



Influencer Responsibilities in Disseminating Product Information: Consumer Protection Perspective in Indonesia

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ABSTRACT

In the digital era, social media has become a primary platform for product marketing, with influencers playing a crucial role in promoting goods and services. However, influencers often promote products that are not registered with the Indonesian Food and Drug Supervisory Agency (BPOM), potentially harming consumers. This study aims to analyze the responsibilities of influencers in promoting unregistered products and the mechanisms of consumer protection available in Indonesia. This research employs a normative legal method by analyzing statutory regulations, including Law Number 8 of 1999 on Consumer Protection and various BPOM regulations. The findings indicate that influencers can be held legally accountable for promoting illegal products, either due to negligence or intentional actions. Furthermore, consumer protection mechanisms are available through BPOM's supervision, sanctions against violators, and legal dispute resolution channels, both in and out of court. Strict law enforcement and comprehensive education are expected to foster a more responsible and safer marketing environment for consumers in the digital era.

INTRODUCTION

The development of technology currently plays a very significant role in community life. The development of technology influences changes in society because technology helps and facilitates activities. The influence of technological developments can be seen in the emergence of various types of communication media that are very easy to use. The most widely used communication media is social media. People can access and update various information that includes things like the latest news related to government, weather, or things that are viral or trending by using social media. Social media has an impact in the form of easy dissemination of information among the community. The ease of using social media has caused many to use it as a place to do business activities. These social media include Instagram, Facebook, TikTok and others.

Business actors are individuals who can be legal entities or non-legal entities that are established independently or together in the economic sector with an agreement to carry out business activities in the territory of Indonesia. In business activities, social media is a means that makes it easier to promote, introduce and also sell goods or services because they can be accessed by anyone. Business actors utilize the development of social media as a means of marketing products because it benefits business actors in terms of time, cost, effort and energy.

Many strategies are used by business actors in introducing their products to the public in order to increase their selling value, one of which is by using advertising. Advertising itself does not have a clear definition, but Law Number 32 of 2002 concerning Broadcasting explains advertising broadcasts which are defined as commercial information broadcasts or public services with the aim of introducing a product to the wider community and making the public interested in buying the products offered through the advertisements delivered.

Advertisements carried out by business actors for their products often use the services of other people who are better known to the public. The owners of these services are called influencers, Influencers have the ability to reach the wider community, so that the messages they convey can influence the public. This makes business actors interested in advertising their products through influencers. Not infrequently, goods advertised through influencers make the product look more attractive and superior even though the price of the advertised product tends to be cheap. So that many people are interested in products advertised by influencers.

Products advertised by influencers consist of various kinds such as clothing, furniture, food and even cosmetics. In advertising a product, influencers provide assessments and information about the product being advertised with reviews of the product through photos or short videos on their social media accounts. The reviews given by influencers are what influence the public's interest as consumers to use a product. Consumers are individuals who use goods and services in society for their own interests or those of other people or other creatures but not for trading. Article 4 Number (3) of Law Number 8 of 1999 explains that consumers have the right to receive clear, correct and honest information about a product. Thus, all products advertised by influencers to

consumers must be accompanied by appropriate information. This information is important so that consumers do not have a wrong understanding of the product being promoted.

Consumer protection is regulated in Law Number 8 of 1999 concerning Consumer Protection. Article 1 Number 1 explains that consumer protection is all efforts to ensure legal certainty in providing protection to consumers. Consumer protection is also important so that consumers are protected from misleading information and to ensure that business actors act ethically in advertising and disseminating product information.

Although the Consumer Protection Law has regulated consumer rights, not all influencers carry out these responsibilities. This is evidenced by the fact that influencers are less careful in accepting offers to advertise and promote products owned by business actors and do not pay attention to whether the product has a permit from the Food and Drug Supervisory Agency, hereinafter abbreviated as BPOM or not. Influencers who are less careful in promoting products can cause inaccuracies in conveying information and cause losses to consumers financially, health and safety.

Products with distribution permits are products registered with BPOM. BPOM is a non-ministerial government agency engaged in the management, supervision and regulation of drug, food, cosmetic and other health products in Indonesia. Products that have been registered with BPOM have gone through a feasibility test and have passed BPOM standard verification so that their quality is guaranteed in terms of safety for use and consumption. Products that have been registered with BPOM also no longer contain ingredients that are harmful to consumers when using them.

Products that are not BPOM can include processed food products, cosmetics and also medicines. Government Regulation Number 86 of 2019 concerning Food Safety explains that products that are managed domestically or imported for trade must have a distribution permit. Law Number 23 of 2023 concerning Processed Food Registration explains that all processed foods produced must comply with the provisions for safety, quality, nutrition and labels. Not only that, BPOM Regulation Number 23 of 2019 also explains that business actors must ensure that the products used in making cosmetics comply with the provisions that have been set.

Consumer protection law emphasizes that business actors must be responsible for all products produced and advertised and provides several principles of responsibility to business actors. The accountability given must be in accordance with the violations committed and the existing principles. However, the influencer's responsibility is not explained in the existing regulations, so that it makes the influencer irresponsible in promoting products on their social media. Based on this background, the author is interested in studying and discussing how the influencer's responsibility is in promoting products that are not registered with BPOM and how the consumer protection mechanism is for products promoted by influencers but are not registered with BPOM.

LITERATURE REVIEW

A. Overview of Influencers and Advertising

1. Definition of Influencer

Influencers can be defined as people who have influence and are considered influential in society so that they are used as services in product marketing by business actors. Promotion carried out by business actors using influencer services as media is one method to introduce business actors' products to the wider community quickly and can increase profits. Influencers make it easier for business actors because influencers promote business actors' products by reviewing or providing reviews of business actors' products.

2. Definition of Advertising

The Civil Code does not explain the definition of advertising but contains provisions on unlawful acts, namely as long as certain advertisements cause losses to other parties. Law Number 8 of 1999 concerning Consumer Protection also does not explain what is meant by advertising. The law only explains the prohibitions related to advertising. Law Number 32 of 2002 concerning Broadcasting explains that advertising broadcasts are information broadcasts that have a commercial nature and also public services regarding the availability of goods, services and ideas that can then be utilized and used by the public without providing compensation to the broadcasting institution. Advertisements can be done directly or indirectly and have benefits for business actors, namely making the products owned by business actors known to the wider community.

B. General Overview of Consumers

1. Definition of Consumer

Law Number 8 of 1999 concerning Consumer Protection provides the understanding that consumers are parties who use goods or services owned by business actors and are not for trading.

2. Consumer Rights

Consumer rights based on Article 4 of Law Number 8 of 1999 concerning Consumer Protection include:

- a. The right to feel comfortable, safe, and secure when using goods or services.
- b. The right to choose goods or services and obtain these products according to the price, conditions, and guarantees that have been promised.
- c. The right to receive accurate, clear, and honest information regarding the conditions and guarantees of goods or services.
- d. The right to express opinions and complaints regarding goods or services used.
- e. The right to receive advocacy, protection, and fair resolution of consumer disputes.
- f. The right to receive guidance and education as a consumer.
- g. The right to be treated well, honestly, and without discrimination in services.

- h. The right to receive compensation, damages, or replacement if the goods or services received do not comply with the agreement or are not suitable.
- i. Other rights as regulated in applicable laws and regulations.

C. Overview of Consumer Protection

1. Definition of Consumer Protection

Consumer protection is a series of efforts to protect consumer rights from being harmed by business actors in transactions of goods or services. This protection aims to create a balance between the rights and obligations of consumers and business actors, so as to create a fair and responsible trading environment.

2. Objectives of Consumer Protection

- a. Guaranteeing consumer rights, such as obtaining goods/services that are safe, of good quality, and in accordance with the agreement.
- b. Providing legal certainty in transactions between consumers and business actors.
- c. Preventing fraudulent practices, such as fraud, misleading information, and products that do not meet standards.
- d. Encouraging consumer awareness to be more selective in choosing goods and services.
- e. Regulating the responsibilities of business actors to run their businesses ethically and responsibly.

D. Overview of Consumer Protection Law

1. Definition of Consumer Protection Law

Consumer protection law is a set of rules that govern the relationship between consumers and business actors to ensure that consumer rights are protected from detrimental business practices. This law aims to create a balance in trade transactions and provide legal certainty for both parties

2. Objectives of Consumer Protection Law

- a. Guaranteeing consumer rights, such as obtaining safe and quality goods/services.
- b. Preventing detrimental business practices, such as fraud, forgery, or misleading advertising.
- c. Providing legal certainty in transactions between consumers and business actors.
- d. Increasing consumer awareness of their rights and obligations.
- e. Requiring business actors to be responsible for the products they sell.

3. Legal Basis for Consumer Protection

Law Number 8 of 1999 Concerning Consumer Protection

E. Overview of Non-BPOM Products

Definition of Non-BPOM Products

Non-BPOM products are products that have not been registered and have not received distribution permits and approval from BPOM because their benefits, quality and safety have not been guaranteed, resulting in losses for

consumers. Products that must have a BPOM permit include; Medicines (including traditional medicines and health supplements), processed foods and beverages, cosmetics and others.

METHODOLOGY

Research method is a way of conducting research with a procedure or how legal research is conducted. This research was conducted using a normative legal research method. The normative legal research method is a research method using secondary written legal sources in the library. The data collection method used by a writer must be in accordance with the needs of the research being conducted. In this study, the author uses secondary data collection techniques in the form of document or literature studies which are then collected and processed sequentially and systematically so that they are easier to analyze by the author. Then the author will analyze the materials that have been obtained using qualitative methods, namely by analyzing the materials obtained and then discussing and interpreting them so that conclusions can be drawn from the problems being studied by the author.

RESEARCH RESULT AND DISCUSSION

A. Influencer Responsibility in Promoting Products Not Registered with BPOM

Responsibility is defined as a state of being obliged to bear all the consequences of something and if a problem occurs, can be sued, blamed and prosecuted. Hans Kalsen stated that a person is considered legally responsible for certain actions or responsible for the sanctions that will be given for actions that are contrary. A person is said to be responsible when committing an act that is not in accordance with the regulations and because his actions do not fulfill his obligations, resulting in a violation. The regulations in question are regulations in Indonesian positive law or statutory regulations. Violating statutory regulations will result in a person being subject to sanctions for his actions and the regulations violated. These sanctions can be referred to as a form of accountability that is carried out.

Responsibility in consumer protection occurs if there is a loss experienced by one party from the purchase or use of products and/or services. In advertising through social media carried out by business actors through influencer services, influencers have an obligation to advertise and promote goods in accordance with the standards that have been determined and registered with BPOM. This is done so that consumers do not experience losses from goods advertised by influencers. Article 1 Number 6 of Law Number 8 of 1999 concerning Consumer Protection defines promotion as an action in introducing or disseminating information about goods or services so that consumers are interested in the goods or services being traded. Thus, promotion is an activity of business actors to communicate their products and make consumers interested in buying their products. The purpose of promoting products owned by business actors is to make the product known to the public so that business actors get profit from the sale of their products.

Promotion is carried out by business actors directly or through the services of other people. The services of other people in question are the services of influencers who have influence in society. Influencers can influence the public to be interested in buying products that are promoted through their social media by making photos or short videos containing reviews of the product or service. Influencers tend to have a lot of followers so that influencers can cover the wider community in every post they display on social media. This makes business actors interested in promoting the goods they produce by using influencer services because they think that influencers can attract the public's attention so that they buy the promoted products and also make the promoted products look more attractive.

Law Number 8 of 1999 concerning Consumer Protection does not directly define influencers, however, if we look at how influencers advertise a product owned by a business actor, then influencers can be grouped as advertising business actors. Article 17 of Law Number 8 of 1999 concerning Consumer Protection outlines things that are prohibited from being done by business actors. Advertising business actors are prohibited from producing advertisements and promoting goods or services by containing false, incorrect or inaccurate information about goods or services. Influencers can be classified as advertising business actors because influencers benefit from the products they promote and influencer promotions are carried out using their personal electronic communication media and introducing products to the public which makes the products known to the wider community.

Promotions carried out by influencers must comply with the provisions of the Law, where influencers must provide information on both the quality and usefulness of the products being promoted. In addition to Law Number 8 of 1999 concerning Consumer Protection, Law Number 11 of 2008 concerning Information and Electronic Transactions also explains that business actors who offer products with electronic systems must provide complete information about the products offered or promoted.

Influencers review a product first to get information about the product to be promoted. So in reviewing a product, influencers can include complete information about the product being promoted including benefits, how to use it, side effects and even the distribution permit owned by the product. This must be conveyed because influencers have the ability to influence people to buy and use a product. Influencers in promoting products always make the product look very promising so that many people are interested in buying the product promoted by the influencer.

Influencers who want to introduce products through advertising and promotion must pay attention to the advertising code of ethics which requires advertisements to be honest, responsible, and not contrary to applicable laws. Products promoted by influencers must be products that have a distribution permit from BPOM. The distribution permit shows that the product has gone through a feasibility test and does not contain any hazardous materials so it is safe to use. Currently, there are many products that do not have a distribution permit but are marketed to the public. Because of the lack of information received

by the public about the product, many people are still interested in buying and using goods that do not have a distribution permit. It is not uncommon for influencers to promote a product without providing an explanation of the distribution permit that the product has.

Influencers must provide correct information about the products being marketed so as not to cause harm to consumers. Article 20 of Law Number 8 of 1999 concerning Consumer Protection explains that advertising business actors are responsible for the advertisements produced and the losses caused by the advertisements. Law Number 32 of 2002 concerning Broadcasting also directs to always provide correct, balanced and responsible information. Based on this, if an advertisement about a product shared by an influencer contains information that is not appropriate, consumers can ask for accountability not only to the business actor but also to the influencer.

The responsibilities given by business actors include several types of accountability, namely:

1. The principle of responsibility with elements of error and negligence

This is subjective in nature where responsibility can be determined from how the business actor behaves. The negligence in question causes harm to consumers and is a reason for consumers to use their right to file a lawsuit against the business actor. However, this principle applies when the requirements are met which must prove that the business actor has committed negligence and has actually caused losses due to said negligence. This principle emphasizes the burden of proof on the consumer.

2. Presumption of liability

This principle stipulates that every business actor is considered responsible for their actions until they can prove that they are not guilty. This principle is known as the reverse burden of proof system where a person will be considered guilty until they can prove otherwise. Business actors can include evidence that helps and states that they are not guilty.

3. Presumption of nonliability

This principle is the opposite of the presumption of always being responsible principle. Business actors will not be responsible until they can be proven guilty. This is used in transactions with consumers in a limited scope and is also not implemented absolutely.

4. Strict Liability

This principle requires business actors to be directly responsible for losses resulting from unlawful acts. In this principle, if a business actor is not careful about defective products or products that cause losses, they must be directly responsible.

5. Principle of liability with limitations (Limitation Of Liability)

This principle is considered detrimental to consumers because business actors unilaterally determine the limitation clause in the agreement. However, if

there is an absolute limitation, it must be in accordance with statutory regulations.

Based on the principle of consumer protection and also considering the position of influencers as adjusted to Article 17 of the Consumer Protection Law and the actions of influencers, Influencers who promote and disseminate information about a product that is not registered with BPOM can be held accountable on the basis of errors and negligence.

The dissemination of information on products not registered with BPOM by influencers based on errors occurs when the influencer knows or should know that the product does not have a distribution permit or is not registered with BPOM but still chooses to promote it for personal gain. Influencers who intentionally disseminate product information even though they already know that the product is not registered with BPOM are considered responsible for the dissemination of false and misleading information so that they can be held accountable and prosecuted.

Influencers are considered to have made mistakes based on negligence if they do not pay attention to their obligations. Negligence occurs when influencers promote products that are not registered with BPOM without first checking the products to be promoted. Influencers are considered negligent in not paying attention to whether the product is safe and legal to be distributed to the public. Although they do not have malicious intent, the negligence committed by influencers causes losses to consumers so that influencers are required to be responsible for the negligence committed.

The principle of responsibility based on errors and negligence is more appropriate to be used in situations that occur between influencers and consumers because consumers experience losses due to the influencer's errors and negligence in disseminating information about the products being promoted to the public. This principle is subjective and consumers can file a claim for damages against influencers but by providing evidence that the influencer did not fulfill the obligation to convey information about the quality of the product in accordance with the standards. Products promoted by influencers that are not registered with BPOM are not necessarily safe for consumption or use by consumers and cause consumers to suffer losses due to the product.

Influencers can not only be held accountable based on existing consumer protection principles, but influencers can also be held responsible for deviating from statutory regulations by advertising products that are not BPOM. There are several regulations governing product advertising that must have a distribution permit from BPOM according to the type and category of the product. BPOM Regulation Number 32 of 2021 concerning Supervision of Cosmetic Advertising explains that advertised cosmetics are cosmetics that have and are required to obtain a notification distribution permit. This regulation also explains that the cosmetics are advertised through advertising media, one of which is social media used by influencers as a medium for advertising products. Based on this, influencers can be subject to administrative sanctions in accordance with what has been regulated in Article 10 of BPOM Regulation Number 32 of 2021 concerning Supervision of Cosmetic Advertising. In addition to these

regulations, there are other regulations that regulate cosmetic advertising carried out by but not registered with BPOM, namely BPOM Regulation Number 18 of 2024 concerning Labeling, Promotion and Advertising of Cosmetics. Article 13 explains that promotion and advertising are only carried out by cosmetics that have a distribution permit from the Head of the Agency.

Article 3 of BPOM Regulation Number 6 of 2021 concerning Supervision of Processed Food Advertising explains that anyone who advertises processed food must be responsible for the information conveyed in the advertisement. In this case, it is explained that advertisements conveyed through advertising media must contain true and honest information so as not to cause harm to consumers who consume the product. Meanwhile, BPOM Regulation Number 2 of 2021 concerning Guidelines for Supervision of Drug Advertising explains in Article 2 that advertised drugs must have approval in the distribution permit so that influencers as one of the advertising business actors who advertise drug products that are not BPOM can be subject to administrative sanctions in accordance with the provisions stipulated by BPOM itself.

Although influencers can be held accountable through the existing principle of responsibility and also BPOM regulations governing prohibited acts and sanctions given to influencers, consumers can only hold influencers accountable for advertisements reported by influencers. Meanwhile, product accountability is returned to the business actor as the owner of the product.

2. Consumer Protection Mechanism for Products Promoted by Influencers but Not Registered with BPOM

Nowadays, it is very easy to make a purchase of a product, supported by increasingly sophisticated developments. Consumers can easily find out information about the products they want to buy and consume. Marketing through influencers has become a very effective strategy to attract consumer attention. Not infrequently, consumers find out this information from influencers who are promoting and reviewing a product. The information provided by influencers makes consumers interested in buying and using the product.

The information received by consumers must be correct information so that consumers can use or consume the product safely and comfortably. Safe products to use are products that are registered with BPOM and have gone through various checks. However, many products promoted by influencers are not registered with BPOM, which can pose a risk to consumers. Consumer protection is very necessary to ensure that consumer rights can be fulfilled. Consumer protection is all means taken to ensure legal certainty in protecting the rights of consumers.

In legal protection, the basis of its implementation is known as preventive and repressive legal protection. Preventive legal protection is protection with the aim of preventing a dispute or problem while repressive is protection given after a problem occurs or also final stage protection. In problems that occur to consumers who receive information from influencers who advertise non-BPOM products, repressive legal protection is used which aims to resolve the problem. If consumers experience losses from products that are not registered with BPOM, consumers can report this to BPOM, including products promoted by

influencers. Influencers must also understand the existing regulations, especially those related to distribution permits from BPOM. In a press conference at the BPOM Office, the Head of BPOM, Mr. Taruna Ikrar, emphasized that he would summon influencers who promote products that are not registered with BPOM or illegal products. Influencers will be summoned to BPOM to be given education and sanctions if they promote products that do not meet standards. Sanctions in the form of warnings are given to influencers as a start, then if the promotion carried out by influencers has an impact and results in disability or damage to the community, further action will be taken and the police will take action.

In addition, consumer protection law also has a role to protect and provide legal certainty to consumers who suffer losses from the use of non-BPOM goods promoted by influencers. This legal protection is regulated in the Consumer Protection Law. Article 4 of Law Number 8 of 1999 concerning Consumer Protection explains consumer property rights including the right to obtain clear information and the right to obtain compensation for goods that are not in accordance. However, in this case, consumers can request compensation from influencers in accordance with the provisions of Article 20 of Law Number 8 of 1999 concerning Consumer Protection. Advertising business actors are responsible for the advertisements and the consequences of the advertisements they produce. Consumers who are harmed can also report influencers or advertising business actors to institutions that have the authority to resolve disputes between consumers and business actors and the settlement can be carried out in court or outside the court.

The settlement of consumer disputes carried out in court is explained in Article 48 which states that the settlement of consumer disputes through the courts is regulated in accordance with the applicable general court provisions. Meanwhile, out-of-court dispute resolution is contained in Article 47, out-of-court consumer dispute resolution is carried out in order to reach an agreement on the amount of compensation or regarding the actions to be taken so that the loss will not occur again.

CONCLUSIONS AND RECOMMENDATIONS

Based on the results of the discussion conducted by the author above, the author concludes that:

1. Influencers have a strategic role in conveying product information to the public, but this role is also accompanied by great responsibility. Influencers are required to ensure that the products they promote have been registered with BPOM and comply with safety standards. Negligence or errors in conveying information can cause harm to consumers in terms of health, safety, and finances. The principle of legal responsibility, both due to errors and negligence, emphasizes that influencers can be held accountable for actions taken. Therefore, it is important for influencers to understand the applicable regulations and carry out their roles professionally, not only for personal gain, but also to protect consumers.

2. Consumer protection is very important amidst the rampant promotion of products that are not registered with BPOM via social media. BPOM has a crucial role in supervising products in circulation and ensuring that they are safe and meet applicable legal standards. In addition, BPOM also has the authority to provide education and sanctions to influencers who promote illegal products, ranging from warnings to strict action if the violation has serious consequences. Consumers who are harmed are also protected by Law Number 8 of 1999 concerning Consumer Protection, which gives them the right to receive compensation or damages. In addition, consumers can also report influencers to the authorized institution in resolving consumer disputes.

The suggestions that researchers can put forward are:

1. For the Government and BPOM
The government, especially BPOM, needs to tighten supervision of products promoted through social media. In addition, regulations governing the responsibilities of influencers in promoting products need to be clarified, including the sanction mechanism for influencers who are proven to have violated the rules by promoting illegal products or products without a distribution permit.
2. For Influencers
Influencers as promoters on social media must be more careful in accepting cooperation with business actors. Before carrying out promotions, influencers should ensure that the advertised product has been registered with BPOM and does not contain materials that are harmful to consumers. In addition, influencers also need to increase awareness of their legal responsibilities in disseminating product information.
3. For Consumers
Consumers are expected to be more critical in choosing the products they will use, especially those promoted by influencers on social media. Consumers are also advised to always check the legality of the product through the official BPOM website to ensure the safety and suitability of the product before making a purchase.

ADVANCED RESEARCH

In compiling this article, the researcher realizes that there are still some shortcomings in terms of language, writing, and presentation, considering the limitations of insight and ability. Therefore, in order to perfect this article, the researcher greatly expects input and constructive criticism from various parties.

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