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Liability for Selling Cosmetics under Counterfeit BPOM Numbers on Online Marketplaces: Consumer Protection and Criminal Enforcement in Indonesia

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ABSTRACT

Indonesia's beauty industry has grown quickly, and so has the sale of cosmetics that carry a counterfeit number from the national food and drug authority (BPOM), above all on online marketplaces. This article asks two questions. What liability do business operators bear for cosmetics sold through marketplaces under counterfeit BPOM numbers, under Law No 8 of 1999 on Consumer Protection and BPOM Regulation No 21 of 2022 on cosmetic notification? And how are the law enforced and criminal sanctions applied under Law No 17 of 2023 on Health, the Criminal Code and Presidential Regulation No 80 of 2017 on BPOM? It uses normative legal research with a statute approach, drawing on legislation, official BPOM releases and the secondary literature, and analyses them qualitatively. It finds that an operator's liability rests on the duty to notify cosmetics before they are circulated and on the prohibitions in Article 8 of the Consumer Protection Law, enforced through Article 62(1). Enforcement is tiered, from administrative measures to criminal investigation by BPOM's civil investigators, and the penalties in the Health Law, the Criminal Code and the Consumer Protection Law can be applied together. It also finds that BPOM's supervision cannot keep pace with digital distribution, so consumer protection is not yet fully effective, and that legitimate producers whose numbers are copied lack a clear route to compensation. The article recommends technology-based supervision, a rule that specifically sets out the responsibility of e-commerce platforms, and closer coordination among enforcement bodies.

Keywords: business operator liability; counterfeit BPOM number; consumer protection; online marketplace; criminal sanctions

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1. Introduction

The beauty industry in Indonesia has grown rapidly as awareness of skin care and personal appearance has increased. BPOM, the national food and drug authority, recorded 1,249 cosmetic manufacturers by the end of October 2024, a rise of 16.4 per cent on the year before, and 283,391 cosmetic products notified to it.[1] The products include skin care such as serums, moisturisers and sunscreens, decorative make-up and hair care, and they are sold in physical shops and on digital marketplaces such as Shopee, Tokopedia, Lazada, TikTok Shop and Instagram Shop.

Every cosmetic product circulated in Indonesia must carry a distribution licence number or a notification number issued by BPOM. The number shows that the product has passed checks of safety, efficacy and quality. The legal basis is BPOM Regulation No 21 of 2022 on the Submission of Cosmetic Notifications, which requires every operator to register a cosmetic before it is circulated. Notification requires the full formula, the results of ingredient safety tests, proof of good manufacturing practice for cosmetics (CPKB) and a compliant label. Consumers can check the number with the Cek BPOM application. When the number is counterfeit, every safeguard attached to it falls away, and the consumer uses the product with no assurance of safety from the State.[2]

Counterfeiting of BPOM numbers has become a serious problem in both main channels of sale, shops, traditional markets, salons and pharmacies on one side and online marketplaces on the other. BPOM's cyber patrols in 2025 found 197,725 links selling illegal products on marketplaces, of which 73,722 were illegal cosmetics. BPOM estimated the economic value of the illegal beauty products it prevented from circulating, through takedown recommendations to the Ministry of Communication and Digital Affairs and the Indonesian E-Commerce Association (idEA), at Rp49.82 trillion, with potential protection for about 6.95 million consumers.[3] Physical inspections between October and November 2024 in four main regions found 235 illegal cosmetic items worth more than Rp8.91 billion in shops.[4] In a national operation from 10 to 18 February 2025, BPOM found 91 skin care and cosmetic brands that contained hazardous substances or used a counterfeit distribution licence, with 4,334 items and 205,133 pieces on the market, about 60 per cent of them imported through unofficial routes.[5]

What sets counterfeiting of a BPOM number apart from simply selling an unlicensed product is the active imitation. The operator does not only leave off a number: it prints a notification number made to look like an official one, so that an ordinary consumer cannot tell the difference without checking Cek BPOM. Some operators use the number of another product that is lawfully registered and attach it to a different product. In an enforcement action against production facilities in Klaten and Kudus, Central Java, in May 2025, BPOM's civil investigators found products carrying fictitious registration numbers on their packaging.[6] Even field officers need real-time access to BPOM's database to detect such numbers.

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[1]BPOM press release of 3 December 2024 on cosmetics found to contain prohibited or hazardous substances (November 2023 to October 2024).

[2]Marchella S and others, 'Aspek Legalistas Dan Viralitas dalam Peredaran Kosmetik Tanpa Izin BPOM Di Indonesia' (2025) 2 181.

[3]BPOM press releases of 26 May 2025 and 4 March 2026 on illegal products sold on marketplaces during 2025.

[4]BPOM press release of 30 December 2024 on illegal cosmetics found in four regions.

[5]Marchella and others (2025).

[6]BPOM press release of 26 May 2025 on action against production facilities and circulation of illegal medicines and traditional medicines in Klaten and Kudus. The products found there were medicines and traditional medicines, not cosmetics; the case shows the method of counterfeiting.

Laboratory tests are central to proving the danger. Because these products never passed BPOM's evaluation, their contents are uncontrolled. Tests of illegal beauty products found in 2024 showed prohibited substances such as mercury, rhodamine B, hydroquinone above the safe limit, retinoic acid and lead. The head of BPOM has explained that mercury in cosmetics can damage the kidneys and the nervous system and cause genetic abnormalities in the foetus, while rhodamine B, a textile dye, is carcinogenic and can cause liver cancer after long topical use. The test results are the principal evidence in investigation and prosecution.

Consumers suffer financially as well as in health: the price paid, and possibly the cost of treating severe skin irritation, hyperpigmentation or mercury-related kidney damage. A study of consumer awareness found that most consumers do not know how to verify a BPOM number, which leaves them highly exposed to fraud on marketplaces, a problem made worse by social media promotion by influencers who do not always check what they advertise.[7] Legitimate producers are harmed too. They pay a notification fee of Rp100,000 per product under Government Regulation No 32 of 2017 on non-tax state revenue, laboratory testing that can cost tens of millions of rupiah per product, and CPKB certification. A competitor that counterfeits the number bears none of these costs, which distorts the market and erodes consumer trust in the whole sector.

The earlier literature has limits. Work on consumer protection in e-commerce describes obstacles to applying regulation in general but does not treat counterfeit BPOM numbers on beauty products.[8] A study of enforcement against illegal cosmetics sold through e-commerce by BPOM's civil investigators in Makassar is valuable empirically but covers one region.[9] A study of the effectiveness of protection against cosmetics without a distribution licence predates Law No 17 of 2023 on Health, which sharply raised the penalties.[10] Studies of digital regulation in Asia find that weak digital supervision increases the risk that illegal products circulate, without examining Indonesian law.[11] None of them links BPOM's supervision directly to the criminal liability of the operator. This article joins consumer protection, BPOM supervision and criminal law in one analysis.

It has two aims. The first is to analyse the liability of business operators for cosmetics sold through marketplaces under counterfeit BPOM numbers under the Consumer Protection Law and BPOM Regulation 21/2022. The second is to examine the enforcement mechanism and the criminal sanctions available under the Health Law, the Criminal Code and Presidential Regulation 80/2017, in the setting of digital marketplaces.

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2. Method

The research is normative legal research. It studies legal norms in legislation, legal principles and doctrine on consumer protection and the sale of products under counterfeit BPOM numbers. It is prescriptive: it argues how the law should be applied and how legal protection of consumers can be made effective. The approach is a statute approach, a systematic examination of the laws on consumer protection and on the sale of products with counterfeit numbers: Law No 8 of 1999 on Consumer Protection, Law No 17 of 2023

[7]Nanda AP and Hapsari IP, 'Administrative Criminal Reform In Providing Accountability For Skincare Actors That Haven't Registered With Bpom' (2025) 11 174.

[8]Sihombing RE and others, 'Perllindungan Konsumen dalam E-Commerce di Indonesia (Hambatan Penerapan Regulasi Antara Penerapan Dan Pengawasan)' (2024) 6 58.

[9]Sofyan AM and Muin AM, 'Upaya Penegakan Hukum Peredaran Kosmetik Ilegal Melalui E-Commerce Oleh PPNS BPOM Makasar' (2023) 5(3) 1013.

[10]Hartanto and Syafiina CWM, 'Evektifitas Perlindungan Konsumen Terhadap Produk Kosmetik Yang Tidak Memiliki Izin Edar' (2021) 1 54.

[11]Putra DSYA, 'Peran Regulasi Dalam Mengatur Perdagangan Online Di Indonesia' (2023) 3(2) 462.

on Health, the Criminal Code, Presidential Regulation No 80 of 2017 on BPOM and BPOM Regulation No 21 of 2022 on cosmetic notification. It also draws on BPOM Regulation No 14 of 2024 on the supervision of medicines and food circulated online.

The data come from library research. The primary legal materials are the legislation just listed. The secondary materials are textbooks, scholarly articles, earlier studies, doctrine and BPOM's official press releases. The tertiary materials are legal dictionaries and encyclopaedias. The materials were inventoried, classified by theme (consumer protection, BPOM supervision, criminal law), interpreted qualitatively and presented descriptively. The scope is the public-law routes: administrative liability under the Consumer Protection Law and Regulation 21/2022 for the first question, and criminal liability under the Health Law and the Criminal Code for the second. A civil claim for unlawful acts is discussed only briefly, as an additional remedy for legitimate producers.

3. Framework

3.1 Theories

Four theories frame the analysis. The theory of legal protection of Philipus Hadjon requires law to give certainty, justice and benefit to citizens, especially to the weaker party, and separates preventive protection (regulation and supervision before a violation) from repressive protection (enforcement and sanctions after it).[12] Here it is used to ask whether the Consumer Protection Law, the Health Law, Regulation 21/2022 and Presidential Regulation 80/2017 protect consumers of beauty products adequately.

Product liability theory holds that business operators answer for the harm caused by the products they make or trade, above all when the products fail the required safety standards. In Indonesian law, Article 19 of the Consumer Protection Law obliges operators to compensate damage, pollution or loss suffered by consumers from goods that do not meet the standard, and Article 62(1) threatens imprisonment of up to five years or a fine of up to Rp2 billion.[13] Criminal liability theory holds that a person answers criminally when there is an unlawful act (*actus reus*) and fault in the form of a guilty mind (*mens rea*). The deterrence theory of Jeremy Bentham holds that firm and certain penalties deter potential offenders, specifically by preventing repetition by the same offender and generally by discouraging others.[14]

3.2 Key concepts

Under Article 1(3) of the Consumer Protection Law a *business operator* is any individual or business entity, legal or not, that carries on business in Indonesia, alone or jointly by agreement. The term is wide enough to cover producers, importers, distributors and small resellers on marketplaces. A distributor passes products from the producer or importer to consumers without producing them or changing their formula; a reseller or dropshipper on a marketplace can still be held liable if it knew or should have known that the product used a counterfeit BPOM number.[15] A *counterfeit BPOM number* is a number that appears on the packaging of a beauty product but was never lawfully issued by BPOM, either a fictitious number that is

[12]Hartanto and Syafiina (2021).
[13]Mulyati AS and others, 'Kajian Literatur: Tanggung Jawab Hukum Platform Marketplace terhadap Peredaran Kosmetik Ilegal di Indonesia' (2026) 5(1) 6824.
[14]Putri L and Imanullah MN, 'Perlindungan Konsumen Terhadap Produk Kosmetik Tanpa Izin Edar Dari Badan Pengawas Obat dan Makanan (BPOM)' (2023).
[15]Piyo S and others, 'Rekontruksi Peran Reaktif BPOM Terhadap Pengawasan Overclaim Produk Skincare' (2025) 3 33.

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not registered at all or the number of another, registered product attached to a different product. This differs from a cosmetic without any distribution licence, because here the operator actively creates a false impression of legality.

A *consumer* is, under Article 1(2), any user of goods or services available in society for their own interest or that of family, other people or other living beings, and not for resale. The marketplace operators, called organisers of trade through electronic systems under Government Regulation No 80 of 2019, provide the electronic means for transactions and are distinct from the merchants who sell on them. Under Article 22 of that Regulation the platform's liability is conditional: it arises when the organiser neglects supervision and does not remove illegal content promptly once it knows of it.

3.3 The legal basis of BPOM supervision

BPOM's powers rest on layered legal bases. Article 138(2) of Law No 17 of 2023 on Health requires every cosmetic circulated in Indonesia to meet the safety, efficacy and quality standards set by the government, and Article 435 punishes breach with imprisonment of up to 12 years and a fine of up to Rp5 billion.[16] Articles 29 and 30 of the Consumer Protection Law make the Government responsible for guiding and supervising consumer protection. Presidential Regulation No 80 of 2017 sets out BPOM's duties and functions, including supervision before and during circulation and enforcement through its civil investigators (PPNS BPOM).[17] Regulation 21/2022 is the technical regulation that most directly requires notification, and BPOM Regulation No 14 of 2024 gives BPOM power to patrol marketplaces and requires e-commerce platforms to cooperate in blocking illegal beauty products.[18]

Together these produce a tiered structure of sanctions for an operator that sells beauty products under a counterfeit BPOM number, summarised in Table 1. Article 63 of the Consumer Protection Law also allows additional penalties, which can be combined with BPOM's administrative sanctions of revoking the notification number and banning circulation.

Table 1. Provisions and maximum penalties for selling cosmetics under a counterfeit BPOM number. Source: the authors' compilation from the legislation as cited in this article.

Provision	Offence	Maximum penalty
Health Law 2023, Article 435 with Article 138(2)	Circulating cosmetics that do not meet safety, efficacy and quality standards	Imprisonment of 12 years and a fine of Rp5 billion
Consumer Protection Law, Article 62(1) with Article 8(1)(a) and (j)	Trading goods that do not meet required standards or lack correct information	Imprisonment of 5 years or a fine of Rp2 billion
Criminal Code, Article 263(1)	Forgery of a document that can give rise to a right	Imprisonment of 6 years

[16]Bariyah K, 'Wewenang Pegawai Negeri Sipil BPOM Dalam Penyidikan Tindak Pidana Peredaran Obat Dan Makanan Di Indonesia' (2024) 15 14.

[17]Prabowo DE and others, 'Pengaturan Pengawasan Badan Pengawasan Obat Dan Makanan (BPOM) Dalam Perlindungan Konsumen' (2021) 2(2) 1.

[18]Humairoh A and others, 'Perlindungan Hukum Terhadap Konsumen Obat Dan Makanan Yang Diperdagangkan melalui Platfrom Shopee Berdasarkan Peraturan BPOM Nomor 14 Tahun 2024' (2024) 31 11969.

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Provision	Offence	Maximum penalty
Criminal Code, Article 378	Fraud by deception	Imprisonment of 4 years

4. Results and Discussion

4.1 Liability of the business operator

The operator's liability cannot be separated from the supervisory framework that creates its duties. The article therefore begins with the Government's supervisory powers, then turns to the operator's duty of notification under Regulation 21/2022 and to the forms of liability that follow when the duty is breached by counterfeiting a distribution number.

4.1.1 Articles 29 and 30 of the Consumer Protection Law

Article 29(1) makes the Government responsible for guiding the organisation of consumer protection so that the rights of consumers and operators are secured and their duties are carried out, and Article 29(2) assigns this guidance to the minister and/or the relevant technical minister. BPOM is a technical agency that performs the supervision of medicines and food under this mandate. Article 30 gives supervision to three pillars: the Government, society and non-governmental consumer protection bodies; supervision by the Government is carried out by the minister and/or the technical minister. BPOM, a non-ministerial government agency responsible to the President that coordinates technically with the minister of health, performs this technical supervision for medicines, cosmetics, processed food and health supplements.

Read together, the two articles mean that the State, through BPOM, is not only entitled but obliged to prevent and act against the circulation of products that use counterfeit distribution numbers, because that circulation threatens the consumer's rights to safety and to correct information under Article 4(a) and (c).[19] Article 2 of Presidential Regulation 80/2017 gives BPOM the task of supervising medicines and food, including cosmetics, and Article 3 lists its functions: policy making, supervision before and during circulation, and enforcement against violations. The enforcement function includes investigation by BPOM's civil investigators, who coordinate with the national police's coordination unit for civil investigators.[20]

4.1.2 Forms of supervision

BPOM works in three main ways against products with counterfeit numbers. The first is *pre-market* supervision: before a number is issued, BPOM verifies the documents, formula and product information submitted by the operator. This is the stage at which BPOM can detect that a number is requested for a product different from the one that will actually be sold.[21] The second is *post-market* supervision: inspection of production and distribution sites, sampling in the field and laboratory tests of products on the market.[22]

[19]Mulyati and others (2026).
[20]Hamzah IF, 'Peran PPNS BPOM Dalam Penegakan Hukum Pangan Olahan Impor Ilegal' (2022) 36 66.
[21]Marchella and others (2025).
[22]Suyudi I and others, 'Analisis Pengawasan Post-Market Badan Pengawas Obat dan Makanan pada Peredaran Kosmetik Berbahaya' (2022) 6 135.

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The inspections in four regions between October and November 2024 that found 235 illegal cosmetic items are an example. The third is *cyber patrol*, increasingly the spearhead of supervision as online trade grows, with a stronger legal footing since BPOM Regulation 14/2024.[23] The 2025 patrols described in the Introduction found 197,725 links, 73,722 of them for illegal cosmetics.

In practice, enforcement moves in stages from administrative action to prosecution.[24] First comes identification and sampling, in which officers take samples of suspect products and have them tested; the test results show whether a product contains hazardous substances or fails the standard. Second is administrative action: withdrawing the product from circulation, blocking sales links and warning the operator. Third, where there are strong indications of a crime, BPOM's civil investigators open a criminal investigation (*pro justitia*) in coordination with the police unit. A case shows the sequence. In March 2023, BPOM, with its regional offices and the police, found and seized evidence worth Rp7.7 billion at an illegal cosmetics factory in North Jakarta that had no distribution licence, and the case was pursued under Article 62(1) with Article 8(1)(a) of the Consumer Protection Law.[25] BPOM therefore acts not only as an administrative supervisor but as an active participant in criminal enforcement.

4.1.3 Limits of supervision in digital trade

Despite this capacity, three structural gaps limit supervision of products with counterfeit numbers. First, a counterfeit number is much harder to detect than a missing one, because it is designed to look like an official number. Ordinary consumers and field officers alike need access to BPOM's database to verify a number in real time. BPOM offers Cek BPOM through an application and a website, but limited digital literacy in part of the public is an obstacle.[26] Second, coordination among agencies is still hampered when circulation crosses jurisdictions, as it does when distribution networks reach across regions and even countries; this calls for closer cooperation among BPOM, the police, prosecutors and local governments within one framework.[27] Third, new illegal products appear on digital platforms faster than BPOM can check them manually. Patrols that find hundreds of thousands of links each year show that present capacity cannot stop circulation altogether. Strengthening BPOM Regulation 14/2024, which obliges e-commerce platforms to verify products, matters because it moves part of the burden of supervision to platforms that have direct access to sellers' data.[28]

4.1.4 The duty of notification and the forms of liability

Regulation 21/2022 requires every operator that produces or imports a cosmetic to obtain a notification from BPOM before the product is circulated. The notification covers the full formula, ingredient safety tests, CPKB certification and a compliant label. The number issued after BPOM's verification is proof that the operator has met all the administrative and technical duties. The operator's responsibility for the number printed on its packaging therefore attaches from the moment notification is applied for, not only after the product is on the market.

[23]Sihombing and others (2024).
[24]Piyo and others (2025).
[25]BPOM press release on action against an illegal cosmetics factory suspected of containing prohibited substances (2023).
[26]Mulyati and others (2026).
[27]Pesulima TL and Matuankotta JK, 'Perlindungan Konsumen Terhadap Peredaran Produk Kesehatan Ilegal di era Pandemik Covid-19 Di Kota Ambon' (2021) 27(28) 160.
[28]Humairoh and others (2024).

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An operator that prints a counterfeit notification number is in effect trying to avoid the whole series of duties in the Regulation, including safety testing and CPKB certification. It breaches the technical rules of notification, and it also meets the elements of Article 8(1)(a) and (j) of the Consumer Protection Law, because it trades products that do not meet the required standard and do not carry correct information. Two kinds of liability follow. The first is administrative: revocation of the notification, withdrawal of the product and a ban on production. The second is criminal liability under Article 62(1) of the Consumer Protection Law. The combination shows that the duty to notify is not an administrative formality but the legal basis on which the operator answers fully for its products.

These findings agree with earlier work, and add to it. Research on BPOM's supervision of illegal health products during the Covid-19 pandemic found that its performance was limited by heavier workloads and scarce resources, which fits the conclusion here that BPOM's capacity, although growing, still faces structural challenges; this article adds the specific enforcement mechanism against counterfeit numbers as a mode distinct from selling without any licence.[29] Work on the obstacles to applying consumer protection rules in e-commerce concluded that coordination between regulator and platforms is weak; this article agrees and adds the role of Regulation 14/2024, the newest instrument that expressly sets platforms' duties in supervising illegal products.[30]

4.2 Enforcement and criminal sanctions

4.2.1 The Health Law and the Criminal Code

Law No 17 of 2023 on Health is the most important instrument for the second question because its penalties are far heavier than those of the Consumer Protection Law. A product with a counterfeit BPOM number has never gone through the evaluation on which compliance with the standard of Article 138(2) is based, so the breach of that provision is complete as soon as the product is circulated without a lawful notification. Article 435 punishes it with up to 12 years' imprisonment and a fine of up to Rp5 billion, much more than Article 62(1) of the Consumer Protection Law.

The Criminal Code is also relevant. A counterfeit notification number can be treated as a forged document that serves as evidence that a good may be circulated; Article 263(1) on forgery of documents carries up to six years' imprisonment. Article 378 on fraud may also apply, because the operator uses a trick, a false BPOM number, to induce consumers to hand over money for a product they believe is safe, with up to four years' imprisonment.[31] The three provisions, Article 435 of the Health Law and Articles 263 and 378 of the Criminal Code, may be applied cumulatively, so an operator can face a combined penalty far heavier than under Article 62 of the Consumer Protection Law alone.

The mechanism runs through the investigation described above: BPOM's civil investigators, coordinating with the police unit, acting under Presidential Regulation 80/2017. The difference lies in the offence the prosecutor charges. Where breach of the safety standard is dominant, Article 435 of the Health Law is the main charge; where forgery and fraud are more prominent, Articles 263 and/or 378 of the Criminal Code can be charged alternatively or cumulatively. The heavier penalties in the Health Law reflect a legislative

[29]Pesulima and Matuankotta (2021); Kurniasanti and Setiyono, 'Urgensi Pengaturan Pengawasan dan Penegakan Hukum Oleh BPOM Terhadap Tindak Peredaran Obat dan Makanan Ilegal' (2021) 12(2) 71.
[30]Putra (2023).
[31]Hamzah (2022).

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shift: counterfeiting of a cosmetic's distribution number is no longer seen as only an administrative matter of consumer protection but as a serious threat to public health that calls for a stronger deterrent effect.

4.2.2 Criminal liability under the Consumer Protection Law

The Consumer Protection Law itself provides for criminal liability. Article 61 states that criminal prosecution may be brought against the business operator and/or its management. Article 62(1) threatens an operator that breaches Article 8 with up to five years' imprisonment or a fine of up to Rp2 billion. Using a counterfeit distribution number meets the elements of Article 8 in at least three ways. The product does not meet the required standard, because it never went through BPOM's testing and evaluation. It does not comply with the legislation that requires a lawful distribution licence before circulation, which for cosmetics is Regulation 21/2022. And it carries incorrect labelling, because the number on the package is false and cannot be verified in BPOM's database. Producing or trading a product under a counterfeit BPOM number therefore meets the offence in Article 8 directly and can be punished under Article 62(1).[32]

4.2.3 Mens rea and corporate liability

Criminal liability requires an unlawful act and a guilty mind. The act is met when a fictitious distribution number is printed on the packaging and the product is circulated. The guilty mind is in general intention (*dolus*), because counterfeiting a number is planned and deliberate: an operator that counterfeits a BPOM number knows its product has no lawful distribution licence and acts to mislead consumers and supervisors.[33] Intention is what separates the crime from an administrative lapse. An operator that merely forgot to renew an expired licence may not be a perpetrator under Article 62(1) because intention is absent, while one that makes and prints a fictitious number plainly has the guilty mind that makes it criminally responsible. Offences in the field of medicines and food committed intentionally carry heavier consequences than those committed through negligence alone.[34]

Because many operators that circulate such products are business entities, corporate criminal liability matters. In Indonesian criminal law, a corporation can answer for acts done by its management in the course of its business, so that not only the individuals who took part in counterfeiting but also the corporation that profits from circulation can be punished.[35] Article 61 reflects a dual liability approach, allowing a corporation and its managers to be prosecuted at the same time. BPOM has applied it in practice: in a case in May 2023 involving the sale of illegal medicines through marketplace accounts, with more than 10,000 packages worth Rp18 billion, its civil investigators named individual suspects and widened the investigation to find the network behind the distribution.[36]

4.2.4 BPOM in prosecution, and compensation

BPOM is more than an administrative supervisor; it is an important actor in prosecution. Under Presidential Regulation 80/2017 it has power to take action against violations in the field of medicines and food, and its civil investigators exercise the power of investigation in a way that is integrated with the criminal justice

[32]Hartanto and Syafiina (2021).
[33]Harefa S and Nashir MA, 'Pertanggungjawaban Pidana Korporasi Dalam Kasus Tindak Pidana Lingkungan Hidup Di Indonesia' (2023) 6 36.
[34]Hamzah (2022); Bariyah (2024).
[35]Hot I and others, 'Tinjauan Yuridis Terhadap Pelaku Usaha Penjualan Kosmetik Ilegal Di Indonesia' (2024) 6(2) 7581.
[36]Wismaya IR and Syam H, 'Pertanggungjawaban Hukum BPOM dan Pelaku Usaha terhadap Peredaran Toxin dalam Obat Paracetamol Sirup' (2022) 4 574.

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system. The sequence is that BPOM finds indications of a violation; its investigators investigate *pro justitia* in coordination with the police unit; the file goes to the prosecution service; and the case is tried in court.[37] The investigation includes examining witnesses and suspects, seizing evidence, searching premises and drawing up official records. In the Klaten and Kudus case, investigators named suspects, took statements from 18 witnesses and kept all the evidence in BPOM's evidence store in Semarang for the court proceedings.[38]

The question of compensation for those harmed finds an answer in the additional penalties of Article 63 of the Consumer Protection Law. Besides the principal penalty of imprisonment or a fine, the court may order forfeiture of certain goods; publication of the judgment; payment of compensation; an order to stop certain activities that cause loss to consumers; an obligation to withdraw goods from circulation; or revocation of the business licence. Compensation can therefore be asked for in the criminal judgment itself, without a separate civil claim. In theory this serves efficiency and gives victims more certainty than a separate civil claim with a heavier burden of proof.[39] In practice, however, prosecutors seldom use compensation as an additional penalty in cases about illegal products, which is a gap to correct.

The research also finds a dimension that is often neglected: the loss suffered by a legitimate producer whose lawful number is copied onto another, cheaper product. Its brand reputation and consumers' trust may fall because of the poor quality of the counterfeit goods. The loss is real and can be shown through sales data, but redress needs a different route from that of consumers.[40] Three mechanisms are available in parallel. The producer can report to BPOM's civil investigators or the police; it can bring a civil claim for its loss, including lost profit from falling sales; and it can ask BPOM to supervise more intensively products that use its number without permission. The framework allows these routes, but the lack of a standard, integrated procedure means that redress is not yet working well.[41]

4.3 Deterrence and practical implications

The deterrence theory is a useful test. The penalties in Article 62(1) of the Consumer Protection Law, five years and Rp2 billion, are normatively significant, and the Health Law's twelve years and Rp5 billion are heavier still. But deterrence depends not only on the size of the threatened penalty but on the probability of being caught and tried. The fact that the number of illegal products found rises every year suggests that offenders perceive that probability as low, so that the threat has not produced the desired deterrent effect.[42]

Two approaches are therefore needed together. BPOM must keep raising the effectiveness and speed of enforcement so as to raise the probability that offenders are caught. The criminal justice system must make sure that every file that BPOM's investigators send to the prosecution service is followed by consistent and firm prosecution, with the additional penalty of compensation under Article 63 used where consumers have been harmed. The findings also support the view that supervision is a fundamental instrument for securing compliance with the law: BPOM's increasingly active digital supervision, shown by enforcement figures that

[37]Supreme Court Regulation No 13 of 2016 on the procedure for handling criminal cases by corporations.
[38]Suyudi and others (2022).
[39]Silalahi PH and Soemartono GP, 'Pertanggungjawaban Pengusaha Atas Produk Skincare Merek Palsu pada Marketplace Shopee' (2024) 6(4) 617.
[40]Lestari IRP and Sitabuana TH, 'Analisan Perlindungan Hukum terhadap Konsumen Pemalsuan Merek Produk' (2023) 13 70.
[41]Bariyah (2024).
[42]Aini Z and Maharani DB, 'Analisis Penerapan Saksi Pidana terhadap Tindak Pidana Mengedarkan Obat Keras Golongan G' (2026) 6(01) 20.

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rise from year to year, is the right response to digital trade. But supervision without consistent criminal enforcement will have a limited effect on reducing illegal circulation in a substantial way.

5. Conclusion

The circulation of products under counterfeit BPOM numbers in Indonesia is not occasional but systemic, shaped by modern trade and above all by the digital ecosystem. The large number of illegal products found on e-commerce platforms shows that counterfeiting exploits gaps in supervision and so threatens consumers' safety widely.

On the first question, the liability of the business operator is built from two sources. Under the Consumer Protection Law, the duty is rooted in Articles 29 and 30, which place the Government, through BPOM, in charge of supervision, so that an operator that breaches the required standards answers under Article 8 with Article 62(1). Under BPOM Regulation 21/2022, the liability comes from the duty of notification, which covers the formula, safety tests and CPKB certification; counterfeiting the number is an attempt to avoid all of them and gives rise to administrative liability, namely revocation of the notification and withdrawal of the product, as well as criminal liability. BPOM's supervision, on which this construction depends, still faces structural and technical obstacles in keeping pace with the speed and reach of digital distribution, so consumer protection is not yet fully effective.

On the second question, enforcement and criminal sanctions are tiered and complementary. The Health Law supplies the heaviest penalty, up to 12 years and Rp5 billion under Article 435 with Article 138(2), which can be applied cumulatively or alternatively with the forgery and fraud provisions of the Criminal Code and with Article 62(1) of the Consumer Protection Law. Enforcement is carried out by BPOM's civil investigators under Presidential Regulation 80/2017, from identification and sampling through administrative action to investigation *pro justitia* in coordination with the police unit. Counterfeiting a number is deliberate and so meets the requirement of a guilty mind, but enforcement is still not optimal, as the high volume of illegal products shows. Legitimate producers whose numbers are copied suffer loss for which the available routes to compensation are not yet clear in procedure.

The study has limits. It is a statute-based study and does not include interviews with BPOM, business operators, consumers or platforms; further empirical research should do so and should extend to other products, such as medicines and food, where the health risk is higher. Several recommendations follow. BPOM and the Government should strengthen technology-based supervision, including automatic verification of BPOM numbers on e-commerce platforms, expand cyber patrols and speed up takedowns with the Ministry of Communication and Digital Affairs and the platforms. Regulation should be updated to set out specifically the responsibility of e-commerce platforms for the authenticity of products sold. Law enforcement should be firm and consistent, with early detection and coordination among agencies and with compensation ordered where consumers are harmed. Legitimate producers should protect their products with authentication codes, QR codes or tracking systems, and report misuse of their numbers quickly. Consumers should verify products with BPOM's official system rather than rely on the number printed on the package. Protection of consumers against products with counterfeit BPOM numbers is a shared responsibility of the Government, business and society, and it needs an integrated, adaptive and sustained approach.

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