

CONSUMER PROTECTION AGAINST THE FREE CIRCULATION OF BLUE LABEL SKINCARE IN THE MARKETPLACE: A SADD ADZ-DZARI'AH PERSPECTIVE

Rama Oktovi¹, Syafruddin Syam²

^{1,2}Universitas Islam Negeri Sumatera Utara, Indonesia

*Corresponding Author: rama0204213107@uinsu.ac.id

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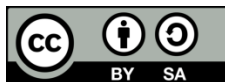
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ABSTRACT

The uncontrolled circulation of blue-labeled skincare products in online marketplaces presents a serious consumer protection issue. These products contain potent active ingredients that, according to medical and regulatory standards, should only be used under physician supervision. Without adequate oversight, consumers face significant health risks ranging from skin irritation to permanent damage. This study aims to explore legal consumer protection through the Islamic legal principle of Sadd Adz-Dzari'ah, which emphasizes preventive measures to avoid harm (mafsadah). Employing a normative juridical approach, this research analyzes statutory regulations—particularly Law No. 8 of 1999 on Consumer Protection and Law No. 36 of 2009 on Health—alongside BPOM regulations and the Sadd Adz-Dzari'ah principle. Data were obtained through documentary studies and analyzed deductively. The findings reveal that blue-labeled skincare products are still openly distributed in various marketplaces without valid distribution permits or medical prescriptions. From the Sadd Adz-Dzari'ah perspective, this practice is a prohibited means (wasilah) leading to harm and must be restricted. Therefore, regulatory authorities should enforce stricter oversight, including product recall, legal sanctions for business actors, and marketplace intervention to block violative sellers. This study contributes to the integration of Islamic legal thought into consumer protection policy, emphasizing the urgency of anticipatory regulation in digital commerce..

Keywords: MarketPlace, Consumer Protection, Blue Label

1. INTRODUCTION

In recent years, the trend of skincare use has seen a significant increase among Indonesians, not only among women but also among men of all ages. Skincare is considered a practical and economical solution for skin care, leading to rapid growth in the digital marketplace. However, this growth has also given rise to the

circulation of skincare products that do not meet safety standards, particularly products labeled "blue," which should only be used with a prescription and under a doctor's supervision (Safitri, Halilintar, & Wahyuniar, 2021).

In online marketplaces, skincare products containing harsh active ingredients such as tretinoin, hydroquinone, or steroids are still freely sold without official distribution permits. Evidence on the ground shows that consumers can easily access these products without medical examination, which can pose serious risks such as irritation, hyperpigmentation, and even skin cancer if used long-term (Pradnyandewi, 2023). This situation reflects weak oversight and regulatory enforcement, both by marketplace platforms and relevant authorities.

Various previous studies have addressed the legal aspects of consumer protection against illegal cosmetics. Marchvinn and Sudiro (2021) highlighted the need for law enforcement against businesses selling skincare products without distribution permits. Meanwhile, Sari (2022) emphasized the importance of business actors' responsibility for losses suffered by consumers. However, these studies are still limited to a positive legal perspective and have not yet addressed the preventive dimension based on Islamic legal values, particularly the concept of *Sadd Adz-Dzari'ah*.

The research gap that this study aims to bridge is the lack of an Islamic legal approach that specifically addresses the prohibition and prevention of the distribution of blue-labeled skincare products in the context of digital marketplaces. Yet, the principle of *Sadd Adz-Dzari'ah*, which means "blocking the path to harm," is highly relevant in preventing the negative impacts of uncontrolled online trading practices (Daeng et al., 2023).

This research is important and highly urgent because it touches on aspects of public health protection, consumer justice, and the integration of Sharia ethics into digital economic practices. By examining the circulation of blue-labeled skincare products through the *Sadd Adz-Dzari'ah* approach, this research aims to broaden the horizons of consumer protection from a normative-spiritual perspective. This study is expected to contribute to strengthening regulatory policies and fostering marketplace awareness to share responsibility for creating a fair and secure trading ecosystem, both legally and sharia-compliant.

2. RESEARCH METHOD

This research uses a normative juridical approach, emphasizing the study of doctrinal and theoretical legal literature. This approach is relevant because the focus of the research is to analyze legal norms governing consumer protection, particularly regarding the distribution of blue-labeled skincare products in the marketplace that contain active ingredients and should be subject to strict supervision (Rukminingsih, 2020).

More specifically, the approaches used are the statute approach and the conceptual approach. The statute approach is used to examine applicable positive regulations, such as Law Number 8 of 1999 concerning Consumer Protection, Law Number 36 of 2009 concerning Health, and Regulation of the Head of the Food and Drug Authority (BPOM) Number 12 of 2020 concerning Procedures for Cosmetic Notification. The conceptual approach is used to examine Islamic legal theory through the concept of *Sadd Adz-Dzari'ah*, which within the framework of Islamic law functions as a preventive principle against potential harm (*mafsadah*) in *muamalah* activities, including buying and selling (Daeng et al., 2023).

The data sources in this study are secondary, consisting of: Primary legal materials: relevant laws and regulations. Secondary legal materials: scientific journals, articles, books, and other authoritative publications discussing consumer protection and Islamic law. Tertiary legal materials: legal dictionaries and encyclopedias to support conceptual clarification.

Data collection techniques were conducted through library research, which included the identification, classification, and interpretation of relevant literature. All data were analyzed deductively, drawing general conclusions based on established normative and conceptual premises to address the legal issues raised in this study (Fista, Machmud, & Suartini, 2023).

To maintain the validity of the analysis, theoretical triangulation was conducted by comparing the positive legal framework and Islamic legal principles to obtain a strong normative synthesis. Validity was also maintained by using authoritative and up-to-date legal sources as the basis for argumentation.

3. RESULT AND ANALYSIS

Characteristics of Blue Label Skincare Products

Blue-labeled skincare products typically contain harsh active ingredients such as hydroquinone, tretinoin, or corticosteroids, which should only be used with a prescription and under a doctor's supervision. The blue label serves as a marker that the product is classified as a pharmaceutical preparation, not a regular cosmetic. The free distribution of this type of skincare in the marketplace is problematic because it eliminates the medical diagnosis and supervision that should precede product use. (Mira & Nuastari, 2021).

The general public tends to lack adequate knowledge to distinguish between safe and risky products. This is exacerbated by manipulative marketing practices and a lack of transparent information from business operators. As a result, consumers use dangerous products without medical guidance, potentially causing serious side effects such as skin irritation, hyperpigmentation, and even the risk of skin cancer. (Pradnyandewi, 2023)

Regular Skincare	Blue Label Skincare
Contains ingredients that are less suitable for sensitive skin.	Contains dermatologically tested and hypoallergenic ingredients
Regular skincare products may offer a wider variety for different skin types, but not all are safe for sensitive skin.	These products are typically clinically tested to ensure they do not cause adverse reactions, even in the most sensitive skin.
Daily Skincare	Treatment for severe or medical skin conditions
Usually sold in stores and e-commerce.	Obtained through consultation at an authorized clinic.

Violations in the use of blue labels, such as providing misleading information or including invalid halal claims, can erode consumer trust in local cosmetic products. Such actions raise public doubts about the safety and authenticity of products available on the market. When manufacturers ignore regulations set by the Food and Drug Monitoring Agency (BPOM), both regarding labeling and ingredient content, this further damages the image of the domestic cosmetics industry. In a market that increasingly demands transparency, particularly regarding safety and compliance with halal standards, non-compliance with regulations becomes a serious obstacle. Consumers who feel disadvantaged or unsure about the quality of local products tend to switch to imported brands perceived as more trustworthy and meeting clearer standards. This shift in interest negatively impacts the development of the domestic cosmetics industry, reducing producers' competitiveness both nationally and globally (Briliani et al., 2016).

Furthermore, misuse of the blue label also has the potential to increase regulatory scrutiny, which could lead to stricter regulations on local products. This consequence not only complicates business actors truly committed to quality but also hinders innovation in the domestic cosmetics industry. Therefore, regulatory compliance and transparency in product marketing are key factors in rebuilding consumer trust and encouraging the growth of the local cosmetics industry (Adjeng et al., 2023).

Legal Violations and Business Actors' Obligations

The distribution of blue-labeled skincare products without a distribution permit and without clear ingredient information violates Law No. 8 of 1999 concerning Consumer Protection. Article 4 affirms consumers' rights to accurate information and product safety, while Article 7 requires businesses to act honestly and responsibly (Law No. 8 of 1999). Furthermore, businesses also violate Article 106 of Health Law No. 36 of 2009, which requires a distribution permit for every pharmaceutical product.

This violation not only violates positive law but also reflects a disregard for business ethics and social responsibility. Marketplaces, as transaction facilitators, have also not been optimal in blocking illegal products, which could have been prevented with a stricter filtering system (Rahmawati et al., 2024).

Consumer losses are generally caused by their own lack of knowledge, which makes them easily deceived by products sold by businesses. However, this does not mean that businesses can completely escape responsibility for the losses caused by their actions. Although the state and government have provided preventative legal protection, this does not fully guarantee that the Indonesian trading environment is free from irresponsible business actors. The existence of a regulatory agency or body tasked with overseeing products sold by business actors also does not guarantee that business fraud can be completely eliminated. One legal issue that arises is consumer protection against losses resulting from the use of skincare products with blue labels sold freely. Essentially, skincare products with blue labels are not dangerous if their use is based on prior observation by a doctor and patient. These products are also not harmful if they meet quality standards, even without the blue label. To attract the target market, business actors do not need to use the blue label; they simply need to produce safe products that have undergone feasibility testing by the Ministry of Health, and are officially registered with the Food and Drug Monitoring Agency (Ayu et al., n.d.).

Business actors selling skincare products with blue labels freely are obligated to fulfill their responsibilities for their actions. They have violated existing procedures, which stipulate that the sale of skincare products with blue labels should not be conducted freely but should be based on a diagnosis by a competent doctor personally for the patient. This is due to the fact that the blue label itself differentiates the product from other over-the-counter skincare products registered with the Indonesian Food and Drug Authority (BPOM), which has a specific regulatory purpose. Blue-labeled skincare products are specifically designed to meet each individual's skin conditions and cannot be compared to the skin needs of others. If it is proven that the action has caused harm to the consumer, both the consumer and the business owner have rights and responsibilities that must be fulfilled according to their respective roles in the transaction (Syam et al., 2023). The business owner is required to provide compensation, either in the form of a refund according to the costs incurred by the consumer, or by providing free treatment to the affected consumer until their skin condition returns to normal. The amount and form of this compensation will be determined based on the level of risk of harm experienced by the consumer.

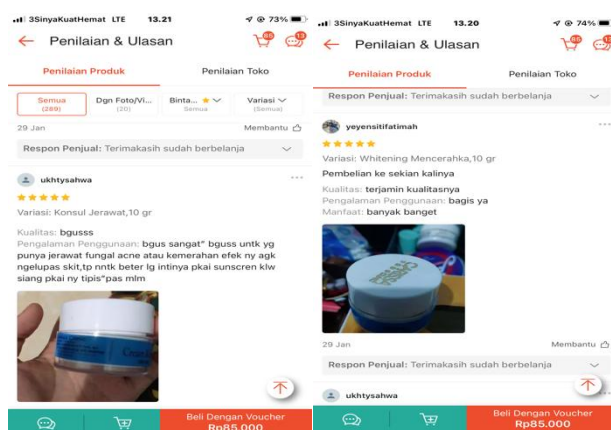


Image 1

Business actors' responsibilities for losses suffered by consumers are regulated in Articles 19 to 28 of Law Number 8 of 1999 concerning Consumer Protection, which cover the following (Ayu et al., n.d.):

1. Business actors are responsible for providing compensation for damage, contamination, and losses experienced by consumers as a result of consuming goods or services produced and traded.
2. Compensation referred to in paragraph 1 may include a refund, replacement of goods or services of the same type or equivalent value, and health care or compensation in accordance with applicable laws and regulations.
3. The compensation process must be carried out within seven days of the transaction date.
4. The provision of compensation as stipulated in paragraphs 1 and 2 does not eliminate the possibility of criminal prosecution if an element of error is proven.
5. The provisions in paragraphs 1 and 2 do not apply if the business actor can prove that the error was due to consumer perception. List of product names that freely sell skincare products with blue labels

Product	Businessman
Thera beauty	Heni sagara
Nezzmg <i>skincare</i>	Itha nezz
Marwah	Heni sagara
Justmine	Ria maryani
Jglow	Tika sartika

Source: <https://www.ntvnews.id/hiburan/0117646/6-skincare-etiket-biru>

In addition to the responsibilities stipulated in Articles 19 to 28 of Law Number 8 of 1999 concerning Consumer Protection, business actors are also responsible for losses experienced by consumers from a general civil law perspective, which recognizes several principles of liability, including (Ananda, 2024):

a. Liability based on fault

This form of liability is defined as liability arising from an error, where an individual is deemed responsible for committing a mistake that harms another person.

b. Liability based on presumption of liability.

This principle is known as the reverse burden of proof, whereby business actors must prove their innocence if they wish to dismiss a lawsuit. The burden of proof is placed on the business actor as the defendant to facilitate consumers, considering that many consumers lack adequate knowledge and will incur significant costs in providing evidence. Given the consumers' generally weaker position, Law Number 8 of 1999 concerning Consumer Protection provides regulations to facilitate consumers, eliminating the burden of costs and time in the evidentiary process.

c. Liability without fault.

In this case, the defendant will not be held liable until there is evidence proving their fault.

d. Strict liability

This form of liability does not exclude the causal relationship between the business actor's fault and the losses suffered by the consumer. The existence of an unlawful act must comply with the principles stipulated in Article 1365 of the Civil Code. Fulfillment of this principle serves as a barometer for lawsuits filed by consumers against businesses committing unlawful acts. In this context, businesses remain obligated to be responsible for losses suffered by consumers due to the use of their products.

Consumer Protection Regulations for the Free Distribution of Blue Label Skincare Products in the Marketplace

The main regulations regarding the supervision and distribution of skincare products such as these are stipulated in Law Number 36 of 2009 concerning Health. Article 98 paragraph (2) states that medicines, traditional medicines, cosmetics, and food ingredients containing chemical substances must meet the safety, efficacy, and quality standards set by the government. This means that any product containing active ingredients, including cosmetics, may not be distributed without undergoing a safety and quality evaluation by health authorities. Furthermore, paragraph (3) of the same article states that the government is responsible for ensuring the availability of safe, efficacious, and high-quality health products for the public. Therefore, it is clear that skincare products with a blue label must be under government supervision and cannot be freely traded like general cosmetics.

Furthermore, Article 106 of Law Number 36 of 2009 concerning Health states that pharmaceutical preparations and medical devices may only be distributed after obtaining a distribution permit. This provision serves as the legal basis

requiring all medical and cosmetic products containing active ingredients to obtain an official distribution permit from the BPOM before they can be marketed. This is reaffirmed by Article 196 of Law Number 36 of 2009 concerning Health, which stipulates criminal sanctions for anyone producing or distributing pharmaceutical preparations without a distribution permit, namely a maximum prison sentence of 10 years and a maximum fine of 1 billion Rupiah. In this context, skincare products with blue labels containing medically active ingredients and formulated by a mixture are clearly classified as pharmaceutical preparations, not simply ordinary cosmetic products.

Beyond health aspects, consumer protection is also crucial in this issue. Law Number 8 of 1999 concerning Consumer Protection (UUPK) establishes the rights and obligations of consumers and business actors in transactions of goods and services. Article 4 of Law Number 8 of 1999 concerning Consumer Protection affirms that consumers have the right to comfort, security, and safety, as well as the right to receive correct and clear information regarding the products they use. Furthermore, Article 7 of Law Number 8 of 1999 concerning Consumer Protection requires businesses to act in good faith and to provide accurate, clear, and non-misleading information regarding the goods or services being traded. If a business sells skincare products with blue labels without disclosing the ingredients, risks of side effects, and without a distribution permit from the Food and Drug Supervisory Agency, this constitutes a clear violation of the law.

In fact, violations of these business obligations are sanctioned in Article 62 paragraph (1) of Law Number 8 of 1999 concerning Consumer Protection, which states that businesses that violate these provisions can be subject to a maximum prison sentence of 5 years or a maximum fine of 2 billion rupiah. This demonstrates that selling dangerous products without a permit and without adequate information constitutes a consumer protection crime, not simply an ordinary administrative violation.

Furthermore, technical aspects regarding the distribution and supervision of cosmetics are regulated in Regulation of the Head of the Food and Drug Monitoring Agency Number 12 of 2020 concerning Procedures for Submitting Cosmetic Notifications. It is explained that every cosmetic product must have a notification from the BPOM before it can be distributed legally. Cosmetics containing strong active ingredients, such as skincare products labeled blue, cannot be submitted as general cosmetics, because they must go through a medical formulation procedure carried out only by doctors or pharmacists in healthcare facilities. Therefore, if such products are still sold in the marketplace without going through the notification and supervision procedures, the business actor is declared to have violated the law and can be subject to administrative sanctions up to criminal penalties, depending on the severity of the violation.

Consumer Protection from the Free Circulation of Blue Label Skincare in the Market Place from the Perspective of Sadd Adz-Dzari'ah

In terms of language, the word Sadd Adz-Dzari'ah (الذريعة سد) is a combination of two equivalent words in the form of mudhaf-mudhaf ilaih consisting of saddu (سَدُّ) and adz-dzari'ah (عَـةَ الدَّرِي). The first word comes from the verb سَدَّيْسُدُّسَدَّا, which means the opposite of opening, while the word adz-dzari'ah (عَـةَ الدَّرِي) means means, goal, wasilah and path. Sadd Adz-Dzari'ah is a method of exploring Islamic law that aims to prevent, prohibit, or block the path to actions that are essentially permissible but have the potential to cause harm or something that is prohibited. Thus, humans can identify actions that lead to benefit and should be carried out. Meanwhile, actions that lead to harm and harm are prohibited for Muslims.

Things that can lead someone to something prohibited, when viewed from their form, can be classified into three:

1. Actions that, if carried out, will definitely lead to something prohibited.
2. Actions that, if carried out, will not lead to something prohibited.
3. Actions that, if carried out, have an equal chance of leading to something prohibited or something that is not prohibited.

Some opinions state that dzari'ah is a path or means that leads to a goal, whether permissible or forbidden. Therefore, a method that leads to something forbidden is also considered forbidden. On the other hand, methods that lead to things that are lawful are halal, and methods that lead to things that are obligatory are obligatory. Some scholars limit the definition of dzari'ah to only things that lead to forbidden actions and have the potential to cause harm. However, this view is opposed by a number of other Ushul scholars. One of the scholars who rejects this view is Ibnul Qayyim Al-Jauziyah, who believes that dzari'ah is not only related to things that are prohibited, but also includes things that are recommended.

The fatwa states that Islam does not reject beneficial knowledge; on the contrary, it strongly supports and honors scientists. However, if the knowledge gained can cause harm or is of no benefit, or even has the potential for greater harm than benefit, Islam strictly forbids such action in order to protect humanity from harm and destruction. Islamic jurisprudence (fiqhiyah) principles explain that avoiding harm is a top priority.

From the perspective of Sadd Adz-Dzari'ah, consumer protection from the free circulation of blue-labeled skincare products in the marketplace plays a crucial role. Blue-labeled products, which contain potent medicinal ingredients, should only be used with a doctor's prescription and should not be sold freely. This aims to prevent adverse effects such as skin irritation, pigmentation disorders, and other serious health risks.

Within the framework of Sadd Adz-Dzari'ah, these regulatory measures are designed to prevent greater harm from the use of products that do not comply with regulations. Islam emphasizes the importance of prohibiting means that can lead

to harm, including in the context of consumer protection. The free sale of dangerous products like this contradicts the principle that preventing harm takes precedence over achieving benefits. Therefore, consumers are advised to ensure products are obtained through official channels and in accordance with legal requirements, and to consult a doctor before using them. This regulation also requires the government and relevant institutions to strengthen oversight of marketplaces to protect the public from health risks posed by the illegal distribution of blue-labeled skincare products.

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَخُونُوا هَٰلَكَمُ وَالرَّسُولَ وَتَخُونُوا أَمْنَكُمْ وَأَنْتُمْ تَعْلَمُونَ

The meaning is: *"O you who believe, do not betray Allah and the Messenger, and do not betray the trust entrusted to you while you know."*

The meaning of this verse emphasizes the importance for every believer to always safeguard the trust given to them and avoid all forms of betrayal. In this context, betrayal includes neglecting the obligations established by Allah and His Messenger, as well as violating the trust placed in them. This verse also reminds us that betrayal is clearly considered wrong and prohibited, so anyone who commits it must be aware of the negative consequences of such actions. In a historical context, this verse was revealed in response to an incident involving the Prophet Muhammad's companion, Abu Lubabah, who realized his mistake after giving a signal indicating that the Banu Quraizah tribe would face punishment.

Three Main Elements in the Sadd Adz-Dzari'ah Concept: Three important interconnected elements: Al-Wasilah (Means). This blue-labeled skincare product is generally still in the trial stage and should only be used on a limited basis, not for widespread sale to the public. However, when these products are freely traded through marketplace platforms, this action becomes a means (wasilah) that opens up the potential for harm. Al-ifdhah explains the extent of the relationship between an action and its resulting impact. In this case, the free sale of blue-labeled skincare has a very strong link with the potential for damage or danger to consumers. Therefore, the high potential for harm (ifdhah qawiyyah) is an important reason for Islamic law to close the path to this practice through the principle of Sadd adz-Dzariah. Al-Mutawashil Ilaihi (the ultimate goal avoided) is the occurrence of real harm (mafsadah). In the context of the free distribution of blue-labeled skincare, because the consequences are real and detrimental, the free distribution of blue-labeled skincare can be categorized as a path to something forbidden (mutawasil ilaihi).

4. CONCLUSION

The free distribution of blue-labeled skincare products in marketplaces is a crucial issue that places consumers in a vulnerable position from a legal, health, and informational perspective. Products containing potent active ingredients that

should be under medical control have been misused by businesses for commercial gain without regard to safety standards and legitimate distribution regulations.

This study shows that this practice violates several regulations, particularly Law Number 8 of 1999 concerning Consumer Protection and Law Number 36 of 2009 concerning Health, as well as BPOM regulations regarding distribution permits and cosmetic notifications. These violations are further exacerbated by weak oversight by authorities and minimal intervention from marketplaces as digital trade facilitators.

From an Islamic legal perspective, the free sale of blue-labeled skincare products is categorized as a form of *dzari'ah*—a means that paves the way for *mafsadah* (harm). Therefore, through the *Sadd Adz-Dzari'ah* approach, this practice must be legally and ethically prevented. This principle provides strong theological justification for prohibiting all forms of distribution of high-risk products without medical supervision, while simultaneously strengthening the preventive role of consumer protection.

This research provides a theoretical contribution by integrating an Islamic legal approach into a contemporary consumer protection framework, particularly in the realm of digital transactions. Practically, this research encourages strengthening marketplace oversight systems, recalling illegal products, blocking seller accounts, and conducting extensive public education regarding the risks of using unlicensed cosmetic products.

As a recommendation, multi-actor collaboration is needed between the government, the Food and Drug Authority (BPOM), marketplace players, academics, and civil society to create a healthy, safe, and equitable e-commerce ecosystem. Marketplaces should also be directed not merely as neutral platforms, but as part of an active and responsible consumer protection ecosystem. Thus, the principle of *Sadd Adz-Dzari'ah* not only serves as an ethical norm but can also be systematically implemented in regulations and public policies.

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