

Consumer Legal Protection for Overclaimed Skincare Products

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Accepted: 16-12-2024 Revised: 16-12-2024 Approved: 16-12-2024 Published: 16-12-2024

DOI: 10.30596/dll.v10i1.22493

How to cite:

Hanif Fil' Awal, Sylvana Murni Deborah Hutabarat. (2025) "Consumer Legal Protection for Overclaimed Skincare Products", De Lega Lata: Jurnal Ilmu Hukum, volume 10 (1): p. 32-39

Abstract

This research focuses on the legal protection of consumers who are harmed by the practice of overclaims on skincare products. The rapidly growing skincare industry in Indonesia raises new problems, namely promotions that contain excessive claims, thus misleading consumers. This has a negative impact on public trust and poses a health risk. The research uses a juridical-normative method with a statutory approach, examining regulations such as the Consumer Protection Law No. 8 of 1999 and BPOM Regulation No. 12 of 2023. The analysis was conducted to understand the role of BPOM in supervision and to identify regulatory challenges in overcoming overclaim practices. This research aims to provide recommendations to regulators, producers, and consumers to create a transparent and safe skincare market.

Keywords: *Legal Protection, Skincare, Overclaim, Consumer.*

INTRODUCTION

The skincare industry in Indonesia has grown rapidly in recent years, along with the increasing public awareness of the importance of skincare and appearance (Herdyanti & Mansoor, 2020). Skincare products are now more accessible to consumers from all walks of life through various platforms, both online and offline (Neslin, 2022). However, this development is also followed by the emergence of various skincare products that often make overclaims about their benefits and advantages, which in reality do not necessarily match the actual composition or quality of the product. This raises concerns for consumers, so they need to be more careful and critical in choosing products that are safe, quality, and suitable for their needs (Kristiyanti, 2022).

The practice of overclaiming in the marketing of skincare products is a serious problem because it can mislead consumers about the benefits that will be obtained from these products (Wulandari & others, 2024). In addition, the use of ingredients that are not appropriate or not listed transparently has the potential to endanger consumer health. Skincare products that do not meet standards or contain harmful ingredients can cause adverse side effects, ranging from skin irritation to more serious health problems (Dera, 2019). Recently, a number of well-known skincare brands have allegedly overclaimed in their advertisements, as revealed by a detective doctor who uncovered five questionable brands (A. Salsabila, 2024). The figure of Doctor Detective is going viral on social media after sharing the results of laboratory tests on a number of well-known skincare brands. Doctor Detective exposed a number of skincare brands or brands that are said to overclaim or exaggerate product efficacy. Skincare brands are found to

overclaim the efficacy of products that are not in accordance with what is stated on the packaging.

Such as a skincare product containing niacinamide which is said to be able to fight various skin problems and make the skin bright in just a few days of use. For example, Azarine products make overclaims on the composition which in fact Azarine Niacinamide 10% + Dipotassium Glycyrrhizate Glorius Serum only contains 0.45% niacinamide based on laboratory test results. As a result of the test conducted by the detective doctor, Azarine then opened his voice and apologized for the difference in laboratory test results that may occur due to external factors. Another example is the Daviena Skincare brand in the Daviena Sleeping Mask Retinol Booster product in the composition written as having 2% Actosome Retinol content. However, from the laboratory test results it turns out that the content is not appropriate, Daviena Sleeping Mask Retinol only contains 0.03% Pure Retinol or the equivalent of 1% Actosome Retinol.

In the legal context, consumer protection has been regulated in various regulations in Indonesia, such as Law Number 8 Year 1999 on Consumer Protection (Consumer Protection Law), this law regulates consumer rights, obligations of business actors, and protection of consumers from misleading products or advertisements (Undang-Undang Nomor 8 Tahun 1999). In addition, the Food and Drug Administration (BPOM) plays a role in overseeing the safety, quality, and labeling of skincare products circulating in Indonesia. BPOM has the authority to inspect, test, and withdraw products from circulation if they are proven to violate standards or do not match the claims made. However, the implementation of this protection is often still less than optimal, especially in dealing with cases of overclaims and products that do not meet the standards (Arifin, 2023).

The case of overclaims on skincare products in Indonesia is a serious concern, especially with the strict threat from the Food and Drug Administration (BPOM) which will revoke the distribution license of products that are proven to make excessive or misleading claims (Peraturan BPOM No. 12 Tahun 2023). Skincare products that make claims that do not match the actual content or benefits are considered potentially harmful to consumers and violate consumer protection provisions in Indonesia. BPOM Regulation No. 12 of 2023 concerning Supervision of the Manufacture and Distribution of Cosmetics has regulated the provisions and composition stated on product packaging, there will be revocation of distribution licenses and will be subject to criminal sanctions with fines of up to Rp 5 billion as a step to increase safety and public confidence in products circulating in the market (Tim detikHealth, 2024).

In order to avoid this, we as consumers should consult a doctor before buying skincare to recognize skin types, and always remember that the key to healthy skin is to understand the specific needs of the skin and choose the right products. In addition, consulting a doctor also plays an important role, especially before trying new products. A doctor can provide advice that is suitable for the skin condition, help prevent potential side effects and ensure that the chosen treatment is truly effective and safe to use. Thus, consumers can achieve optimal results in maintaining skin health and beauty (J. W. R. Salsabila, 2024).

This phenomenon raises the urgency of strong legal protection for consumers, as well as the importance of strict supervision of the cosmetics industry so that consumer interests can be maximally protected (Fajrin, 2022). Overclaims on skincare products can mislead consumers, especially those with limited knowledge of ingredients and realistic claims. The practice of overclaiming capitalizes on consumers trust in the product, which can lead to disappointment, material loss, and even health risks if the product is unsafe or does not have the promised benefits (Dai et al., 2019). This research is important to examine the extent to which the practice of overclaiming in skincare products occurs in the market and how it impacts consumers. By understanding this phenomenon, this research is expected to provide recommendations for regulators, producers, and consumers to create a more transparent and safe skincare market for all parties.

Thus, the problem formulations raised from the background of this research are: 1) how is the legal regulation applicable to skincare products in Indonesia to protect consumers from the practice of overclaims; and 2) how is the role of the Food and Drug Supervisory Agency (BPOM) in controlling the claims of skincare products on the market.

RESEARCH METHOD

This research method is normative law with a statutory approach (statue approach) carried out by examining the laws and regulations related to the legal issues studied in this study (Marzuki, 2017). The type of research used in this research is juridical-normative research, namely research conducted to examine the law as norms, rules, legal principles, legal principles, legal doctrines, legal theories and other literature to answer the legal problems studied. Therefore, this research uses legal materials in the form of laws and regulations, court decisions / decrees, legal principles and principles, legal theories and doctrines (Nasution, 2008). This research uses library research as a data collection technique, namely by conducting a literature study of legal materials, both primary legal materials, secondary legal materials, and tertiary legal materials or non-legal materials. Searching can be done by reading, seeing, and tracing legal materials through internet media (Nugroho & Haryani, 2020). The data analysis technique used in this research is to use qualitative juridical analysis in the form of interpretation of legal materials, then the results of the analysis will be associated with the problems raised in this study in order to produce an objective assessment in answering the problems raised in this study (Ali, 2014).

DISCUSS AND ANALYSIS

Legal Regulations that Apply to Skincare Products in Indonesia to Protect Consumers from Overclaim Practices

Skincare products play an important role in modern society (Ahmed et al., 2020). However, as the industry grows, challenges arise in the form of overclaiming practices. Overclaims are exaggerated or misleading claims regarding the benefits of a product. This practice can harm consumers by providing inaccurate information or building unrealistic expectations. Therefore, effective legal regulation is necessary to protect consumers.

In the Consumer Protection Law (Law No. 8 Year 1999), Articles 8, 9, and 19 provide a strong legal basis to protect consumers from dishonest or harmful business practices. Article 8 prohibits businesses from producing or marketing goods that are not in accordance with the claims or promises made to consumers. This is important to prevent fraud or misuse of information that can harm consumers. For example, if a product is claimed to provide certain benefits, but in reality cannot fulfill the claim, the business actor may be subject to sanctions. Article 9 prohibits business actors from disseminating false or misleading information. This practice often occurs in product advertisements or promotions, where businesses provide exaggerated or inaccurate information to attract consumers. This law requires businesses to provide information that is honest, accurate, and not misleading so that consumers can make wise decisions based on true facts.

Article 19 emphasizes that business actors have full responsibility for losses suffered by consumers due to products or services that do not match the claims that have been submitted. If consumers suffer losses because the products purchased do not meet the promised standards or claims, business actors are obliged to provide compensation or compensation in accordance with the losses experienced by consumers. This strengthens consumers' rights to fair protection and reduces the potential losses that can be caused by irresponsible actions of business actors. Overall, Articles 8, 9, and 19 of Law No. 8/1999 provide very important protections for consumers in Indonesia, guaranteeing that businesses must act honestly, transparently, and

responsibly for the products or services they offer. With these regulations in place, consumers have the right to demand justice and protection if they are harmed by unethical business practices or do not live up to their promises.

In addition to the consumer protection stipulated in the Consumer Protection Law, there are also more specific regulations regarding health products and cosmetics marketed in Indonesia, issued by the Food and Drug Administration (BPOM). The two main regulations relevant in this regard are BPOM Head Regulation No. 19/2019 on Technical Requirements for Cosmetics and BPOM Regulation No. 31/2018 on Processed Food Labels.

BPOM Regulation No. 19/2019 on Technical Requirements for Cosmetics sets strict requirements for cosmetic products, including skincare products, to be marketed in Indonesia. This regulation requires that cosmetic products, including skincare, must meet scientifically proven safety and benefit standards. This means that before a product is marketed to consumers, manufacturers must be able to provide clear scientific evidence of its effectiveness and safety. This includes clinical trials, laboratory studies, as well as in-depth research that proves that the product is safe to use and provides benefits that match the claims made by the manufacturer. In addition, cosmetic products must also meet quality standards and other technical requirements covering raw materials, production processes, and appropriate packaging and storage procedures. This aims to ensure that products that reach consumers are safe, effective, and do not pose a health risk.

BPOM Regulation No. 31/2018 on Processed Food Labeling also provides provisions that apply to cosmetic products, especially those that claim certain benefits. In this regulation, it is stated that product labels, including for skincare products, must include accurate and non-misleading information. The information that must be included includes the name of the product, the ingredients used, the method of use, and benefit claims that must be in accordance with existing scientific evidence. Benefit claims should not be exaggerated or misleading, such as claiming a product can provide instant results or cure certain medical conditions without a valid scientific basis.

This obligation aims to protect consumers from misinformation or false claims that may lead to unrealistic expectations and risk the health or well-being of consumers (Straetmans, 2019). Consumers have the right to know what is contained in the products they buy and how they should be used to obtain the promised benefits (Searls, 2012). With this regulation, BPOM aims to ensure that every skincare product circulating in the Indonesian market has gone through a series of thorough feasibility tests, both in terms of safety, effectiveness, and clarity of information conveyed to consumers. This is important to build public trust in skincare products on the market, as well as to reduce potential losses or harm that may arise from the use of unsafe products or unsubstantiated claims.

Violations of regulations may be subject to administrative sanctions in the form of fines, revocation of distribution licenses, or product recalls (Zhao et al., 2024). Business actors who are proven to make overclaims may also be subject to criminal sanctions in accordance with the Consumer Protection Law. Therefore, all skincare products must go through the Product Registration registration process to BPOM to ensure safety and claims submitted based on scientific evidence. It is also necessary for BPOM to actively inspect products on the market and supervise published advertisements.

In addition to regulation, public education does play an important role so that consumers are more critical in choosing skincare products (Salvioni et al., 2021). For example, it is important to provide an understanding of the ingredients contained in skincare products and their long-term effects on skin and health. The government and businesses can work together to provide clear and easy-to-understand information, either through education campaigns or training, on how to read product labels, understand frequently used terms, and distinguish between products that are truly safe and effective. This transparency can reduce the risk of

consumers buying products that contain harmful ingredients or are not suitable for their skin needs.

Legal regulations in Indonesia are already comprehensive enough to protect consumers from overclaiming in skincare products. However, successful consumer protection requires collaboration between the government, businesses and the public. With consistently enforced regulations and massive education, it is expected that consumers can use skincare products safely and get the appropriate benefits.

The Role of the Food and Drug Administration (BPOM) in Controlling the Claims of Skincare Products on The Market

The Food and Drug Administration (BPOM) plays a crucial role in overseeing the claims of skincare products on the Indonesian market. As the agency responsible for overseeing the safety, quality, and benefits of cosmetic products, BPOM ensures that skincare products on the market are safe for use by consumers. One of the main aspects that are monitored are the claims made by manufacturers about their products. BPOM demands that every claim is supported by valid scientific evidence and is not misleading, so that consumers can make wise decisions that suit their needs. By overseeing skincare product claims, BPOM seeks to protect consumers from potential risks arising from false or exaggerated information (Pusat Data dan Informasi Obat dan Makanan, 2012).

BPOM also handles consumer complaints related to the side effects of using certain skincare products. The agency receives reports from the public regarding side effects or negative reactions from skincare products that have been used. BPOM not only follows up on these reports, but also conducts investigations to ensure that the products meet safety standards. With strict regulations in place, BPOM strives to create a safe market for consumers, ensuring that every product in circulation has undergone safety and quality tests in accordance with standards. This step gives consumers the confidence to choose products that are truly safe and of high quality, while avoiding the dangers that can be caused by false claims (Direktorat Pengawasan Kosmetik, 2024).

In its supervisory efforts, BPOM established BPOM Regulation No. 12 Year 2023 on the Supervision of Cosmetic Manufacturing and Distribution. This regulation provides clear guidelines regarding the claims that can be submitted by cosmetic manufacturers. It requires that all claims must be supported by valid scientific evidence and must not mislead consumers. This aims to avoid “overclaims,” which are claims that are exaggerated or not in line with reality, which can harm consumers. Based on BPOM data, from 2020 to 2023, 22.65% of total cosmetic advertisements violated the rules, with 78.75% of violations found in online media. This fact confirms that digital media is one of the main challenges in monitoring cosmetic claims, including skincare (BPOM Regulation No. 12 of 2023).

BPOM conducts supervision through a systematic mechanism involving two main stages: Pre-market Evaluation and Post-market Surveillance. In the Pre-market Evaluation stage, BPOM evaluates the formula, labeling, and product claims before the product is marketed. This step ensures that products entering the market are in accordance with applicable regulations. Meanwhile, in Post-market Surveillance, BPOM continues to monitor products that have been on the market through inspections, sample testing, and monitoring of advertisements and promotions. If violations are found, such as misleading claims or not based on scientific evidence, BPOM can take decisive action, including withdrawing products from circulation and revoking distribution licenses. These steps demonstrate BPOM's commitment to maintaining the integrity of the skincare market in Indonesia.

In addition to direct supervision, BPOM also collaborates with various parties to support the supervision of skincare claims. BPOM works closely with the cosmetics industry, associations, and the public in raising awareness of the importance of honest and responsible

product claims. The agency also actively educates consumers so that they are more critical in assessing product claims and do not easily believe in excessive promotions. This step is very important to shape wiser consumers in choosing products that suit their needs and skin conditions.

A major challenge for BPOM in the digital era is the monitoring of product claims marketed through online media. The rapid development of digital technology has made it easier to spread skincare product advertisements, but it also adds to the complexity of supervision. The number of inaccurate product claims on online platforms is a major concern for BPOM. To face this challenge, BPOM strengthens risk-based supervision and utilizes technology to monitor product circulation and online advertising. This innovation is expected to increase the effectiveness of supervision and protect consumers from products that do not meet standards (Harum & Soemartono, 2024).

With strict regulations, comprehensive supervision, and cross-sector cooperation, BPOM has a vital role in ensuring the safety and quality of skincare products in Indonesia. Through comprehensive measures, BPOM seeks to protect consumers from misleading and potentially harmful product claims. Amidst the rise of digital marketing, BPOM continues to innovate to create a safer, more transparent and responsible cosmetics market. Thus, consumers can be more confident in choosing products that truly suit their needs (Rahmawati et al., 2024).

CLOSURE

Conclusion

Law No. 8/1999 on Consumer Protection provides a strong legal foundation through Articles 8, 9, and 19, which prohibit misleading claims and hold businesses liable for consumer losses. In addition, BPOM Regulation No. 12 Year 2023 strictly regulates the manufacture, distribution, and claims of cosmetic products, including skincare. Sanctions for violations include fines of up to IDR 5 billion, revocation of distribution licenses, or criminal sanctions.

BPOM conducts supervision through pre-market evaluation (evaluation of formulas and claims before products are marketed) and post-market surveillance (monitoring of products that are already in circulation). And BPOM collaborates with various parties to educate consumers and supervise products promoted online, where many claim violations were found. However, the main challenge is supervision in the digital era, where online advertisements often contain exaggerated claims. There are still discrepancies between the content of the product and the claims submitted by the manufacturer, such as the case of niacinamide in certain products that were proven not to match the label.

Suggestion

For the Government and BPOM, strengthen digital surveillance using technology to monitor skincare product advertisements circulating online, increase the capacity of BPOM in inspection and laboratory testing of products circulating in the market, and provide strict sanctions against business actors who are proven to overclaim in order to provide a deterrent effect. For Business Actors, Ensure transparency of information on product labels, ensuring claims are in accordance with valid scientific test results and comply with BPOM regulations and actively cooperate in providing safe and quality products. For Consumers, consumers need to increase literacy about cosmetic and skincare ingredients. Read labels critically and understand product composition, consult a doctor before trying new products to avoid health risks and prioritize safety and quality rather than just following the trend of aggressively marketed products.

REFERENCES

- Ahmed, I. A., Mikail, M. A., Zamakshshari, N., & Abdullah, A.-S. H. (2020). Natural anti-aging skincare: role and potential. *Biogerontology*, *21*, 293–310.
- Ali, Z. (2014). *Metode Penelitian Hukum*, cet. Jakarta: Sinar Grafika.
- Arifin, M. (2023). [BUKU] Hukum Perlindungan Konsumen. *KUMPULAN BERKAS KEPANGKATAN DOSEN*.
- Dai, F. R. F., Kasim, R., & Martam, N. K. (2019). Perlindungan Hukum Bagi Konsumen Terhadap Peredaran Kosmetik Ilegal. *SemanTECH (Seminar Nasional Teknologi, Sains Dan Humaniora)*, *1*(1), 311–316.
- Dera, R. A. (2019). Perlindungan Hukum Bagi Konsumen terhadap Peredaran Produk Kosmetik Berbahaya. *Lex Privatum*, *7*(1).
- Direktorat Pengawasan Kosmetik. (2024). *ID Forum Komunikasi Monitoring Pelaporan Efek Samping Kosmetika Dalam Rangka Farmakovigilans Bagi Pelaku Usaha*. <https://www.pom.go.id/berita/forum-komunikasi-monitoring-pelaporan-efek-samping-kosmetika-dalam-rangka-farmakovigilans-bagi-pelaku-usaha>
- Fajrin, M. (2022). *Perlindungan Hukum bagi Konsumen dalam Pemesanan Rumah pada PT. Ascarya Bangun Persada di Kota Bengkulu*. UNS (Sebelas Maret University).
- Harum, V., & Soemartono, G. P. (2024). Perlindungan Konsumen Dalam Transaksi Elektronik Kosmetik Tanpa Izin Edar. *JURNAL MANAJEMEN PENDIDIKAN DAN ILMU SOSIAL*, *5*(4), 922–935.
- Herdyanti, L. Q., & Mansoor, A. Z. (2020). Analysing opportunity for new established acne focused skincare brand in indonesian beauty industry. *European Journal of Business and Management Research*, *5*(2).
- Kristiyanti, C. T. S. (2022). *Hukum perlindungan konsumen*. Sinar Grafika.
- Marzuki, P. M. (2017). *Penelitian Hukum: Edisi Revisi*. Prenada Media.
- Nasution, B. J. (2008). *Metode penelitian ilmu hukum*. Bandung: Mandar Maju.
- Neslin, S. A. (2022). The omnichannel continuum: Integrating online and offline channels along the customer journey. *Journal of Retailing*, *98*(1), 111–132.
- Nugroho, S. S., & Haryani, A. T. (2020). Metodologi Riset Hukum. *Lakeisha, Klaten*.
- Pusat Data dan Informasi Obat dan Makanan. (2012). *Pengawasan Peredaran Kosmetika*. Pom.Go.Id. <https://www.pom.go.id/siaran-pers/pengawasan-peredaran-kosmetika>
- Rahmawati, D., Krisdivayanti, M., Dewi, I. C., Ginting, A. S., Anggrelia, T. P., Nurhalita, H. M., Sindriyani, L. S., Kou, R. V. T., Ayyun, K., Seviah, A. D., & others. (2024). Regulasi Kosmetik Terhadap Izin Edar: A Studi Literature. *Vitamin: Jurnal Ilmu Kesehatan Umum*, *2*(1), 249–255.
- Salsabila, A. (2024). *5 Merek Diduga Skincare Overclaim yang Dibongkar Dokter Detektif, Ada Brand Ternama!* Disway.Id. <https://disway.id/amp/830922/5-merek-diduga-skincare-overclaim-yang-dibongkar-dokter-detektif-ada-brand-ternama>
- Salsabila, J. W. R. (2024). *Bikin Heboh, Marak Skincare Overclaim Dibongkar Dokter Detektif di Tiktok, Apa Saja Produknya?* Jawapos. <https://blitarkawentar.jawapos.com/lifestyle/2275198418/bikin-heboh-marak-skincare-overclaim-dibongkar-dokter-detektif-di-tiktok-apa-saja-produknya>

- Salvioni, L., Morelli, L., Ochoa, E., Labra, M., Fiandra, L., Palugan, L., Prospero, D., & Colombo, M. (2021). The emerging role of nanotechnology in skincare. *Advances in Colloid and Interface Science*, 293, 102437.
- Searls, D. (2012). *The intention economy: when customers take charge*. Harvard Business Press.
- Straetmans, G. (2019). *Information obligations and disinformation of consumers*. Springer.
- Tim detikHealth. (2024). *BPOM Ancam Cabut Izin Produk Skincare Overclaim, Bisa Dipidana-Denda Rp 5 M*. Detik.Com. <https://www.detik.com/sulsel/berita/d-7605381/bpom-ancam-cabut-izin-produk-skincare-overclaim-bisa-dipidana-denda-rp-5-m/amp>
- Wulandari, M. Y., & others. (2024). The Ethics of Presenting Content on Social Media in the Perspective of Hadith Strong Reprimand for Lying: An Overclaim Case Study. *Wardah*, 25(2), 151–168.
- Zhao, T., Li, T., Liu, D., & Luo, Y. (2024). Influential factors and interventions for repeated production violations in food enterprises-Empirical evidence from China. *Journal of Cleaner Production*, 447, 141421.