

**EFFORTS TO CONTROL THE CENTER FOR DRUG AND FOOD
CONTROL AGAINST CRIME OF ILLEGAL COSMETICS
CIRCULATION IN MAKASSAR CITY****Risma Nur Hijriah Rusni Rauf¹, Slamet Sampurno², Nur Azisa³**¹Hasanuddin UniversityJL. Perintis Kemerdekaan KM. 10, Tamalanrea, Makassar, Sulawesi Selatan, 90245, Indonesia
Telp./Fax: +62-411-585035 E-mail: rismanurhijriahrr@gmail.com²Hasanuddin UniversityJL. Perintis Kemerdekaan KM. 10, Tamalanrea, Makassar, Sulawesi Selatan, 90245, Indonesia
Telp./Fax: +62-411-585035 E-mail: slamet.unhas@gmail.com³Hasanuddin UniversityJL. Perintis Kemerdekaan KM. 10, Tamalanrea, Makassar, Sulawesi Selatan, 90245, Indonesia
Telp./Fax: +62-411-585035 E-mail: nurazisa10@yahoo.com

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Abstract

This study aims to analyze the efforts to tackle the National Center for Drug and Food Control against the crime of illegal cosmetic distribution and to analyze the obstacles faced by the Center for Drug and Food Control in dealing with the crime of illegal cosmetic distribution. This study uses a normative empirical research type using the statutory approach. law and case approach Efforts to tackle the Food and Drug Supervisory Center against the distribution of illegal cosmetics use 2 measures or measures to protect the community, namely: preventive measures; BBPOM Makassar uses the method of conducting routine surveillance every week randomly based on risk analysis and conducting special examinations with the Police. Supervision is carried out before circulation and after the circulation of cosmetic products on the market, socialization in the form of Communication, Information and Education as well as dissemination of information to provide protection to the public in order to develop insight and awareness in buying and consuming good cosmetics, as well as conducting cyber patrols on social media so that BBPOM Makassar is easier to find out the existence of cosmetic sales. The obstacles faced by the Central for Drug and Food Control in dealing with the distribution of illegal cosmetics, namely using 5 factors; legal factors, the Health Law does not say that the minimum sentence given / imposed on the perpetrator of the illegal distribution of cosmetics is law enforcement factors, in terms of the authority of the Makassar BBPOM PPNS is still lacking due to the absence of forced efforts, the coordination of PPNS BBPOM Makassar with agencies is not optimal. other and there is still a lack of civil servants and staff in the field of supervision considering that the BBPOM Makassar work area is very large, the facilities and facilities factor; inadequate for the purposes of investigation and supervision which require huge costs, community factors; the lack of public awareness and insight in buying and consuming good cosmetics, cultural factors; due to technological sophistication and economic progress that has led to crime.

Keywords: *Prevention; The Crime of Illegal Cosmetic Distribution*

INTRODUCTION

Human rights and Indonesian people welfare are part of health development that must be achieved and have been incorporated into legal ideals of the Indonesian nation. In order to improve the welfare of society, it is necessary to build a fair, targeted, comprehensive and sustainable health sector. Therefore, in terms of cooperation and protection, or in the context of creating human potential, increasing resilience and national development, all actions and efforts are made to improve the public health status. Economic development and various developments in the fields of technology, industry, economy or trade have caused more and more problems in Indonesia, especially in protecting the people in the industrial and trade sectors. In order to offer legal protection and certainty to advance, centralize and give way for the formation of health is necessary active legal tools, to meet new progress and grow in the future. No wonder that cosmetics have become a major necessity for women, no matter their background and status.

Rapid development of cosmetics industry also occurred in the country. High quality cosmetics for personal and profes-

sional makeup. The wide variety of cosmetics found and available in the market often makes it difficult for women to distinguish which products are suitable and safe to use. Most women want the best results in a short period regardless of the side effects that will occur in the future. The demand for cosmetics is always available increasing, so that competition between commercial actors is getting tighter and producing a variety of cosmetics, such as promising quality and profit. Manufacturers often underestimate the standardization of the goods they offer to consumers. Standardization has a very meaningful role in preventing the occurrence of damage or harmful products, therefore at least standards that should be used as a basis or benchmark should be applied when making cosmetics to make sure quality assurance during use¹.

The circulation of cosmetics allows fulfilling the wishes of manufacturers to be a business land, both registered and unregistered cosmetics. This kind of action is used as business land by producers who have bad faith, because the condition of the buyer is weak resulting in a lack of equal community protection to protect the

¹ Janus Sidabalok, *Consumer Protection Law in Indonesia*, PT Citra Aditya Bakti, Bandung, 2010, p. 16

rights of buyers². Being a buyer is certainly very disadvantaged by the condition of goods that do not meet health criteria and the circulation of products that do not have notification from the POM RI which causes negative effects in people's lives³.

To distinguish between legal cosmetics and illegal cosmetics is sometimes very difficult. Legal cosmetics have a distribution license in the form of a code that starts with the letters NA / NB / NC / ND / NE and is followed by 11 (eleven) digits. So as a precaution, the POM RI reminds the public as smart users in using cosmetic products and always check "KLIK" (Packaging, Label, Distribution Permit, and Expiration) first.

Based on Law Number 8 of 1999 concerning Consumer Protection, Article 8 paragraph (1) letter a states that⁴:

"Entrepreneurs are prohibited from producing and / or trading goods and / or services that do not meet or do not comply with the required standards and statutory provisions."

In addition, Article 2 paragraph (1) Regulation of the Minister of Health Number 1175 / Menkes / Pers / VIII /

2010⁵ concerning Cosmetics Production Permit, that cosmetics in circulation must meet the requirements of quality, safety and benefit. "

Producers that distribute their products domestically must have a product distribution permit which shows that cosmetics are safe and successful from several stages determined by the POM.

Based on Article 3 of the Regulation of the Minister of Health Number 1176 / MENKES / PER / VIII / 2010 concerning Cosmetics Notification, it states⁶:

"Each cosmetics can only be distributed after obtaining a distribution permit in the form of notification, excepted for cosmetics used for research and cosmetic samples for exhibitions in limited quantities and not for sale."

Based on pre-research results on the distribution of illegal cosmetics from 2017 to 2019 which the author obtained from the Makassar POM Center, namely 47 (forty seven) cases. Makassar POM Center coordinated with the Polda (South Sulawesi) to conduct an inspection at Perintis Kemerdekaan Street, Makassar City on Tuesday, June 25 2019 at around 13.00

² Ahmadi Miru, Principles of Legal Protection for consumers in Indonesia, PT. Raja Grafindo Persada, Jakarta, 2011, p. 1

³ Happy Susanto, Practical Guide to Consumer Rights if Affected, Visimedia, Yogyakarta, 2008, p.1.

⁴ Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection

⁵ Regulation of the Minister of Health Number 1175 / Menkes / Pers / VIII / 2010 concerning Cosmetics Production Permits

⁶ Regulation of the Minister of Health Number 1176 / MENKES / PER / VIII / 2010 concerning Cosmetics Notification

WITA. According to local community reports, the Makassar POM Center has followed up on the report. It is suspected that two houses were used as a place for making cosmetics. Meanwhile, the evidence that was secured was thousands of cosmetic products that were suspected of being fake and various types of cosmetics, including vitamins, whitening, soap, and other cosmetics and did not have a distribution permit. The evidence that is secured is then subjected to a lab test of cosmetic ingredients⁷.

Other discoveries by Makassar POM Center coordinates with Makassar Customs and Excise. On Friday, November 22, 2019, the Makassar Customs and Excise officers smelled the goods at Sultan Hasanuddin International Airport after BBPOM was clear on the legality through an X-ray machine. POM Makassar center secured 13,780 pieces of products through the Indonesian Post office and the price was estimated at Rp. 548,780,000. Cosmetics products are very dangerous because they can expose users to skin cancer. Products that are secured are skin care soaps and face creams and hand body lo-

tions that come from various countries around the world⁸.

One of the concerns of POM RI is to refer to the form of trade changes and the development of the cosmetics industry, the most important task of the POM is to increase the effectiveness of monitoring products in circulation and meet quality, safety, benefits and product marking requirements. As well as providing social defense by achieving social welfare is an important target in efforts to combat criminal acts.

The purpose of this study was to analyze the countermeasures and constraints faced by the Center for Drug and Food Control in dealing with the crime of illegal cosmetic distribution in Makassar City. Based on the background explanation, the author is interested in discussing "Efforts to Control the Center for Drug and Food Control against the Crime of Illegal Cosmetics Circulation in Makassar City."

METHOD

Research Type

This study uses normative-empirical research, which examines existing prob-

⁷ Ibn Munsir. (2019). *Geledah Rumah di Makassar, BPOM Temukan Kosmetik Tanpa Izin Edar*. <https://news.detik.com/berita/d-4599691/geledah-rumah-di-makassar-bpom-tentuk-kosmetik-tanpa-izin-edar>, accessed Tuesday March 31 2020 at 12.36 WITA

⁸ Faisal Mustafa, *Hati-hati, Belasan Ribu Kosmetik Ilegal Beredar di Kota Makassar*, <https://makassar.sindonews.com/berita/35020/1/hati-hati-belasan-ribu-kosmetik-ilegal-beredar-di-kota-makassar>, accessed on Tuesday 31 March 2020 at 13.07 WITA

lems that are normative and factual by using laws and legal theories supported by literature studies and obtaining secondary data and direct research in the field or location.

Research sites

Based on the abundance of cosmetics found in malls, traditional markets and online shops related to illegal cosmetics, the Center for Drug and Food Control is tasked with carrying out surveillance and prosecution.

Problem Approach

The problem approach to be used in this research is: (1) Statute Approach: carried out by analyzing and reviewing all statutory regulations related to the legal issues under study, namely Law Number 8 of 1981 concerning Criminal Procedure Law; Law No. 8 of 1999 concerning Consumer Protection; Law No. 36 of 2009 concerning Health; Regulation of the Minister of Health RI No.1175 / MENKES / PERS / VIII / 2010 concerning Cosmetics Production Permit; Regulation of the Indonesian Food and Drug Supervisory Agency No. 2 of 2020 concerning Supervision of Cosmetics Production and Distribution; and Regulation of the Head of the POM of the Republic of Indonesia Number 8 of 2020 concerning Control of Drugs and Foods Circulated Online. (2)

The Case Approach is carried out by reviewing and analyzing problems,

Sources and Data Types

This research data type is divided into two, viz. primary data and secondary data. Primary data is data obtained directly from the research field, viz. POM Makassar center through the results of interviews with supervisory staff and law enforcement staff at POM Makassar Center who understand / understand this problem. Next, secondary data is legal data consisting of literature or library materials, laws and regulations, jurisprudence or court decisions.

Data collection technique

Data collection techniques in this study using field studies and literature. Field studies (Field Research) were used to obtain primary data by using the direct interview method with authorized employees and superiors and the public who bought illegal cosmetic products. Furthermore, library research is to study all documents related to these legal issues.

Data analysis

Data analysis is research that is analysis / assessment of a data management result and supported through the results of interviews / interviews and existing rules or theories and provide studies that are able to argue, assess, evaluate, add

or give criticism that further produces a conclusion from the results of research with their own opinions / views, interview results, and the rule of law. The approach used is qualitative descriptive analysis, namely researchers conducting studies or studies on legal materials and not just opening facts or mere authenticity but knowing the actual facts⁹.

ANALYSIS AND DISCUSSION

Endorse or promoting products is increasingly happening, especially through social media. Business actors are prohibited from doing anything related to promotions based on Law No. 8 of 1999 concerning Consumer Protection, that business actors are prohibited from producing and / or trading goods and / or services that are not in accordance with the promises stated in labels, tags, information, advertisements or sales promotions of goods and / or services (Article 8 paragraph (1) letter f); and business actors are prohibited from offering, promoting, advertising certain goods and / or services incorrectly, and / or one of them seems to use excessive words, does not contain risks or side effects without complete information (Article 9 paragraph (1)

letter j). For now, there are no separate regulations governing public figures promoting cosmetics on social media. Basically, the related laws are the Health Law and the Consumer Protection Law, especially regarding illegal cosmetic products.

The rise of illegal cosmetics occurs because it provides space for business actors to trade their products online coupled with misleading advertisements that make people interested in buying. One of the factors causing the difficulty of controlling the circulation of illegal cosmetics is the large number of “rat” ports that are directly opposite to foreign countries, not only that, but also because the price of cosmetics is cheaper than cosmetics that already have notification from the POM and the period of use of these cosmetics is very short. The data of illegal cosmetics bellow:

⁹ Mukti Fajar and Yulianto Achmad, *Dualism of Normative & Empirical Legal Research*, Student Library, Yogyakarta, 2010, pp. 192

Table 1
Data Result of Post Market Alert System Report About

No.	Name of Cosmetics	Content of Hazardous Materials
1	Nuriz Shoppe –UV Pearl Cream	Mercury
2	Nuriz D'solve	Mercury
3	Aura Gorgeous Night Cream	Mercury
4	NV Anti Blemish Toner 1	Hydroquinone and Tretinoin
5	Farger Hair Care Exper Conditioning Permanent Color Cream	O-aminophenol
6	Deeja Cosmetic Keayuan - Nano Cream (Night)	Mercury
7	Deeja Cosmetic Keayuan - Night Cream (Night)	Hydroquinone
8	Karisma Cosmetic –Treatment Night Cream	Mercury
9	Karisma Cosmetic –Treatment Day Cream	Mercury
10	Karisma Cosmetic –Treatment Cream	Hydroquinone
11	Fairy Skin Derma Facial Set - Brightening Cream	Mercury
12	Fairy Skin Derma Facial Set - Derma Facial Toner	Hydroquinone
13	Beauti Cute Longwear Lipstick Matt Rum Rasin	Hydroquinone and Tretinoin
14	Mistine Super Matte Air Mattelip Color No.18	Dyes Prohibited Cl 15585
15	Bon-Bon Liquid Matter Lip 01 Peachy Peach	Dyes Prohibited Cl 45170
16	Skin Magical Rejuvenating Facial Toner No.1	Hydroquinone and Tretinoin
17	Skin Magical Rejuvenating Cream No.1	Hydroquinone and Tretinoin
18	I Cosmetics Skin Care Enterprise Rejuvenating Cream	Hydroquinone and Tretinoin
19	I Cosmetics Skin Care Enterprise Rejuvenating Facial Toner	Hydroquinone and Tretinoin
20	New Brilliant Skin Essential Rejuvenating Facial Toner	Hydroquinone and Tretinoin
21	Speaks G Skin Essential Brightening Rejuvenating Toner	Hydroquinone and Tretinoin
22	Cosmetic Buffet Bleaching Cream	Hydroquinone and Tretinoin
23	Cosmetic Buffet Rejuvenating Toner	Hydroquinone and Tretinoin
24	Moleek Skincare Anti Pigmentation Cream Plus	Hydroquinone and Tretinoin
25	Dnars Honey Cream	Hydroquinone and Tretinoin
26	Dnars Yellow Gold Collagen	Mercury
27	Luffiya Night Cream 1 & 2	Hydroquinone, Tretinoin and Mercury
28	GG Pinky Day Cream For Skin	Mercury

No.	Name of Cosmetics	Content of Hazardous Materials
29	Tati Therapy Cream 1	Mercury
30	Tati Therapy Cream 2	Hydroquinone and Tretinoin
31	Etude House Play Mascara Length Water-proof (No.603)	Forged
32	Etude House Dear Darling Water Gel Tint (PK004)	Forged
33	Mac Zac Posen Lipstick Rudy Woo	Forged
34	Mac Zac Posen Lipstick Embrace Me 05	Forged
35	Mac Zac Matte Pink Pigeon Lipstick	Forged
36	Mac Mariah Carey Dangerous Lipstick A01	Forged
37	Azzalea by Camira - Queen Cream	Mercury
38	Temulawak New Day & Night Cream Beauty Whitening Cream - Night	Mercury
39	Etude House - AC Clean- Up Mild Concealer	Antimony
40	Etude House - Drawing Eyebrow Duo # 03 Gray Brown	Antimony
41	Skinfood - Cherry Full Lip Liner (Rose Cherry)	Antimony
42	3CE - Slim Eyebrow Pencil (Chestnut Brown)	Antimony
43	Aritaum -Full Cover Stick Concealer (2g) # 01 Natural Beige	Antimony
44	Aritaum -Full Cover Stick Concealer (2g) # 02 Natural Beige	Antimony
45	Aritaum -Full Cover Cream Concealer (2.5g) # 02 Olive Green & Pink	Antimony
46	Aritaum -Full Cover Cream Concealer (2.5g) # 01 Light Beige / Natural Beige	Antimony
47	XTM Style Homme-For Men Easy Stick Concealer (2.2g)	Antimony
48	SKEDA- Homme Spot Concealer	Antimony
49	Makeheal - Naked Slip Brow Pencil (Product Code: BR0203)	Antimony
50	Makeheal - Naked Slip Brow Pencil (Product Code: YL0801)	Antimony
51	Black Monster - Black Erasing Pen (2.2g)	Antimony
52	Goree Beauty Cream With Lycopene	Mercury
53	Goree Day & Night Whitening Cream Oil Free	Mercury
54	Sivana Colors Makeup Palette Silty Fine # 01 (D)	Arsenic
55	Sivana Colors Makeup Palette Silty Fine # 04 (J)	Dyes Prohibited CI 45170
56	Sivana Colors Makeup Palette Silty Fine #	Dyes Prohibited CI 45170

No.	Name of Cosmetics	Content of Hazardous Materials
	05 (J)	
57	SIVANA Colors Summer Gradually Compact Eyeshadow & Blusher # 05 (I)	Dyes Prohibited Cl 15585
58	SIVANA Colors Summer Gradually Compact Eyeshadow & Blusher # 07 (C)	Dyes Prohibited Cl 45170
59	SIVANA Colors Summer Gradually Compact Eyeshadow & Blusher # 07 (I)	Dyes Prohibited Cl 15585
60	SIVANA Colors Summer Gradually Compact Eyeshadow & Blusher # 07 (J)	Dyes Prohibited Cl 15585
61	ASDANNE Whitening Freckie Day Cream	Mercury
62	ASDANNE Whitening Freckie Night Cream	Mercury
63	ASDANNE Whitening Freckie Day Cream + Night Cream	Mercury
64	ASDANNE Whitening Refreshing Isolation Cream	Mercury
65	Fulenze Whitening Freckle Day Cream	Mercury
66	Fulenze Whitening Freckle Night Cream	Mercury
67	Fulenze Refreshing Whitening Freckle Day Cream / Night Cream	Mercury
68	Robisis Fade-out Cream Day Cream	Mercury
69	Robisis Whitening Cream Night Cream	Mercury
70	Robisis Anti Acne Whitening Day & Night Cream	Mercury
71	Cream Farsai Spirulina	Mercury
72	Omoholic Whitening Body Lotion	Clobetaso propionate
73	Menow-Pro Powdery Matte Kiss Proff Soft Lipstick (12)	Forged
74	Tony Moly Cucumber Water Gel Magic Food	Forged
75	Ellie goulding Mac Lipstick A1	Forged
76	Mac Giambattista Valli Paris Matte Lipstick - Matte Rebel	Forged
77	Andrea Secret Babe Lips (23)	Dyes Prohibited Rhodamine B
78	Balleza Skincare Night Cream	Mercury
79	Balleza Skincare Treatment	Hydroquinone
80	Brilliant skin Essentials Rejuvenating Cream Exfoliant Cream	Hydroquinone and Tretinoin
81	Brilliant skin Essentials Whitening Cream 10g	Hydroquinone and Tretinoin
82	Brilliant skin Essentials Whitening Facial Toner 60 ml	Hydroquinone
83	Droplets of Nature Rejuvenating Cream Lift & Correct 10g	Hydroquinone and Tretinoin
84	Droplets of Nature Rejuvenating Toner Lift & Correct 60ml	Hydroquinone

No.	Name of Cosmetics	Content of Hazardous Materials
85	Dnars Dinar Cream	Mercury
86	Dnars Honey Cream	Hydroquinone and Tretinoin
87	Tati 5 in 1 Skincare New & Improved Glow of Lasting Beauty - Ultra Night Treatment Cream	Mercury
88	Tati 5 in 1 Skincare New & Improved Glow of Lasting Beauty - Ultra Treatment Cream	Hydroquinone and Tretinoin
89	GP Cream Night Cream	Hydroquinone and Tretinoin
90	Nouvelles Viseges NV Sensitive Skin Toner For Normal to Sensitive Skin	Hydroquinone
91	Scent-white-Gebu-Gorgeous Charming Enhancing Cream Series 7 Flower-Night Cream	Hydroquinone
92	Almas Cantik-Bright-Gebu Turmeric Cream	Mercury
93	Almas Cantik-Bright-Gebu Acne Cream	Hydroquinone
94	Deeja Keayuan (Day Cream)	Hydroquinone
95	Deeja Keayuan (Wrinkle Cream)	Mercury
96	SS-II Cosmetic 5 in 1 - Herbal Cream	Mercury
97	Halimah's Lady's Crown Wash	Methylchloroisothiazolinone (MCI)
98	Deluxe Beauty - Ultra Lightening Cream	Mercury
99	Miracle White - Brightening Cream	Mercury
100	Deeja Nano Cream	Mercury
101	Deeja Cosmetic Vogue Cream	Mercury
102	Deeja Cosmetic Star Cream	Hydroquinone and Tretinoin
103	Etude House Wonder Pore Freshner Tissue	Forged
104	Etude House Dear Darling Wter Gel Tint RD306	Forged
105	Etude House Zero Sebum Drying Powder	Forged
106	S'zitang 10 Days Eliminating Freckle Day & Night Set	Mercury
107	Meiya Lipstick Essence Formulation with Rich Vitamins and Fruity Nutrition	Rhodamine B
108	Erase Solution	Tretinoin
109	Deeja Cosmetic Keyuan (Set of 5 and 1) - Star Cream	Hydroquinone
110	Kimari Professional Hair Color Cream K 11 ASH	Aminophenol
111	Kimari Professional Hair Color Cream K 6/3	Aminophenol

No.	Name of Cosmetics	Content of Hazardous Materials
1	Brown Gold	
11 2	Speaks G Skin Essential Brightening Rejuvenating Cream 10g	Hydroquinone and Tretinoin
11 3	Professional Skin Care Formula	Hydroquinone and Tretinoin

Source: Makassar Food and Drug Administration Center

Based on the table above, it shows that there are still many illegal cosmetics circulating in Makassar City, there are 113 (one hundred and thirteen) lists of illegal cosmetic brands that were found circulating on the market and contain dangerous ingredients or the products are faked by business actors.

Efforts to Prevent the Center for Drug and Food Control against the Crime of Illegal Cosmetics Circulation in Makassar City

Cosmetic distribution supervision in Makassar City is one of POM Makassar Center responsibilities, especially in supervision and prosecution. Population growth in Makassar City as well as the people's purchasing power for cosmetic products has increased very rapidly and requires serious attention in terms of direct or indirect supervision of distribution facilities and cosmetic shops in Makassar City. Therefore, producers are obliged to hold or follow the provisions that have been applied by the government as the controlling or controlling party in the pro-

tection of the community. POM Makassar Center in carrying out supervision to cosmetic distribution facilities should be carried out from upstream to downstream, starting from monitoring raw materials, production processes, distribution, until the product is consumed by the public. Not only preventing illegal cosmetic products, but the POM is obliged to increase the independence of business actors and be able to compete locally or throughout the world. Community protection is one part that cannot be separated from conducive trading business activities because harmony and legal protection are obtained between the community and business actors.

Efforts to find out the extent to which existing criminal regulations need to be changed or updated as well as to tackle the occurrence of criminal acts it is necessary to decide how investigations, prosecutions, trials, and implementation of crimes must be carried out. Basically, efforts to protect the community (social defense) and efforts to make social welfare (social welfare) are the most important

targets in efforts to overcome criminal acts¹⁰. Therefore, it is deemed necessary to foster and increase the effectiveness of the "extra legal system" which influences society in an effort to prevent criminal acts from occurring. In an effort to combat the circulation of illegal cosmetics, it is best to involve various agencies / departments in an integral manner related to the use of "extra legal system". Criminal policy issues are included in one of the areas that are the center of attention and are part of the object of criminology studies. All actions referred to in providing protection to the public do not only mean one action but two actions, namely preventive actions and repressive actions which are part of public protection.

In preventive efforts, BBPOM Makassar makes efforts to prevent the circulation of illegal cosmetics in several ways. First, supervision. Supervision is an important part that cannot be ruled out in every action. Supervision, namely efforts and actions to understand the implementation carried out in accordance with the provisions and objectives to be obtained¹¹. The cosmetic control method implement-

ed by Makassar POM Center to prevent the circulation of illegal cosmetics, such as not listing distribution permits, expiration, damaged packaging and containing hazardous materials constitutes a comprehensive process. Employees of POM Makassar Center in the field of supervision carry out routine inspections every week (inside the city and outside the city) consisting of 2-3 POM Balai Besar employees in 1 (one) team based on risk analysis (according to previous findings), new facilities and facilities that haven't been inspected in the previous year. POM Makassar Center also conducts market action checks with police officers which are carried out 2 (two) times a year on cosmetic facilities or sellers, both in traditional markets, cosmetic shops and beauty clinics¹².

Second, conduct socialization in communication, information and education form as well as dissemination of information. Part of a public protection plan or program to give protection and quality development / value for consumer growth and to help national competitiveness. POM center organizes communication, information and education to develop insight, awareness, and character so that consumers can protect themselves from

¹⁰ Barda Nawawi Arief, Flower Rampai Criminal Law Policy (Development of the Drafting of the Second Edition of the New Criminal Code), Kencana Prenada Media Group, Jakarta, 2008, pp. 4.

¹¹ Yesmil and Adang, Criminal Justice System: Concepts, Components & Its Implementation in Law Enforcement in Indonesia, Widya Padjadjaran, Bandung, 2009, p. 95

¹² Interview with the Head of the Section for Supervision, Saribulan, on December 10, 2020

cosmetics that are harmful to health and when buying cosmetic products consumers already know which products are safe for consumption. Before buying, consumers first pay attention to and check the product by checking KLIK (Packaging, Label, Distribution Permit, and Expiration) through the website of Food and Drug Administration¹³.

Third, conduct cyber patrols against the circulation of cosmetics in online / e-commerce social media. Through cyber patrols, it is easier for POM Makassar to find out the existence of illegal cosmetics sales because of the cooperation with outside informants (networks). Then the PPNS POM center conducted an investigation first¹⁴.

Furthermore, the repressive efforts at Makassar POM Center have investigating officials within the government who are given special authority to carry out investigations of criminal acts in the health sector under the Criminal Procedure Code. The data obtained by researchers from 2017-2019 are:

¹³ Interview with the Head of Enforcement, Sriyani Rasyid, on December 10, 2020

¹⁴ Interview with Staff for Enforcement, Arham Sulaiman, on December 10, 2020.

Table 2
Data on Illegal Cosmetic Violation Cases Handled

Makassar		POM	Center	for	2017	to	2019
No	Year	Illegal Cosmetic Case		Follow-up			
				Coaching / Warning	Pro Justitia		
1.	2017	17		8	9		
2.	2018	21		11	10		
3.	2019	22		10	12		
Total		47 Cases		29	31		

Source: Enforcement Division, Makassar Food and Drug Administration

Based on the table above, it shows that cases handled by BBPOM Makassar have increased every year, namely in 2017 there were 17 cases, in 2018 there were 21 cases, and in 2019 there were 22 cases. Violations were found from routine operations, public reports and online media carried out by the Makassar POM Center to various cosmetic industry facilities, traditional markets, malls, and beauty salons. As a follow-up, BBPOM provides guidance / warnings and follows up the case to the realm of law (pro justitia).

The actions taken by PPNS POM Makassar Center in making repressive efforts against the criminal act of illegal cosmetic distribution, are submitting the results of the investigation to the Public Prosecutor through the Police Investigator, taking action on reports / complaints and information related to the criminal act

of illegal cosmetic distribution, and collection of goods Proof¹⁵.

The investigation case files were then submitted by the PPNS POM Makassar Center to the prosecutor through the South Sulawesi Regional Police Corps which was related to the criminal act of illegal cosmetics circulation or those containing dangerous substances in Makassar City, PPNS Balai Besar POM submitted the case files to the Makassar District Attorney through the South Sulawesi Regional Police. From the research conducted by the author in the Efforts to Control the POM Center Against the Crime of Illegal Cosmetics Circulation in Makassar City, viz. the perpetrators of FW (Born in Ujung Pandang on April 13, 1970, Employment of Entrepreneurs (Tresia Cosmetics Shop Owner), Jalan Lembu Makassar City, Religion Islam). The process for provision of evidence in form of 480

¹⁵ Interview with Staff for Enforcement, Muhammad Faisal, on December 10, 2020.

pcs Super Special Thailand, 180 pcs Christal Whitening Cream, 70 pcs of Diamond Cream With Vitamin E, 84 pcs of Ling Zhi Night Cream, 5 pcs of RDL Baby face HydroquinoneTretinoin, and 7 pcs of Beauti DermTretinoin Hydroquinone which contain harmful ingredients (Mercury, Retinoic Acid and Hydroquinone).

Constraints Faced by Center for Drug and Food Control in Tackling the Illegal Crime Cosmetics Circulation in Makassar City

From the point of view of the production process to product distribution, government intervention in commercial activities is indispensable, especially in supervision of commercial actors. Therefore, there are many facts in society that show that the commercial activities of the perpetrators are far from moral aspects, or ignore the prevailing laws and regulations. Seeing the large number of products entering Indonesia, consumers benefit from goods and services availability. On the one hand, this is usually still very weak in terms of safety, quality, and benefit / efficiency and delivery conditions. Inhibiting factors in process of investigating the distribution of illegal cosmetics in the Makassar City area are legal factors, law enforcement factors, facilities and facilities

factors, community factors, and cultural factors.

Based on legal factors, the current position of consumers is still very weak than the position of producers, it is necessary so that the position of consumers is not always on the disadvantaged party, thus it can be done through the application of appropriate laws¹⁶. According to Muhammad Faisal as a staff for action, said there is no law on drugs / pharmaceutical preparations and food separately and still participates in the Health Law¹⁷. The imposition of sanctions that are too light to be given / imposed on the perpetrators of the illegal distribution of cosmetics does not give a deterrent effect, they aren't even commensurate with the crimes they have committed and will facilitate and provide space for the perpetrators to commit or repeat the crime. According to Muhammad Faisal, as a staff in the field of prosecution, he disagrees that talking about a maximum sentence means that there is no minimum sentence given, it could be only 3 months imprisonment or probation. In Law no. 36 of 2009 Article 197 states "every person who deliberately produces or distributes pharmaceutical preparations and / or medical devices that

¹⁶ Interview with Staff for Enforcement, Muhammad Faisal, on December 10, 2020.

¹⁷ Interview with Staff for Enforcement, Muhammad Faisal, on December 10, 2020.

do not have a distribution license as referred to in Article 106 paragraph (1) shall be punished with imprisonment of up to 15 (fifteen) years and a fine. a maximum of Rp. 1,500,000,000.00 (one billion five hundred million rupiah)"¹⁸.

Based on Decision Number 1708 / Pid.Sus / 2019 / PN.Mks, this is a case where a commercial actor deliberately creates and / or distributes pharmaceutical preparations and / or medical devices without a distribution permit. In this case, these preparations are cosmetics that don't meet standards and contain harmful substances (mercury, retinoic acid and hydroquinone). According to Article 197 "Health Law", the defendant named Fatmawati was a businessman and was 50 (fifty) years old. The panel of judges at the Makassar District Court stated that Fatmawati had been legally certified and committed a criminal act of producing and distributing pharmaceutical preparations without a distribution permit, and Fatmawati was sentenced to 6 (six) months and was subject to a fine of Rp. 10,000,000. 10 million rupiah), if the fine is not paid, 2 (two) cages will be reimbursed. Furthermore, analysis of Decision Number 1708 / Pid.Sus / 2019 / PN. Mks related to Fatmawati's actions of produc-

ing and distributing cosmetics that are not in accordance with quality standards, and have violated the provisions of Article 197 of the Health Law. In fact, it has been clearly stated that the threat of violation as referred to in Article 106 paragraph of the Health Law, 15 years imprisonment and a fine of Rp. 1,500,000,000, - (one billion five hundred million rupiah). The defendant distributed and traded illegal cosmetics that did not have a distribution license and even contained dangerous substances (Mercury, Retinoic Acid and Hydroquinone) which could harm public health.

Next, decision Number 508 / Pid.Sus / 2018 / PN.Mks is a case of business actors who deliberately produce and / or distribute pharmaceutical preparations and / or medical devices that don't have a distribution permit, in this case cosmetics that don't meet standards and contains hazardous materials. As referred to in Article 197 of Health Law, the defendant named Hengky is 29 years old as an entrepreneur. In addition, based on an analysis of Decision Number 508 / Pid.Sus / 2018 / PN.Mks related to Hengky's actions in producing and distributing cosmetics that are not in accordance with quality standards, and have violated the provisions of Article 197 of the Health Law and Article 198 of the Health Law.

¹⁸ Law Number 36 of 2009 concerning Health

25,000,000, - and if the fine is not paid, it's replaced by imprisonment for 6 months, So the author does not agree with the Panel of Judges, which only sentenced the defendant to 10 months in prison, not even commensurate with the impact. The defendant distributed and traded illegal cosmetics that didn't have a distribution permit, contained hazardous substances and made / mixed cosmetic ingredients without the expertise to carry out pharmaceutical practices.

From law enforcement factors, the development of crimes in cosmetic sector is currently increasing from year to year which can endanger public health and it is the obligation of the Makassar POM Center to tackle or prevent these crimes. The crimes that occur are increasingly developing by using a variety of new modes that are capable of entering various aspects of health, economy to social aspects of society. With this condition, the legal action sector needs to overcome and anticipate the occurrence of crime in order to create effective cosmetics. The staff for enforcement said that the authority of the PPNS POM Makassar Center was still very limited because they could not carry out forced efforts such as arrest and detention. In order to carry out their duties smoothly, POM Makassar Center requires

cooperation between institutions / organizations. Organizational structuring and cooperation aims to increase the efficiency and effectiveness of organization in proportion to the proper function and size in accordance with the needs of duties and functions implementation. 00.04.72.02578 dated 16 August 2002 concerning the Improvement of Cooperation Relations in the Context of Supervision and Investigation of Criminal Acts in the Field of Drugs and Food.

In fact, in the field, the cooperation between POM Balai Besar and the police is still not optimal because the PPNS POM Makassar Center cannot be intervened by the police, if it's during the investigation process. Likewise with Customs and excise, the cooperation with Makassar POM Center is still not optimal because there are still many imported products from abroad or made abroad that are circulating or entering the market, especially in Makassar City which is the duty of Customs and Excise. The wide coverage of the work area of the Makassar POM Center should be supervised and monitored, considering that it is not only the city of Makassar but South Sulawesi. The POM Makassar Center has 10 PPNS people who are active in the Enforcement Sector and 22 people in the Supervision

Sector, which has 17 working areas consisting of 15 districts and 2 cities. The monitoring data for cosmetic distribution facilities by BBPOM Makassar are as follows.

Table 3
Supervision of Cosmetics Distribution Facilities by BBPOM Makassar

No.	Year	Number of Distribution Facilities	MK	TMK
1.	2017	309 means	136	173
2.	2018	249 means	121	128
3.	2019	290 means	176	114

Source: Supervision Division of Makassar Food and Drug Administration

Based on table above, the distribution method includes traditional markets, shopping centers and beauty salons / clinics. Fulfills the requirements (MK), that is, nothing was found during the examination. Follow-up activities are repairs in the event of non-compliance (TMK), meaning that when the examination is carried out, findings are found or a good cosmetics distribution method (CDKB) is applied, such as no notification / if there is no cosmetics found in small batches or for small batch requests, alert / crushing will take place. The Supervision Department conducts routine checks on cosmetic distribution / selling facilities every week.

Furthermore, the facilities and infrastructure factors are supporting elements and play a very important role in simplifying the rules. Without adequate law enforcement methods and facilities, the law enforcement process cannot run smoothly, nor is possible to create a safe, peaceful and prosperous society. The lack of facili-

ties and facilities causes a bottleneck in the implementation of the surveillance and investigation system. Sufficient budget is not allocated for investigations, monitoring and sampling of cosmetics, which cost more. In fact, the budget to support the investigation and monitoring process has indeed been provided, but due to the large working area of the POM Makassar Center, within a certain period of time it becomes short¹⁹.

Community factors include the limited function of business actors when carrying out evil plans / their bad faith is always changing and it is very difficult to decide the distribution of illegal cosmetics. Perpetrators sell illegal products online through media accounts and send them through courier services. One of the modes undertaken by business actors is advertising which is used as an information tool to promote or inform the

¹⁹ Interview with Staff for Enforcement, Muhammad Faisal, on December 10, 2020.

products they sell to the public in order to influence / provoke people to buy and consume these products. There are still many business actors circulating or producing their cosmetic products without including notification / distribution permits from the POM and repackaging the product by mixing other cosmetic products. In fact, they often ignore the Good Way of Making Cosmetics (CPKB) in order to carry out the bad faith of cosmetic criminals and look for ways / loopholes to get big profits due to the increasing demand from the public which makes actors compete to sell and make business opportunities. Therefore, actors in carrying out their bad faith, one of which is due to economic factors and weak legal sanctions given to business actors, result in a lack of deterrent effect. For this reason, the perpetrator commits an act that violates the applicable regulations and without thinking about product standards. PPNS POM Makassar Center confirmed the incident and was an obstacle for investigators. One of them is because of economic factors and weak legal sanctions given to business actors resulting in a lack of deterrent effect. For this reason, the perpetrator commits an act that violates the applicable regulations and without thinking about product standards. PPNS POM Makassar

Center confirmed the incident and was an obstacle for investigators. One of them is because of economic factors and weak legal sanctions given to business actors resulting in a lack of deterrent effect. For this reason, the perpetrator commits an act that violates applicable regulations and without thinking about product standards. PPNS POM Makassar Center confirmed the incident and was an obstacle for investigators²⁰.

Public legal awareness is needed in preventing and overcoming illegal cosmetic crimes which are caused by low public awareness by causing them not to run optimally and experiencing serious obstacles in the law enforcement process. It is proven based on the results of interviews with 3 (three) consumers or users of illegal cosmetics. A resource person named Indah Apriyanti, SKM, 21 years old, student occupation, uses cosmetics Azarine Acne Spot Gel for Rp. 33,000, - (thirty three thousand rupiah), Indah was interested in the product ratings listed on Shopee online as well as the very cheap prices. After using these cosmetics, Indah's face felt hot, the skin on her face peeled off and pimples appeared, apparently the packaging on the cosmetics did not include the distribution permit of the

²⁰ Interview with the Head of Enforcement, Sriyani Rasyid, on December 10, 2020

POM²¹. Next, Asmawati, 38 years old, a housewife (IRT), uses Beauti Derm Tretinoin Hydroquinone cosmetics for Rp. 30,000, - (thirty thousand rupiah). Asma found out about the product from a friend whose face looked smooth and had no pimples. Initially, the pimples on Asma's face faded and looked red, so that gradually Asma's face felt itchy and flushed. Asma used cosmetics for 3 months, and when buying the cosmetics Asma did not know about the distribution permit of the POM and did not pay attention to the packaging²². And the last one named Yanti, S.Pd, a teacher, aged 42 years, uses Vayala Night / Day Cream cosmetics for Rp. 330.000, - (three hundred and thirty thousand rupiah), which was purchased directly through the online shop "Lazada" which was initially notified by a colleague whose face looked shiny and clean without acne, after several months of using the cosmetics her face felt itchy and hot which then appeared. black spots, it turns out that on the cosmetic packaging there is no distribution permit from the POM²³.

The last factor is the cultural cause. Relating to the legal culture caused by a person's social conditions, interests and

certain factors. The current crimes show that technological progress and economic progress will lead to crime, such as commercial actors commit fraud in products form that are produced with low quality and beautiful packaging, so that the products being sold give added value and promote on a large scale. The globalization era has a very important impact on the production of crime in the health sector, due to the unfair use of the price of goods, advertising fraud, and the perpetrators of marketing and trade.

CONCLUSION

Supervision is carried out before distribution and after the circulation of cosmetic products on the market, socialization in the form of communication, information and education as well as dissemination of information to provide protection to the public in order to develop insight and awareness in buying and consuming good cosmetics, as well as conducting cyber patrols on social media so that BBPOM Makassar is more easily aware of the existence of cosmetic sales. Related to the restrictions faced by the Food and Drug Monitoring Center in dealing with the distribution of illegal cosmetics, namely the use of 5 (five) factors; (a) The legal factor, the "Health Law" doesn't state that

²¹ Interview with Student, Indah Apriyanti, on December 11, 2020.

²² Interview with Housewife, Asmawanti, on December 11, 2020.

²³ Interview with Teacher, Yanti, on December 11, 2020.

criminals who distribute cosmetics illegally are given / imposed minimum fines; (b) As far as the authority of the Makassar BBPOM PPNS is concerned, the law enforcement factor is still lacking due to the absence of compulsory work. PPNS BBPOM Makassar has not coordinated optimally with other agencies, and given the very wide scope of work of BBPOM Makassar, PPNS and staff in the field of supervision are still lacking. (c) Facility factor; the need for investigation and supervision is not sufficient so that it requires high costs; (d) Community factors; in the purchase and consumption of high quality cosmetics. In terms of lack of public awareness and insight, (e) cultural factors; due to technological maturity and economic development that leads to crime. the need for investigation and supervision is not sufficient so that it requires high costs; (d) Community factors; in the purchase and consumption of high quality cosmetics. In terms of lack of public awareness and insight, (e) cultural factors; due to technological maturity and economic development that leads to crime. the need for investigation and supervision is not sufficient so that it requires high costs; (d) Community factors; in the purchase and consumption of high quality cosmetics. In terms of lack

of public awareness and insight, (e) cultural factors; due to technological maturity and economic development that leads to crime.

The recommendation that the author can give is related to BBPOM's efforts to further improve routine supervision inside and outside the city, both in distribution facilities (distributors) and marketing (markets, shopping centers, shops, etc.) and through the media, government and private sector, carry out routine social interaction with communication, information and education business actors (issuers) and the public, as well as optimizing the supervision of the patrol network. Next, it is necessary to assess / study the five factors faced in providing protection to the community, namely legal factors, law enforcement factors, facilities and facilities factors, community factors and cultural factors.

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