

Legal Protection and Preventive Measures by BPOM Against the Circulation of Illegal Cosmetics in Indonesia

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ABSTRACT

The circulation of illegal cosmetics in Indonesia has become a troubling issue for the public because these products often contain hazardous substances that can harm health. To protect the public, Law Number 8 of 1999 on Consumer Protection provides a strong legal framework. Business operators distributing illegal cosmetics can be subject to criminal sanctions, including imprisonment and hefty fines. BPOM Regulation Number 12 of 2020 also stipulates that every cosmetic product must have a valid distribution permit. BPOM conducts strict supervision of products circulating in the market and takes firm action against violators. Additionally, BPOM is active in educating the public and business operators to raise awareness about the importance of product safety. Collaboration with relevant parties, the use of technology, and the development of regulations are also part of BPOM's strategy to prevent the circulation of illegal cosmetics. Through this comprehensive approach, BPOM strives to protect the public from health risks posed by illegal cosmetics.

INTRODUCTION

The circulation of illegal cosmetics in Indonesia has become a very troubling issue for the public. These illegal cosmetic products often have unclear compositions and can endanger consumer health. Illegal cosmetics not only harm individual consumers but can also disrupt the stability of the legal cosmetics industry. The circulation of illegal cosmetics has caused various negative impacts, including serious health risks for users. Illegal cosmetics can also damage the image of the legal cosmetics industry and harm businesses that comply with regulations (Janetos et al., 2016). Many consumers are unaware of these risks and often do not know the legal steps they can take to protect themselves. The circulation of illegal cosmetics also disrupts market stability and harms businesses that have invested in safe and legal products (Juanda & Untari, 2022). This shows that the circulation of illegal cosmetics is not only a health issue but also an economic and legal problem that needs to be addressed immediately (Maulida et al., 2013).

Illegal cosmetics usually do not have valid distribution permits from the Food and Drug Supervisory Agency (BPOM). This means that the product has not undergone the necessary testing and verification processes to ensure its safety and quality (Gowasa et al., 2023). As a result, illegal cosmetics may contain harmful substances that can cause allergic

reactions, skin irritation, or even more serious health issues (Sudewi et al., 2020). Illegal cosmetics can also damage the image of the legal cosmetics industry and harm businesses that have complied with regulations (Sembiring & Pratama, 2022).

Legal protection for the community affected by the use of illegal cosmetics is one of the important aspects that need to be analyzed. Illegal cosmetics with unclear ingredient compositions can cause various health problems for their users (Nafliana, 2023). However, many consumers are unaware of these risks and often do not know the legal steps they can take to protect themselves (Rivianto et al., 2023). Therefore, it is important to understand the existing legal framework and how the community can utilize the available legal protections (Alfiyah et al., 2023).

Sanctions imposed on businesses involved in distributing and marketing illegal cosmetics represent a significant concern that must be thoroughly addressed (Ahmad & Thalib, 2019). These harmful products not only pose serious risks to consumers but also damage the credibility of the legitimate cosmetics industry. Many business actors neglect the safety and quality of their products, prioritizing profit over public well-being (Risma & Baharuddin, 2020). Identifying appropriate and effective sanctions is vital to deter illegal circulation and ensure consumer protection from health hazards.

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The actions taken by BPOM to prevent the circulation of illegal cosmetics that disturb the public also need to be reviewed comprehensively. BPOM has taken various actions to monitor and take action against businesses distributing illegal cosmetics (Heryansyach & Latumahina, 2022). However, the circulation of illegal cosmetics still occurs in many places, indicating that the actions taken have not been fully effective (Hutauruk & Hutabarat, 2021). Therefore, it is important to review the actions taken by BPOM and identify steps that can be improved to more effectively prevent the circulation of illegal cosmetics.

The circulation of illegal cosmetics in Indonesia has reached a very concerning level, with many hazardous products circulating in the market without adequate supervision. This not only harms consumers who use these products but also damages the image of the legal cosmetics industry and harms businesses that comply with regulations (Putri, 2019). Illegal cosmetics often contain hazardous substances that can cause short-term and long-term health issues, including allergic reactions, skin irritation, and even poisoning (Gabriella & Bakhtiar, 2023). The circulation of illegal cosmetics also disrupts market stability and harms business operators who have invested in safe and legal products (Kasmanto et al., 2022). Therefore, this research is very important to identify the existing legal framework, appropriate sanctions, and actions taken by BPOM in addressing this issue.

This research is also very important for contributing to public policy and more effective oversight practices. By analyzing legal protections for the community, sanctions imposed on business operators, and actions taken by BPOM, this research can provide evidence-based recommendations to enhance the effectiveness of supervision and enforcement against illegal cosmetics (Utami & Herwastoeti, 2022). This will help protect the public from health risks posed by illegal cosmetics and ensure that the cosmetics industry continues to operate safely and legally. Additionally, this research can also provide insights to business operators about the importance of compliance with regulations and how they can contribute to preventing the circulation of illegal cosmetics.

This study aims to analyze the forms of legal protection that can be provided to the community harmed by the use of illegal cosmetics that lack clarity in their ingredient composition. Additionally, this study identifies the types of sanctions that should be imposed on business

actors involved in the distribution and marketing of illegal cosmetic products that endanger consumer safety. This study also reviews various measures that have been taken by the Food and Drug Supervisory Agency (BPOM) in efforts to prevent the circulation of illegal cosmetics that cause public unrest.

RESEARCH METHOD

This research uses a normative juridical approach, focusing on the analysis of legal norms relevant to the circulation of illegal cosmetics in Indonesia. This method involves the examination of various legal regulations, including laws, government regulations, and institutional regulations governing cosmetics, as well as legal actions that can be taken against business operators who violate these provisions. This research also includes an analysis of the policies and practices carried out by the Food and Drug Supervisory Agency (BPOM) in order to prevent and take action against the circulation of illegal cosmetics. Through this approach, the research aims to provide a comprehensive overview of the existing legal framework and its effectiveness in protecting the public from health risks posed by illegal cosmetics.

To support the normative juridical analysis, this research also conducts a review of relevant literature, including previous studies on the circulation of illegal cosmetics and the preventive measures taken by BPOM. This aims to provide a broader context and enable comparisons with best practices at the national level. Additionally, this study also refers to various secondary sources, such as journal articles and related news, to gain a deeper understanding of this issue.

RESULT AND DISCUSSION

Legal Protection for the Community Affected By the Use of Illegal Cosmetics

In the current digital era, the trade of cosmetics has become easier with the presence of e-commerce platforms. According to the Head of BPOM Regulation Number 23 of 2019, cosmetics are defined as substances or preparations used on the outer parts of the human body, such as the skin, hair, nails, lips, and external genital organs, as well as the teeth and mouth, with the aim of cleansing, perfuming, altering appearance, or protecting the body. All cosmetics, whether domestically produced or imported, must obtain distribution permits from BPOM before being marketed in Indonesia (Sari & Tan, 2021). The

registration number provided by BPOM is very important for tracking the products sold and identifying the perpetrators in case of any issues (Putri & Imanullah, 2023). This demonstrates the importance of consumer protection from hazardous products.

BPOM serves as the supervisor to ensure that all drug, food, and cosmetic products are safe before being distributed and consumed. According to Article 4 Paragraph (1) of Law Number 8 of 1999 concerning Consumer Protection, consumers have the right to comfort, safety, and security in consuming goods and/or services (Gabriella & Bakhtiar, 2023). Therefore, cosmetic products must be fit for use, prioritize health and safety, and have a distribution permit certificate. According to BPOM Regulation Number 44 of 2013 concerning Cosmetic Labeling Requirements, cosmetics circulating in the community must be registered and include complete information about product safety on the packaging. This is important so that consumers can choose safe and legal cosmetic products for daily activities (Rivianto et al., 2023).

Legal protection for the community affected by the use of illegal cosmetics with unclear ingredient compositions has been regulated in various regulations and laws (Nurhayati, 2009). One of them is Law Number 8 of 1999 concerning Consumer Protection. This law provides protection to consumers from unsafe or hazardous products. Business operators who produce or distribute illegal cosmetics can be prosecuted under Article 62 paragraph (1) of the Consumer Protection Law, which stipulates that business operators who violate consumer rights by selling products without distribution permits can be sentenced to a maximum of 5 years in prison or fined up to IDR 2 billion. This shows that the law provides strong protection to consumers from dangerous products (Risma & Baharuddin, 2020).

Law Number 36 of 2009 on Health also provides protection to the public. Cosmetics fall under the category of medical devices, so business operators who produce or distribute cosmetics without distribution permits can be subject to criminal sanctions in accordance with Article 197 of the Health Law. The penalty is imprisonment for up to 15 years or a maximum fine of Rp1.5 billion. This shows that the law does not take lightly when imposing sanctions on business operators who do not comply with regulations (Citrawan & Rasyidi, 2019).

BPOM Regulation Number 12 of 2020 on the Procedures for Submitting Cosmetic Notifications also serves as an important legal basis. This regulation requires every cosmetic business operator to have a valid distribution permit. BPOM will examine the ingredient content, benefit claims, and labels on product packaging before granting distribution permits. This aims to ensure that the products on the market are safe and do not pose a risk to consumer health (Heryansyach & Latumahina, 2022). Thus, BPOM plays an important role in ensuring that cosmetic products circulating in the market meet the established safety and quality standards (Putri & Sahrudin, 2022).

The obligation for business operators to have a Business Identification Number (NIB) is also an important step in ensuring the legality of cosmetic businesses. Before applying for a distribution permit to BPOM, business operators must have an NIB (Ningrum, 2022). NIB serves as the official identity of the business operator issued through the Online Single Submission (OSS) system. This is the initial step that must be taken for a cosmetic business to operate legally (Zuchrilla et al., 2022). By having an NIB, business operators can be assured that they have met the necessary administrative requirements.

The supervision and enforcement by BPOM of cosmetic products circulating in the market also serve as one of the legal protection mechanisms for the public (Putri & Sahrudin, 2022). BPOM actively supervises cosmetic products circulating in the market. BPOM can withdraw products that do not meet the regulations, as well as impose sanctions on business operators who violate the regulations. This aims to protect consumers from the risks of using hazardous products (Tambuwun, 2020). Thus, BPOM plays an important role in ensuring that products circulating in the market are safe and comply with regulations.

Public education plays a crucial role in safeguarding consumers from the dangers of illegal cosmetics. The National Agency of Drug and Food Control (BPOM) consistently conducts educational campaigns to encourage the public to become more discerning and critical when selecting cosmetic products available in the market (Dai et al., 2019). Consumers are urged to verify the BPOM registration number on product packaging or consult the official BPOM website before making any purchase (Hartanto & Syafiina, 2021). This preventive measure seeks to cultivate public awareness and promote a culture of caution in choosing only safe, certified, and legal cosmetic products (Hutauruk & Hutabarat, 2021).

Collaboration with relevant parties is also one of the important strategies in preventing the circulation of illegal cosmetics. This is done to ensure that the products circulating in the market are safe and comply with regulations (Utami & Herwastoeti, 2022). With effective collaboration, BPOM can be more efficient in taking action against business operators who violate regulations.

Guidance and coaching for business operators are also one of the important efforts in preventing the circulation of illegal cosmetics. BPOM provides guidance and training for business operators to ensure the safety, benefits, and quality of cosmetic products (Khalifatunnisa & Hidayat, 2021). This aims to prevent business operators from legal sanctions that could harm their business. With proper guidance and coaching, business operators can better understand regulations and ensure that their products are safe and legal (Qani'ah, 2022).

Preventive measures are also one of the important efforts in protecting the public from illegal cosmetics. BPOM continues to encourage business operators to uphold their commitment to ensuring the safety, quality, and legality of cosmetic products that are produced, imported, or distributed/traded. This is done to prevent the circulation of illegal cosmetics that disturb the public. With effective preventive measures, BPOM can ensure that the cosmetic products circulating in the market are safe and comply with regulations (Ameliani et al., 2022).

Sanctions Against Businesses that Distribute and Market Illegal Cosmetics

Basically, the losses experienced by consumers due to the actions of business operators become the starting point of the consumer protection concept. Although in theory consumers and businesses are considered to have the same standing, the reality is quite different. In practice, consumers often suffer losses when interacting with business operators. This is driven by several factors, including the high dependence of consumers on the products produced by businesses; the low awareness of consumers regarding their rights; the imbalance in understanding advertising information and product knowledge; differences in financial power; and the lack of networks and relationships between consumers and businesses (Widyawati, 2018). Additionally, the use of standard agreements to achieve fairness and efficiency in the exchange of goods and services is considered difficult, impractical, and costly (Gowasa et al., 2023).

Business operators who distribute and market illegal cosmetics can face various strict sanctions in accordance with the applicable regulations. One of the sanctions that can be imposed is imprisonment and fines (Isnaini, 2018). Based on Law Number 8 of 1999 concerning Consumer Protection, business actors who violate consumer rights by selling products without distribution permits can be sentenced to a maximum of 5 years in prison or fined up to Rp 2 billion. This shows that the law provides strong protection to consumers from dangerous products.

Article of Law Number 8 of 1999 stipulates that business actors are obliged to provide compensation to consumers for the losses incurred (Suhadi & Fadilah, 2021). Additionally, Article 19 of Law Number 8 of 1999 regulates the responsibility of business actors, and the Civil Code in Article 1365 also stipulates that any unlawful act causing harm to another person obliges the perpetrator to compensate for the loss. Article 8 paragraph (2) of Law Number 8 of 1999 prohibits business actors from trading damaged, defective, used, or contaminated goods without providing complete and accurate information. The words contaminated, defective, damaged, and used encompass mixed materials, packaging, or unclear information, which can endanger consumer health, especially in the context of cosmetics containing hazardous substances. Business operators are required to withdraw the goods from circulation in accordance with Article 8 paragraph (4). In addition, the Minister of Health Regulation on Cosmetic Notification also regulates the accountability of cosmetic products through production contracts with business entities (Kemenkes, 2021).

In the Civil Code, it is explained that losses can arise from default as stated in Article 1238 in conjunction with Article 1243 and unlawful acts as stated in Article 1365 of the Civil Code, which regulates unlawful acts that state, "Every unlawful act that causes loss to another person obliges the person whose fault caused the loss to compensate for the loss." The failure to fulfill an agreement or default can occur either intentionally or unintentionally.

Law Number 36 of 2009 concerning Health also imposes heavier penalties on business operators who distribute illegal cosmetics (Haryati, 2020). Cosmetics fall under the category of medical devices, so business operators who produce or distribute cosmetics without distribution permits can be subject to criminal sanctions in accordance with Article 197 of the Health Law. The penalty is imprisonment for up to 15 years or a maximum fine of Rp1.5 billion.

This shows that the law does not mess around in imposing sanctions on business operators who do not comply with regulations (Laraswati, 2022).

Regulation of the Food and Drug Supervisory Agency Number 23 of 2019 on Technical Requirements for Cosmetic Ingredients in Article 2 states that Business Actors are required to ensure that Cosmetics produced for distribution within the country and/or imported for distribution in the territory of Indonesia meet the technical requirements for Cosmetic Ingredients. BPOM Regulation Number 12 of 2020 concerning the Procedures for Submitting Cosmetic Notifications also serves as an important legal basis for imposing sanctions on business operators. This regulation requires every cosmetic business operator to have a valid distribution permit. BPOM will examine the ingredient content, benefit claims, and labels on product packaging before granting distribution permits. If business operators do not meet these requirements, they may face administrative sanctions, including the revocation of distribution permits and fines (Tambunan & Hendarsih, 2022).

The obligation for business operators to have a Business Identification Number (NIB) is also one of the important steps in ensuring the legality of cosmetic businesses. Before applying for a distribution permit to BPOM, business operators must have an NIB (Ningrum, 2022). NIB serves as the official identity of business actors issued through the Online Single Submission (OSS) system. Business actors who do not have an NIB may face administrative sanctions, including fines and revocation of business licenses.

Legal protection is essential for consumers because safeguarding citizens is a fundamental responsibility of the state, including protecting individuals who unknowingly use counterfeit cosmetics. These products pose serious health risks, making regulatory oversight crucial. In this regard, the presence and active role of BPOM becomes vital, as it is the authorized government body tasked with monitoring and controlling the circulation of drugs and food, including cosmetics (Isnaini, 2018).

The supervision and enforcement by BPOM of cosmetic products circulating in the market also serve as one of the sanction mechanisms for business operators who violate regulations. BPOM actively monitors cosmetic products circulating in the market. BPOM can withdraw products that do not meet the regulations, as well as impose sanctions on business operators who violate the regulations (Tambuwun, 2020). This aims to protect consumers from the risks of using hazardous products.

BPOM's Efforts to Prevent the Circulation Of Illegal Cosmetics

BPOM is an agency in Indonesia responsible for supervising the circulation of drugs and food, as well as cosmetics classified as drugs. As a non-departmental agency, BPOM was established by the government and is directly accountable to the President in carrying out its duties (Milala & Ayunda, 2022). According to Article 2 of the BPOM Presidential Regulation, the main task of BPOM is to carry out government duties in the field of drug and food supervision in accordance with the provisions of statutory regulation (BPOM, 2018). Drugs and food include medicines, medicinal ingredients, narcotics, psychotropics, precursors, addictive substances, traditional medicines, health supplements, cosmetics, and processed food. Based on BPOM Regulation Number 12 of 2018, the BPOM Technical Implementation Unit is tasked with implementing operational technical policies in the field of drug and food supervision in accordance with the provisions of legislation. The authority of BPOM is regulated in Article 4 of the BPOM Presidential Regulation, which includes issuing product distribution permits and certificates in accordance with safety, efficacy/benefit, and quality standards and requirements; conducting intelligence and investigations in the field of drug and food supervision; and imposing administrative sanctions in accordance with the provisions of the legislation.

The Food and Drug Supervisory Agency (BPOM) has various actions that are actively taken to prevent the circulation of illegal cosmetics that disturb the public. One of the most important actions is strict supervision of cosmetic products circulating in the market. BPOM conducts routine and intensive supervision to ensure that all cosmetic products sold meet the established safety and quality standards. This is done through various methods, including physical inspections in stores, markets, and other sales locations (Dai et al., 2019).

In addition to monitoring, BPOM also takes strict action against business operators proven to distribute illegal cosmetics. This enforcement can include product recalls, revocation of distribution permits, and criminal sanctions for business operators who violate regulations (Padmayani et al., 2022). BPOM collaborates with various parties, including the police and specific goods supervision task forces (*satgas*), to ensure that enforcement is carried out effectively and firmly (Ramailis & Wandu, 2018). This shows that BPOM does not hesitate to impose severe penalties on business operators who do not comply with regulations.

Community education is also one of BPOM's main focuses in preventing the circulation of illegal cosmetics. BPOM regularly conducts campaigns and education for the public to be more vigilant in choosing cosmetic products. The public is advised to check the BPOM registration number listed on the product packaging before purchasing (Lature, 2021). This aims to raise public awareness in choosing safe and legal cosmetic products. With proper education, it is hoped that the public can be more cautious in choosing products and not easily tempted by cheap illegal cosmetic products of unclear origin (Han, 2021).

Guidance and mentoring for business operators are also one of BPOM's important strategies in preventing the circulation of illegal cosmetics. BPOM provides guidance to business operators to ensure that they understand and comply with the applicable regulations (Aziz, 2020). This is done through various activities, including seminars, training, and technical consultations. With proper guidance, business operators can better understand the importance of compliance with regulations and how to produce safe and legal products (Maryati et al., 2016).

Collaboration with relevant parties is also one of BPOM's important actions in preventing the circulation of illegal cosmetics. BPOM collaborates with various government agencies, including the Ministry of Health, the Ministry of Trade, and the Ministry of Law and Human Rights, to ensure that all parties work synergistically in preventing the circulation of illegal cosmetics (Prabowo et al., 2021). This is done through various activities, including coordination, joint policy formulation, and joint enforcement (Pesulima et al., 2021).

The use of technology is also one of the important actions taken by BPOM in preventing the circulation of illegal cosmetics (Hartanto & Syafiina, 2020). BPOM has developed an information system that allows the public to easily verify the authenticity of the cosmetic products they purchase. This is done through the official BPOM website and a mobile application that can be accessed by the public. With this technology, the public can easily check the BPOM registration number and see if the products they purchase are legally registered (Winata, 2022).

Research and product testing are also one of BPOM's important actions in preventing the circulation of illegal cosmetics (Sudewi et al., 2020). BPOM routinely conducts testing on cosmetic products circulating in the market to ensure that these products are safe and do not contain harmful substances. This is carried out through laboratories

spread across Indonesia. With rigorous testing, BPOM can ensure that cosmetic products circulating in the market are safe and comply with regulations (Putri & Apriani, 2022).

Public complaints serve as a crucial input for BPOM in identifying, investigating, and curbing the distribution of illegal cosmetic products (Putri, 2019). These reports often come from consumers who experience adverse effects or notice irregularities in cosmetic packaging and labeling. To support this, BPOM has established multiple accessible complaint channels, including telephone hotlines, official email addresses, and mobile applications designed for public interaction. Through these platforms, the public is encouraged to report products suspected to be counterfeit or unregistered. After receiving a complaint, BPOM conducts further verification, laboratory testing if necessary, and field inspections to track the product's source and distribution route. Prompt actions are then taken, such as issuing product recalls or sanctions, to safeguard consumer health (Qona'ah & Afianto, 2020).

The formulation and refinement of regulations represent one of BPOM's strategic efforts in tackling the persistent issue of illegal cosmetics in the market (Muhlis et al., 2021). Recognizing the evolving nature of cosmetic technology and the increasingly sophisticated methods used by unscrupulous business actors, BPOM proactively revises and strengthens regulatory frameworks to close legal loopholes. These regulatory improvements are grounded in evidence-based practices, involving comprehensive research, market surveillance, and comparative legal studies. BPOM also conducts public consultations involving academics, industry representatives, and civil society to ensure that regulatory adjustments are practical and widely supported. Additionally, regulatory evaluations are carried out periodically to assess the effectiveness and enforceability of current rules. This dynamic and adaptive approach is intended to maintain strong oversight and enhance legal certainty in the cosmetic sector.

International cooperation is also one of the important actions taken by BPOM in preventing the circulation of illegal cosmetics. BPOM collaborates with various international agencies, including the World Health Organization (WHO) and the ASEAN Cosmetics Association, to ensure that cosmetic products circulating in the market are safe and meet international standards (Nurgiyanti & Fithriya, 2019). This is done through various activities, including information exchange, training, and regulatory harmonization.

CONCLUSION

The circulation of illegal cosmetics in Indonesia has become a very troubling issue for the public. These products not only violate existing regulations but also endanger consumer health. The law has provided strong protection to the public through Law Number 8 of 1999 on Consumer Protection and Law Number 36 of 2009 on Health. Business operators distributing illegal cosmetics can be subject to criminal sanctions, including imprisonment and substantial fines. BPOM Regulation Number 12 of 2020 also stipulates that every cosmetic product must have a valid distribution permit. This shows that the government is very serious about addressing this issue.

BPOM has taken various actions to prevent the circulation of illegal cosmetics. Strict supervision of products circulating in the market, firm action against violators, and education for the public and business operators are some of the steps that have been taken. Collaboration with relevant parties, the use of technology, and the development of regulations are also part of BPOM's strategy in preventing the circulation of illegal cosmetics. Through this comprehensive approach, BPOM strives to protect the public from health risks posed by illegal cosmetics. However, this issue still requires greater attention. The public must be more vigilant in choosing cosmetic products and check the BPOM registration number before purchasing. Business operators must also better understand the importance of compliance with regulations and commit to producing safe and legal products. The government needs to continuously enhance supervision and enforcement against businesses that do not comply with regulations. The government also needs to enhance education for the public and business operators to raise awareness about the importance of product safety.

In order to enhance the effectiveness of supervision and enforcement, the government needs to strengthen cooperation with various parties, including the police, task forces, and international organizations. This will ensure that the actions taken are more coordinated and effective. The government also needs to continuously develop and update regulations to anticipate new developments in the cosmetics industry. Thus, the government can be more effective in protecting the public from health risks posed by illegal cosmetics.

The suggestions that can be given are as follows. First, the public needs to be more active in reporting suspected illegal cosmetic products to BPOM. This will help BPOM take quicker and more effective action. Second, business operators need to better understand

the importance of compliance with regulations and commit to producing safe and legal products. Third, the government needs to continuously enhance supervision and enforcement against businesses that do not comply with regulations. Fourth, the government needs to enhance education for the public and business operators to raise awareness about the importance of product safety. Fifth, the government needs to strengthen cooperation with various parties to ensure that the actions taken are more coordinated and effective. Lastly, the government needs to continuously develop and update regulations to anticipate new developments in the cosmetics industry. Thus, the government can be more effective in protecting the public from health risks posed by illegal cosmetics.

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