

Literature Review: Legal Aspect of Consumer Protection for Cosmetic Users

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ABSTRACT--*Rapid economic development and technological advancements have led to rapid change in cosmetic products, so that many cosmetic industries establishes. Cosmetic is daily necessities and regularly used for care and beauty purposes. Large city communities who are mostly residents from among the upper classes consider cosmetics to be a necessity. In many big cities in Indonesia, various cosmetic products have sprung up and counterbalanced by the large number of consumers consuming cosmetic products, but on the other hand the knowledge of the people in urban areas is still inadequate to be able to choose and use cosmetic products appropriately, correctly and safely. This literature study was carried out using an evidence based practice approach. The results of the literature review showed the results of the need for enforcement of legal protection for consumers. This needs to be supported by the drafting of a law on consumer protection that is an embodiment of the 1945 constitution to protect all Indonesians, advance public welfare in every public interest, uncertainty about legal protection to consumers is an obstacle to consumer protection efforts. The recommendation in this literature study is to guarantee legal certainty in the effort to protect consumers and the Indonesian Consumers Foundation which is a non-governmental organization that is expected to be even more effective in protecting consumers where consumers do not always know the existence of the goods they consume.*

Keywords: legal aspect, consumer protection, cosmetic user

I. INTRODUCTION

The economy is developing rapidly and technological advancements have led to rapid changes in cosmetic products, so that many cosmetic industry stands. The use of modern technology in the cosmetics industries is now able to produce on a very large scale and with the advancement of transportation, these products in a short time can spread to various countries with a very broad distribution network and are able to reach all strata of society.

Trade is currently one of the activities in the economic field that has a strategic role in the framework of broad-minded development. This trade sector plays a role in encouraging the smooth distribution of the flow of goods and services to meet human needs. The progress in the field of industry which is increasingly rapid effect on

the emergence of the free market era, which makes competition between producers more stringent, especially to attract consumers to a variety of products offered by producers.

Such conditions, then business is an integral activity of modern community life. Market conditions are characterized by intense competition and the variety of products offered, ultimately placing consumers as subjects who have many choices. Facing this reality, consumers are encouraged to become increasingly aware of their rights. This awareness is growing with the global consumer movement that is trying to protest against businesses that harm consumers' rights.

Cosmetics are daily necessities that are regularly used for the purpose of care and beauty, the higher the level of prosperity of a country the higher the need for cosmetic preparations. The circulation of cosmetic products is very wide and rapid in Indonesia, especially in big cities. The big city community, which has a large population of people from the top, thinks that cosmetics have become a necessity. In many big cities in Indonesia, various cosmetic products have sprung up and counterbalanced by the large number of consumers consuming cosmetic products, but on the other hand, the knowledge of the people in urban areas is still inadequate to be able to choose and use cosmetic products appropriately, correctly and safely. Lack of security causes many consumers to suffer from the use of cosmetic products (Jaśniewski, Jakubowska, & Sobiecka, 2018). This literature review aims to analyze "How is the enforcement of legal protection for consumers in Indonesia applied?"

II. RESEARCH METHODS

In the study of this literature will analyze the legal aspects of consumer protection for cosmetic users through an approach evidence based practice through the study of research journals. The problem questions in this literature study include:

- 1) How is law enforcement applied to consumers in Indonesia implemented?
- 2) What is the effect of using cosmetics that use harmful ingredients such as mercury and so on?
- 3) What is the manufacturer's responsibility for dangerous cosmetics that cause harm to consumers?

Literature search by the PICO method, namely Population: community, consumer; Intervention: Legal aspect; Comparison: others legal aspect intervention; Outcome: protection for cosmetic users. The Evidence

based practice selected will be used to make conclusions and recommendations.

III. FINDINGS AND DISCUSSION

1. *Consumer Protection Cosmetics Users in Indonesia*

Consumer protection is firmly known and growing understanding of consumers is more likely to be synonymous with the understanding of society in the development of matters relating to industry, trade, health and safety issues, legislation drafted at that time, at each preamble mentions the interests of the community and the health of the people/citizens in a broad sense including consumer understanding, such as Law No. 9 of 1960 concerning health issues, Law No. 11 of 1962 concerning Hygiene for public works, Ministerial Decree No.950/PH 165/b of 1965 concerning provisions for inspection and supervision of production and distribution, Minister of Health Decree No. 125 of 1971 concerning compulsory drug registration, Minister of Health Decree No. 220 of 1976 concerning the production and distribution of cosmetics and medical devices, Law no 23 of 1992 concerning health, Law no 8 of 1999 concerning consumer protection, PERMENKES no 445/MENKES/PER/V/1998 concerning materials, dyes, substrates, preservatives and sunscreen on cosmetics, as well as various other laws and regulations that contain consumer interests and cosmetic safety.

BPOM raided an illegal cosmetics factory in Tangerang and found various imported soaps from the Philippines and Thailand. The discovery value of 450 items of illegal products is predicted to reach Rp. 26 billion, and as many as 80% of them are cosmetic products that contain hazardous chemicals. BPOM called the circulation of illegal products is difficult to control, especially as the market traded through the network (online /online).

Monday (7/23/2018). BBPOM in collaboration with the West Java Health Office managed to bring order and confiscate at least 540 types and 60 thousand illegal and unlicensed cosmetic products containing dangerous chemicals worth Rp. 1.9 billion of local and imported products in 11 cities in West Java.

Hazardous substances contained in illegal cosmetics are Mercury (Hg), Hydroquinone, (*Retinoic Acid Retinoic Acid*), Rhodamine (Red K10) and Red K.3. Mercury (Hg). These harmful substances have a negative impact on skin health and can cause poisoning if used for a long time even though only applied to the surface of the skin but Mercury (Hg) is easily absorbed into the blood, then into the body's nerves. Therefore Mercury (Hg) should not be used in cosmetics, while the use of Hydroquinone should not be more than 2 percent, it must be under the supervision of a doctor. So it cannot be used carelessly.

2. *The Impact of Dangerous Ingredients on Cosmetics for Consumers*

Utilization of mercury metal at this time almost covers all aspects of human life and the environment. Over a period of several years, mercury has been widely

used in medicine, agriculture, and industry. The medical field has used mercury since the 15th century where mercury (Hg) was used for the treatment of venereal disease (syphilis). Colomel (HCl) is used as a cleaning wound until it is known that the material is poisonous so that it is not used anymore. Organic mercury components are used for diuretics for years and are also used as cosmetic ingredients.

Mercury toxicity in humans is distinguished according to the form of Hg compounds, namely inorganic and organic. Hg inorganic poisoning has been known since the 18th and 19th centuries with symptoms of tremor in adults. The symptoms of tremor have been known since the 18th century called "hatter's shakes" , because at that time many workers in hat and wool factories suffered from these symptoms. Symptoms continue with tremors in the facial muscles, which then spread in the fingers and hands. When poisoning continues, tremors occur on the tongue, stammering, walking looks stiff, and lost balance. Changes in memory loss can also occur in Hg toxicity and chronic poisoning will cause death.

Regulation of the Minister of Health, the maximum mercury content in water is 0.001 mg / l. The use of cosmetics containing Mercury can result in slowing the growth of the fetus, resulting in miscarriage (fetal and infertile death), black spots on the skin will turn pale (as if faded) and if the use is stopped, the spots can or will recur and get worse (widening),effect rebound is giving the opposite response (the skin will become dark or dull when the use of cosmetics is stopped), for a face that was clean will gradually occur very severe spots (wide), can cause skin cancer. The element of mercury in cosmetics will be absorbed through the skin (the skin becomes reddish red, irritated and abnormally shiny), then it will be flowed through the blood throughout the body and the mercury will settle in the kidneys resulting in very severe kidney failure.

3. *Legal Aspects of the Distribution of Dangerous Cosmetics*

Lack of information about what is provided by business actors violates consumer rights. Lack of supervision from the National Drug and Food Control Agency causes cosmetic products that contain hazardous substances to circulate in the market so that they are easily found by consumers. The many outstanding cosmetic brands that are sold in the market with attractive packaging, and promise to get results in a short time need to be watched by the public. Consumers must be more vigilant and observant before buying cosmetic products. Cosmetic products that contain harmful ingredients have side effects that have an impact on skin damage resulting from the use of these products for which there was no prior information or doctor's instructions.

Based on the Presidential Decree a POM Agency is formed, which is tasked with supervising drugs and food in accordance with applicable laws and regulations. The establishment of the POM Board aims to detect, prevent and supervise products including to protect the safety,

safety and health of consumers. The POM has national and international networks and law enforcement authority and has high professional credibility.

Lack of public attention towards safe products and lack of law enforcement. The implementation of Law Number 8 of 1999 Concerning Consumer Protection (hereinafter referred to as UUPK) is also not going well, this can be seen from repeated raids on cosmetic products that are not registered and contain hazardous ingredients, but there are still many in the market these products are still sold freely.

So far, the handling of consumer protection has not been carried out in an integrated manner, so that the interests of consumers regarding their rights and obligations are still not as expected, so efforts to empower the consumer community are deemed necessary to handle integrated and comprehensive consumer protection issues. Monopolistic practices and the absence of consumer protection have placed the "position" of consumers at the lowest level in dealing with business actors (in the broadest sense).

Surely cosmetic products as a beauty tool generally instantly show results in the form of smoothness, beauty and brightness. But without realizing its effects on the health of the body resulting in serious and permanent problems. The interests between the two camps, producers and consumers, are not bridged well by the POM through tight supervision. As a result, dangerous products continue to circulate due to weak supervision, and are only temporary.

Standardization of product quality is very important to be felt for cosmetic products, bearing in mind that it is very closely related to health, because the effects of using cosmetics that contain harmful ingredients can have a negative impact on the health of the body especially on the skin. Access to information about the quality of a product is very important for consumers. First: consumers have broader insights, henceforth can determine the choice of a product based on reliable information. Second: if a product is found that is not in accordance with the standards issued by the government and results in a loss on the part of the consumer, the consumer can file a claim for compensation to the producer or business actor.

Article 8 paragraph (1) point a of the UUPK which reads: "Business actors are prohibited from producing and or trading goods and or services that do not meet or are not in accordance with the required standards and legal provisions". Article 8 paragraph (2) of the UUPK which reads: "Business actors are prohibited from trading goods that are damaged, defective or used, and are contaminated without providing complete and correct information on the said goods". Consumers as users of goods and / or services certainly have certain interests. Consumer interests need to be protected, therefore the UUPK regulates consumer rights, namely article 4 UUPK.

Actually there is a relationship between consumers and businesses. Businesses must recognize that consumers are an inseparable part of the continuity of their business. On the other hand, consumers in meeting their daily needs always depend on the presence of goods and or services

on the market as an output of business activities. Therefore, the producer as a business actor whose activities trade in cosmetic products must pay attention to the provisions regarding the safety of the product itself which must meet the cosmetic requirements and supervision that have been issued by the government of the Republic of Indonesia. Safety factor and not detrimental to health is a very important consumer right.

The application of UUPK can limit producers in marketing their goods because they only comply with a number of prohibitions specified in the UUPK, but that does not mean that the interests of business actors are not a concern, especially because the existence of the national economy is largely determined by business actors. In terms of civil law, the relationship between consumers and business actors in the broad sense that is as a producer or seller of goods is an engagement. Book III of the Civil Code on engagement, article 1233 of the Civil Code states that "every engagement is born of good agreement, good because of the law". Article 1234 of the Civil Code states "each engagement is to give something, to do something, or not to do something". According to Subekti, an agreement is a legal relationship between two people or two parties based on the one party has the right to demand one thing from the other party and the other party is obliged to fulfill the demand. Business actors and consumers in the sense of sellers and buyers enter into a sale and purchase agreement to meet the needs. Article 1457 Civil Code, sale and purchase is an agreement, with the name of one party to bind itself to submit a material, and the other party to pay the price that has been promised

IV. CONCLUSION

Enforcement of legal protection for consumers needs to be implemented, this is supported by the enactment of a law on consumer protection which is an embodiment of the 1945 constitutional order to protect all Indonesians, advance the general welfare in every public interest, the uncertainty of legal protection against consumers are barriers to consumer protection efforts. Defective products if the product is not safe in use does not meet certain safety requirements as expected with various safety considerations especially regarding the appearance of the product, the proper use of the product expected, and when the product is circulated. Furthermore, article 1367 of the Civil Code is very appropriate because of the absolute responsibility towards producers to provide compensation to consumers resulting from losses suffered by consumers caused by dangerous cosmetics.

The recommendation in this literature study is to ensure legal certainty in the effort to protect consumers, a legal codification is required for the existence of a specific form of legal protection for consumers, the modification of the provisions for consumer legal protection requires updating of the procedure for filing a lawsuit by consumers against producers. The Indonesian Consumers Foundation is a non-governmental organization expected to be more effective in consumer

protection efforts where consumers do not always know the existence of the goods they consume.

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