

JURIDICAL ANALYSIS OF CONSUMER PROTECTION IN COUNTERFEIT DRUG TRANSACTIONS IN THE DIGITAL ERA

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ABSTRACT

The circulation of counterfeit drugs through online transactions has become a significant threat to consumers in Indonesia. This study aims to analyze the implementation of legal regulations for consumer protection, particularly concerning counterfeit drug distribution, while identifying relevant challenges and potential solutions. A normative juridical approach was employed, involving a literature review of regulations such as Law Number 8 of 1999 and Government Regulation Number 71 of 2019. The findings reveal that despite the existence of regulations, their implementation faces various obstacles, including weak enforcement, insufficient consumer education, and legal loopholes exploited by business actors. Proposed solutions include strengthening regulations, enhancing enforcement mechanisms, and fostering collaboration among institutions to establish a more effective legal protection system. This study provides a novel perspective on the critical role of collaboration between the government, digital platforms, and society in addressing the circulation of counterfeit drugs in the digital era.

Keywords: Consumer protection, counterfeit drugs, online transactions, regulations, law enforcement, e-commerce, Consumer Protection Law.

INTRODUCTION

The distribution of counterfeit drugs through e-commerce platforms has emerged as a serious issue in Indonesia. This phenomenon encompasses not only legal aspects but also poses significant risks to consumer health and safety. Barkatullah (2017) noted that weak monitoring of drug circulation on digital platforms creates opportunities for illegal actors to market counterfeit products. Furthermore, existing regulations often fail to keep pace with rapid technological advancements.

E-commerce platforms are frequently used as avenues for selling unregistered drugs (Muliasari & Sukranatha, 2020). Government Regulation Number 71 of 2019 on the Implementation of Electronic Systems and Transactions outlines the responsibilities of digital platforms. However, its implementation remains weak, allowing counterfeit products to circulate with minimal oversight.

Nugrahaningsih and Erinawati (2017) highlighted the limited consumer awareness of their rights. Consumers often lack knowledge of how to verify the authenticity of purchased products, increasing health risks. Giovanni and Indrawati (2022) emphasized that the composition of drugs not aligning with provided information violates Article 8 of Law Number 8 of 1999 on Consumer Protection, which prohibits businesses from providing misleading information.

According to Widyaningrum and Islamiati (2022), the dissemination of counterfeit drugs through digital platforms often stems from a lack of accountability among business actors. These actors frequently argue that they merely act as intermediaries, as discussed by Sukmawati and Purwanto (2021) in their study on business actors' responsibilities in the online sale of counterfeit drugs. This ambiguity creates difficulties for consumers in seeking legal protection.

Pambudi and Raharjo (2020) identified unregistered traditional medicines as another unresolved issue. Monitoring the circulation of such drugs remains weak, particularly in remote areas. Mandala and Bagiastra (2020) pointed out that inaccurate product labeling often causes consumer confusion, necessitating stricter supervision.

Rumapea (2021) observed that social media use as a promotional tool increases the risk of counterfeit drug distribution. This practice violates Article 45 of Law Number 19 of 2016 on Electronic Information and Transactions (ITE), which prohibits disseminating information that could harm consumers.

Wedhaswari and Martana (2023) revealed that e-commerce platforms often fail to ensure the authenticity of products sold on their platforms. Article 19 of the Consumer Protection Law obligates businesses to be accountable for consumer losses, but the implementation of this responsibility remains notably weak.

Pradnyaswari and Westra (2020) noted that transactions using e-commerce services leave numerous legal gaps that enable ongoing violations. This situation is exacerbated by the government's lack of involvement in educating the public, as highlighted by Kirana, Abbas, and Rustan (2022), who stressed that consumer protection efforts must encompass both law enforcement and public education. Pramewari and Joesoef (2020) reported that during the COVID-19 pandemic, the circulation of illegal drugs increased by exploiting the emergency situation. This underscores how weak monitoring enables business actors to violate the law.

Putra and Sukihana (2018) emphasized the need for specific regulations to clarify the responsibilities of online marketplace providers. Such regulations should include product verification aspects, as suggested in the Indonesian Food and Drug Supervisory Agency Regulation Number 8 of 2020 on Guidelines for the Electronic Sale of Drugs.

The issue of counterfeit drug circulation reflects weaknesses in the legal protection system for consumers, requiring new approaches to address these challenges in the digital era. Previous studies have explored various aspects of consumer protection in online

transactions; however, specific discussions on legal consumer protection against counterfeit drug circulation remain limited. Most research focuses on general monitoring or business actor responsibilities without delving into the effectiveness of regulatory implementation in this sector.

This study offers a novel approach by deeply examining the implementation of legal regulations for consumer protection in online counterfeit drug transactions, identifying barriers and solutions to the enforcement of relevant regulations, such as Government Regulation Number 71 of 2019 and Indonesian Food and Drug Supervisory Agency Regulation Number 8 of 2020. The research aims to analyze the implementation of legal regulations for consumer protection in online counterfeit drug transactions and identify challenges and solutions in law enforcement related to this issue.

METHODS

This study employs a normative juridical approach, focusing on a literature review of legal regulations, legal doctrines, and scholarly journals related to consumer legal protection. This method was chosen because the research topic emphasizes the analysis of applicable legal norms and their implementation in the context of consumer protection against the circulation of counterfeit drugs through online transactions. This approach facilitates a systematic analysis of relevant legal frameworks, such as Law Number 8 of 1999 on Consumer Protection, Government Regulation Number 71 of 2019 on the Implementation of Electronic Systems and Transactions, and the Indonesian Food and Drug Supervisory Agency Regulation Number 8 of 2020.

Data collection was conducted through a library research process, examining primary, secondary, and tertiary legal materials. Primary legal materials include relevant legislation, while secondary materials consist of books and scholarly articles discussing consumer protection, e-commerce, and drug circulation regulations. Tertiary materials, such as legal dictionaries and encyclopedias, were used to clarify the concepts analyzed. Data validity in this research was ensured through the triangulation of legal materials, which involved cross-referencing various relevant sources to maintain consistency and accuracy. This approach aimed to avoid misinterpretations of the regulations and legal doctrines used.

Data analysis was conducted using a descriptive qualitative method to describe, interpret, and evaluate legal materials, focusing on how existing legal norms can be applied to cases involving counterfeit drug circulation in online transactions. The analysis also identified barriers to law enforcement and proposed recommendations for solutions based on the findings. This research relies solely on literature studies, excluding primary data collection methods such as interviews or surveys, aligning with its normative juridical approach, which emphasizes analyzing legal texts and evolving doctrines. The analyzed regulations form the legal framework that underpins the research questions.

RESULTS AND DISCUSSION

Implementation of Legal Regulations for Consumer Protection in Online Counterfeit Drug Transactions

Legal protection for consumers affected by the circulation of counterfeit drugs through online transactions is governed by various regulations, including Law Number 8 of 1999 on Consumer Protection (UUPK). Article 4 of the UUPK stipulates that consumers have the right to accurate and clear information about the products they purchase. However, the implementation of these regulations in digital transactions often faces significant challenges. Nugrahaningsih and Erinawati (2017) highlighted that information provided by businesses on e-commerce platforms is often incomplete, making it difficult for consumers to verify the authenticity of the drugs they purchase.

In addition, Government Regulation Number 71 of 2019 on the Implementation of Electronic Systems and Transactions mandates that electronic system providers ensure the reliability and security of transactions. Wedhaswari and Martana (2023) found that many e-commerce platforms fail to comply with this obligation, arguing that the primary responsibility lies with the business actors selling products on their platforms. This creates legal loopholes, leaving consumers inadequately protected.

The Indonesian Food and Drug Supervisory Agency (BPOM) Regulation Number 8 of 2020 on the Online Sale of Drugs provides specific guidelines for online drug transactions. Giovanni and Indrawati (2022) noted that this regulation requires business actors to provide complete information about the drugs they sell, including distribution permits and authenticity certifications. However, many businesses fail to comply with these rules, resulting in continued consumer harm.

Research by Ilham (2022) revealed that law enforcement against business actors violating the rules is often hindered by a lack of coordination between BPOM and the police. While BPOM has the authority to oversee compliance, further legal actions require the intervention of law enforcement agencies, which are often slow.

Rumapea (2021) identified social media as an emerging challenge for the government, with increasing use as a promotional tool for illegal drugs. Article 45 of the Law Number 19 of 2016 on Electronic Information and Transactions (ITE) provides a legal basis for taking action against actors who disseminate false or misleading information. Despite the existence of this legal foundation, its enforcement remains weak.

The unchecked dissemination of counterfeit drug information through social media poses significant risks to public health and safety. This underscores the need for greater efforts by the government and authorities to enhance oversight and law enforcement against illegal practices on digital platforms. Without firm and effective measures, the public will remain exposed to misleading information, endangering their health and well-being.

Kirana, Abbas, and Rustan (2022) emphasized that low consumer literacy regarding their rights is one of the main barriers to implementing regulations. Many consumers are unaware of their right to legal protection against substandard products. Consumer education is a critical factor that the government must prioritize to improve the effectiveness of legal protection.

Research by Mandala and Bagiastra (2020) demonstrated that unclear product labeling is often a major cause of violations of consumer rights. Many drugs sold online lack proper composition information, violating Article 8 of the UUPK. This exacerbates the situation as consumers have no means to verify product authenticity.

Furthermore, the responsibility of business actors for consumer losses caused by counterfeit drugs remains a contentious issue. Sukmawati and Purwanto (2021) noted that business actors often claim they are merely intermediaries, placing the primary responsibility on producers. This stance contradicts Article 19 of the UUPK, which states that business actors are liable for consumer losses resulting from the products they sell.

Pradnyaswari and Westra (2020) suggested that existing regulations should be reinforced with stricter product verification mechanisms on e-commerce platforms. Platforms should be required to verify the authenticity of every product before it is allowed for sale. This measure could significantly reduce the circulation of counterfeit drugs.

Putra and Sukihana (2018) highlighted the critical role of e-commerce application providers in ensuring transaction security. Regulations that mandate platform providers to be directly responsible for the products sold on their platforms could enhance legal protection for consumers. However, as of now, this responsibility has not been explicitly addressed in the existing regulations.

Barriers and Solutions in Law Enforcement Against the Circulation of Counterfeit Drugs on Digital Platforms

Law enforcement against the circulation of counterfeit drugs through digital transactions faces numerous complex challenges. Abdul Atsar and Rani Apriani (2019) identified the lack of adequate legal infrastructure to address digital-based crimes as a major obstacle. Existing regulations often lag behind the rapid pace of technological advancement, allowing illegal actors to exploit legal loopholes to distribute counterfeit drugs.

According to Abdulhalim Barkatullah (2017), poor coordination among relevant institutions, such as the Food and Drug Supervisory Agency (BPOM), the Ministry of Communication and Information Technology, and law enforcement agencies, is a significant barrier to effective law enforcement. The lack of alignment in roles and responsibilities among these institutions creates significant challenges in prosecuting business actors involved in the sale of counterfeit drugs. Without strong interagency coordination, enforcement processes become slow and inconsistent, allowing illegal actors to continue their operations.

Coordination among institutions is crucial, as each plays a complementary role in safeguarding public health and safety. When these institutions fail to function in an integrated manner, the impact can be detrimental. Slow and uncertain enforcement emboldens illegal actors, jeopardizing consumer safety and undermining public trust in regulatory systems.

To address this issue, serious efforts are needed to establish improved communication systems among institutions. Regular meetings to discuss current issues and enforcement strategies can serve as an effective starting point. Additionally, developing shared protocols for handling counterfeit drug cases is essential to ensure that each institution can act synergistically.

Cases of counterfeit drug sales that are not promptly addressed highlight the importance of coordination. Delays and uncertainty in enforcement not only harm the public but also erode trust in institutions tasked with consumer protection. Strengthening interagency coordination is vital to enhancing the effectiveness of enforcement. With better integration, illegal actors can be more consistently and swiftly prosecuted, providing greater security and protection for the public.

Widi Nugrahaningsih and Mira Erinawati (2017) emphasized that inadequate consumer education is another significant barrier. Many consumers lack the knowledge to verify the authenticity of drugs purchased online. This issue is compounded by the insufficient information provided by business actors, who are often required to disclose complete details about product licensing and composition.

Research by Mandala and Bagiastra (2020) revealed that unclear information regarding drug composition in online transactions often violates Article 8 of Law Number 8 of 1999 on Consumer Protection, as incorrect or incomplete labeling hinders consumers from verifying product authenticity, exposing them to fraudulent practices. Similarly, Muliasari and Sukranatha (2020) highlighted the sale of unregistered slimming drugs on digital platforms as a prominent example of weak oversight and law enforcement. Although BPOM has the authority to conduct monitoring, it frequently encounters technical and resource constraints, limiting its ability to address the widespread illegal transactions occurring online effectively.

A significant challenge in law enforcement is the difficulty of tracing business actors on e-commerce platforms. In the digital era, these actors often use fake identities or operate from foreign jurisdictions, complicating efforts to identify and prosecute violators beyond domestic legal reach. Abdulhalim Barkatullah (2017) emphasized that the globalization of e-commerce demands cross-border regulatory approaches and international collaboration. Tackling illegal business operations on e-commerce platforms requires coordinated efforts between nations, with effective regulations implemented not only at the national level but also through international partnerships to establish systems capable of monitoring and prosecuting digital violations.

As e-commerce usage continues to grow, addressing these challenges becomes increasingly urgent. Without strong cooperation and comprehensive regulatory approaches, law enforcement against illegal business operations will remain challenging. Nations must work together to develop frameworks that address cross-border issues, ensuring consumer protection and maintaining market integrity.

Proposed solutions from various researchers emphasize strengthening regulations and improving government oversight. Abdul Atsar and Rani Apriani (2019) recommended implementing national policies that mandate digital platforms to verify the authenticity of every product before listing it for sale, effectively closing loopholes exploited by counterfeit drug distributors. Widi Nugrahaningsih and Mira Erinawati (2017) highlighted the importance of consumer education as a strategic initiative for the government and consumer protection organizations, suggesting public campaigns to raise awareness about the dangers of counterfeit drugs and methods to detect illegal products. Mandala and Bagiastra (2020) stressed that product labeling should be a key focus of regulatory oversight, advocating stricter penalties for business actors who provide inaccurate information, alongside consistent enforcement by BPOM through regular inspections of online products.

Muliasari and Sukranatha (2020) emphasized the need to enhance BPOM's technical capacity, including improvements in human resources and technology for detecting and addressing counterfeit drug cases. Additionally, closer collaboration with e-commerce platforms is essential to ensure regulatory compliance.

Overall, overcoming barriers in law enforcement against counterfeit drug circulation requires an integrated and collaborative approach. Governments, digital platforms, and the public must work together to create a secure and trustworthy transaction environment. Stricter regulations, more effective oversight, and consumer education are the main pillars for achieving this goal.

CONCLUSION

Based on the analysis of the implementation of legal regulations concerning online counterfeit drug transactions, it is evident that consumer legal protection is governed by various regulations, such as Law Number 8 of 1999 on Consumer Protection, Government Regulation Number 71 of 2019, and the Indonesian Food and Drug Supervisory Agency Regulation Number 8 of 2020. The implementation of these regulations faces significant challenges, including weak oversight, insufficient consumer education, and legal loopholes exploited by illegal business actors.

The main barriers to law enforcement include inadequate interagency coordination, difficulty in tracking illegal business actors, and limited consumer awareness of their rights. Identified solutions involve strengthening regulations, enhancing oversight, and fostering cross-sector collaboration to establish a more effective legal protection system in the digital era.

The government needs to enhance oversight of online transactions, particularly by leveraging technology capable of detecting counterfeit drug distribution. Furthermore, existing regulations must be reinforced with provisions requiring e-commerce platforms to conduct stringent product verification before listing products for sale.

Consumer education should be a priority to raise public awareness about the risks of counterfeit drugs and their rights as consumers. Public campaigns involving the government, consumer protection organizations, and digital platforms can help broaden community understanding.

International cooperation must also be strengthened to address business actors operating across borders. Integrated law enforcement among institutions, both at the national and international levels, is key to eradicating the circulation of counterfeit drugs.

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