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Corrective Justice and Consumer Protection: Analyzing Liability for Hazardous Cosmetic Circulation on Digital Platforms

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Abstract

The rapid expansion of Indonesia's cosmetics e-commerce has heightened the circulation of hazardous products, exposing a critical regulatory gray area: digital platforms actively profit from transactions but evade liability through standard exoneration clauses, leaving consumers to bear disproportionate risks in a structurally asymmetric digital ecosystem. This study addresses this legal tension by evaluating the liability chain of online cosmetic distribution through the theoretical lens of corrective justice. Moving beyond conventional contractual frameworks, this research employs a normative legal method with statutory and case-study approaches, specifically analyzing the Madame Gie and Amiraderm incidents. The theoretical novelty lies in conceptualizing corrective justice to establish a shared corrective obligation for platforms, arguing that their failure to exercise timely facilitative oversight, including seller verification and prompt non-compliant listing removal, constitutes actionable negligence. While manufacturers, brand owners, and sellers face strict liability, this paper's primary scientific contribution is the formulation of an integrated, multi-tier liability model that bridges the gap between administrative compliance and substantive consumer redress. Ultimately, we propose a systemic reform framework, real-time BPOM-platform data integration, to institutionalize corrective justice and restore consumer dignity in the digital marketplace.

Keywords: Consumer Protection; Corrective Justice; E-commerce Liability; Hazardous Cosmetics; Platform Responsibility.

1. INTRODUCTION

The development of the cosmetic industry in Indonesia has shown very rapid growth in line with increasing public demand for personal care and beauty products. Cosmetics are not only used to enhance appearance but also function to protect and maintain the health of the skin, hair, and other external body parts. As products applied directly to the human body, cosmetics have specific characteristics that require assurance of safety, quality, and efficacy. The National Agency of Drug and Food Control (BPOM) defines cosmetics as substances or preparations intended for external use on the human body for the purpose of cleansing, protecting, beautifying, or altering appearance, without the intention of permanently affecting physiological bodily functions. [1]

[1] Badan Pengawas Obat dan Makanan Republik Indonesia, "Definisi Kosmetika," 2025, https://www.pom.go.id.

 DOI: http://dx.doi.org/10.29303/ius.v14i2.1986

The development of information technology has brought fundamental changes to trade practices, most notably through electronic commerce (e-commerce). Kenneth C. Laudon defines e-commerce as the process of purchasing and selling goods and services, as well as the exchange of information, conducted through digital networks.[2] E-commerce is not merely understood as online buying and selling, but encompasses the entire technology-based business mechanism enabling transactional efficiency and broader market access. The distribution and marketing of cosmetic products have undergone significant transformation through the utilization of e-commerce platforms, offering ease of access and wide market reach. Government Regulation Number 80 of 2019 concerning Trade through Electronic Systems stipulates that buying and selling transactions may be conducted online using electronic systems as the primary medium.

However, this convenience also brings legal consequences, primarily the increased potential circulation of cosmetic products that fail to meet safety standards, including cosmetics containing hazardous substances or those lacking a distribution permit from BPOM. In practice, many hazardous cosmetic products continue to be found on e-commerce platforms, distributed through counterfeit labels, exaggerated claims, and packaging designed to resemble legitimate products. This makes it difficult for consumers to distinguish between safe products and those posing health risks. Furthermore, not all e-commerce platforms implement strict verification procedures regarding seller identities or product legality, thereby creating opportunities for legal violations to occur.

Several prior studies have examined aspects of this problem, though gaps remain. Gabriella and Bakhtiar (2023)[3] documented the legal framework protecting consumers from illegal cosmetics but did not specifically address digital platform liability. Syafiqoh and Sudiro (2024)[4] analyzed consumer protection against illegal cosmetics under Indonesian law but focused predominantly on criminal liability of manufacturers, leaving the role of marketplace platforms largely unexplored. Fauzela (2023)[5] examined consumer protection for hazardous cosmetics sold through e-commerce but stopped short of applying a corrective justice theoretical lens. Winata (2022)[6] addressed legal protection for victims of illegal cosmetics but did not analyze the liability chain extending to digital platform operators. Syafitri and Dewi (2022)[7] analyzed consumer protection against illegal skincare products but concentrated on pre-market supervision mechanisms rather than post-market liability. These prior works collectively affirm the salience of the problem but leave unaddressed the integrated liability question, spanning manufacturers, brand owners, sellers, and platforms, as analyzed through corrective justice. This study fills that gap.

Consumer protection against the circulation of hazardous cosmetic products is regulated under various national instruments. Law Number 8 of 1999 concerning Consumer Protection affirms that consumers are entitled to comfort, security, and safety

[2] Kenneth C. Laudon and Carol Guercio Traver, *E-Commerce 2016: Business, Technology, Society* (New Jersey: Pearson, 2016), 5.

[3] Theresia Gabriella and Handar Bakhtiar, "Perlindungan Hukum Kepada Konsumen Terkait Peredaran Kosmetik Ilegal," *Jurnal Panorama Hukum* 8, no. 1 (July 15, 2023): 17–23, https://doi.org/10.21067/jph.v8i1.8521.

[4] Firyal Arribah Syafiqoh and Amad Sudiro, "Perlindungan Hukum Terhadap Konsumen Dari Produk Kosmetik Yang Ilegal," *Syntax Literate ; Jurnal Ilmiah Indonesia* 8, no. 12 (January 4, 2024): 6679–89, https://doi.org/10.36418/syntax-literate.v8i12.14757.

[5] Dian Sera Fauzela, "Perlindungan Hukum Bagi Konsumen Terhadap Produk Kosmetik Yang Mengandung Bahan Berbahaya Dalam Jual Beli Online (E-Commerce)," *Inovasi Pembangunan : Jurnal Kelitbangan* 11, no. 01 (April 1, 2023): 6, https://doi.org/10.35450/jip.v11i01.358.

[6] Melina Gabrila Winata, "Perlindungan Hukum Bagi Korban Pengguna Produk Kosmetik Ilegal Berbahaya," *Sapientia Et Virtus* 7, no. 1 (March 30, 2022): 34–43, https://doi.org/10.37477/sev.v7i1.343.

[7] Isdiana Syafitri and Atika Sandra Dewi, "Analisis Perlindungan Hukum Terhadap Konsumen Atas Produk Skincare Ilegal," *Juripol* 5, no. 2 (August 19, 2022): 124–33, https://doi.org/10.33395/juripol.v5i2.11697.

in the consumption of goods and/or services.[8] Business actors are required to guarantee the quality of goods they trade and to provide accurate, clear, and honest information. Violations may give rise to administrative, civil, or criminal liability. Law Number 17 of 2023 concerning Health, along with BPOM Regulation Number 17 of 2022 on the Technical Requirements for Cosmetic Ingredients, further strengthens the obligation of business actors to ensure that cosmetics in circulation do not contain prohibited or restricted substances.

The issue becomes more complex when transactions are conducted through e-commerce, as it involves digital platforms acting as intermediaries. This raises questions regarding the extent of legal responsibility of business actors and the limits of liability of e-commerce platforms for consumer losses resulting from the use of hazardous cosmetic products. The disparity between the rapid growth of digital commerce and the readiness of legal instruments creates a regulatory gray area in consumer protection. Law enforcement still heavily relies on public complaints and the capacity of supervisory institutions such as BPOM, while coordination with e-commerce platforms has not yet functioned optimally.[9]

While previous scholars have highlighted the escalating risks associated with unregulated cosmetics, a critical diagnostic limitation persists. The existing literature exhibits a multi-dimensional gap that hinders a comprehensive legal resolution. First, a normative gap exists because Indonesia's Consumer Protection Law, crafted in a pre-digital era, relies on a direct, bipolar contract model between a physical seller and buyer. This framework struggles to accommodate the decentralized, multi-tiered transactions mediated by digital platforms. [10]

Second, there is a distinct theoretical gap: current scholarship fails to dynamically apply the principles of corrective justice to digital intermediaries. Scholars predominantly treat platforms as passive facilitators with minor administrative roles, rather than active legal subjects capable of disrupting relational equality. [11]

Third, an institutional and implementational gap arises from the fragmented, reactive post-market supervision. While the National Agency of Drug and Food Control (BPOM) issues administrative recalls, platforms display a systemic delay in executing algorithmic takedowns, thereby exposing consumers to ongoing health risks during the enforcement lag.[12]

Finally, an evidence gap remains, as empirical studies of safety infractions such as the Madame Gie and Amiraderm cases are analyzed in isolation as mere administrative failures, rather than being synthesized to expose the structural limitations of platform-centered accountability. This study directly bridges these gaps by conceptualizing a Digital Corrective Justice Model that redefines the platform's role.

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[8] Abdul Atsar and Rani Apriani, *Buku Ajar Hukum Perlindungan Konsumen* (Yogyakarta: Deepublish, 2019), 8.

[9] Sri Windani and Ayu Widiana, "Implikasi Hukum Perlindungan Dalam Transaksi Keuangan Digital Dan Peninjauan Peraturan Perbankan," *Lex Lectio : Jurnal Kajian Hukum Volume* 03, no. 02 (2024): 106–17, https://doi.org/10.61715/jll.v3i2.95.

[10] Ananda Gymnastiar Dwijaya and Harmono Harmono, "Construction of Marketplace Responsibility In Consumer Protection of Digital Halal Products In Indonesia," *Jurnal Legisci* 3, no. 1 (September 24, 2025): 1–18, https://doi.org/10.62885/legisci.v3i1.898.

[11] Recha Redian and Bangun Patrianto, "Criminal Law Enforcement Against Illegal Cosmetic Products: A Normative Juridical Study," *YURIS: Journal of Court and Justice* 5, no. 1 (2026): 31–49, https://doi.org/10.56943/jcj.v5i1.966.

[12] Muhammad Rizky et al., "Legal Liability Against Marketplace for Promotion of Inappropriate Goods That Harm Consumers," *International Journal of Social Service and Research* 5, no. 5 (May 31, 2025): 478–84, https://doi.org/10.46799/ijssr.v5i5.1226.

This research employs a normative legal method with a statutory and case-study approach, examining primary legal sources including the Consumer Protection Law (No. 8/1999), the Health Law (No. 17/2023), Government Regulation No. 80/2019 on Electronic Commerce, and BPOM Regulation No. 17/2022. Case analysis of the Madame Gie and Amiraderm incidents is integrated to illustrate enforcement realities. This study aims to analyze the legal responsibility of business actors for the circulation of hazardous cosmetic products through e-commerce platforms and to evaluate the implementation of consumer protection in digital trade practices in Indonesia through the lens of corrective justice theory.

2. ANALYSIS AND DISCUSSION

2.1. Legal Subjects of Liability for the Circulation of Hazardous Cosmetic Products in E-commerce Platforms

According to R. Setiawan, liability constitutes one of the fundamental bases for understanding the concept of business actors' accountability when violations of consumer rights occur. Legal liability arises when a person or legal subject breaches a legal obligation imposed upon them, or when an unlawful act (onrechtmatige daad) takes place.[13] An act may be qualified as a breach of legal obligation when a business actor fails to comply with standards of legality, due care, or administrative obligations as stipulated in applicable regulations.

The circulation of cosmetic products through e-commerce platforms involves various parties with different roles in the processes of production, distribution, and marketing. Unlike conventional trade, electronic commerce allows the involvement of manufacturers, brand owners, intermediary sellers, and digital platforms within a single transaction ecosystem. The determination of the subjects of legal liability becomes essential to ensure that consumer protection can be effectively implemented and that no gap in accountability occurs.[14]

The principle of liability is not imposed solely on the party that directly sells the product to consumers, but also extends to those who manufacture the product and exercise control over its brand.[15] Each party that contributes to the circulation of cosmetic products bears legal obligations in accordance with their respective roles. The legal subjects include:

First, the manufacturer is the primary legal subject responsible for the safety, quality, and legality of a cosmetic product. Manufacturers bear responsibility because they directly produce the product and determine its ingredients, formulation, and production processes. Pursuant to the Health Law, manufacturers are obligated to ensure that every cosmetic product is safe before it is circulated.[16] If hazardous substances are detected, the manufacturer is automatically held liable even if the product has already obtained a notification number, demonstrating that the verification of legality does not exempt manufacturers from the obligation to implement adequate quality control and proper Standard Operating Procedures (SOPs).

[13] R Setiawan, *Pokok Pokok Hukum Perikatan* (Bandung: Bina Cipta, 1987), 15.

[14] Nurlaily, N., Anggraeni, H. R., Hutauruk, R. H., Bajury, M. S. M., & Weley, N. C. (2026). Consumer Protection in Indonesian Social Commerce: Comparative Insights from Malaysia and Vietnam. *Jurnal Litigasi*, 27(1), 45–70. https://doi.org/10.23969/litigasi.v27i1.35678

[15] Felicia Ade Putri and Jeane Neltje Saly, "Tanggung Jawab Platform E-Commerce Dan Merchant Terhadap Konsumen Dari Peredaran Kosmetika Tanpa Izin Edar (Contoh Putusan Nomor 142/PID. SUS/2020/PN. JKT. BRT)," *Jurnal Hukum Adigama* 3, no. 2 (2020): 921–44, https://doi.org/10.24912/adigama.v3i2.10598.

[16] Syafitri and Dewi, "Analisis Perlindungan Hukum Terhadap Konsumen Atas Produk Skincare Ilegal," 124.

Second, the brand owner bears responsibilities that cannot be disregarded. Although a brand owner does not always directly manufacture cosmetics, they serve as the owner of the trademark and the entity responsible for the product's identity, quality, and image. In many cases, the brand owner applies for the BPOM notification number; therefore, they hold an administrative obligation to provide accurate data regarding the product's composition and claims. In the Amiraderm case, the violation did not arise from hazardous ingredients per se but from discrepancies between the product information and the notification documents.[17] This affirms that the brand owner is legally liable if consumers suffer losses due to invalid or misleading information.

Third, sellers on e-commerce platforms are also parties who may be held liable. They interact directly with consumers in digital transactions; therefore, they bear the responsibility to ensure that the products they sell possess distribution permits and comply with safety standards.[18] Sellers are obligated to provide accurate information that is not deceptive or misleading. Business actors constitute the primary legal subjects who are obliged to ensure that every cosmetic product traded has fulfilled the standards of safety, quality, and efficacy as stipulated by statutory regulations.[19] This obligation does not cease merely because the transaction is conducted online, as the principles of consumer protection remain applicable to all forms of transactions, whether conventional or digital.

2.2. Business Actors' Liability for the Circulation of Hazardous Cosmetic Products through E-commerce Platforms

The liability of business actors in the circulation of hazardous cosmetic products is grounded in several principal regulations that systematically form the framework of consumer protection. Law Number 17 of 2023 concerning Health stipulates that every health-related product, including cosmetics, must meet standards of safety, quality, and efficacy before being circulated to the public. Business actors are required to ensure that their cosmetic products have obtained a BPOM Notification Number as a form of marketing authorization.[20] This provision becomes particularly relevant in the context of e-commerce, as the circulation of cosmetics without official notification indicates a serious violation of the preventive aspects of consumer health protection.

Pursuant to Article 7 of the Consumer Protection Law, business actors are required to act in good faith in conducting their business activities, to provide accurate, clear, and truthful information regarding the condition of the product, as well as to guarantee the quality of their products. This obligation encompasses accurate information regarding the composition of ingredients, benefits, risks of use, and the product's licensing status. Business actors who market hazardous cosmetic products through e-commerce have violated these legal obligations by trading products potentially endangering consumer safety.[21] Furthermore, Article 8 of the Consumer Protection Law expressly prohibits business actors from trading goods that do not comply with statutory standards or regulatory provisions. The practice of selling hazardous cosmetic products through

[17] Sahda Saraswati Akbar et al., "Pertanggungjawaban Hukum Owner Skincare Terkait Overclaim Pada Produk Kecantikan," *Forschungsforum Law Journal* 2, no. 01 (January 31, 2025): 81, https://doi.org/10.35586/flj.v2i1.9889.

[18] Al Satria Diah and Sidi Ahyar Wiraguna, "Tanggung Jawab Hukum Platform E-Commerce Atas Kebocoran Data Pribadi Dalam Perspektif UU No. 27 Tahun 2022," *Jurnal Kajian Hukum Dan Kebijakan Publik* 2, no. 4 (May 16, 2025): 1089–96, https://doi.org/10.62379/3w415f14.

[19] Zulham, *Hukum Perlindungan Konsumen* (Jakarta: Prenada Media, 2017), 1.

[20] Diva Fitaloka Oktaviani et al., "Pengawasan Peredaran Kosmetik Tanpa Izin Di Media Digital Melalui Platform Elamahamen," *Jurnal USM Law Review* 8, no. 3 (2025): 1930–48, https://journals.usm.ac.id/index.php/julr/article/view/12305.

[21] Winata, "Perlindungan Hukum Bagi Korban Pengguna Produk Kosmetik Ilegal Berbahaya," 34–43.

e-commerce is often accompanied by misleading information, exaggerated claims, and the use of labels that do not reflect the actual condition of the product, indicating dual violations in terms of product safety and truthfulness of information.[22]

In cases where violations result in consumer losses, Article 19 of the Consumer Protection Law emphasizes the liability of business actors by stipulating that they are obliged to provide compensation in the form of refunds, product replacement, or provision of medical care. This norm embodies the principle of strict liability, meaning that business actors remain responsible even when the loss occurs without intent.[23] This article provides a legal basis for consumers to claim liability for irritation, skin damage, or other health impacts arising from the use of products that do not meet required standards.

The liability of business actors is further strengthened by technical regulations issued by BPOM. Article 3 of BPOM Regulation Number 17 of 2022 concerning Technical Requirements for Cosmetic Ingredients sets out in detail the list of ingredients that are permitted, restricted, and prohibited in cosmetic products. Hazardous substances, including mercury, hydroquinone, and certain synthetic colorants are expressly prohibited due to their high health risks.[24] Business actors are required to ensure that all products marketed, including those sold through e-commerce platforms, do not contain such substances. Violations may result in revocation of marketing authorization, product recalls, as well as other administrative sanctions.

Administrative liability constitutes the initial level of accountability imposed by supervisory authorities, particularly BPOM, to control the impact of hazardous cosmetic circulation and to prevent greater losses. Administrative sanctions may take the form of revocation of marketing authorization, orders for product recall, temporary suspension of business activities, label correction, and product destruction.[25] These administrative measures are both corrective and preventive, intended to stop the circulation of violating products before causing widespread health impacts.

The results of BPOM's supervision and laboratory testing indicate that a number of cosmetic products traded online still contain prohibited substances or are inconsistent with the notification data. Enforcement actions are carried out through product recalls, destruction of goods, and the regulation of distribution channels, including those operating through digital platforms.[26] The recall of three Madame Gie products serves as a clear example of how administrative sanctions are imposed. After it was discovered that the products contained hazardous coloring agents (Red K3 and Red K10), BPOM officially instructed the recall and destruction of all indicated product batches. Business actors were required to report the implementation of the recall transparently to BPOM

[22] Muthoifin Muthoifin, Mariam Elbanna, and Ishmah Afiyah, "Legal Oversight in Digital Marketplaces: A Bibliometric Analysis and Systematic Literature Review of Research Trends and Gaps," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 9, no. 1 (June 7, 2026): 145–74, https://doi.org/10.24090/volksgeist.v9i1.15587.

[23] Ade Pratiwi Susanty, "Tanggung Jawab Pelaku Usaha Terhadap Konsumen Berdasarkan Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen," *Andrew Law Journal* 3, no. 2 (December 31, 2024): 48, https://doi.org/10.61876/alj.v3i2.36.

[24] Vera Wheny Setijawati Soemarwi and Yudith Ridzkia, "Perlindungan Hukum Konsumen Terhadap Peredaran Kosmetik Palsu Berdasarkan UU Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen Dan Peraturan BPOM Nomor 23 Tahun 2019," *JURNAL RECTUM: Tinjauan Yuridis Penanganan Tindak Pidana* 5, no. 1 (February 17, 2023): 995, https://doi.org/10.46930/jurnalrectum.v5i1.2864.

[25] Kiki Firmantoro and Suvinah Suvinah, "Kosmetik Ilegal, Otoritas Pengawasan, Dan Profesi Medis: Kajian Hukum Administrasi Di Indonesia," *HUMANIORUM* 3, no. 3 (July 8, 2025): 125–35, https://doi.org/10.37010/hmr.v3i3.133.

[26] Badan Pengawas Obat dan Makanan, *Laporan Pengawasan Kosmetik* (Jakarta: BPOM RI, 2024), 37.

and the public, demonstrating that administrative sanctions also carry an aspect of public accountability.[27]

Likewise, in the Amiraderm case, the business actor was required to correct product labeling and notification data compliance after discrepancies were found between the actual formula and the information stated in the licensing documents. Both cases are consistent with Article 6 of BPOM Regulation Number 9 of 2024 on Guidelines for Follow-Up Actions from Supervisory Results, which designates recall as a post-market measure for products that fail to meet safety, quality, and/or administrative compliance requirements.

Civil liability focuses on the recovery of consumer losses resulting from the use of cosmetic products that do not meet established standards. In cases involving health impacts, compensation may include medical expenses as well as non-material damages arising from the use of hazardous products.[28] Business actors may be held liable based on an unlawful act (onrechtmatige daad) as well as statutory liability. Violations of legal obligations stipulated in the Consumer Protection Law, the Health Law, and BPOM regulations demonstrate the existence of a causal relationship between the actions of business actors and the losses suffered by consumers.

The Madame Gie and Amiraderm cases demonstrate that business actors remain positioned as the primary parties responsible for product safety, even when distribution is conducted through e-commerce platforms. Business actors remain obliged to conduct product recalls, provide clarification to consumers, and ensure the cessation of distribution across all online sales channels.[29]

2.3. Implementation of E-commerce Platform Responsibility for Consumer Protection of Hazardous Cosmetics

According to Subekti, a legal relationship arises from an obligation, which constitutes a relationship between two parties wherein one party is entitled to demand a performance while the other party is bound to fulfill that performance. In the sale and purchase of cosmetic products through e-commerce, the legal relationship between business actors and consumers arises from the formation of an electronic agreement, giving rise to legal rights and obligations for both parties.[30]

E-commerce platforms are classified as Electronic Commerce System Operators as stipulated in Article 1 point 6 of Government Regulation Number 80 of 2019 concerning Trade through Electronic Systems. This legal status places the platform as a legal subject that bears certain obligations in the conduct of electronic commerce, and therefore it cannot be regarded merely as a neutral party without legal responsibility.[31]

Business actors are required to ensure that the products they sell comply with BPOM licensing requirements and do not contain hazardous substances. Meanwhile, platforms

[27] Andika Temanta Purba and Wessy Trisna, "Pertanggungjawaban Pidana Terhadap Pelaku Usaha Kosmetik Yang Memperdagangkan Produk Tidak Memenuhi Standar," *Locus Journal of Academic Literature Review* 3, no. 1 (January 4, 2024): 8–13, https://doi.org/10.56128/ljoalr.v3i1.271.

[28] Anggun Yesi Aulia and Allan Mustafa Umami, "Peran Bpom Sebagai Penyelenggara Perlindungan Konsumen Terhadap Peredaran Produk Makanan Dan Obat-Obatan Yang Diperdagangkan Dalam Platforrm E-Commerce," *Private Law* 4, no. 2 (June 12, 2024): 440–48, https://doi.org/10.29303/prlw.v4i2.4863.

[29] Resna Pratiwi Maharani, "Tanggung Jawab Penyelenggara Transaksi Elektronik Dalam Melindungi Hak Konsumen," *SUPREMASI Jurnal Hukum* 1, no. 1 (October 22, 2018): 73–86, https://doi.org/10.36441/supremasi.v1i1.158.

[30] Rivaldy Amanda Saputra, "Efektivitas BPOM Dalam Pengawasan Peredaran Produk Snack Reject Sebagai Upaya Perlindungan Konsumen Di Indonesia," *Jurnal Hukum Lex Generalis* 6, no. 4 (2025): 1–17, https://doi.org/10.56370/jhlg.v6i4.1226.

[31] Setia Putra, "Perlindungan Hukum Terhadap Konsumen Dalam Transaksi Jual-Beli Melalui E-Commerce," *Jurnal Ilmu Hukum* 5, no. 2 (August 13, 2015): 197, https://doi.org/10.30652/jih.v4i2.2794.

are obliged to ensure that their systems are secure, transparent, and equipped with supervisory mechanisms over the products being sold. Pursuant to Article 15 paragraph (1) of Government Regulation No. 80/2019, e-commerce platform operators are required to: (i) provide consumer complaint mechanisms; (ii) terminate access to products that violate the law; and (iii) guarantee the confidentiality and security of consumer data. Article 15 paragraph (2) further obliges e-commerce platforms to protect consumer rights in accordance with prevailing laws and regulations.[32]

Platforms are only responsible for aspects related to the operation of electronic systems, such as system security, data management, and the provision of reporting mechanisms for problematic content. However, platforms are not responsible for the quality and safety of products sold by merchants.[33] The role of the platform is facilitative in nature, while the primary burden of liability remains with business actors as the parties who produce, distribute, and derive profit from the products. Furthermore, Article 22 paragraph (1) of Government Regulation No. 80/2019 affirms that Electronic Commerce System Operators are obliged to ensure that business actors utilizing their platforms comply with statutory regulations.[34]

Although Article 9 paragraph (1) of the Consumer Protection Law is directly addressed to business actors, this provision remains relevant to e-commerce platforms when they facilitate the offering and promotion of products containing false or misleading information. Platforms that allow claims regarding the safety and legality of hazardous cosmetic products to remain displayed may be deemed to have contributed to the infringement of consumer rights.

The legal relationship between e-commerce platforms and consumers is generally set forth in standard form agreements containing clauses that limit the platform's liability. However, Article 18 paragraph (1) letter (a) of the Consumer Protection Law prohibits the inclusion of standard clauses that unilaterally transfer liability.[35] Accordingly, platforms cannot entirely absolve themselves of legal responsibility if they are proven to have been negligent in carrying out their supervisory obligations.

The implementation of platform responsibility toward consumers is carried out through: (i) the recall of hazardous cosmetic products from the site; (ii) refunds to affected consumers; (iii) the blocking or suspension of seller accounts found to be in violation; and (iv) collaboration with BPOM and the Ministry of Trade in reporting non-compliant products.[36] When BPOM or other authorities announce the findings of hazardous cosmetic products, platforms are required to remove the listings to prevent consumer access. This takedown action constitutes the first form of protection provided by platforms to ensure that hazardous products do not continue to circulate.[37]

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[32] Muhammad Yusuf Ibrahim and Tri Sultan Lesmana, "Pertanggungjawaban Hukum Terhadap Peredaran Kosmetik Tanpa Izin Edar Melalui Jual Beli Online," *FENOMENA* 19, no. 02 (November 28, 2024): 221, https://doi.org/10.36841/fenomena.v19i02.5576.

[33] Fauzela, "Perlindungan Hukum Bagi Konsumen Terhadap Produk Kosmetik Yang Mengandung Bahan Berbahaya Dalam Jual Beli Online (E-Commerce)," 6.

[34] Cheryl Patriana Yuswar et al., "Pertanggungjawaban Hukum Platform E-Commerce Terhadap Penjualan Buku Bajakan (Studi Komparasi Indonesia Dan Malaysia)," *JURNAL MERCATORIA* 16, no. 1 (June 25, 2023): 1–12, https://doi.org/10.31289/mercatoria.v16i1.8515.

[35] Adinda Putri Denisa, Muhamad Amirulloh, and Helitha Novianty Muchtar, "Sertifikat Keandalan Privasi Sebagai Salah Satu Bentuk Pelindungan Konsumen Di Bidang Informasi Dan Transaksi Elektronik," *Jurnal Rechts Vinding Media Pembinaan Hukum Nasional* 12, no. 2 (2023), https://doi.org/10.33331/rechtsvinding.v12i2.1286.

[36] Abdul Halim, "Tanggung Jawab Penyedia Platform E-Commerce Dalam Melindungi Transaksi Jual Beli Melalui Platform E-Commerce," *Jurnal Notarius* 2, no. 1 (2023): 1–10, https://jurnal.umsu.ac.id/index.php/notarius/article/view/15885/9803.

[37] Restia Noviani Putri and Sahruddin Sahruddin, "Perlindungan Konsumen Terhadap Peredaran Kosmetik Yang Tidak Mencantumkan BPOM," *Private Law* 2, no. 3 (October 7, 2022): 721–29, https://doi.org/10.29303/prlw.v2i3.1569.

Platforms are required to deactivate seller accounts found to be in violation, particularly when violations are repeated or severe, such as selling cosmetic products without BPOM permits or falsifying information regarding product legality. Account deactivation not only halts the non-compliant seller's sales activities but also creates a deterrent effect and strengthens the integrity of the platform ecosystem.[38] Platforms also have an obligation to provide transaction protection mechanisms, generally manifested through refund policies, consumer complaint systems, and shopping guarantee features.[39]

The Madame Gie case demonstrates that products later declared non-compliant by BPOM continued to circulate on e-commerce platforms, indicating that the platform's supervisory obligations had not been effectively implemented as a preventive measure[40]. A similar issue is evident in the Amiraderm case, where cosmetic products containing hazardous substances remained listed for sale on several e-commerce platforms prior to their removal. This situation reflects a delay in enforcement actions by the platforms, which potentially prolonged the risk of consumer harm.

This situation reflects a delay in enforcement actions by the platforms, which potentially prolonged the risk of consumer harm. However, this paper argues that such systemic delays are not merely operational failures; they are symptomatic of a deeper, outdated regulatory paradigm.

Under Indonesia's current framework, specifically Government Regulation No. 80/2019, digital platforms are primarily classified as Electronic Commerce System Operators with mere facilitative obligations. This legal classification assumes platforms are passive pipelines.

In contemporary digital legal development, however, platforms have transcended this passive role. They now operate as active market governors, exercising algorithmic governance, risk governance, and serving as digital gatekeepers. Through search-optimization algorithms, personalized recommendations, payment escrow services, and promotional banners, platforms actively shape consumer behavior and transaction visibility. Consequently, when a platform allows hazardous cosmetics to remain listed, it is not merely failing a facilitative duty; it is failing in its capacity as a risk governor.

To contextualize this shift globally, we refer to the European Union's Digital Services Act (DSA), which has redefined intermediary accountability. The DSA moves away from the absolute immunity of safe harbor doctrines, establishing that a platform's liability exemption is strictly conditional upon proactive due diligence. Under the DSA, digital gatekeepers are subject to systemic risk management duties, including the Know Your Business Customer (KYBC) principle and an obligation to act expeditiously to remove illegal content or dangerous products upon receiving actual knowledge.

Comparing this global benchmark with Indonesia's regulatory framework exposes a critical gap. While Indonesian law permits platforms to hide behind standard exoneration clauses by claiming a passive, intermediary status, the reality of modern e-commerce demands a model of platform accountability rooted in risk governance. When platforms fail to execute proactive algorithmic and operational gatekeeping—such as failing to prevent the re-upload of banned Madame Gie or Amiraderm batches—they breach their relational duties to consumers. Therefore, their liability must be reconstructed to

[38] Firyal Arribah Syafiqoh and Amad Sudiro, "Perlindungan Hukum Terhadap Konsumen Dari Produk Kosmetik Yang Ilegal," *Journal of Syntax Literate* 8, no. 12 (2023): 6679, https://doi.org/10.36418/syntaxliterate.v8i12.

[39] Ari Siswati, "Pendampingan Pembelian Kosmetik Di Online Store Yang Aman Untuk Menghindari Kosmetik Palsu Dan Ilegal," *Jurnal Bakti Humaniora* 4, no. 1 (June 24, 2024): 70–74, https://doi.org/10.35473/jbh.v4i1.3598.

[40] Stella et al., "Aspek Hukum Tanggung Jawab Pihak Perantara Kepada Konsumen dalam E-commerce," Acta Law Journal 1, no. 1 (2022): 1–15.

reflect their actual power as digital gatekeepers, where the failure to mitigate systemic transactional risks constitutes actionable negligence.

Pursuant to Article 197 in conjunction with Article 138 paragraph (2) of Law Number 17 of 2023 on Health, any individual is prohibited from distributing health products that do not meet the required standards of safety, quality, and efficacy. This provision encompasses cosmetic products as a category of health products.[41] E-commerce platforms constitute a significant component of this distribution chain, as they provide the infrastructure for transactions, promotion, and distribution of products to consumers.[42] Accordingly, from a normative legal perspective, e-commerce platforms should not facilitate the circulation of products that violate health regulations, even though they are not the manufacturer or owner of the products concerned.

The scope of e-commerce platforms' liability is therefore limited to the obligation to conduct supervision, prevention, and enforcement measures in a proportional and timely manner. When platforms know, or reasonably ought to know, of a legal violation and fail to take adequate and immediate action, they may be deemed negligent in fulfilling their consumer protection obligations.[43] Accordingly, the strengthening of internal monitoring obligations and the integration of verification systems with BPOM constitute strategic measures to establish a safe digital cosmetics trade environment.

2.4. The Role of Corrective Justice in Protecting Consumers from Hazardous Cosmetics

When examining the circulation of dangerous cosmetics through digital platforms, the analysis must extend beyond legal certainty and regulatory compliance to engage with questions of justice. Consumer protection law is not only a body of rules to guide businesses; it is also an avenue to seek substantive justice, particularly for consumers as the weaker party in commercial relationships. On behalf of those harmed by unsafe products, justice demands that all parties who profit from the sale bear equal and fair legal accountability, and that consumers who suffer losses are able to obtain redress expeditiously.[44]

To reconstruct the liability of digital actors, we must return to the Aristotelian roots of justice. Originating from Aristotle's Nicomachean Ethics, corrective justice is fundamentally concerned with rectifying transactions to restore arithmetic equality between parties. Unlike distributive justice, which focuses on the proportional distribution of societal resources, corrective justice operates in the sphere of private transactions where one party has wrongfully caused harm to another. The circulation of hazardous cosmetics—containing prohibited substances like mercury or unauthorized colorants as seen in the Madame Gie and Amiraderm cases—creates a profound normative imbalance. The manufacturer and seller enjoy financial gains, while the consumer suffers physical injuries and economic losses. Corrective justice demands that

[41] Fatin Hamamah and Dimas Pratama Soekarno, "Perlindungan Konsumen Bagi Pembeli Dalam Transaksi Di Platform E-Commerce," *FOCUS: Jurnal of Law* 1, no. 2 (April 30, 2021): 50–55, https://doi.org/10.47685/focus.v1i2.149.

[42] Rizkinil Jusar, Palmawati Taher, and Inge Dwivismiar, "Tanggungjawab Pelaku Usaha Dan Marketplace Terhadap Pelanggaran Asas Itikad Baik Dalam Transaksi E-Commerce," *Sultan Jurisprudence: Jurnal Riset Ilmu Hukum* 3, no. 1 (June 1, 2023): 62, https://doi.org/10.51825/sjp.v3i1.19234.

[43] Hendra Febri et al., "Legal Challenges of Electronic Land Certificates as Credit Collateral: Aligning Land Digitalization and Consumer Protection in Indonesia," *Jambura Law Review* 1, no. 2 (2026), https://doi.org/10.33756/jlr.v1i2.35137.

[44] Christoph Busch, "The Future of Pre-Contractual Information Duties: From Behavioural Insights to Big Data," in *Research Handbook on EU Consumer and Contract Law* (Edward Elgar Publishing, 2016), https://doi.org/10.4337/9781782547372.00018.

this imbalance be corrected through active rectification and restoration, returning both parties to their baseline of legal equality.

Applying this to the digital ecosystem requires the sophisticated framework of Ernest Weinrib's bipolar conception of corrective justice. Weinrib posits that private law is characterized by a direct correlative relationship linking the doer and the sufferer of harm. Traditionally, this relationship is strictly bipolar (manufacturer-consumer). However, the digital market introduces the e-commerce platform as an active third-party intermediary that structurally shapes the transaction through transaction custody, digital storefronts, and algorithmic promotion. Under Weinrib's relational justice, when a platform facilitates the offering of hazardous cosmetics and fails to perform proactive due diligence, it ceases to be a passive bystander. The platform's failure to execute timely gatekeeping acts as an active disruption of the consumer's safety. Therefore, the platform cannot escape liability through standard exoneration clauses; doing so violates relational justice by allowing the platform to profit from a transaction while shifting all systemic risks onto the vulnerable consumer.

To determine how liability should be structured among these multiple actors, we must utilize Jules Coleman's mixed conception of corrective justice. Coleman argues that the moral and legal duty to make rectification falls on those who are responsible for the wrongful event. In our digital trade model, the wrongful event—the widespread circulation of unsafe cosmetics—is a collective product of the manufacturer's strict product defect and the platform's systemic monitoring failure. Consequently, corrective justice structures legal responsibility not as isolated, independent liabilities, but as a shared corrective obligation. Under Article 19 of the Consumer Protection Law, this obligation requires manufacturers to provide direct physical and material restitution, while concurrently demanding that platforms take immediate systemic corrective action. When platforms delay the removal of recalled listings, they breach this shared corrective duty, legitimizing their co-responsibility for the ongoing harm.

Ultimately, integrating these classical and contemporary theories of corrective justice proves that administrative penalties like product recalls are legally incomplete unless paired with immediate, accessible avenues for private redress. By viewing the platform not merely as a passive facilitator but as an active risk governor with relational duties, corrective justice provides the theoretical legitimacy needed to enforce platform-centred corrective accountability, ensuring that consumer dignity and health remain fully protected in the digital age.

The theory of distributive justice holds that consumers should not bear the risks associated with cosmetics in disproportionate measure. Business actors, who control product manufacturing, marketing strategy, and profit distribution, possess superior information and negotiating capacity. Justice accordingly demands that entrepreneurs bear greater risks and responsibilities through strict liability: verifying product safety, being honest about product information, and having actionable plans to compensate injured consumers.[45]

Under Article 19 of the Consumer Protection Law, corrective justice obligates businesses to actively compensate consumers for medical costs and other calculable damages. This provision affirms that legal liability must involve not merely punishment but also compensation to restore the position of harmed consumers.

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[45] Geraint Howells, Iain Ramsay, and Thomas Wilhelmsson, "Consumer Law in Its International Dimension," in Handbook of Research on International Consumer Law (Edward Elgar Publishing, 2017), 1–8, https://doi.org/10.4337/9781849806312.00006.

The fairness imperative becomes all the more urgent in digital trade, where information asymmetry is structurally embedded. Because consumers cannot physically inspect products before purchase, they can only trust information displayed online. It is manifestly unjust for fraudulent claims, counterfeit BPOM notification numbers, and exaggerated product descriptions to remain accessible on e-commerce platforms. Corrective justice demands that both e-commerce platforms and business actors take proactive steps to prevent the spread of dangerous commodities. If platforms fail to act promptly once they have knowledge of violations, they contribute to structural inequality in the digital economy and may bear a share of the corrective obligation.

Procedural justice is equally critical. E-commerce platforms and supervisory bodies such as BPOM must make complaint and redress processes accessible, fast, and transparent. If enforcement procedures are slow, disorganized, or overly dependent on consumers initiating complaints, procedural justice is not served — particularly when many consumers lack the financial resources or legal understanding to seek recourse. Strengthened coordination between BPOM and e-commerce platforms is therefore a prerequisite for both fair processes and equitable access to justice.

Liability for hazardous cosmetic products must accordingly be understood broadly, through the lens of consumer protection justice. Legal responsibility should be calibrated not merely to achieve administrative compliance but to produce the substantive corrective effect of restoring consumer dignity and health protection. This perspective affirms that, in an increasingly complex digital economy, consumer protection legislation serves as a necessary balance mechanism between hard legal obligations and the softer norms of platform responsibility.

2.5 The Digital Corrective Justice Model (DCJM)

This article proposes a novel legal framework, that is the Digital Corrective Justice Model (DCJM). This model reconstructs liability in digital transactions not as fragmented, separate duties, but as an integrated, platform-centred corrective governance system.

Category	Legal Actor	Liability Nature	Relational Role under DCJM
Primary	Manufacturers & Brand Owners	Strict Liability	Direct restoration of physical and material harm (medical compensation and refunds).
Intermediary	Third-Party Sellers	Fault-based & Contractual Liability	Proving good faith; immediate product removal and supply chain transparency.
Systemic	Digital Platforms	Platform-Centred Corrective Governance (Risk & Algorithmic Governance)	Systemic gatekeeping; shared corrective obligation for enforcement delays or due diligence failures

Source: Formulated through a normative legal analysis of transaction actors integrated with official BPOM administrative recall data. Categorized into three layers (Primary, Intermediary, Systemic) under relational justice to bridge public administrative law and private civil redress.

The DCJM operates on the principle that the platform is the nexus of the transaction. Unlike traditional private law where only the seller is sued, the DCJM establishes that the platform's failure to implement proactive gatekeeping—such as real-time BPOM database integration for automated listing blockades—creates a joint corrective obligation. If a hazardous product continues to circulate after an official BPOM recall, the platform's delay in execution shifts its liability from a facilitative oversight to a direct breach of relational justice. This model successfully bridges the gap between public administrative law and private civil redress, restoring the legal equality disrupted by hazardous cosmetic circulation.

3. CONCLUSION

This study concludes that resolving the circulation of hazardous cosmetics in the digital market requires a fundamental shift from fragmented regulatory compliance to an integrated, platform-centred corrective governance model. Under Indonesia's existing legal framework, including the Health Law (No. 17/2023) and the Consumer Protection Law (No. 8/1999), primary civil, administrative, and criminal liability remains strictly with manufacturers, brand owners, and sellers. As demonstrated by the Madame Gie and Amiraderm cases, these business actors bear strict liability for the physical and financial harms caused by non-compliant products. However, treating online platforms as passive facilitators under Government Regulation No. 80/2019 fails to address the structural risks inherent in digital transactions. In the modern digital economy, platforms operate as active market governors that exercise algorithmic and risk governance. Consequently, their failure to perform proactive gatekeeping and execute timely product takedowns constitutes a direct breach of their relational duties under corrective justice.

Applying the Digital Corrective Justice Model (DCJM) proposed in this study, the platform's liability is reconstructed not as a secondary administrative duty, but as a shared corrective obligation. When platforms profit from the visibility of hazardous cosmetics while hiding behind standard exoneration clauses, they disrupt the legal and moral equality between traders and consumers. To rectify this imbalance, we strongly recommend a systemic reform: the institutionalization of real-time data integration between the National Agency of Drug and Food Control (BPOM) and digital platforms. This technical integration will enable automated listing blockades and proactive seller verification, moving the regulatory paradigm away from slow, reactive post-market enforcement toward immediate, systemic consumer protection. By implementing this model, Indonesia can bridge the gap between administrative oversight and substantive civil redress, effectively restoring consumer dignity and safety in the digital marketplace

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