

Legal Liability of Beauty Product Business Owners for Overclaims on Products

Suisno¹, Bambang Eko Muljono², Nur Rahmah Saputri³, Achmad Ausathuha⁴

1. Faculty of Law, University of Islam Lamongan, Jl. Veteran No.53 A Lamongan, 62211
2. . Faculty of Law, University of Islam Lamongan, Jl. Veteran No.53 A Lamongan, 62211
3. LPPM IAIN Curup Jl. Dr. AK Gani No. 01, Dusun Curup, Curup Utara, Kabupaten Rejang Lebong, Bengkulu 39119.
4. Faculty of Law, University of Islam Lamongan, Jl. Veteran No.53 A Lamongan, 62211

Corresponding Author: suisno72@unisla.ac.id

ABSTRACT

The beauty product industry in Indonesia is experiencing rapid growth which has also triggered the practice of overclaiming by business actors, namely excessive claims to the benefits or content of products without scientific basis. This practice misleads consumers and poses health risks, especially in skincare products. This research discusses two problem formulations: namely how the legal responsibility of business actors for the practice of overclaim, and how legal protection for consumers. This research uses normative juridical methods through statutory and conceptual approaches, the results of this study indicate that business actors can be held civilly, administratively, and criminally liable in accordance with the GCPL and BPOM regulations. Legal protection of consumers is carried out preventively, namely prevention efforts carried out before violations of consumer rights occur and repressive, namely a form of protection that includes dispute resolution, either through the court, the Consumer Dispute Resolution Agency (BPSK), or the provision of administrative and criminal sanctions to business actors who violate legal provisions.

Keywords: *Overclaim, Beauty Products, Consumer Protection, Business Responsibility, Consumer Protection Law.*

Introduction

The cosmetics industry in Indonesia has seen rapid growth in recent years. This growth is inextricably linked to the public's strong interest in various types of beauty products, believed to enhance appearance and boost self-confidence. To address this need, beauty industry manufacturers tend to follow consumer preferences and desires. As a result, beauty product trends and variants are constantly updated¹. The rapid progress in this industry is partly driven by the view of most women who consider beauty products to be a primary need that cannot be ignored².

Digital trading activities, known as e-commerce, offer a variety of conveniences and comforts for consumers and potential consumers. One form of this convenience is the ability for consumers to easily explore and discover new brands and products through various e-commerce platforms³. To ensure a product's widespread recognition and to maintain business continuity and growth, businesses need to implement promotional strategies through various forms of advertising as part of the marketing process. However, as consumers search for suitable products, certain parties exploit this business opportunity dishonestly.

Amidst the rapid development of this industry, various problems have emerged, one of which is the practice of overclaiming by business actors. Overclaiming itself is the act of exaggerating information about a product⁴. Whether in writing through labels, advertisements, or verbally, it can be in the form of direct promotions such as live broadcasts and other media. These claims are usually not based on laboratory test results or valid scientific evidence. When business actors make exaggerated claims about the contents or benefits of a product, the ones who are most harmed in this situation are consumers, because they

¹ Industri Kecantikan Indonesia Semakin Dinamis, Produk Kecantikan Terus Diperbarui. Kompas. 7 Agustus 2024, <https://lifestyle.kompas.com/read/2024/08/07/211407320/industri-kecantikan-indonesia-semakin-dinamis-produk-kecantikan-terus> Diakses pada tanggal 28 Maret 2025 Pukul 20:01

² Miftachul Jannah, Siti Ning Farida, *Pengaruh Brand Image, Product Quality, dan Price Discount Terhadap Impulse Buying pada Produk Make Over di Kota Surabaya*, Jurnal laaroiba, Vol. 6 No 6 (2024), h.1

³ Maria Marcia dan Cheryl Amadea, *Perkembangan Industri Kosmetik di Tahun 2023*, terdapat dalam <https://east.vc/id/insights-id/perkembangan-industri-kosmetik-di-tahun-2023/>. Di akses pada tanggal 28 Maret 2025 Pukul 20:05

⁴ Rabith Madah, K.H., *Comprehensive Study of Overclaim Skincare Products (Legal and Healty Perspectives)*, *Edunomika*, Vol.09, No. 01, 2025, Hal.02, Terdapat dalam <https://jurnal.stie-aas.ac.id/index.php/jie/article/download/16893/7252/52555>.

potentially receive information that does not correspond to reality and can be deceived by unproven promises. This practice not only misleads consumers but can also pose health and safety risks. As time goes by, the number of consumers seeking cosmetic products, especially cosmetics for skin care (hereinafter referred to as skincare), is increasing.

In this case, business actors should have full obligations and responsibilities related to providing information and claims related to the products sold in advertisements, as well as the business actor's obligations to guarantee quality⁵. Specifically for skincare products, aggressive promotional strategies are often employed to attract consumers' interest in purchasing the products offered. As a result, advertisements tend to exaggerate and often even violate ethical values and prevailing norms. However, transparency and clarity of claims on skincare products are crucial, as their use must be tailored to the characteristics and needs of each individual's skin. Failure to do so can lead to negative side effects such as irritation, breakouts, and other skin disorders. Experts categorize facial skin into several types: normal skin, oily skin, dry skin, combination skin, sensitive skin, acne-prone skin, and ORPW (Oily-Resistant-Pigmented-Wrinkled) skin.

In reality, to date, businesses are still found violating the provisions of the Consumer Protection Law (UUPK), namely by producing and marketing products that do not comply with the conditions, guarantees, features, or benefits stated on the label, label, or product description. Such actions confirm that businesses that overclaim are not only violating one rule, but also directly violating the provisions of Articles 8, 9, 10, and Article 17 of the UUPK. This is because overclaiming is classified as a form of violation in terms of product marking, marketing, or offering. In general, responsibility in this context can be classified into three types: accountability, responsibility, and liability⁶.

Seeing the problems that have been explained previously, it is appropriate that regulations regarding consumer protection are implemented in real terms. The act of overclaiming cosmetic products or the distribution of cosmetics containing

⁵ Rotua Nainggolan, dkk., *Kewajiban Pelaku Usaha dalam Menjamin Mutu Barang dan Jasa Konstruksi dalam Perspektif Perundang-Undangan*, Zaaken, Volume 2 Nomor 1, Februari 2021 Halaman 145, Terdapat dalam <https://onlinejournal.unja.ac.id/Zaaken/article/download/11345/11179>

⁶ K. Martono, *Kamus Hukum dan Regulasi Penerbangan*, Edisi Pertama, RajaGrafindo Persada, Jakarta, 2007, h 306-307

dangerous substances is a form of violation of the provisions of Article 28H paragraph (1) of the 1945 Constitution, which states that "everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment, and has the right to receive services.

Reviewing the problems stated above regarding the overclaim case of the skincare brand, the Consumer Protection Law has actually provided a clear legal umbrella for domestic business actors in carrying out their business activities in Indonesia, including businesses related to cosmetics or similar beauty products⁷.

Metode Penelitian

This study uses a normative juridical research method, namely by taking a statutory approach to examine the legal basis for consumer protection. The primary legal materials in this study are the Civil Code, the Criminal Code, Law Number 19 of 2016 Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions, Regulation of the Food and Drug Supervisory Agency Number 3 of 2022 concerning Technical Requirements for Cosmetic Claims and Regulation of the Food and Drug Supervisory Agency Number 12 of 2022 concerning Guidelines for Good Manufacturing Practices for Drugs in Hospitals.

Results and Discussion

Excessive or busy claims are known as "Overclaims" made by business actors, especially for beauty products which are quite popular with the general public. In the realm of the beauty industry, especially skin care products, overclaim refers to the actions of manufacturers who, through marketing strategies, convey statements that are exaggerated, inaccurate, or even without adequate scientific basis. These statements often offer implausible results, potentially building false expectations among consumers and misleading them⁸.

According to the Great Dictionary of the Indonesian Language, responsibility is defined as the obligation to bear all responsibility, where if a problem occurs, the responsible party can be sued, blamed, or sued. In the

⁷ Christopher Kristian Darmawan, Ezra Sebastian, Pricilia Angel Sie, Irene Puteri Alfani Sofia Sinaga, *Analisis Pertanggungjawaban Influencer Melalui Gugatan Perbuatan Melawan Hukum Terhadap Endorse Overclaim Produk Kosmetik dan Produk Kosmetik Megandung Bahan Berbahaya*, Jurnal Kritis Studi Hukum, Vol. 9 No. 11 Tahun 2024, h.97

⁸ Joedy Rodrick Pakaila, Rafael Muhammad Aydin, Syahira Wanda Abbiyya. *Tren Overclaim Dalam Iklan Industri Kecantikan: Analisis Etika Terapan Pada Produk Skincare Di Indonesia. Kabilah: Journal Of Social Community*. Vol. 9 No. 2 Tahun 2024, h. 505-56.

context of business actors, this responsibility covers several important aspects. First, responsibility for defective products, namely business actors are obliged to bear all losses arising from products that do not meet safety standards or have production defects. Second, responsibility for misleading information, where if business actors provide inaccurate or misleading information about their products, then they must be responsible for losses suffered by consumers due to errors in making purchasing decisions. Third, responsibility towards consumers who are harmed, where business actors are obliged to provide compensation or damages if the product or service offered does not comply with the agreement or causes losses, both material and immaterial.

Every business actor bears responsibility for the products or services they offer to consumers, which is generally realized in the form of a guarantee. This guarantee is a form of service or assurance regarding the quality of goods used continuously, as a form of protection for consumers. Provisions regarding the responsibility of business actors are regulated in Law Number 8 of 1999 concerning Consumer Protection, specifically in Article 19, which contains regulations regarding the obligation of business actors to provide compensation if the goods or services provided are not suitable or cause harm to consumers⁹.

984 / 5,000

Article 62 of Law Number 8 of 1999 concerning Consumer Protection regulates the threat of criminal penalties for business actors who violate the provisions in the previous articles, especially Article 8 to Article 17, which relate to the prohibition on the distribution of goods and/or services that do not comply with standards, contain misleading information, or do not include important information. In this context, business actors who make overclaims on products, for example by listing benefits or effects that do not correspond to facts or scientific evidence, can be subject to criminal sanctions as regulated in Article 62 paragraph (1) which reads: "Business actors who violate the provisions as referred to in Article 8, Article 9, Article 10, Article 13 paragraph (2), Article 15, Article 17 paragraph (1) letter a, letter b, letter c, letter e, paragraph (2), and Article 18 shall be punished with imprisonment for a maximum of 5 (five) years

⁹ Mohd. Yusuf Daeng. *Hukum Perlindungan Konsumen*. Taman Karya. Pekanbaru. 2024. h. 31.

or a maximum fine of Rp. 2,000,000,000.00 (two billion rupiah)." This provision is intended as a form of protection for consumers from detrimental and misleading business practices, as well as an instrument for enforcing the law which has a deterrent effect on irresponsible business actors.

Legal Protection for Consumers of Overclaimed Beauty Products

In the context of legal protection for consumers, the importance of legal protection is due to the weak position of consumers¹⁰. The Consumer Protection Law provides legal certainty to protect consumers, so that consumer legal protection has a clear objective to protect consumers who are in a weak position in transactions.

According to Philipus M. Hadjon, there are two forms of legal protection that can be provided to the public: preventive legal protection and repressive legal protection. Preventive legal protection is intended to prevent disputes from arising by encouraging government action to be carried out cautiously, particularly in the use of discretionary authority. Meanwhile, repressive legal protection aims to resolve disputes that have already occurred, including through judicial mechanisms or other dispute resolution institutions¹¹.

Preventive legal protection is implemented through regulations requiring beauty products to obtain distribution permits from the Food and Drug Authority (BPOM) and prohibiting misleading advertising. Preventive law enforcement is a strategic approach aimed at preventing legal violations before they cause real harm, particularly in the relationship between businesses and consumers. In the context of consumer protection against overclaiming practices in beauty products, this approach is realized through strict regulations and active oversight by authorized institutions, particularly the Food and Drug Monitoring Agency (BPOM)..

One of the main forms of this preventive effort is the mandatory distribution permit requirement for every cosmetic product before it is marketed. The distribution permit issued by the BPOM aims to ensure that the product meets safety, quality, and efficacy standards and does not contain misleading

¹⁰ Santika, Lasmi. Ma'ruf Akib, Wahyudi Umar, dan Ismi Fadriah Hamzah. "Perindungan Hukum Konsumen Terhadap Overclaim pada Produk Skincare dalam Transaksi Online" Jurnal Ilmu Hukum, Humaniora, dan Politik, Vol. 5. no. 2 (2024): h. 1041.

¹¹ Philipus M. Hadjon, *Perindungan Hukum Bagi Rakyat Indonesia*, Penerbit PT. Bina Ilmu, Surabaya, 1987, h. 29.

claims. This process also includes an evaluation of all promotional communications and product advertisements. This aligns with BPOM Regulation No. 3 of 2022 concerning Technical Requirements for Cosmetic Claims, which expressly prohibits overclaims without a scientific basis or valid clinical trials.

Meanwhile, repressive legal protection allows consumers to report violations through institutions such as the Non-Governmental Consumer Protection Agency (LPKSM) or directly to the Consumer Dispute Resolution Agency (BPSK). Producers can be subject to administrative and criminal sanctions under Article 62 of the Consumer Protection Law. In the context of beauty products found to have engaged in overclaiming practices, a repressive approach plays a crucial role in creating a deterrent effect on business actors and ensuring legal certainty for consumers.

Beauty products that contain suspected overclaims, namely those that include claims of benefits that are not in accordance with the results of scientific tests or are not based on valid clinical evidence, can be followed up through legal mechanisms as regulated in Law Number 8 of 1999 concerning Consumer Protection. Consumers who feel aggrieved by such actions have the right to file a complaint through the Non-Governmental Consumer Protection Agency (LPKSM) or directly to the Consumer Dispute Resolution Agency (BPSK) as regulated in Article 45 and Article 46 of the Consumer Protection Law.

The Food and Drug Monitoring Agency (BPOM) is essentially a state institution that plays a crucial role in providing consumer protection, particularly in ensuring the safety, quality, and efficacy of products distributed to the public. BPOM's duties and authorities include overseeing the distribution of medicines, food, and cosmetics, to ensure that every product consumed or used by the public meets health standards and does not pose a risk to consumer safety.

The Food and Drug Monitoring Agency (BPOM) has the authority to conduct pre- and post-market monitoring. If overclaims are found, the Head of the Food and Drug Monitoring Agency (BPOM), Taruna Ikrar, emphasized that his agency will not hesitate to revoke the distribution permits of local skincare products that make overclaims. Overclaiming occurs when the composition or ingredients listed on the product packaging do not reflect the actual contents of

the product¹². The Food and Drug Administration can issue a stern warning, recall a product from circulation, or revoke a product's distribution permit¹³. The BPSK mediation process allows disputing parties to engage in dialogue and seek mutually beneficial solutions. In the context of consumer protection, this approach aims to reduce the burden on the judicial system while ensuring that consumer rights are respected and protected.

Second, litigation. Litigation is a means of resolving consumer disputes through judicial mechanisms, both civil and criminal. In a civil context, consumers who feel aggrieved by beauty products containing overclaims can file a lawsuit based on unlawful acts (PMH) as stipulated in Article 1365 of the Civil Code (KUHPerdata). This lawsuit is filed to seek compensation for material and immaterial losses suffered due to misleading product information or claims.

In addition, if there is an element of fraud, such as a business actor intentionally providing false information with the aim of deceiving consumers to gain profits, then consumers can also report this act as a criminal act of fraud based on Article 378 of the Criminal Code (KUHP) such as a civil lawsuit based on an unlawful act or a criminal report if there is an element of fraud.

Conclusion

Business actors' responsibilities are a crucial element in ensuring legal protection for consumers. Law Number 8 of 1999 concerning Consumer Protection stipulates that businesses are responsible for losses arising from defective products, misleading information, or services that do not comply with the agreement. Article 19 clearly outlines the obligation to provide compensation, including the form of compensation and the timeframe for its implementation. Legal protection for consumers in the context of overclaims must be implemented in a preventive and repressive manner. From a preventive perspective, strict oversight by the Food and Drug Authority (BPOM) of distribution permits and product claims is crucial to prevent the circulation of misleading products. Meanwhile, repressive legal protection is realized through the imposition of administrative and criminal sanctions on business actors found

¹²<https://tirto.id/bpom-akan-tarik-izin-produk-skincare-lokal-yang-overclaim-g4g2#:~:text=Menanggapi%20hal%20itu%2C%20Taruna%20mengatakan.Baca%20juga:> diakses pada tanggal 11 Mei 2025 Pukul 20:07

¹³ Dhevi Nayasari Sastradinata., *Mekanisme Penyelesaian Sengketa dalam Transaksi Jual Beli yang Dilakukan Melalui E-Commerce*, Jurnal Independet., Vol. 12 No. 2 (2024), h. 226.

to have violated legal provisions. However, in practice, supervision and law enforcement in the field still face various obstacles, including weak control over promotions on social media and e-commerce. Therefore, synergy is needed between supervisory agencies, law enforcement, business actors, and consumers to create a fair, transparent, and accountable trading environment for beauty products.

Biography

Christopher Kristian Darmawan, Ezra Sebastian, Pricilia Angel Sie, Irene Puteri Alfani Sofia Sinaga, *Analisis Pertanggungjawaban Influencer Melalui Gugatan Perbuatan Hukum Terhadap Endorse Overclaim Produk Kosmetik dan Produk Kosmetik Megandung Bahan Berbahaya*, Jurnal Kritis Studi Hukum, Vol. 9 No. 11 Tahun 2024, h.97.

Dhevi Nayasari Sastradinata., *Mekanisme Penyelesaian Sengketa dalam Transaksi Jual Beli yang Dilakukan Melalui E-Commerce*, Jurnal Independet., Vol. 12 No. 2 (2024),226.

Industri Kecantikan Indonesia Semakin Dinamis, Produk Kecantikan Terus Diperbarui. Kompas. 7 Agustus 2024, <https://lifestyle.kompas.com/read/2024/08/07/211407320/industri-kecantikan-indonesia-semakin-dinamis-produk-kecantikan-terus>

Joedy Rodrick Pakaila, Rafael Muhammad Aydin, Syahira Wanda Abbiyya. *Tren Overclaim Dalam Iklan Industri Kecantikan: Analisis Etika Terapan Pada Produk Skincare Di Indonesia*. *Kabilah: Journal Of Social Community*. Vol. 9 No. 2 (2024) 505-56.

K. Martono, *Kamus Hukum dan Regulasi Penerbangan*, Edisi Pertama, RajaGrafindo Persada, Jakarta, 2007, h.306-307.

Maria Marcia dan Cheryl Amadea, *Perkembangan Industri Kosmetik di Tahun 2023*,terdapat dalam <https://east.vc/id/insights-id/perkembangan-industri-kosmetik-di-tahun-2023/>. Di akses pada tanggal 28 Agustus 2025 Pukul 20:05.

Miftachul Jannah, Siti Ning Farida, *Pengaruh Brand Image, Product Quality, dan Price Discount Terhadap Impulse Buying pada Produk Make Over di Kota Surabaya*, Jurnal laaroiba, Vol. 6 No 6 (2024), 1.

Mohd. Yusuf Daeng. *Hukum Perlindungan Konsumen*. Taman Karya. Pekanbaru. 2024. h.31.

Nugroho, Fajar Seto, and Putri Ainiyatur Rizkiyah. "E-Consumer Privacy Policy on the Online Marketplace System." *Jurnal Independent* 12, no. 1 (2024): 88-97.

Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia*, Penerbit PT. Bina Ilmu, Surabaya, (1987), h.29.

Rabith Madah, K.H., *Comprehensive Study of Overclaim Skincare Products (Legal and Healty Perspectives)*, Edunomika, Vol.09, No. 01 (2025), 02.

Rotua Nainggolan,. dkk., *Kewajiban Pelaku Usaha dalam Menjamin Mutu Barang dan Jasa Konstruksi dalam Perspektif Perundang-Undangan*, Zaaken, Volume 2 No.1 (2021) 145.

Santika, Lasmi. Ma'ruf Akib, Wahyudi Umar, dan Ismi Fadrijah Hamzah. "Perlindungan Hukum Konsumen Terhadap Overclaim pada Produk Skincare dalam Transaksi Online" *Jurnal Ilmu Hukum, Humaniora, dan Politik*, Vol. 5. no. 2 (2024) 1041.

Sastradinata, Dhevi Nayasari, and Nabila Afrida. "Dispute Resolution Mechanism in Buying and Sale Transactions Conducted in E-Commerce." *Jurnal Independent* 12, no. 2 (2024): 222-235.

Sastradinata, Dhevi Nayasari, Hadziqotun Nahdliyah, and Kidung Alfiani Sidiq. "Legal Review of Embezzlement of Funds in Corporate Crimes." *Jurnal Independent* 12, no. 2 (2024): 179-187.

Shodiq, Ja'far, and Susi Winanda. "Legal Provisions for Settlement of Plagiarism of Digital Fiction Works." *Jurnal Independent* 12, no. 2 (2024): 210-221.