

## Legal Liability of Business Operators for The Distribution of Hazardous Cosmetics in Indonesia

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### Keywords:

Legal Liability; Business Actors;  
 Dangerous Cosmetics; Consumer  
 Protection; Strict Liability

### Abstract

The circulation of hazardous cosmetics has become a significant legal and public health issue in Indonesia, driven by the rapid expansion of the beauty industry and the widespread use of digital marketplaces that facilitate the distribution of illegal cosmetic products. Despite the existence of comprehensive legal regulations governing consumer protection and cosmetic safety, hazardous products containing prohibited substances such as mercury and hydroquinone continue to circulate, posing serious risks to consumer health and raising concerns regarding the effectiveness of business operators' legal liability. This study aims to analyze the legal liability of business operators for the distribution of hazardous cosmetics in Indonesia and to evaluate the effectiveness of preventive and repressive legal protection available to consumers under the Indonesian consumer protection legal system. This research employed a normative legal research method using statutory and conceptual approaches. The study analyzed primary legal materials, including relevant legislation and regulations, supported by secondary legal sources and limited interviews with dermatology experts to strengthen the legal analysis. The findings reveal that business operators may incur civil, criminal, and administrative liability; however, the implementation of these legal mechanisms remains ineffective due to weaknesses in compensation procedures, limited application of the strict liability principle, insufficient institutional coordination, and low consumer legal awareness. The study concludes that strengthening regulatory enforcement, improving inter-agency coordination, enhancing consumer legal literacy, and simplifying dispute resolution mechanisms are essential to ensuring effective consumer protection and increasing business accountability in Indonesia's cosmetics industry.

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### INTRODUCTION

The circulation of cosmetics containing hazardous ingredients has become a growing global problem, particularly in developing countries like Indonesia. In this country, cosmetic products often fail to meet strict safety standards and do not comply with applicable regulations. Along with the rapid growth of the beauty industry in Indonesia, cases of the circulation of hazardous cosmetics are actually increasing. The high demand for skin whitening products and other beauty treatments has encouraged a number of businesses to produce illegal cosmetics containing hazardous ingredients such as mercury and hydroquinone, which clearly endanger consumers' health (Sitorus, 2024).

According to data from the Indonesian Food and Drug Monitoring Agency (BPOM), the circulation of dangerous cosmetics in Indonesia has shown an alarming increase (Christi & Soemartono, 2024; Hasmita et al., 2025; Kashuri et al., 2025). The data shows that in less than a year, more than 70 dangerous cosmetic products have circulated in the Indonesian market. Even more alarming is that during an intensive BPOM operation from February 10-18, 2025, 205,133 products from 91 brands were confiscated (Food and Drug Monitoring Agency [BPOM], 2025). This problem is exacerbated by unscrupulous businesses exploiting digital platforms with weak oversight (Wijaya & Satory, 2026). They use misleading claims such as "instant results" and "natural" to attract consumers without providing sufficient safety information. The data shows that the circulation of dangerous cosmetics is not a trivial matter, but has become a systemic phenomenon that requires serious attention from a legal and consumer protection perspective. From a legal perspective, this raises a major question: Is the Consumer Protection Law regime effective enough, or is it actually creating structural weaknesses in redressing consumer rights? Law No. 8 of 1999 concerning Consumer Protection actually regulates consumer rights, but there remains a gap between the regulations and their implementation in the field.

Indonesia faces particularly complex challenges in addressing the circulation of hazardous cosmetics due to its rapidly expanding beauty industry and digital marketplace. According to the Indonesian Food and Drug Monitoring Agency (BPOM), the number of illegal cosmetic findings has increased dramatically, with more than 205,000 hazardous cosmetic products from 91 brands confiscated during a nationwide enforcement operation conducted in February 2025. Many of these products contained prohibited substances, including mercury and excessive hydroquinone, and were marketed through social media platforms and e-commerce marketplaces using misleading advertising claims (Office, 2022; Saputra & Putra, 2026; Wijaya & Satory, 2026). This situation demonstrates that technological advancement has not been fully accompanied by effective legal supervision and consumer protection mechanisms.

The increasing distribution of hazardous cosmetics raises fundamental legal questions concerning the accountability of business operators and the effectiveness of Indonesia's consumer protection framework. Although Law Number 8 of 1999 concerning Consumer Protection, Law Number 17 of 2023 concerning Health, and various BPOM regulations establish comprehensive legal obligations for business actors, violations continue to occur on a significant scale. Consumers frequently experience financial losses and health complications while encountering substantial obstacles in obtaining compensation through existing legal mechanisms. Consequently, the issue extends beyond illegal product circulation to encompass the broader effectiveness of legal liability, regulatory enforcement, and access to justice for affected consumers (Howells, 2016; Scott, 2018).

Several previous studies have examined hazardous cosmetics from different legal perspectives. Gusti Ayu Karolina et al. (2021) analyzed legal protection for consumers using hazardous cosmetics and concluded that consumer rights remain inadequately protected despite the existence of statutory regulations. Maria Grezhella Rihi et al. (2024) investigated the reasons consumers rarely report damages caused by hazardous cosmetic products, identifying legal complexity and limited public awareness as major barriers. Furthermore, Rabiatul Adwia et al.

(2025) examined the legal responsibility of business operators regarding mercury-containing skincare products and emphasized the importance of strengthening regulatory enforcement against illegal cosmetic producers. These studies have significantly contributed to understanding consumer protection issues but primarily focused on isolated aspects of legal responsibility.

Despite these valuable contributions, important research gaps remain. Existing studies have generally discussed either consumer protection, reporting behavior, or business liability separately without comprehensively evaluating the interaction between civil, criminal, and administrative liability within Indonesia's consumer protection regime. Furthermore, limited attention has been devoted to assessing the practical implementation of Article 19 of the Consumer Protection Law regarding compensation mechanisms and the effectiveness of the strict liability principle in protecting victims of hazardous cosmetics. Consequently, there remains insufficient understanding of how multiple legal instruments operate collectively in ensuring effective consumer protection and business accountability.

Addressing this research gap is increasingly urgent because the expansion of digital commerce has fundamentally transformed the distribution patterns of hazardous cosmetic products. Online marketplaces enable anonymous business operations, rapid product dissemination, and extensive promotional activities that often escape conventional regulatory oversight. Simultaneously, consumer awareness regarding legal rights remains relatively low, while law enforcement agencies continue to face institutional and procedural limitations in investigating and prosecuting violations. Without a more comprehensive legal evaluation, hazardous cosmetics will continue to threaten public health, undermine consumer confidence, and weaken the credibility of Indonesia's consumer protection system.

The novelty of this research lies in its integrated analysis of business operators' legal liability by simultaneously examining criminal, civil, and administrative responsibility within a unified legal framework. Unlike previous studies that concentrated primarily on legal protection or regulatory compliance, this research critically evaluates the effectiveness of compensation mechanisms under Article 19 of the Consumer Protection Law and analyzes the implementation of the strict liability principle in hazardous cosmetic cases. Moreover, the study combines preventive and repressive legal protection approaches to assess whether Indonesia's current regulatory framework adequately safeguards consumer rights in practice.

This research therefore aims to analyze the legal liability of business operators involved in the distribution of hazardous cosmetics in Indonesia while evaluating the effectiveness of preventive and repressive legal protection mechanisms available to affected consumers. Specifically, the study investigates the legal basis of business liability under Indonesian legislation, examines the practical implementation of consumer compensation mechanisms, and identifies institutional challenges that hinder effective legal enforcement. Through these objectives, the research seeks to generate a comprehensive understanding of the strengths and weaknesses of Indonesia's current consumer protection framework.

The findings of this research are expected to provide significant theoretical and practical contributions. Academically, the study enriches legal scholarship concerning consumer protection,

product liability, and business accountability by offering an integrated analysis of multiple legal regimes governing hazardous cosmetics. Practically, the research provides recommendations for policymakers, BPOM, law enforcement agencies, judicial institutions, and business operators to strengthen regulatory coordination, improve consumer access to legal remedies, and enhance supervision of cosmetic distribution, particularly through digital platforms. Ultimately, the study is expected to contribute to the development of a more effective legal system capable of ensuring consumer safety, promoting responsible business practices, and reinforcing public trust in Indonesia's consumer protection framework.

## **METHOD**

The research used was Normative Legal Research. Normative legal research is research conducted by examining library materials or secondary data which includes research on legal principles, legal systematics, legal synchronization, legal history, and legal comparisons (Soekanto & Mamudji, 2021). The approaches used in this research include a statutory approach *and* a conceptual approach. The statutory approach is carried out by examining various laws and regulations relevant to the legal issues studied (Marzuki, 2021), including Law Number 8 of 1999 concerning Consumer Protection, Law Number 17 of 2023 concerning Health, the Civil Code, and various regulations related to cosmetic supervision and safety. Meanwhile, the conceptual approach is used to analyze legal concepts, principles, and doctrines related to business actor responsibility, consumer protection, compensation, and the principle of *strict liability*.

This research is a normative legal study that focuses on the study of legal norms and legal doctrines related to the liability of business actors for the distribution of hazardous cosmetics. In this study, the primary data used is secondary data in the form of primary, secondary, and tertiary legal materials. To strengthen the normative analysis, this study is supplemented with supporting data in the form of limited interviews with dermatologists and venereologists (Sp.KK). These interviews are not intended as the primary research data, but rather as a form of confirmation and illustration of the application of legal norms in practice, particularly regarding the impact of the use of hazardous cosmetics and their relevance in legal evidence.

## **RESULTS AND DISCUSSION**

### **Legal Responsibility of Business Actors for the Distribution of Hazardous Cosmetics in Indonesia**

Regulations regarding cosmetics in Indonesia are part of a comprehensive consumer protection legal system that involves various legal instruments. Law Number 8 of 1999 concerning Consumer Protection (UUPK) is the main basis for providing legal protection for consumers, including consumers of cosmetic products. Article 4 letter (a) of the UUPK explicitly guarantees consumers' rights to comfort, security, and safety in consuming goods and/or services. On the other hand, Article 7 of the UUPK regulates the obligations of business actors, including the obligation to guarantee the quality of goods produced and/or traded based on applicable quality standards.

In the latest development, Law Number 17 of 2023 concerning Health also strengthens the criminal aspects in the distribution of dangerous cosmetic products. This is reinforced by the results of interviews with dermatologists and venereologists (Sp.KK) related to the responsibility of business actors, the source emphasized that the distribution of illegal cosmetics containing hazardous materials can be subject to criminal sanctions as regulated in Article 435 of Law Number 17 of 2023 concerning Health, with the threat of a maximum prison sentence of 12 (twelve) years or a maximum fine of IDR 5,000,000,000.00 (five billion rupiah) (Interview with a Dermatologist and Venereologist [Sp.KK], personal communication, April 10, 2026). This regulation strengthens the authority of the government through the Food and Drug Monitoring Agency (BPOM) in supervising circulating cosmetic products.

In terms of technical regulations, the Food and Drug Monitoring Agency (BPOM) Regulation Number 23 of 2019 concerning Technical Requirements for Cosmetic Ingredients details ingredients prohibited for use in cosmetic products, including mercury, hydroquinone above a certain level, and illegal corticosteroids (steroids). This regulation aligns with the Consumer Protection Theory, which emphasizes that all legal regulations must comprehensively regulate the rights and obligations of consumers and business actors to ensure legal certainty for consumers.

Normatively, the legal liability of business actors can be classified into three aspects, namely criminal, civil, and administrative. In terms of criminal liability, business actors who distribute dangerous cosmetics are regulated in several statutory provisions. Article 62 of Law Number 8 of 1999 concerning Consumer Protection threatens business actors who violate provisions on product safety with a maximum prison sentence of 5 (five) years or a maximum fine of IDR 2,000,000,000.00 (two billion rupiah). More severe criminal provisions can be applied if the violation results in serious injury, serious illness, permanent disability, or death of the consumer.

The application of criminal liability is closely related to the principle of strict liability, which states that business actors should be held accountable without the need to prove fault. Consumers still face obstacles in accessing dispute resolution mechanisms, whether due to a lack of legal understanding, limited funds, or the complexity of evidentiary procedures. This principle of strict liability aims to prevent business actors from engaging in fraudulent practices in selling cosmetic products that could harm consumers (Ahmad et al., 2019).

Theoretically, the principle of strict liability aims to strengthen consumers' position by reducing the burden of proof on business actors. However, in practice, the application of this principle still faces various obstacles. Consumers are still required to prove a causal relationship between cosmetic use and the harm they experience. In many cases, this proof requires medical support in the form of a medical examination or expert testimony, which is not always easy to obtain. Therefore, although the principle of strict liability is recognized in consumer protection doctrine, its implementation still fails to provide optimal assistance to consumers who are victims of dangerous cosmetics.

From the aspect of civil liability of business actors is based on Article 19 of Law Number 8 of 1999 concerning Consumer Protection which requires business actors to provide compensation

for damage, pollution, and/or loss to consumers due to consuming goods produced or traded. In the context of dangerous cosmetics, compensation can be in the form of reimbursement of medical expenses, rehabilitation costs, or compensation for immaterial losses for suffering experienced by consumers. In addition, Article 1365 of the Civil Code concerning unlawful acts can also be used as the basis for civil lawsuits by consumers who suffer losses due to dangerous cosmetics. Consumers can prove the existence of unlawful acts in the form of violations of product safety standards that have been set in regulations, the existence of losses suffered, and the existence of a causal relationship between the actions of business actors and such losses. Forms of liability for business actors involved in the sale of dangerous cosmetics without a permit include: providing compensation for losses related to the goods purchased, returning an amount of money equivalent to the purchase price of the cosmetic product, and covering costs for consumers who experience facial damage after using the cosmetic product. However, this compensation mechanism is often ineffective due to the lack of consumer awareness to file a lawsuit and the weak bargaining position of consumers before business actors. This condition shows that the civil liability system is not yet fully capable of providing optimal recovery of consumer rights.

The main weakness of Article 19 of the Consumer Protection Law lies not in the substance of the norm, but in its implementation. Although this provision grants consumers the right to compensation, the law does not specify a detailed claim mechanism, standards of proof, or procedures that are simple and accessible to consumers. As a result, many consumers who have suffered losses due to the use of dangerous cosmetics do not pursue legal action due to financial constraints, a lack of legal understanding, and difficulty obtaining adequate evidence. This situation indicates a gap between the legal protection promised normatively and the protection consumers actually receive.

Administrative accountability indicates that business actors distributing hazardous cosmetics may be subject to administrative sanctions in the form of revocation of distribution permits, product recalls, cessation of production activities, and administrative fines (Ahmad et al., 2019). The authority to impose these administrative sanctions rests with the BPOM (Indonesian Food and Drug Authority), the agency authorized to oversee the distribution of cosmetics, based on BPOM Regulation Number 12 of 2020. This mechanism is the most frequently applied form of accountability and has a direct economic impact on business actors. The administrative sanction mechanism as stipulated in laws and regulations has not been fully effective in providing a deterrent effect for business actors. This is due to the unclear number of administrative fines, which are disproportionate to the profits obtained by business actors from the distribution of hazardous cosmetics. Synergy between administrative and criminal law enforcement is crucial in handling hazardous cosmetics cases. Administrative sanctions alone often do not provide an adequate deterrent effect for business actors, especially those operating illegally without official permits. Therefore, an integrated approach is needed that combines administrative, civil, and criminal measures simultaneously (Nugroho & Wijayanti, 2022).

## **Forms of legal protection, both preventive and repressive, for consumers who are victims of dangerous cosmetics according to the consumer protection legal system in Indonesia.**

Legal protection for consumers affected by dangerous cosmetics in Indonesia can essentially be classified into two main forms: preventive and repressive. Both forms of protection have been normatively accommodated in the consumer protection legal system, specifically Law Number 8 of 1999 concerning Consumer Protection. However, their effective implementation still faces various structural and cultural obstacles.

Preventive legal protection is an effort undertaken before harm occurs, with the aim of preventing consumers from being exposed to dangerous cosmetic products. In this context, the role of the state through the Food and Drug Monitoring Agency (BPOM) is crucial, particularly in terms of pre-distribution supervision, product registration, and public education. This is reinforced by the results of interviews with dermatologists and venereologists (Sp.KK), who emphasized that the Food and Drug Monitoring Agency (BPOM) must educate the public on how to read product labels, check ingredient lists on cosmetics, check expiration dates, and verify the registration status of cosmetic products with BPOM. The goal is to ensure that the public is "not influenced by advertising." However, the effectiveness of preventative measures still faces significant challenges. Low public legal awareness, coupled with the strong influence of misleading advertising, particularly on digital platforms, leaves consumers vulnerable to dangerous products. This situation demonstrates that an educational approach alone is insufficient without being supported by strict oversight of the distribution and promotion of cosmetic products. As a result, preventative protection in Indonesia remains partial and unable to comprehensively address the root causes of the problem.

Meanwhile, repressive protection is protection provided after a loss has occurred, with the aim of providing redress for consumers who have been harmed and imposing sanctions on business actors who violate the law. The resource person explained that medical treatment for victims of dangerous cosmetics begins with discontinuing use of the product suspected of being the cause, followed by administering medication to treat inflammation, infection, or pigmentation disorders on the skin. This procedure, although clinical in nature, has significant legal implications because the medical documentation generated from this treatment process is a very important element of evidence in subsequent legal proceedings.

In practice, proving losses due to the use of hazardous cosmetics often requires medical support. This is reinforced by the results of interviews with dermatologists and venereologists (Sp.KK) who stated that the impact of using hazardous cosmetics can include dermatitis, hyperpigmentation, and damage to certain organs. This medical information has legal relevance because it can be used as evidence in the evidentiary process, especially in the form of a *visum et repertum*. In this study, repressive legal protection is contained in Article 62 of the UUPK, namely the prohibition given to business actors who produce or sell cosmetic products that are in fact "detrimental" to buyers, they will be subject to a maximum prison sentence of 5 (five) years and a fine of Rp. 2,000,000,000. - And if fraudulent acts are found against the cosmetics being

distributed, additional penalties will be given, not only fines and criminal sanctions, there are additional sanctions contained in Article 63 of the UUPK, namely:

- a. confiscation of certain goods;
- b. announcement of the judge's decision;
- c. payment of compensation;
- d. order to stop certain activities that cause consumer losses;
- e. obligation to withdraw goods from circulation; or
- f. revocation of business license.

However, the implementation of repressive protection remains suboptimal. Consumers often face obstacles in accessing justice, whether due to financial constraints, complex legal procedures, or a lack of understanding of their rights. Furthermore, available dispute resolution mechanisms do not fully provide convenience and legal certainty for consumers. As a result, many cases of losses caused by dangerous cosmetics are not pursued through legal channels. From the perspective of consumer protection and product liability theory, this situation indicates an imbalance between the protection promised normatively and the protection actually received by consumers (Salim & Erlies, 2016). The existing legal system is not fully capable of guaranteeing the effective restoration of consumer rights, so the primary goals of consumer protection, namely justice and legal certainty, have not been optimally achieved.

Based on this analysis, the effectiveness of legal protection for consumers affected by dangerous cosmetics depends heavily on the synergy between preventive and repressive approaches. Preventive protection must be strengthened through increased oversight of cosmetics distribution, particularly on digital platforms, and enhanced legal literacy-based education. Meanwhile, repressive protection needs to be optimized through streamlined dispute resolution mechanisms, increased access to justice for consumers, and stricter law enforcement against business actors. Without strong integration between these two approaches, consumer protection will remain a formality and will not be able to provide substantive protection.

## **CONCLUSION**

This study concluded that Indonesia has established a relatively comprehensive legal framework governing the liability of business operators involved in the distribution of hazardous cosmetics through Law Number 8 of 1999 concerning Consumer Protection, Law Number 17 of 2023 concerning Health, and various BPOM regulations. Business operators may be held accountable through civil, criminal, and administrative legal mechanisms, while consumer protection is provided through both preventive and repressive approaches. However, the effectiveness of these legal instruments remains constrained by weaknesses in their implementation, particularly regarding consumer compensation procedures, limited application of the strict liability principle, inadequate coordination among enforcement institutions, and consumers' limited awareness of their legal rights. Consequently, the existence of legal regulations alone has not been sufficient to ensure effective consumer protection or to deter the continued circulation of hazardous cosmetic products. Strengthening regulatory enforcement, improving

institutional coordination, enhancing public legal awareness, and simplifying dispute resolution mechanisms are therefore essential to achieving greater legal certainty, consumer justice, and accountability within Indonesia's cosmetic industry. Future research should expand beyond normative legal analysis by employing empirical and socio-legal approaches to examine the practical implementation of consumer protection laws involving hazardous cosmetics. Comparative studies involving different jurisdictions would also provide valuable insights into best practices for strengthening business liability and consumer protection frameworks. Furthermore, future researchers are encouraged to investigate the effectiveness of digital marketplace regulation, artificial intelligence-based monitoring systems, cross-border e-commerce governance, and consumer reporting mechanisms in preventing the circulation of hazardous cosmetic products. Such multidisciplinary research would contribute to the development of more adaptive legal policies capable of addressing emerging challenges in the rapidly evolving digital economy while enhancing public health protection and consumer confidence.

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