

## ABSTRAK

### SENDI ANDIKA YOGI SIREGAR

Perdagangan melalui internet atau biasa dikenal dengan istilah Electronic Commerce (*ecommerce*) dianggap lebih efisien dan efektif karena setiap orang dapat melakukan transaksi jual beli dimanapun dan kapanpun. Produk makanan, obat dan kosmetik ilegal di Indonesia semakin marak. Pemerintah diharapkan memberikan sanksi tegas kepada importir maupun ritelnya.

Permasalahannya adalah bagaimana pengaturan hukum atas tindakan memperjual belikan kosmetik yang mengandung bahan berbahaya dan tanpa izin edar? bagaimana pertanggungjawaban pidana terhadap pelaku penjual kosmetik yang mengandung bahan berbahaya dan tanpa izin edar? bagaimana pertimbangan hakim atas tindak pidana memperjualbelikan kosmetik yang mengandung bahan berbahaya dalam Putusan Mahkamah Agung Republik Indonesia Nomor 1809 K/Pid.Sus/2023?

Penelitian ini bersifat deskriptif dengan pendekatan yuridis normatif. "Pendekatan yuridis normatif yaitu menekankan pada ilmu hukum dengan menitik beratkan pada data sekunder, untuk melengkapi data dilakukan dengan mengumpulkan bahan-bahan yang relevan dan melakukan studi pustaka yang selanjutnya data akan dianalisis secara yuridis.

Pengaturan hukum atas tindakan memperjual belikan kosmetik dalam peraturan perundang-undangan, berkaitan dengan hal tersebut, hubungan hukum antara pelaku usaha dengan konsumen telah terjadi ketika pelaku usaha memberikan janji-janji serta informasi terkait barang dan/atau jasa, karena sejak saat itulah timbul hak dan kewajiban para pihak, baik pelaku usaha dan konsumen. Tanggung jawab hukum pidana atas tindakan memperjual belikan kosmetik tanpa izin edar pelaku usaha tersebut di jerat dengan pasal 197 jo.106 Undang-undang .Kesehatan, Pertimbangan hakim atas tindakan memperjual belikan kosmetik tanpa izin edar dalam Putusan Mahkamah Agung Republik Indonesia Nomor 1809 K/Pid.Sus/2023 Pada tanggal 8 Maret 2022 tim BPOM telah melakukan pembinaan terhadap Terdakwa melalui WA dan menjelaskan bahwa produk kosmetika yang dijual Terdakwa diduga mengandung bahan berbahaya atau belum memiliki izin edar BPOM, Berdasarkan pertimbangan di atas, perbuatan Terdakwa telah memenuhi unsur Pasal 196 Undang-Undang Kesehatan, sebagaimana didakwakan dalam dakwaan alternatif Kesatu, oleh karena itu Terdakwa tersebut telah terbukti bersalah dan dijatuhi pidana. Penulis tidak setuju dengan tindakan BPOM yang hanya memberikan penjelasan lewat pesan whatsapp akan lebih dimengerti jika petugas BPOM mengunjungi terdakwa dan menjelaskannya secara tatap muka.

Kata Kunci : Pertanggungjawaban Pidana, Penjual, Kosmetik.

## **ABSTRACT**

### **SENDI ANDIKA YOGI SIREGAR**

Trading via the internet or commonly known as Electronic Commerce (ecommerce) is considered more efficient and effective because everyone can carry out buying and selling transactions anywhere and at any time. Illegal food, medicine and cosmetic products in Indonesia are increasingly widespread. The government is expected to impose strict sanctions on importers and retailers.

The problem is what is the legal regulation for the act of buying and selling cosmetics that contain dangerous ingredients and without a distribution permit? What is the criminal responsibility for sellers of cosmetics that contain dangerous ingredients and without a distribution permit? How do judges consider the criminal act of buying and selling cosmetics containing dangerous ingredients in the Decision of the Supreme Court of the Republic of Indonesia Number 1809 K/Pid.Sus/2023?

This research is descriptive in nature with a normative juridical approach. "The normative juridical approach is to emphasize legal science with an emphasis on secondary data. To complete the data, this is done by collecting relevant materials and conducting literature studies, after which the data will be analyzed juridically.

Legal regulation of the act of buying and selling cosmetics in statutory regulations, related to this, the legal relationship between business actors and consumers has occurred when business actors provide promises and information related to goods and/or services, because from that moment rights and obligations of the parties, both business actors and consumers. Criminal legal responsibility for the act of buying and selling cosmetics without a distribution permit by the business actor is ensnared by article 197 jo. 106 of the Health Law, Judge's consideration of the act of buying and selling cosmetics without a distribution permit in the Decision of the Supreme Court of the Republic of Indonesia Number 1809 K/Pid .Sus/2023 On March 8 2022 the BPOM team provided guidance to the Defendant via WA and explained that the cosmetic products sold by the Defendant were suspected to contain dangerous ingredients or did not yet have a BPOM distribution permit. Based on the considerations above, the Defendant's actions fulfilled the elements of Article 196 of the Law. - Health Law, as alleged in the first alternative indictment, therefore the defendant has been proven guilty and sentenced to a crime. The author does not agree with BPOM's actions which only provide explanations via WhatsApp messages. It would be better understood if BPOM officers visited the defendant and explained it face to face.

Keywords: Criminal Liability, Seller, Cosmetics.