

## Juridical Review Of The Use Of Dangerous Cosmetic Products For Consumers Based On Article 4 Letter (A) Of Law No. 8 Of 1999

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### Abstract

This study aims to analyze the impact of ambiguity in interpreting the norms of "comfort," "safety," and "security" in Article 4 paragraph (A) on the assessment of consumer comfort, safety, and security in the context of the use of hazardous cosmetics. Ambiguity in interpreting these terms can lead to uncertainty in the safety standards applied to cosmetic products, especially those containing potentially harmful ingredients. The research method employed includes legal text analysis and literature review. The findings indicate that ambiguity in norm interpretation can affect the assessment of consumer comfort, safety, and security, as it may provide loopholes for unethical practices in the cosmetics industry. Therefore, clearer clarification in Article 4 paragraph (A) is needed to ensure adequate consumer protection in the use of cosmetics.

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### 1. Introduction

Cosmetics are one of the most popular products especially among women to enhance facial beauty. The relationship between women and cosmetics has been created since thousands of years ago in ancient Egyptian times there was the use of beeswax and olive oil as cosmetics. Cleopatra, the queen of Egypt is part of the history of cosmetics in

the world with a variety of beauty potions including those made from hibiscus seeds and lime for face and body skin. In addition to Cleopatra, there is other evidence from the bust of *Nefertiti* which shows that kohl was one of the cosmetics for women in ancient times. Since then, the development of cosmetics has grown rapidly although it was opposed by Queen Victoria because it was considered vulgar, inappropriate, and only theater actresses needed to use cosmetics (Parasayu, 2017).

Law No. 8/1999 on Consumer Protection outlines the fundamental rights of consumers, including the right to comfort, security, and safety in consuming goods and/or services as stipulated in Article 4 letter (A). Although the purpose is clear, namely to protect consumers, the norms contained therein have the potential to be interpreted variously, or what is known in legal terms as "vague norms". In the context of cosmetic products, this interpretation challenge is crucial. The vast and diverse cosmetics market makes the possibility of dangerous products that can harm consumers even greater. The existence of vague norms in the GCPL can lead to confusion in law enforcement and determination of responsibility, both from producers and distributors. The issue of legal protection for consumers is the protection of public interests. Therefore, the injured party may sue the business actor on behalf of all consumers to compensate for the loss in an amount commensurate with the profit obtained by the business actor from the sale. Business actors should know that in addition to consumers having to undergo obligations, consumers have rights, which must be given as implied in Article 4 letter (A) of the GCPL which explains Consumer Rights and Obligations including "the right to comfort, security and safety in consuming goods or services".

Law No. 8/1999 on Consumer Protection (UUPK) is one of the legal bases that protect consumer rights in Indonesia. Article 4 letter (A) of the GCPL emphasizes consumers' rights to comfort, security, and safety in consuming goods and/or services. Despite its good intentions, this article raises several interpretive issues, particularly in relation to the use of hazardous cosmetics. Vagueness of Definition: The terms "convenience," "security," and "safety" in GCPL are not detailed and specific. This raises the question of how these three concepts are defined in the context of consumer protection law, particularly in relation to hazardous cosmetic products. Due to the vagueness of the definitions, ambiguities arise in the interpretation of the provisions. For example, whether cosmetic products that cause irritation to a small percentage of consumers are considered to violate consumers' right to "safety" to what extent the side effects of the product are considered detrimental to consumers' "convenience".

Vagueness of Manufacturer's Liability: With the vague norms, there is uncertainty regarding the extent of manufacturer liability in the case of potentially dangerous cosmetic products. Whether a manufacturer can be considered negligent if they claim their product is safe based on certain standards, but it turns out that the product causes problems to some consumers.

In this context, it is important for us to conduct a juridical review of the application of GCPL, particularly Article 4 letter (A), in cases of dangerous cosmetics. Thus, we can understand how this law protects consumers and what are the challenges and obstacles in its implementation. Based on the background description above, the author tries to analyze GCPL No. 8 of 1999 Letter (A) with the title **"JURIDICAL REVIEW OF THE USE OF DANGEROUS COSMETIC PRODUCTS BY CONSUMERS BASED ON ARTICLE 4 LETTER (A) OF THE LAW NO. 8 OF 1999"**.

## 2. Research Methods

The type of research used in this legal research is *normative legal research*. This is because, in its implementation there are still vague norms which have different interpretations depending on the context and situation, it can be said that Article 4 letter (A) has vague norms.

The nature of this legal research is qualitative. Where, qualitative is a certain tradition in social science that fundamentally relies on observing (of) humans in their own area and dealing with these people in their language and terminology (Zuchri Abdussamad, 2021: 30).

Data and sources Using primary data and secondary data. The legal materials of this writing can be classified into three, namely primary legal materials consisting of legislation, secondary materials consisting of materials obtained indirectly from theoretical studies in the form of legal opinions, teachings (doctrines) and legal theories as support obtained from literature books, laws, regulations, scientific journals and the internet, tertiary legal materials in the form of research materials obtained from dictionaries, encyclopedias, lexicons or non-legal documents (eg: statistics, demographics and so on).

The data collection method in this research is carried out by literature study, which is a way of collecting data by searching and analyzing library materials (literature, research results, scientific magazines, scientific bulletins, scientific journals). Legal materials are collected through the procedure of inventorying and identifying laws and regulations, as well as classifying and systematizing legal materials according to research problems. Therefore, the data collection technique used in this research is a literature study. Literature study is carried out by reading, analyzing, taking notes to make a review of library materials that have to do with GCPL Law No. 8 of 1999 Article 4 letter (A). Data processing and analysis techniques The data in this study are processed and analyzed qualitatively, namely data that will later be described in a series of words systematically, which is not a sequence of numbers. The data that has been collected through data collection activities has not yet given any meaning to the purpose of a study. Research has not yet been able to draw conclusions for its research objectives, because the data is still raw data and efforts or efforts are still needed to process it. The process carried out is to check, examine the data that has been obtained to ensure that the data can be accounted for in accordance with reality.

## 3. Results and Discussion

### 3.1 Ambiguity in the interpretation of the norms of "convenience," "security," and "safety" in Article 4 letter (A) of GCPL affects the assessment of consumer safety and convenience in the context of using hazardous cosmetics.

Overall, Article 4 letter (A) of GCPL plays an important role in protecting consumers, improving product quality, and creating a sustainable business environment. With this provision, it is expected that the public can derive greater benefits from the products they consume, while producers are also expected to meet the standards set for consumer safety and convenience.

Article 4(A) of GCPL has some very important uses in the context of consumer protection and the regulation of products on the market. Here are some of its uses:

1. Setting Safety Standards: One of the main uses of Article 4(A) is to set safety standards for products in the market. This includes aspects such as security,

- convenience, and consumer safety associated with the use of the product.
2. **Regulating Hazardous Products:** Section 4 (A) assists the government in identifying and regulating products that are considered harmful to consumers. As such, it ensures that such products are not freely traded and provides protection to consumers from unwanted risks.
  3. **Provides Guidelines for Manufacturers:** Article 4 (A) also provides clear guidelines for manufacturers with regard to the standards that must be adhered to in designing, manufacturing, and distributing products. This helps to ensure that products in circulation meet the safety requirements set by the government.
  4. **Providing Protection for Consumers:** One of the most important uses of Section 4(A) is to provide protection to consumers. By setting high safety standards, it ensures that consumers can use products with the confidence that they are safe and do not harm their health.

Overall, the utility of Article 4(A) of GCPL is crucial in safeguarding consumer welfare, supporting industry compliance with safety standards, and promoting sustainable economic growth.

If there is ambiguity in the interpretation or application of Article 4 letter (A) of GCPL, some things that might happen are as follows:

**Uncertainty in Enforcement:** Ambiguity may lead to uncertainty in enforcement related to product safety and convenience standards. Enforcers may face difficulties in determining how to apply Article 4(A) in ambiguous cases.

**Legal Disputes:** Ambiguities may trigger legal disputes between different parties, such as manufacturers, consumers, or regulatory bodies. These parties may have different interpretations of Article 4 letter (A) and how it should be applied, which may result in disputes that require resolution in court.

**Lack of Industry Compliance:** If the standards governed by Article 4(A) are unclear, industries may struggle to understand exactly what is expected of them. This may lead to a lack of industry compliance with the set safety and comfort standards, as it is unclear how they are supposed to fulfill them.

**Consumer Dissatisfaction:** The ambiguity in Article 4(A) may result in uncertainty for consumers about the level of safety and convenience of the products they purchase. This may result in consumer dissatisfaction and financial loss or even health risks for them.

**Consumer Safety Risks:** The ambiguity in Article 4 letter (A) may cause safety risks for consumers using cosmetic products. If safety standards are vague or less stringent, it is possible that products on the market do not meet safety requirements sufficient to protect consumers.

### **3.2 Efforts of BPOM Institutions in Ensuring Consumer Safety, Comfort and Security Regarding the Ambiguity of Article 4 Letter (A) of the GCPL Law.**

The Indonesian Food and Drug Administration (BPOM) issued several regulations governing the standardization of cosmetics. Some of the key relevant regulations include:

1. Head of BPOM Regulation No. 23/2019 on Technical Requirements for Cosmetic Ingredients:  
This regulation governs the permitted and prohibited ingredients in cosmetic products. The aim is to ensure that all ingredients used in cosmetic products are safe for consumers.
2. Head of BPOM Regulation No. 18/2015 on Technical Requirements for Cosmetic Ingredients:  
The regulation also sets out technical requirements for cosmetic ingredients used in products. These include a list of permitted and prohibited ingredients, as well as maximum limits on the use of certain ingredients.
3. Head of BPOM Regulation Number 10 Year 2014 on Technical Requirements for Cosmetic Ingredients:  
This regulation further regulates the permitted and prohibited ingredients of cosmetics, as well as regulates the labels and information that must be included on the packaging of cosmetic products.
4. Head of BPOM Regulation Number 3 Year 2020 on Technical Requirements for Cosmetics:  
Regulates the technical requirements for the manufacture, testing, and safety assessment of cosmetics. This regulation ensures that cosmetic products meet the safety and quality standards set by BPOM.
5. Head of BPOM Regulation Number 19 of 2021 concerning Procedures for Submitting Cosmetic Notifications:  
This regulation regulates the procedures for submitting notifications for cosmetic products. Before a cosmetic product can be marketed in Indonesia, the manufacturer or importer must submit a notification to BPOM and obtain a notification number.
6. Head of BPOM Regulation No. 30/2017 on the Supervision of the Entry of Cosmetic Ingredients and/or Products into the Territory of the Republic of Indonesia:  
This regulation regulates the supervision of the entry of cosmetic ingredients and/or products into the territory of Indonesia, including importation procedures and supervision at the border.
7. Head of BPOM Regulation No. 27/2017 on the Supervision of Circulating Cosmetics:  
This regulation governs the supervision of cosmetic products that are already on the market. This includes supervision of labels, advertisements, and claims of cosmetic products to ensure compliance with applicable regulations.

These regulations are made to ensure that cosmetic products circulating in Indonesia are safe, high quality, and not harmful to consumers. BPOM is responsible for conducting supervision and law enforcement related to these regulations.

Indonesian National Standard (SNI)

SNI (Indonesian National Standard) can be one of the government's efforts in eliminating ambiguity in Article 4 letter a of GCPL because SNI provides a clear and specific definition of products sold in the market. Thus, SNI can help eliminate the

vagueness and ambiguity that can arise in the interpretation of Article 4 letter a of GCPL, which contains the right of consumers to obtain security, comfort, and safety in the use of goods and/or services.

Indonesian National Standards (SNI) play an important role in the context of consumer protection by ensuring that products circulating in the market meet established quality and safety standards. Here are some of the regulations that govern SNI in the context of consumer protection in Indonesia:

1. Law No. 20 of 2014 on Standardization and Conformity Assessment
  - (1) Article 1: Stipulates that the purpose of standardization is to provide protection to consumers, producers, labor, and the community and to help smooth trade.
  - (2) Article 8: States that any goods, services, systems, processes, or personnel that have met the SNI are entitled to use the SNI mark.
  - (3) Article 9: Regulates the obligation of producers to fulfill mandatory SNI and prohibits the circulation of goods that do not meet the SNI.
2. Government Regulation No. 34/2018 on the National Standardization and Conformity Assessment System
  - (1) Article 1 paragraph (1): Affirms that the purpose of implementing standards is to protect the public interest, safety, and security.
  - (2) Article 7: States that products that have met the SNI must be marked with the SNI mark.
  - (3) Article 9: Regulates the supervision of SNI implementation and sanctions against violations of SNI implementation.
3. Regulation of the Minister of Industry No. 86/M-IND/PER/9/2009 on Indonesian National Standards (SNI) for the Industrial Sector
  - (1) Regulates the application of SNI on industrial products to ensure that products produced by industries in Indonesia are safe, high quality, and meet the standards that have been set.
4. National Standardization Agency (BSN) Regulation
  - (1) BSN Head Regulation No. 1/2011 on National Standardization Guidelines: Organizes procedures for the establishment, development, and implementation of SNI.
  - (2) BSN Head Regulation No. 6/2018 on the Procedures for Mandatory Enforcement and Supervision of Indonesian National Standards (SNI): Regulates the procedures for mandatory enforcement of SNI and supervision of its implementation, as well as sanctions against SNI violations.

Indonesian National Standards (SNI) can be an effective tool in addressing the ambiguity of Article 4(a) of GCPL regarding consumers' rights to comfort, security, and safety. Here are some ways in which the implementation of SNI can help:

1. Establishment of Product and Service Standards

SNI can provide clear and specific guidelines regarding the quality and safety of products and services. With SNI, manufacturers and service providers have a clear reference to ensure that the products and services they offer meet the standards set.

  - (1) Consumption Products : SNI can cover various aspects such as raw materials, production process, packaging, and labeling.
  - (2) Services : SNI for services can include standards of service, operational safety,

and adherence to certain procedures.

## 2. Certification and Supervision

The implementation of SNI is often accompanied by a certification mechanism that ensures that products and services have been tested and meet the set standards. Strict monitoring of compliance with SNI is also required to ensure consistency.

(1) Product Certification: Products that have met SNI will get a certification that can be attached to the product packaging, providing assurance to consumers.

(2) Routine Monitoring: The National Standardization Agency (BSN) and related institutions conduct routine monitoring to ensure that products and services in the market continue to comply with SNI.

### (3) Consumer Education

The government and related institutions can conduct educational campaigns to raise consumer awareness about the importance of SNI and how to recognize certified products and services.

(4) SNI labeling: Consumers need to be educated about the meaning of the SNI label and the importance of choosing certified products and services.

(5) Publication and Socialization: Information on SNI should be disseminated through various media, including social media, seminars, and brochures.

## 3. Law Enforcement Measures

To ensure compliance with SNI, strict enforcement action against violators is required.

(1) Inspection and Enforcement: Conduct periodic inspections and take firm action against violators who produce or sell products that do not meet SNI.

(2) Product Withdrawal : Products that are proven not to meet SNI must be withdrawn from circulation and violating businesses are subject to sanctions.

## 4. Cooperation with Industry

Encourage industry to actively participate in the development and implementation of SNI. This can be done through public consultation and involving stakeholders in the standardization process.

(1) Discussion and Consultation Forum : Organize discussion forums between the government, industry, and consumer associations to discuss and draft relevant SNIs.

(2) Training and Guidance: Provide training to businesses on the importance of and how to comply with SNI.

## 5. SNI Innovation and Development

Continue to develop and update SNI in accordance with technological developments and market needs, ensuring that the standards set are always relevant and effective.

(1) Research and Development: Support research to identify new areas requiring SNI and develop appropriate standards.

(2) Periodic Revision: Conduct periodic revisions to existing SNIs to adjust to innovations and changes in the industry.

By effectively implementing SNI, the government can provide greater clarity and legal certainty for consumers and businesses, reduce the ambiguity in Article 4 letter (a) of GCPL and ensure consumer comfort, security and safety.

## **Conclusion**

1. Ambiguity in the interpretation of the norms of "convenience," "security," and "safety" in Article 4 letter (A) of the Consumer Protection Law (UUPK) has a significant impact on the assessment of consumer safety and convenience, particularly in the context of the use of hazardous cosmetics. This ambiguity can lead to confusion and uncertainty regarding what standards a cosmetic product must meet in order to be considered safe and convenient. This can lead to: Differences in Perception: Consumers may have different perceptions of what constitutes a safe and convenient product, given the lack of clarity in the legal definition. Legal Uncertainty: Cosmetic manufacturers may also have difficulty in ensuring that their products meet the legal requirements, due to varying interpretations of the norms. Resolving this issue therefore requires reviewing and refining the relevant regulations to ensure that the definitions of "convenience," "safety," and "security" are clearer and more quantifiable, in order to protect consumers from the risks caused by dangerous cosmetics.

2. BPOM has taken concrete steps to address the problem. Through agencies such as the Indonesian National Standard (SNI), the agency has set standards and clear regulations, evaluate, monitor, and control products, and provide education and information to consumers. Inter-agency collaboration and the provision of consumer complaint mechanisms are also part of the government's strategy to ensure effective protection of consumer rights. Thus, the government's efforts aim to provide legal certainty and real protection for consumers, so that their rights to comfort, security, and safety can be properly guaranteed in accordance with the GCPL.

## **Recommendations**

Based on the problems mentioned above, the suggestions that can be given are as follows:

1. Cosmetics business actors must be more transparent in conveying information about the standards of comfort, security and safety in the use of hazardous cosmetics. comfort, security, and safety standards in the use of hazardous cosmetics.
2. Consumers should be more careful in choosing cosmetics and pay attention to the comfort, safety and security standards set by the Food and Drug Administration (BPOM).
3. The Food and Drug Supervisory Agency (BPOM) must be more active in monitoring cosmetic products that have exceeded the safe usage time limit.
4. Expansion and Strengthening of Supervision: The government needs to continue to expand and strengthen its oversight mechanisms on products circulating in the market, especially those related to consumer safety, convenience, and security.
5. Increased Consumer Awareness: Greater efforts are needed to raise consumers' awareness of their rights to the convenience, safety, and security of the products they consume, so that they can become smarter and more critical consumers.



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