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## Legal Liability of Business Actors and Influencers in Consumer Protection Againsts Misleading Claims on E-Commerce Platforms (Misleading Claims) on Cosmetic Product Advertising in Indonesia

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**Abstract:** The rapid growth of digital cosmetics marketing on e-commerce featuring misleading claims harms consumers, while current advertising legal frameworks do not explicitly cover the boundaries of influencer liability. This study aims to analyze the legal liability of business actors and influencers and examine the obstacles in law enforcement. The research method used is normative legal research through statutory and conceptual approaches with qualitative analysis of the Consumer Protection Law (UUPK), Electronic Information and Transactions Law (UU ITE), and BPOM regulations. The results show that business actors bear full civil, criminal, and administrative liability for consumer losses under Article 19 of UUPK, whereas influencers can be held liable for unlawful acts under Article 1365 of the Indonesian Civil Code and Article 28 paragraph (1) of UU ITE. Law enforcement obstacles include the ambiguity of influencers' legal status, weak real-time monitoring, and low consumer reporting awareness. The novelty of this study lies in proposing a specific regulatory framework governing professional standardization and legal liability limits for digital influencers to achieve legal certainty for consumer protection in Indonesia.

**Keywords:** Legal Liability, Influencer, Business Actor, Misleading Claims, Cosmetic Advertising.

## INTRODUCTION

The development of information, communication, and digitalization technology in the past decade has radically changed the landscape of the cosmetics industry and people's shopping behavior in Indonesia (BPOM & Kemenperin, 2023). The cosmetics manufacturing sector is currently shaping up to be one of the most expansive sectors with a surge in the number of companies of up to tens of percent every year (Kemenperin, 2023). This phenomenon is driven by a shift in the culture and lifestyle of the digital society, where cosmetics are no longer seen as just aesthetically complementary products for women, but have shifted to become a

primary, essential, and universal need for various gender groups and age groups (BPOM, 2023).

In this all-connected digital era, the marketing and advertising strategies of cosmetics business actors no longer rely on conventional one-way media such as television, radio, print media, or billboards on the highway (Kotler & Keller, 2016). Business actors have massively shifted their marketing budget allocation to the digital ecosystem, especially video- and image-based social media platforms such as TikTok, Instagram, and YouTube (BPOM, 2023). This transformation of advertising media has given birth to a new marketing phenomenon that is very persuasive, namely influencer marketing, where business actors utilize the services of digital influencers (influencers, celebrities, beauty vloggers, or content creators) who have a follower base) large and loyal to advertise, review, and promote cosmetic products through a paid content system (endorsement or paid promote).

Sociologically, influencer marketing methods are considered much more effective than traditional advertising because influencers are seen by their followers as having emotional closeness, expertise, and honesty in sharing product usage experiences (Goldsmith, 2015). This high and organic engagement rate makes consumers tend to put a level of blind trust in every recommendation given by the influencer. In its development, influential figures no longer only function as a medium to convey advertising messages but have acted as agents of consumer purchasing decisions on a mass scale, which puts them at the main spearhead in the digital marketing supply chain of cosmetics business actors.

The massive growth of the beauty industry that goes hand in hand with the use of uncontrolled influencers has given rise to anomalies, information anarchy, and very worrying gaps in the field. To pursue instant material gains, high sales commissions, and the demands of employment contract targets (brief), the principles of good faith, openness, and information honesty are often set aside. The phenomenon of misleading claims (misleading claims or overclaims) in cosmetic advertising is also rampant on various social media timelines to exploit the ignorance or psychological vulnerability of consumers who crave certain beauty standards. Forms of misleading claims in the field are increasingly manipulative, including the use of fictitious scientific terms without a valid basis for clinical testing (pseudo-science), digital visual manipulation in the form of the use of beauty filters and artificial lighting to deceive before-after photos, ignoring the legality of products without BPOM's Distribution Permit Number (NIE), to the mass sale of blue etiquette cosmetics—namely cosmetics loaded with hard drugs that should only be prescribed by dermatologists—freely on social media (BPOM, 2021).

The rise of misleading advertising information is emphasized by a series of examples of real legal cases that have captured the public's attention in Indonesia. In the range of December 2025 to June 2026, the Jaya Metro Police designated the owner of the Athena Group, dr. Richard Lee, as a suspect for allegedly violating UUPK No. 8/1999 and Health Law No. 17/2023 due to alleged manipulation of contents (overclaim), non-sterile products, and repackaging practices in products such as White Tomato DNA Salmon. In addition, in October 2025, the Makassar POM Center raided an illegal cosmetics business owned by a well-known influencer in Sidrap Regency who promoted instant whitening creams via live streaming, where the imported product worth hundreds of millions of rupiah was proven to be positive for mercury that triggers severe skin tissue damage and the risk of kidney failure.

The escalation of the case continued in May 2026 when the Head of BPOM Taruna Ikrar announced the mass revocation of distribution permits for 11 viral cosmetic products (such as Byout Skincare, Madame Gie, and Selsun) due to "formula lies", where the products were proven to be inserted with carcinogenic harmful substances such as retinoic acid, hydroquinone, and K10 Red textile dye after post-market sampling. BPOM will also take strict action by the end of 2025 against dozens of male and female cosmetics that exploit eroticism and medical-erotic claims (such as enlarging vital organs or tightening female organs), which

juridically violates BPOM Regulation No. 32 of 2021 and consumers' right to honest information in accordance with Article 4 letter c of Law No. 8 of 1999.

In the framework of legal research and consumer protection, the grouping of product types, harmful contents, and harmed body parts is very important to determine the degree of violation and fulfillment of criminal elements. In the group of facial care products (skincare/cream), misleading claims are generally in the form of advertisements that promise instant whiteness and permanent acne-free skin, such as in the case of mass control of night creams (for example, Daviena Skincare Intensive Night Cream) and concocted cosmetics in Makassar. The use of harmful chemicals such as Mercury, Hydroquinone, Retinoic Acid, and Dexamethasone in the face and neck area results in ochronosis (burned/permanent black skin), acute irritation, skin barrier thinning, to the risk of skin cancer and long-term kidney damage. In the preparation of cosmetics around the female organ (intimate care), BPOM revoked the mass distribution permit of 14 cosmetic brands that used misleading claims that violated norms of decency and medical functions, such as "closing the intimate organs" or "tightening the breasts". Based on BPOM Regulations, cosmetics only function to clean the outside of the body, so that claims of medical functions in the mucosal and vaginal areas not only harm consumers financially but also damage the natural acidity level (pH), trigger bacterial infections, and cause irritation of sensitive tissues.

Meanwhile, the men's grooming cosmetics group targets male consumers through manipulative digital ads with exotic elements, such as claims to enlarge vital organs, improve sexual performance, or improve sperm quality. BPOM's crackdown on 13 male cosmetic products proves that legally cosmetics do not have the ability to biologically penetrate to alter reproductive anatomy; the use of non-standard ingredients on male sensitive organs triggers material loss, contact dermatitis, burning sensation, and local reproductive health disorders.

The overclaim on hair care products usually promises instant baldness recovery and permanent dandruff removal. The recall of scalp care products by BPOM revealed the content of the banned textile dye Red K10 (Rhodamin B) and contamination of the compound 1,4-Dioxane, which causes severe irritation to the scalp, severe hair loss due to follicle damage, and the risk of cancer due to the absorption of carcinogenic substances through the pores of the scalp.

The phenomenon of the spread of misleading claims by the collaboration of business actors and influencers indicates that there is a wide gap between *das Sollen* (what should be according to normative law) and *das Sein* (what actually happens in the sociological field). Based on the Theory of Consumer Protection developed by Philipus M. Hadjon, legal protection is a manifestation of the recognition of human rights which includes preventive and repressive dimensions to create a balance of bargaining power between business actors and consumers (Hadjon, 1987). In Indonesia's positive law, consumers' rights to information are expressly guaranteed in Article 4 letter c of Law Number 8 of 1999 concerning Consumer Protection (UUPK) and emphasized by the prohibition of misleading advertising in Article 9 and Article 10 of the UUPK which is threatened with criminal sanctions in Article 62 of the UUPK (UUPK No. 8 of 1999).

However, the UUPK instrument, which was designed at the end of the 20th century, now faces the challenge of disintegration and disruption when faced with the emergence of influencers as new legal subjects in the cyber ecosystem. Traditionally, consumer protection law has been designed for the pattern of bilateral legal relations between Business Actors and Consumers based on the doctrine of strict liability or fault liability (UUPK No. 8 of 1999). On the other hand, the legal position of influencers is in a gray area with a hybrid role: on the one hand they receive commercial benefits from business actors (acting as intermediaries or advertising services), but on the other hand position themselves as if they are ordinary consumers who give honest testimonies (testimonials). The blurring of these role boundaries is used to escape legal responsibility when mass losses occur.

This legal uncertainty triggers the phenomenon of shifting liability, where business actors argue that mistakes occur due to influencer improvisation, while influencers defend themselves that they are just victims who do not know the technical content of the product and only run a draft script brief. Judging from the Legal Liability Theory, the act of disseminating misleading promotional materials that cause physical and material losses has met the qualifications of Unlawful Acts (PMH) Article 1365 of the Civil Code (Civil Code, Art. 1365). Therefore, this study urges the need to reconceptualize the construction of the law through the Joint and several Liability scheme which positions business actors and influencers as joint actors (*medepleger*), as well as the doctrine of Vicarious Liability if it meets the elements of employment relations. In addition to the substantive liability aspect, consumers who are victims of misleading claims face a complicated practical barrier in efforts to recover rights. From the procedural legal aspect, the process of proving digital advertising disputes requires digital forensic proof to ensure the authenticity of the content and the causal link between the advertising content and the physical damage experienced. On the other hand, institutions such as the Consumer Dispute Resolution Agency (BPSK) do not have adequate regulatory instruments and competencies to reach and execute sanctions against influencers. Cultural barriers in the form of low consumer legal literacy and high costs of formal litigation to district courts that are not proportional to the price of products further perpetuate the practice of impunity.

Therefore, the alignment and harmonization of multi-sector regulations is a very urgent need, including UUPK No. 8/1999, ITE Law No. 11/2008, PP PSTE No. 71/2019, Health Law No. 17/2023, BPOM Regulation No. 32/2021, and Regulation of the Minister of Trade (Permendag) No. 31 of 2023 (Permendag No. 31 of 2023). Based on Trade Minister Regulation No. 31 of 2023, Indonesian law expressly distinguishes between Pure E-commerce (Marketplaces such as Shopee and Tokopedia) and Social Commerce / Electronic System Trade Organizers (PPMSE such as TikTok, Instagram, and Facebook). Social Commerce is prohibited from facilitating direct payment transactions and only functions as a means of promotion; however, as a PPMSE Facility Provider, platforms are obliged to moderate content and can be charged with the ITE Law if they neglect to allow dangerous cosmetic promotions to continue circulating.

Based on the interweaving of theoretical logical arguments, the empirical facts of the rampant victims of harmful cosmetics on social media, as well as the existence of a regulatory gap that triggers the blurring of the accountability of the parties, it is concluded that this problem has a very high value of urgency, actuality, and academic relevance. This comprehensive study is absolutely necessary in order to formulate consumer protection reforms and realize a healthy, safe, ethical, and fair digital business climate in Indonesia.

Based on the above background, the problems that will be discussed in other contexts. How is the legal liability of business actors and influencers for misleading claims in cosmetic product advertising in the perspective of Indonesian consumer protection law and what form of legal liability for business actors and influencers as well as legal remedies that can be taken by consumers who are harmed by misleading claims in cosmetic product advertisements.

## **METHODS**

This normative legal research examines legal norms, legal principles, and the synchronization of laws and regulations related to consumer protection and cosmetic advertising in Indonesia. The main object of the research focuses on the legal accountability of business actors and influencers, legal norms, and consumer protection mechanisms for misleading claims (overclaims) in the promotion of cosmetic products. Given its normative character, this study does not use population or empirical samples, but utilizes secondary data consisting of three classifications of legal materials: primary legal materials (binding regulations such as the UUPK, ITE LAW, Health Law, and BPOM Regulations No. 32/2021, No. 3/2022, and No. 18/2024), secondary legal materials (textbooks, SINTA-accredited journal

articles on liability distribution and due diligence, research results, and BPOM official reports), and tertiary legal materials (Black's Law Dictionary, KBBI, and Indonesian Advertising Ethics).

Data collection was carried out through library research techniques using document study instruments that include systematic recording, digital regulatory databases, and scientific literature collections, without conducting field observations, interviews, or questionnaire dissemination. Procedurally, this study applies a statute approach to examine the regulatory hierarchy and a conceptual approach to evaluate the doctrine of influencer liability that has not been explicitly regulated in positive law. All legal materials collected are then analyzed using qualitative analysis tools through deductive reasoning patterns, namely applying general legal rules to specific issues of misleading claims by influencers to produce precise legal conclusions regarding legal certainty and consumer protection.

## RESULTS AND DISCUSSION

### **Regulation of Legal Liability of Business Actors and Influencers for Misleading Claims in Cosmetic Product Advertising from the Perspective of Indonesian Consumer Protection Law**

Consumer protection regulations in Indonesian law basically place consumers as parties who must be protected from losses due to untrue, unclear, dishonest, or misleading information. Law Number 8 of 1999 concerning Consumer Protection (UUPK) affirms the absolute right of consumers to correct information regarding the condition and warranty of goods, which is a very vital right in the cosmetics industry because general consumers do not have technical knowledge about chemical composition, safety, and risks of use. The obligation of good faith for business actors does not only apply at the production stage but also includes the promotion and advertising stages. From the perspective of consumer protection law, advertising is not just a commercial marketing instrument, but a form of legal information that is the basis of the legal relationship between the seller and the buyer; if the consumer transacts on the basis of trust in the claim and suffers a loss, then the misleading claim triggers legal liability.

Business actors are the main parties responsible for the truth of all cosmetic promotional materials because they have full control over the ingredients, production, packaging, licensing, and marketing strategies. Based on the UUPK, Government Regulation Number 80 of 2019 concerning PMSE, and Trade Regulation Number 31 of 2023, business actors are prohibited from producing or advertising goods that do not comply with the promises in advertisements and are prohibited from deceiving consumers using persuasive claims such as "permanent results", "100% safe", or "direct white". Business actors still bear the main responsibility for promotional materials even if the message is conveyed by third parties such as influencers, brand ambassadors, or affiliate marketers, because business actors are the initial source of information and parties who enjoy direct economic benefits from sales.

For influencers, even though Indonesia's positive law has not explicitly regulated their position as a separate subject in the UUPK, influencers are not free from legal snares. Influencers who receive payment, commissions, or free products carry out activities of a commercial nature, so they cannot take refuge behind the pretext of personal opinions or reviews. Influencer accountability is reached through the norms of Unlawful Acts (Article 1365 of the Civil Code), electronic information provisions (ITE Law), and Indonesian Advertising Ethics. Their position is assessed based on concrete roles: if the influencer simply reads the draft of the business actor's script without knowing the falsehood, the main responsibility lies with the business actor; however, if the influencer actively fabricates testimonials, submits false reviews, adds claims independently, or hides the status of commercial relationships, then the influencer is seen as also responsible.

The special characteristics of cosmetic preparations based on the regulations of the Food and Drug Supervisory Agency (BPOM) stipulate that cosmetics only function to clean,

perfume, and maintain the outside of the body. Cosmetics differ fundamentally from drugs because they do not have the function of curing diseases or providing the effect of medical therapy. Therefore, claims of cosmetic advertisements that provide the promise of definite, instant, permanent results, or resemble medical treatment claims are categorized as misleading claims that violate the provisions of advertising laws.

According to the legal analysis, although the legal basis for taking action against business actors is relatively strong through the UUPK, PMSE regulations, and BPOM regulations, there are specific regulatory gaps regarding the limits of standards of behavior and influencer accountability. Therefore, a multi-layered and proportional accountability model is needed: business actors are primarily responsible for the product and the basis of claims, influencers are responsible for the commercial promotional content they convey (especially related to the obligation of disclosure that the content is paid advertising), e-commerce platforms are responsible for the governance of the system's supervision, and the government strengthens special regulations on digital advertising.

### **Forms of Legal Accountability of Business Actors and Influencers as well as Legal Remedies That Can Be Taken by Consumers Who Are Harmed Due to Misleading Claims in Cosmetic Product Advertisements**

The form of legal liability of business actors for misleading claims is classified into the civil, administrative, and criminal realms. Civil liability is manifested in the form of material damages (refunds, replacement of goods, medical treatment costs due to skin irritation/damage) and immaterial compensation. Administrative liability is carried out by the competent authorities through written warnings, recalls of products from circulation (recall), revocation of notification/distribution permit numbers by BPOM, and blocking of store accounts. Meanwhile, criminal liability is threatened through Article 62 paragraph (1) of the UUPK (imprisonment for a maximum of 5 years or a maximum fine of IDR 2 billion) and Article 435 of the Health Law Number 17 of 2023 related to the distribution of cosmetics without a permit or not meeting standards (imprisonment for a maximum of 12 years or a maximum fine of IDR 5 billion).

For influencers, the form of legal liability is adjusted proportionally to the level of involvement and economic benefits. Civilly, influencers can be sued for Unlawful Acts (PMH) compensation if consumers suffer losses due to believing false testimonials or exaggerated claims made by the influencer. Administratively, influencers can be sanctioned for blocking content (takedown), closing social media accounts, or terminating cooperation by platforms. Criminally, influencers have the potential to be charged with the provisions of the ITE Law if proven to have knowingly disseminated false and misleading electronic information in commercial transactions. If business actors and influencers consciously work together to engineer advertising claims and mutually gain financial benefits, a joint liability scheme can be applied.

Law enforcement against misleading claims in the digital space involves the cross-sectoral authority of several government agencies. BPOM acts as the main authority for the security supervision of cosmetic advertising preparations and claims based on BPOM Regulation No. 2/2020 and No. 32/2021 with the authority to issue recalls and revoke notification numbers. The Ministry of Communication and Digital (Kemkomdigi) is authorized to terminate access to content and block online store links based on Article 40 paragraphs (2a) and (2b) of the ITE Law on the recommendation of BPOM. The Ministry of Trade supervises PMSE compliance based on Government Regulation No. 80/2019 with sanctions from blacklisting to revocation of trade licenses. The Ministry of Investment/BKPM acts to execute the permanent revocation of business licenses (NIB/SIUP) on the OSS system based on technical recommendations. The National Police of the Republic of Indonesia (Polri) is

authorized to investigate, confiscate evidence, and prosecute violations of the Consumer Protection Law, the Health Law, and the ITE Law.

Consumers who are aggrieved by misleading claims can take the path of non-litigation, administrative, or litigation legal remedies. Consumers can file internal complaints directly to the seller or through the e-commerce platform's complaint mechanism for refunds. Consumers can also report alleged product violations to BPOM or the Ministry of Trade. For out-of-court dispute resolution, consumers can take advantage of the Consumer Dispute Resolution Agency (BPSK) through mediation, conciliation, or arbitration which offers a faster and cheaper process. If an agreement is not reached, consumers can file a civil lawsuit (default or PMH) to the District Court or make a criminal report to the Police. In all of these legal remedies, consumers are required to include digital evidence in the form of advertising screenshots, promotional videos, affiliate links, proof of transactions, product packaging, and medical records in the event of health loss.

Law enforcement against misleading claims in e-commerce still faces various practical obstacles, such as the easy removal of digital track records by business actors or influencers, non-transparent cooperative relationships, low consumer legal literacy, and high judicial costs compared to the value of losses. Therefore, strengthening consumer protection is urgent through a fair level of responsibility, providing easily accessible non-litigation complaint channels, obligations for e-commerce platforms to keep a digital footprint of promotional content so that it is not easily eliminated, and the issuance of official guidelines regarding paid advertising transparency obligations (disclosure) for influencers.

## CONCLUSIONS AND RECOMMENDATIONS

### Conclusion

1. Legal regulation of misleading claims on e-commerce platforms is regulated through the harmonization of Law Number 8 of 1999 concerning Consumer Protection, the Law on Information and Electronic Transactions, the Health Law, and BPOM Regulations. In this legal framework, business actors are positioned as parties who are fully responsible for the truth of information and the safety of products marketed. Meanwhile, influencers are regulated as intermediary legal subjects who can be held legally liable based on the principle of Unlawful Acts as stipulated in Article 1365 of the Civil Code and Article 28 paragraph (1) of the ITE Law if proven to have participated in spreading false or misleading information that harms consumers.
2. Forms of liability for business actors include civil sanctions in the form of financial compensation or medical recovery, criminal sanctions in the form of imprisonment or fines, and administrative sanctions such as product withdrawals, advertising terminations, and revocation of distribution permits by BPOM. As for influencers, legal liability is in the form of civil damages through a joint liability scheme or the imposition of cyber criminal sanctions if proven negligent or intentionally submitting manipulative claims. For losses experienced, consumers can take non-litigation legal remedies through direct compensation based on Article 19 of the UUPK, complaints to BPOM or YLKI, as well as dispute resolution through BPSK, as well as litigation channels through individual civil lawsuits, class actions in District Courts, and criminal reporting

### Recommendations

1. The government and lawmakers need to update and clarify technical regulations regarding the limits of the legal responsibilities of influencers and business actors in digital promotion. This update can be realized through the preparation of special guidelines for digital marketing and the improvement of consumer protection regulations and electronic transactions, so as to create specific legal certainty regarding the limits of good faith and the obligation of transparency of product information.

2. Related institutions such as BPOM, BPSK, and law enforcement officials need to strengthen integrated digital supervision and simplify the complaint mechanism and compensation process for the aggrieved community. On the other hand, the public as consumers is urged to be more careful and critical in verifying the validity of distribution permits and the correctness of product claims before making transactions on e-commerce platforms.

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