



Legal Protection for Consumers for Excessive Claims in Skincare Product Contents

Putri Melani Tampubolon¹, July Esther^{2*}, Ria Juliana Siregar³

Fakultas Hukum, Universitas HKBP Nommensen, Medan

Corresponding Author: July Esther julyesther@uhn.ac.id

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ABSTRACT

This study examines legal protection for consumers against overclaim practices in skincare product ingredients. This phenomenon is widespread in e-commerce, where consumers are often influenced by trends and fail to thoroughly examine product quality. Overclaim practices, such as listing an active ingredient percentage that does not match the actual content, have harmed consumers both financially and health-wise. This research employs a normative method with a legislative and conceptual approach, referring to Law Number 8 of 1999 on Consumer Protection and relevant BPOM (Indonesian Food and Drug Authority) regulations. The findings indicate that consumer protection encompasses fundamental rights, including accurate information and compensation for damages. Preventive measures include regulations, BPOM supervision, consumer education, and the role of institutions such as BPSK (Consumer Dispute Resolution Agency) and BPKN (National Consumer Protection Agency). Meanwhile, repressive efforts involve dispute resolution through litigation and non-litigation channels. This study highlights gaps in the effectiveness of regulations and oversight of overclaims, as well as the need for practical solutions, including more extensive consumer education.

INTRODUCTION

The ease of buying and selling activities through e-commerce has sparked enthusiasm among the public, especially young people and housewives, to take advantage of this technological advancement. One of the impacts of this shopping convenience is the increasing interest, particularly among women from various generations, in enhancing their appearance. This is realized through the use of skincare products, which refer to a series of activities aimed at maintaining facial skin health, improving appearance, and addressing various skin issues. To introduce various types of skincare products sold through e-commerce platforms, business actors typically employ marketing techniques designed to make potential customers highly interested in purchasing and using these products. One of these techniques is advertising or product promotion. Promotion is defined as an activity of introducing or disseminating information about products and/or services to persuade consumers to buy the goods or services being sold, as regulated in Law Number 8 of 1999 on Consumer Protection.

When promoting skincare products, business actors should provide detailed information about the ingredients used in the products. This allows potential consumers to match their skin condition with the percentage of active ingredients they need. If the ingredient percentage is lower than required, the product may not have the desired effect. Conversely, if the percentage exceeds the skin's tolerance level, it may cause irritation or other adverse reactions.

The widespread sale of skincare products on social media has led to consumers often neglecting product quality. Many consumers tend to follow trends (FOMO) and purchase skincare products simply because they are popular. This situation opens opportunities for unscrupulous business actors to engage in overclaiming—the practice of exaggerating the percentage of active ingredients in skincare products. Since very few consumers take the time to verify the claimed ingredient percentages, overclaiming remains a persistent issue.

Similar to several topics currently debated on social media, this issue gained attention following the findings of a content creator on TikTok known as "Doktif" (Doctor Detective). This content creator frequently shares educational content about skincare by conducting laboratory tests on various popular skincare products. From these lab tests, it was found that some skincare products contained active ingredient percentages that did not match the claims made on their packaging.

For example, a sleeping mask product from Brand X claimed to contain 0.25% Pure Retinal, as stated on its packaging. However, after undergoing lab testing, the active ingredient was marked as "Not Detected," meaning the percentage was too low to be identified. The content creator explained that this could be due to an extremely low concentration, making it undetectable by standard lab tests. Based on this result, it was concluded that the sleeping mask had engaged in overclaiming. Since the active ingredient did not match the claimed percentage, this discrepancy could affect the product's effectiveness and fail to deliver the expected results for consumers.

Another example is a moisturizer product that went viral a few months ago due to its affordability. The product packaging claimed to contain 5% Niacinamide, a percentage typically needed by facial skin (ranging from 2% to 5%). Based on this claim, the product appeared to be a worthwhile purchase. However, lab test results revealed that the actual Niacinamide content was only 0.81%. Like the previous case, this moisturizer also engaged in overclaiming. The discrepancy between the claimed and actual percentages, when compared to the optimal Niacinamide level for skin health, affects the product's effectiveness.

These two examples represent only a small portion of skincare products that engage in overclaiming. Many other skincare businesses continue to misrepresent ingredient percentages, demonstrating bad faith in their marketing strategies and causing both direct and indirect harm to consumers.

The growing debate on social media regarding this issue has sparked the author's interest in conducting a study titled "**Legal Protection for Consumers Against Overclaims in Skincare Product Ingredients.**" Based on the background described above, the key research question is: **What forms of legal protection are provided to consumers regarding skincare products that engage in overclaiming?** The primary objective of this study is to identify and analyze the types of legal protection available for consumers affected by overclaims in skincare products. It is hoped that this study will provide deeper insights into legal protection initiatives to address overclaiming in skincare product ingredients.

The discussion on consumer protection against overclaims in skincare products is not new. Several previous researchers have examined and published studies on this topic using various methods and approaches. Adinda Ayu Puspita Kuncoro and M. Syamsudin, in their study, analyzed consumer protection against overclaims in skincare products using a normative approach, focusing on regulations and business actors' responsibilities regarding product information. Unlike their study, this research not only examines the legal basis but also highlights challenges consumers face in accessing legal protection against overclaims.

Lasmi Dewi Santika, Ma'ruf Akib, Wahyudi Umar, and Ismi Fadjriah Hamzah have also discussed legal protection against overclaims in online skincare transactions in their article "**Consumer Legal Protection Against Overclaims in Skincare Products in Online Transactions.**" Their study focuses on the role of digital platforms in protecting consumers from misleading promotions. The difference is that while their study emphasizes the role of digital platforms, this research takes a broader approach by analyzing the effectiveness of existing regulations in addressing overclaims, including legal sanctions and oversight by regulatory bodies such as BPOM.

Adinda Ayu Puspita, in her research titled "**Consumer Legal Protection Against Excessive Claims in Skincare Product Advertisements,**" examined ethical aspects and business actors' responsibilities in delivering product information through advertisements. In contrast, this study focuses on overclaims in ingredient percentages in skincare products, consumer rights, and complaint mechanisms available to those affected by misleading claims.

Based on the review of previous research, several gaps indicate that this study can contribute significantly to the field of **Legal Protection for Consumers Against Overclaims in Skincare Products**. This research aims to address gaps in previous studies by focusing on comprehensive legal protection, including normative, practical, and enforcement aspects. Therefore, this study is expected to contribute not only theoretically but also by providing practical solutions to enhance consumer protection, particularly against overclaims in skincare products.

LITERATURE REVIEW

1. General Overview of Consumer Protection

Philippus M. Hadjon states that legal protection is a safeguard for dignity and recognition of human rights possessed by legal subjects based on legal provisions against arbitrariness.

Article 1, number 1 of the Consumer Protection Law (UUPK) states that consumer protection is all efforts that ensure legal certainty to provide protection to consumers.

a. Definition of Consumers According to Experts and the Law:

1. Philip Kotler argues that consumers are all individuals and households who purchase or acquire goods or services for personal consumption.
2. Meanwhile, Wira Suteja states that consumers are people who provide opinions about our company, including the quality of our services.
3. According to Article 1, number 2 of the UUPK, a consumer is any person who uses goods and/or services available in society for their own interests, their family, others, or other living beings and not for trading purposes.

b. Consumer Rights and Obligations:

1. Consumer rights as stipulated in the UUPK include:
 - a) The right to feel protected, comfortable, and safe when using products or services.
 - b) The freedom to choose and obtain products or services according to guaranteed requirements, warranties, and exchange value.
 - c) The right to receive accurate, understandable, and transparent information regarding the conditions and guarantees of products or services.
 - d) The freedom to express concerns and complaints related to products or services used.
 - e) The right to receive support, advocacy, and fair resolution for consumer protection issues.
 - f) The right to receive consumer education and guidance.
 - g) The right to fair, honest, and non-discriminatory treatment.
 - h) The right to receive compensation or reimbursement if the products or services obtained do not meet expectations or contractual agreements.
2. Consumer obligations as stipulated in the UUPK include:
 - a) Reading or following usage instructions and procedures for the use of

- goods/services for safety and security.
- b) Acting in good faith when conducting transactions for the purchase of goods/services.
 - c) Following appropriate legal dispute resolution efforts regarding consumer protection.

c. Definition of Business Actors According to Experts and the Law:

1. Soekanto argues that business actors are individuals or legal entities engaged in business activities, whether in the formal or informal sector, who act as providers of goods/services to consumers.
2. According to Article 1, number 3 of the UUPK, business actors are any individuals or business entities, whether incorporated as a legal entity or not, established and domiciled or conducting activities within the jurisdiction of the Republic of Indonesia, either independently or jointly, through an agreement in various economic sectors.

d. Rights and Obligations of Business Actors:

1. The rights of business actors as stipulated in the UUPK include:
 - a) The right to receive payment in accordance with the agreed conditions and exchange value of the traded goods/services.
 - b) The right to receive legal protection from consumers who act in bad faith.
 - c) The right to proper legal defense in consumer dispute resolution.
 - d) The right to rehabilitation of reputation if legally proven that consumer losses were not caused by the traded goods/services.
2. The obligations of business actors as stipulated in the UUPK include:
 - a) Acting in good faith in conducting business activities.
 - b) Providing honest, clear, and truthful information about the conditions and guarantees of goods/services and providing explanations on usage, repairs, and maintenance.
 - c) Treating or serving consumers properly, honestly, and without discrimination.
 - d) Ensuring the quality of goods/services produced or traded in accordance with applicable quality standards.
 - e) Allowing consumers to test or try specific goods/services and providing guarantees and warranties for the manufactured or traded goods.
 - f) Providing compensation, reimbursement, or replacement for losses caused by the use, consumption, and utilization of traded goods/services.
 - g) Providing compensation, reimbursement, or replacement if the goods/services received or utilized do not comply with the agreement.

2. General Overview of Overclaim

According to the Indonesian Dictionary (KBBI), a claim is defined as a statement asserting a fact or truth. In the skincare industry, the term “overclaim” refers to skincare products that make exaggerated claims about their benefits or

advantages. This usually relates to discrepancies between the actual percentage of active ingredients and the claims stated on the product packaging.

3. General Overview of Skincare Products

1) Definition of Skincare

Skincare is a series of skin care routines aimed at maintaining the health, cleanliness, and appearance of the skin, particularly the face. Skincare involves the use of specialized products such as facial cleansers, moisturizers, sunscreens, serums, masks, and others.

2) Benefits of Skincare

The benefits of using skincare include maintaining skin cleanliness, moisturizing the skin, protecting the skin from sun exposure, improving skin texture, reducing signs of aging, and addressing specific skin concerns.

Research Object

According to Soekanto, legal research is a scientific activity based on specific methods, systematics, and reasoning aimed at examining one or more legal phenomena through an analytical process. The normative legal research method is the approach used in this study (juridical-normative) with a statutory approach and a conceptual approach. In general, normative legal research is an activity carried out by researchers for various purposes, either directly or via the internet, by collecting, verifying, and analyzing data, drawing conclusions, and predicting issues through literature studies and legislation related to specific legal problems.

This research uses data sourced from primary legal materials and secondary legal materials. Primary legal materials or positive legal materials are legal norms that have binding power. Laws such as Law Number 8 of 1999 concerning Consumer Protection, the Indonesian Food and Drug Authority (BPOM) Regulation Number 3 of 2022 concerning Technical Requirements for Cosmetic Claims, and BPOM Regulation Number 31 of 2018 concerning Processed Food Labeling are examples of primary legal materials used in relation to consumer protection against excessive claims in skincare products.

On the other hand, secondary legal materials – such as previous research findings, journals, articles, and books related to the research topic – complement and clarify the primary legal materials. The data collection technique used is a literature study. According to Sarwono, a literature study is an activity conducted to examine various reference materials and previous research findings that are relevant and useful in developing the theoretical foundation and understanding the research problem more deeply. The sources used in this literature study include journals, articles, books, and internet sources related to the research problem.

Qualitative analysis is used in analyzing the research data, specifically through a literature review. This involves using books and journals related to consumer protection and overclaims in skincare products. The collected data is then analyzed using this method to form texts or narratives, providing the necessary information to draw conclusions about the issues being discussed.

RESULTS AND DISCUSSION

Legal Protection for Consumers Against Overclaims in Skincare Product Ingredients

According to Article 1, paragraph (1) of the Consumer Protection Law (UUPK), consumer protection is defined as all efforts to guarantee legal certainty in providing protection to consumers. To ensure that consumers can safely and comfortably enjoy goods and services, the state must enforce consumer protection as a fundamental right. In this context, legal protection for consumers against excessive claims (overclaims) in skincare product ingredients aims to protect consumer rights from misleading information.

Efforts to protect consumers are based on five key principles as stipulated in Article 2 of the UUPK, explained as follows:

- a. **Principle of Benefit** – Highlights that every consumer protection initiative should maximize benefits for both consumers and businesses as a whole.
- b. **Principle of Justice** – Ensures that businesses and consumers receive their rights and fulfill their obligations fairly, encouraging public participation.
- c. **Principle of Balance** – Seeks to balance the material and spiritual interests of the government, businesses, and consumers.
- d. **Principle of Consumer Safety and Security** – Aims to ensure consumer safety when using, consuming, or utilizing goods and services.
- e. **Principle of Legal Certainty** – Emphasizes the importance of compliance with laws by consumers and businesses, with the state guaranteeing justice and legal certainty in consumer protection enforcement.

Legal protection efforts serve to uphold consumer rights, dignity, and honor through both preventive and repressive measures, in written and verbal forms.

Preventive Measures

As a preventive effort, the government has enacted regulations requiring businesses to provide accurate, clear, and honest information about product conditions and guarantees to prevent consumers from receiving misleading information about skincare product benefits or ingredients.

In addition to regulations, the government has established agencies responsible for consumer protection efforts, including:

1. **National Consumer Protection Agency (BPKN)** – Advises the government on promoting consumer protection growth in Indonesia.
2. **Community-Based Consumer Protection Organizations (LPKSM)** – Educates consumers on their rights, responsibilities, and the importance of responsible product use. LPKSM also assists consumers in filing complaints and collaborates with the government to monitor consumer protection law enforcement.
3. **Consumer Dispute Resolution Board (BPSK)** – A specialized consumer court handling small claims disputes. BPSK decisions are final and binding unless they contradict the law.
4. **Food and Drug Authority (BPOM)** – Supervises the skincare products sold in the market.

The government and relevant agencies also conduct consumer education and outreach programs, raising awareness of consumer rights, including identifying misleading or excessive product claims. Consumers are encouraged to verify product distribution permits, examine ingredient lists and claims carefully before purchasing, and review feedback on online sales platforms.

Repressive Measures

Repressive measures involve resolving consumer disputes through litigation and non-litigation channels.

1. Non-Litigation Dispute Resolution

Consumer disputes can be settled through deliberation between consumers and businesses to reach a mutual agreement. The mechanisms include:

- a. **Direct Compensation Claims** – Consumers can negotiate directly with businesses to claim compensation, as regulated in Article 19 of the UUPK.
- b. **Dispute Resolution via BPSK** – According to Article 52(a) of the UUPK, BPSK can mediate, conciliate, or arbitrate consumer disputes.

2. Litigation Dispute Resolution

Under Article 48 of the UUPK, consumer disputes may be taken to court, typically under civil law. In Indonesian civil law, the "Passive Judge Principle" applies, meaning legal proceedings begin at the initiative of the involved parties. Litigation channels include:

- a. **Individual Lawsuits** – Consumers or their heirs file a lawsuit if they suffer losses due to business actions.
- b. **Class Action Lawsuits** – A lawsuit filed by an individual on behalf of a group with similar interests to seek justice.
- c. **Legal Standing Lawsuits** – Civil lawsuits filed by one or more NGOs meeting specific criteria against actions or decisions harmful to society.
- d. **Government Lawsuits** – Lawsuits filed by the government as a consumer against businesses.

In addition to the Consumer Protection Law, BPOM regulations are crucial in skincare product oversight. BPOM mandates that all skincare products in Indonesia must have distribution permits and comply with safety, efficacy, and quality standards. Products making exaggerated claims without scientific evidence may face penalties, including revocation of distribution permits, advertising bans, and product recalls, as stipulated in BPOM Regulation Number 31 of 2018 on Processed Food Labeling.

For severe violations, businesses may face criminal sanctions under Article 62 of the UUPK, which states that companies producing or marketing products that do not meet their claims can be subject to imprisonment of up to five years or a maximum fine of IDR 2 billion. These sanctions serve as a repressive effort to provide justice for consumers harmed by unverified product claims. However, litigation is not always necessary, as repressive measures can also be pursued through non-litigation methods. As per Article 19 of the UUPK,

consumers who suffer losses have the right to demand compensation in the form of refunds, product replacements, or other compensation.

Given the prevalence of excessive claims in skincare products, the Consumer Protection Law has not been fully effective as a preventive and repressive tool to safeguard consumer rights. Many skincare products on the market do not meet their claims, raising concerns about BPOM's regulatory enforcement. Ideally, BPOM should conduct clinical testing before granting distribution permits, ensuring not only product safety but also the validity of its claims.

CONCLUSION AND RECOMMENDATION

Legal protection for consumers aims to provide legal certainty, ensuring that consumers are safeguarded from excessive claims (overclaims) in skincare products. This effort encompasses consumers' rights to accurate information, fairness in services, and compensation if they suffer losses. The Consumer Protection Law regulates consumer rights, including safety, clarity of information, and dispute resolution mechanisms. Consumer protection is carried out through:

1. **Preventive Measures**, such as the establishment of regulations requiring honest product information, BPOM (Indonesian FDA) supervision, consumer education, and the strengthening of consumer protection institutions like BPKN, LPKSM, and BPSK.
2. **Repressive Measures**, including dispute resolution through litigation (court proceedings) or non-litigation (mediation, conciliation, arbitration).

However, the effectiveness of these regulations and related institutions remains questionable, given the prevalence of skincare products in the market that do not align with their claims. BPOM must tighten its supervision to ensure that products are not only safe but also comply with the advertised claims. Strengthening these measures will better guarantee consumer rights and safety.

ADVANCED RESEARCH

In writing this article the researcher realizes that there are still many shortcomings in terms of language, writing, and form of presentation considering the limited knowledge and abilities of the researchers themselves. Therefore, for the perfection of the article, the researcher expects constructive criticism and suggestions from various parties.

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