits in an unnatural way, namely the content of cosmetics is not in accordance with standards in general. Problems that often occur in the world of cosmetics are the existence of fake cosmetics, harmful ingredients, and cosmetics that have passed the expiration limit. On December 1, 2024, the news issued by detik.com regarding one of the Pinkflash cosmetic products was withdrawn from the circular. The product is Pinkflash L01 Lasting Matte Lipcream-R04 (NA11211300237) owned by PT FCL International International /Guangzhou Duoduo Cosmetics Co. Ltd. Contains K3 red dye, the distribution permit is no longer valid.

Indonesia is based on the mandate of the 1945 Constitution of the Republic of Indonesia as the basis for making legal regulations. In article 1 paragraph 3 of the 1945 Constitution of the Republic of Indonesia, legal protection will be used by women or other races, regarding the problem of the circulation of dangerous cosmetics in the community. Legal protection is an action taken to fulfill harmonization, balance, and justice for each legal subject in obtaining his rights and carrying out the obligations imposed on him. The theory of legal protection put forward by Philipus M. Hadjon, namely: the existence of preventive protection, a prevention that is carried out so that violations do not occur. Repressive legal protection, namely the imposition of sanctions in the event of a violation. In its development, the concept of legal protection has developed to include the obligation of citizens to take appropriate actions to prevent violations.

Methods

The writing of this study uses normative legal research. This study conducted an assessment of legal materials, namely primary legal materials and secondary legal materials. It is divided into a study of legal principles, legal systematics, the level of legal synchronization, legal history and legal comparison. The approach to the problem and the approach to legal regulations are the approaches carried out in this study. Primary data and secondary data are data sources used and through document study techniques.

Results And Discussion

Legal protection for Consumers due to the spread of harmful cosmetics from

Pinkflash products

Consumer in English comes from the word, namely consumer, or Dutch "consument", "consumer", consumer is literally a person who needs, spends or uses; user or need. Consumers are defined as people who purchase goods that are consumed or used directly or for others to give. In this modern era, there are many cosmetic brands that are launched following the fashion trend. So it is undeniable that we can buy fake products or products that contain harmful substances. However, in its use, of course, there needs to be legal certainty or guarantee that the item is safe for consumption. The form of legal certainty in question is in the form of legal protection for consumers. Consumer protection exists in society to improve human relations and provide goods and services. In this context, the main focus is on consumer protection related to the products being traded.

The role of the UUPK is to regulate so that in its implementation, both consumers and business actors can be monitored in terms of fulfilling their rights and obligations. In addition, there is an evaluation and monitoring carried out by the government to ensure that the implementation runs well. The UUPK was issued to create more effective control and monitoring from the government over the provisions given to consumers, especially in the business world which is vulnerable to losses and various other negative impacts. The rapid flow of fashion trends, especially in the world of beauty, has now made cosmetics an inseparable and must-have item for everyone, especially among women. Based on Article 1 number 1 of the Regulation of the Minister of Health of the Republic of Indonesia Number 1176/MenKes/PER/VIII/2010 concerning Cosmetic Notification, what is meant by "cosmetics is an ingredient or preparation intended to be used on the outside of the human body (epidermis, hair, nails, lips and external genital organs) or teeth and oral mucosa mainly to clean, perfume, change appearance and/or improve body odor or protect or maintain the body in good condition".

Supervision of the circulation of cosmetics has a wide range of problems, tends to be complex and is a shared responsibility between the government, the community as consumers, and business actors. The participation of the community and also business actors in supervising the circulation of cosmetics has an important meaning and needs to be improved. The circulation of harmful cosmetics is increasingly rampant among the Indonesian people. Therefore, before cosmetic products are widely marketed, they should have obtained a distribution permit and go through strict monitoring at every stage of production. The purpose of this is to ensure that the cosmetic product is safe to use or apply to the skin of the face or lips. Article 142 paragraph 4 of Law number 17 of 2023 concerning Health explains that pharmaceutical preparations in the form of cosmetics must meet standards and/or requirements, in the form of Indonesian cosmetic codex and/or recognized standards. We can know that the skin is a very sensitive part so if we ourselves are not vigilant, we will feel the consequences ourselves.

The circulation of this dangerous cosmetics occurred in Indonesia, such as one of the cases on December 1, 2024, namely the discovery of a type of Pinkflash cosmetics containing harmful substances. The existence of the cosmetics is Pinkflash L01 Lasting Matte Lipcream-R04 (NA11211300237) owned by PT FCL International International /Guangzhou Duoduo Cosmetics Co. Ltd. Contains K3 red dye, the distribution permit is no longer valid. In addition, the dangerous type of cosmetics from Pinkflash is Pro Touch Eyeshadow Palette PF-E15- #02 (NA11211201040) from PT FCL International Indonesia/Guangzhou Duoduo Cosmetics Co. Ltd. Contains K3 and K10 red dyes, the distribution permit has been revoked. So that if not handled optimally, it can certainly be dangerous for consumers. Several types of cosmetics from the same brand are questionable and must be followed up because they can cause something harmful to facial skin and health.

The content of harmful substances obtained in cosmetics in eyeshadow and matte lipcream products from the brand, such as the content of K3 and K10 red dye, is known to have carcinogenic properties. Within a certain period of time, these substances can trigger cancer. The dye used to produce this red color can also make a person experience impaired liver function to liver cancer. Regulation of the Food and Drug Supervisory Agency (BPOM) Number 12 of 2023 concerning the supervision of the manufacture and

circulation of cosmetics. The regulation aims to ensure that every cosmetic that will be produced remains under supervision. In addition, regarding the technical ingredients of cosmetics, the head of BPOM made a regulation Number HK 03.1.23.0811.07517. The content of this regulation discusses red dyes containing K3 and K10 that are included in the dangerous category that are prohibited from circulating in the community. Seeing that many cosmetic products sold contain harmful substances, and the price of the product is below the market price or in other words below the standard. Price competition is also a trigger in the purchase of cosmetics. Cheap goods with adequate results are certainly the choice of most people. The importance of education to consumers about the spread of harmful cosmetic products needs to be increased.

The principle of safety and consumer protection is a principle that has not been sufficiently implemented. This is because the principle of consumer safety aims to ensure that consumers will be safe when using, using the goods or cosmetics consumed or the services provided or used. But the fact is that there are still many cosmetic products that contain harmful ingredients that are widely used in society, and can endanger consumer health. Legal protection includes the protection of the dignity and dignity of individuals and the recognition of human rights, which are owned by legal subjects based on the provisions of the law and Pancasila (Philipus M. Hadjon). Preventive and repressive legal protection are two components of legal protection for the population.

The form of state preventive legal protection in this problem is the UUPK which aims to prevent violations. Legal protection as protection by using legal means is aimed at the protection of certain interests, by making those interests into a legal right whose implementation is strengthened by sanctions. The legal subject referred to in this cosmetic case is the consumer. These consumers are part of the parties that are most disadvantaged from the circulation of harmful cosmetics. The provision of sanctions for violations committed is repressive protection. Furthermore, by making payment fines and confinements given in following up on problems that occurred contained in articles 62 and 63 of the UUPK.

Referring to article 4 of the UUPK in the management of cosmetics, it is mandatory to emphasize the principle of consumer protection, in this case there is a sense of comfort in the use of products. Consumers have the right to use cosmetics that have been transacted to have a sense of awe and comfort in the use of cosmetic rods so that they get the best cosmetic products purchased in the marketplace. The benefits of using cosmetics for women are to make them beautiful and make their facial skin smooth and well-groomed. In the era of digitalization, shopping is carried out online-based using marketplaces, many counterfeit cosmetic products are found that cause damage to product users, causing losses suffered by consumers. Article 7 of the UUPK is the basis for business actors to act honestly in the face of sales problems, not to cause fraud that is detrimental to consumers, the name of synergy between business actors and consumers, so that products can grow rapidly in the market and are in demand. When the problem that occurs is in the form of consumers being harmed by making fake creams that damage consumers' skin, article 8 paragraph 4 of the UUPK is applied as a form of repression.

The case that occurred with the Pinkflash L01 Lasting Matte Lipcream-R04 (NA11211300237) and Pro Touch Eyeshadow Palette PF-E15-#02 (NA11211201040) products is a tangible form of BPOM's action to revoke the distribution permit because it endangers consumers. But regarding the products that have been consumed by consumers, there needs to be a deeper accountability. Based on clarification, Pinkflash said the incident occurred because the factory that had previously cooperated had replaced the raw materials of the product without paying attention to compliance with safety regulations set by BPOM. The official clarification through the Pinkflash Instagram account stated that "There are raw materials that are not in accordance with the safety regulations of BPOM used by vendors when working with us". He said he was always committed to maintaining the quality and safety of all products. Pinkflash promises to thoroughly evaluate all of its products and tighten the quality supervision system. As proof of commitment, Pinkflash has also released official documentation for the destruction of hazardous products that have been withdrawn from the market.

Although Pinkflash has terminated the cooperation contract with the manufacturer of the product, it is still considered negligent and has a negative impact on consumers. The lack of supervision during the process of creating products and the results contain harmful substances certainly make most consumers feel disadvantaged and fatally, it has an impact on health. Where these things are the most important part when you want to do a long-term business. The many potential sales increases can also be the opposite because consumers know that their products do not meet BPOM standards. Consumers who initially bought a lot of products from Pinkflash tend to replace their products with other brands in order to maintain health and reduce negative impacts.

Legal Remedies that can be taken by consumers related to losses experienced due to the use of Pinkflash dangerous cosmetics

The UUPK mentions the obligations of the producer contained in Article 7 Paragraph (7) that several rights of a producer are to provide compensation, compensation, and reimbursement if a service or goods obtained or received are not in accordance with a predetermined agreement. Producers are also required to provide compensation if the products traded are not the same in the provisions and rules that are enforced. The demands of consumers for the Pinkflash cosmetics brand certainly caused considerable turmoil. The existence of harmful substances makes consumers hold Pinkflash accountable. The liability is either in the form of refunds, or the cessation of sales of products containing hazardous substances as well as the recall and destruction of all problematic products. The many losses incurred due to the negligence of the production team are consequences of business actors that should not be avoided to consumers.

As a result of the actions of business actors that result in consumer losses in this case, Article 19 of the UUPK states that:

(1) Business actors are responsible for providing compensation for damage, pollution, and/or consumer losses due to the consumption of goods and/or services produced or traded.

(2) Compensation as intended in paragraph (1) may be in the form of refund or replacement of goods and/or services of similar or equivalent value, or health care and/or provision of compensation in accordance with the provisions of applicable laws and regulations.

(3) The provision of compensation shall be carried out within a grace period of 7 (seven) days after the date of the transaction.

(4) The provision of compensation as intended in paragraphs (1) and (2) does not eliminate the possibility of criminal prosecution based on further proof regarding the existence of elements of wrongdoing.

(5) The provisions as intended in paragraphs (1) and (2) shall not apply if the business actor can prove that the error is the fault of the consumer.

Consumer problems related to the use of products that are considered dangerous certainly make the UUPK the foundation that will be used in solving the problems that occur. This makes it possible to obtain legal channels taken through the court or outside the court in resolving the use of dangerous cosmetics. If the use of these cosmetics is resolved through the court, BPOM will be used to determine whether there are any hazardous substances contained and see the complaints in BPSK as a step in resolving consumer disputes. Based on article 52 letter a of the UUPK, the settlement through BPSK is carried out on a non-litigation basis, the existence of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. It is determined that disputes are resolved through non-litigation.

Dispute resolution can be organized by BPSK, this determines the amount of compensation given to consumers, there is an agreement given in the form of good faith from business actors in ensuring product quality so that there will be no more problems of skin damage that occur to consumers, and the principle of consumer protection that consumers have a sense of security and comfort. Compensation for damages

incurred by business actors in the financing of goods and services produced is carried out based on the agreement given. Dispute resolution through BPSK government in the provision of BPOM which resolves to consumers in the form of reports, In this case, BPOM in serving consumers or the community has the opportunity to make a complaint report due to losses suffered in the use of the product.

Consumers throughout Indonesia who have used and feel harmed by using cosmetics with harmful ingredients have the right to defend their rights. Furthermore, these consumers can choose to take various legal remedies that have been stipulated by the government in laws and regulations. Two legal remedies that consumers can choose to solve their problems include litigation and non-litigation. Referring to the way of litigation in resolving a dispute, a body was formed by the government, namely BPSK. The Consumer Protection Law, which contains Article 52 letter a, mediation, arbitration, and conciliation through BPSK is a way of resolving consumer disputes. Through Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, the alternative settlement is based on good faith, does not precede in a matter of dispute resolution by litigation in the district court determines that civil disputes can be resolved by the parties.

In principle, the dispute resolution held at BPSK is only to determine the amount of compensation that will be received by consumers who suffer losses, apart from that so that similar things do not happen again and of course to reach an agreement contained in the form of a guarantee in the form of a written guarantee. The benchmark of material losses received by consumers is in accordance with the use of adverse goods and/or services after production. The government has prepared BPOM to handle disputes between consumers. In addition to going through BPSK, dispute resolution can be in the form of reports or complaints to BPOM. The consumer complaint service unit owned by BPOM, is tasked with serving the community or consumers who have complaints about food and beverages, traditional medicines, cosmetic products, and health equipment.

Conclusion

Based on the discussion above, cosmetic products that contain harmful substances are a form of violation and lack of legal protection for consumers. Various preventive protections carried out by BPOM are still not optimal in the community and business actors. Safety at the production stage with strict supervision that should be carried out by business actors when producing cosmetics is also a very fatal mistake. As a result of this incident, there are harmful ingredients in pinkflash brand cosmetics. Therefore, strict supervision in the production stage is one of the keys to creating safety for consumers.

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