



Criminal Liability of Influencers Who Help Promote Illegal Cosmetic Products from the Perspective of Islamic Criminal and Criminal Law

Article	Abstract
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Introduction

In Indonesia, the use of cosmetics has increased rapidly along with the development of the beauty industry, changes in people's lifestyles, and increasing awareness of self-appearance and self-care. The high demand for cosmetic products is driving significant industry growth, both through traditional sales channels and digital platforms.¹ However, despite this technological development, there are still a number of cosmetic products on the market that do not meet government licensing standards, especially those that do not have a distribution permit from the Food and Drug Supervisory Agency (BPOM). The results of BPOM's monitoring show that the circulation of illegal cosmetics remains a serious problem, with the discovery of hundreds of cosmetic products that do not have a distribution permit or contain harmful substances. Since the safety, and quality of these illegal cosmetics cannot be guaranteed, their existence seriously endangers consumers. The use of illegal cosmetics has the potential to cause various health problems, such as skin irritation, allergic reactions, skin tissue damage, organ damage due to exposure to harmful compounds, and other long-term health risks.²

However, advances in information technology and social media have changed the marketing techniques of cosmetic products. Companies are increasingly using influencers as a promotional strategy because they are considered more effective in reaching a wider audience. Influencers can change opinions, increase brand exposure, and influence customer behavior by sharing content on social media platforms like Instagram, TikTok, and Facebook. Recommendations from influencers are often more convincing than traditional marketing because followers trust them. Several studies show that influencers have a great influence on customer purchasing decisions, especially for beauty and skincare products.³

While the use of influencers is beneficial to marketing strategies, it also poses significant legal problems if the recommended product turns out to be illegal. Influencers are known to often play the role of promoters of cosmetic products that do not have marketing licenses or contain harmful substances. This situation raises problems related to the legal status of influencers in the distribution chain of illegal products, especially the possibility of criminal liability being imposed on them. This issue is increasingly important because influencers generally only promote products through cooperation with companies, while others handle production and distribution. As a result, an in-depth legal analysis is needed to determine whether influencers can be held criminally liable for the promotion of illegal cosmetics, or whether the legal liability lies entirely with manufacturers and distributors, who are directly responsible for the production and distribution of products that violate laws and regulations.⁴

Research on legal accountability in the promotion of illegal products through social media has actually been carried out a lot, but it still shows the limitations of the scope of the study. The

¹ Indri Astuti Handayani et al., "The Impact Of Hazardous Cosmetics On Skin Health: Hydroquinone Content In Online Whitening Creams," *Medical Science: Scientific Journal of Pharmacy* 10, no. 4 (2025): pp. 423-430.

² Dave Gabriel E Cadungog, Jhon Robin D Yee, and Raymond J Sucgang, "Mercury in Online Skin-Lightening Cosmetics: A Health Risk Assessment of Products from Selected Asian Countries," *Food and Chemical Toxicology* 204, no. 2 (2025): 115676.

³ Keng-Boon Ooi et al., "Social Media Influencers: An Effective Marketing Approach?," *Journal of Business Research* 160, no. 2 (2023): 113773.

⁴ Sophie C Boerman, "The Effects of the Standardized Instagram Disclosure for Micro- and Meso-Influencers," *Computers in Human Behavior* 103, no. 3 (2020): pp. 199-207.

research conducted by Ningsih and Satrini in 2026 discusses the criminal liability of influencers who promote illegal products, but the analysis is limited to the perspective of positive Indonesian criminal law without linking it to the concept of accountability in Islamic criminal law.⁵ Rahmawati et al. in 2024 focus more on cosmetic distribution licensing regulations and cosmetic distribution supervision systems from the perspective of consumer protection, so they have not examined the position of influencers as parties who contribute to illegal cosmetic marketing.⁶ Similarly, Jesslyn's research in 2021 examined the legal responsibility of endorsers for the promotion of online gambling and illegal cosmetics through Instagram, but the discussion was more focused on the implementation of the Electronic Information and Transaction Law and the Consumer Protection Law, without conducting a comprehensive analysis of the construction of criminal liability from the perspective of Islamic criminal law.⁷

Putriana et al.'s research in 2020 emphasizes more on restructuring the authority of BPOM and strengthening the supervision system for the circulation of illegal cosmetics online through an institutional approach, without discussing influencers as subjects who have the potential to be held criminally responsible.⁸ Based on these studies, it can be seen that there has not been a study that specifically analyzes the criminal liability construction of influencers who promote illegal cosmetics through an integrative approach between positive Indonesian criminal law and Islamic criminal law. The emptiness of the study is an important basis for this study to formulate the boundaries of influencer criminal liability while providing a more comprehensive perspective in answering the development of digital marketing practices.

One of the cases that illustrates the legal consequences due to the involvement of public figures in the circulation of illegal cosmetics is the case of Mira Hayati, the owner of the MH Cosmetic brand, who actively advertises her cosmetic products on social media. Based on monitoring and testing conducted by the Food and Drug Supervisory Agency (BPOM), a number of products on the market contain mercury, a dangerous chemical whose use in cosmetics is limited because it has the potential to cause serious health problems for its users. During the trial, the Makassar District Court ruled that Mira Hayati was legally and convincingly guilty of distributing pharmaceutical products and/or medical devices that did not meet the standards of safety, efficacy, usability, and quality as stipulated in Article 435 in conjunction with Article 138 paragraphs (2) and (3) of Law Number 17 of 2023 concerning Health. In the first-instance verdict, the defendant was sentenced to 10 months in prison and a fine of Rp1,000,000,000.00, with the provision that if the fine is not paid, it will be replaced with a prison sentence of two months. However, after going through the appeal and cassation process, the Supreme Court issued a Final and Binding Decision No. 12016 K/PID. SUS/2025 which imposes a prison sentence of two years and a fine of Rp1,000,000,000.00, with a detention sentence of 2 months as an alternative. This case shows that promoting and distributing cosmetics containing harmful ingredients not only endangers public health, but can

⁵ Agustiani Ningsih and Luh Ketut Ayu Manik Satrini, "Criminal Liability of Influencers for the Promotion of Illegal Products Through Social Media," *Journal of Comprehensive Science (JCS)* 5, no. 3 (2026): p. 839.

⁶ RAHMAWATI DEWI et al., "Cosmetic Regulation Against Distribution Permits: A Literature Study," *VITAMIN: JOURNAL OF GENERAL HEALTH SCIENCES* Ученители: Indonesian Association of Management and Business Science Research 2, no. 1 (2024): pp. 249-255.

⁷ Jesslyn Jesslyn, "Accountability of Gambling and Illegal Cosmetics Endorsement Recipients Through Instagram," *Lex Librum* 6, no. 2 (2020): 557767.

⁸ Siti Ajeng Putriana, Aura Nur Maulida, and Reza Matulatan, "Restructuring the Authority of BPOM and the Cooperative System to Counter the Circulation of Illegal Cosmetics Online," *Legislative Journal*, 2020, 347-66.

also result in criminal liability for the parties involved, including public figures who use their influence to increase consumer trust in the products marketed.⁹

In addition to cases that lead to criminal convictions, there are situations that raise questions about the potential criminal liability of influencers, such as the case involving Dr. Reza Gladys. The Indonesian Food and Drug Supervisory Agency (BPOM) has stated that the product “Glafigsya Glowing Booster Cell” is not registered and is included in the list of illegal cosmetics. However, there has been no definitive and binding court decision declaring Reza Gladys guilty of crimes related to illegal cosmetics. In addition, there is still controversy regarding the validity of the product, where Reza Gladys denies that the product is a cosmetic and calls it a beauty treatment.¹⁰

The emergence of a number of cases involving the circulation of illegal cosmetics by influencers has raised legal concerns regarding the extent of liability for those who promote products on social media. In fact, there is currently no clear certainty about the extent to which influencers can be held criminally liable if the products they promote are proven to have no circulation permit or contain harmful substances. Influencers may be thought of as promoters who simply disseminate information from companies; However, these promotional efforts have the potential to generate transactions and increase consumer confidence in the products being sold. Therefore, further research is needed to conduct a thorough evaluation of the limits of the criminal liability of influencers based on Indonesia’s positive criminal law and Islamic criminal law perspectives. This research is very important to provide legal certainty and consumer protection, as well as to be the basis for determining a proportionate form of accountability for influencers involved in the promotion of illegal cosmetics.

Methods

This research is a normative legal research that uses a statutory *approach* and a *conceptual approach*.¹¹ The statutory approach is used to analyze various legal provisions that regulate the criminal liability of influencers in the promotion of illegal cosmetics, while the conceptual approach is used to examine legal doctrines, principles, and concepts related to criminal liability, participation, consumer protection, and Islamic criminal law principles. The legal materials used are primary, secondary, and tertiary legal materials. Primary legal materials include relevant laws and regulations, including Law Number 1 of 2023 concerning the Criminal Code, Law Number 17 of 2023 concerning Health, Law Number 8 of 1999 concerning Consumer Protection, Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions, as well as Regulation of the Food and Drug Supervisory Agency which regulates circulation and promotion cosmetics. Secondary legal materials consist of law books, scientific articles, results of previous research, national and international journals, as well as the doctrine of experts related to criminal liability, influencers, digital marketing, and Islamic criminal law. The tertiary legal materials are in the form of legal dictionaries, legal encyclopedias, and other reference sources that support the understanding of

⁹ Destiana Vina, “Consumer Protection Against the Promotion of Illegal Cosmetic Products (Case Study of Mh Cosmetics Product Promotion)” (Faculty of Law, 2026), p. 8.

¹⁰ Kiki Firmantoro and Suvinah Suvinah, “Illegal Cosmetics, Supervisory Authorities, and the Medical Profession: A Study of Administrative Law in Indonesia,” *HUMANIORUM* 3, no. 3 (2025): pp. 125-135.

¹¹ Suyanto, *Legal Research Methods Introduction to Normative, Empirical and Combined Research* (Unigres Press, 2023), p. 17.

legal terms and concepts used in research. The collection of legal materials is carried out through library *research*, then analyzed qualitatively using descriptive-analytical methods to interpret the provisions of laws and regulations, examine their conformity with legal doctrine, and formulate the construction of influencer criminal liability in the perspective of Indonesian criminal law and Islamic criminal law.

Influencers in the Digital Marketing Ecosystem and Characteristics of Illegal Cosmetics

The development of information and communication technology has changed the pattern of product marketing from a conventional model to digital marketing which relies on social media as the main space for interaction between business actors and consumers. This transformation has given birth to a new actor in electronic commerce activities, namely *influencers*, who act as intermediaries of communication between producers and consumers. Unlike conventional one-way advertising, influencer marketing relies on personal relationships, emotional closeness, and a level of trust built through continuous interaction with its followers. This condition causes recommendations given by an influencer to often be seen as more authentic than promotions carried out directly by the company.¹²

Etymologically, the term *influencer* comes from English, which is *influence* which means influence. In the context of digital media, influencers are individuals who have the ability to shape public opinions, perceptions, attitudes, and consumption behaviors through content published on various social media platforms. The influence is not solely determined by the status of a celebrity, but also by the level of credibility, expertise, consistency of content, and the closeness of the relationship built with the audience.¹³

An influencer is someone whose words are able to influence others so that they can form certain behavioral tendencies. Thus, one does not have to have the status of a public figure to be categorized as an influencer. Ordinary individuals who manage to build a large follower base and gain a high level of trust from their followers can also perform the function of an influencer. This view shows that the main measure of influencers is not just popularity, but real ability to influence other people's decisions.¹⁴

Influencers are individuals who use social media to shape the attitudes, perceptions, and behaviors of the audience through the content produced and the relationships built with their followers. This opinion shows that influencer influence does not only come from the delivery of information, but also from persuasive and sustainable social relationships. In modern marketing practices, these relationships are often referred to as *parasocial relationships*, which are psychological relationships that make followers feel personal closeness to influencers even though the interaction is virtual.¹⁵

¹² Chen Lou and Shupai Yuan, "Influencer Marketing: How Message Value and Credibility Affect Consumer Trust of Branded Content on Social Media," *Journal of Interactive Advertising* 19, no. 1 (2019): pp. 58-73.

¹³ Liselot Hudders, Steffi De Jans, and Marijke De Veirman, "The Commercialization of Social Media Stars: A Literature Review and Conceptual Framework on the Strategic Use of Social Media Influencers," *Social Media Influencers in Strategic Communication* 12, no. 2 (2021): pp. 24-67.

¹⁴ Chung-Wha Chloe Ki et al., "Influencer Marketing: Social Media Influencers as Human Brands Attaching to Followers and Yielding Positive Marketing Results by Fulfilling Needs," *Journal of Retailing and Consumer Services* 55 (2020): 102133.

¹⁵ Alexander P Schouten, Loes Janssen, and Maegan Verspaget, "Celebrity vs. Influencer Endorsements in Advertising: The Role of Identification, Credibility, and Product-Endorser Fit," *Leveraged Marketing Communications*, 2021, 208-31.

These various definitions show that influencers are essentially part of a marketing communication strategy that has the ability to influence people's economic behavior. These influences are no longer just social, but have developed into economic influences that have high commercial value. Therefore, in modern business practices, influencers often establish contractual relationships with business actors through endorsement activities, *paid promotions*, *affiliate marketing*, and other forms of digital promotion. In such relationships, influencers earn economic benefits in exchange for promotions made, so that their position is no longer just as a social media user, but also as part of a commercial information distribution chain.

This position is important from a criminal law perspective because promotions carried out by influencers have the potential to cause legal consequences if the information conveyed contains elements of misleading *advertising* or promotes products that are contrary to the provisions of laws and regulations. In other words, the greater the influence an influencer has on consumer decisions, the greater the legal responsibility attached to the information he disseminates. In this context, influencers are no longer seen as passive parties, but as actors who play a role in the marketing process of a product.¹⁶

One of the products that is currently widely promoted through social media is cosmetics. The high public demand for beauty products encourages business actors to use influencers as a means of promotion which is considered more effective than conventional advertising media. However, this phenomenon also raises legal problems when the product promoted turns out to be an illegal cosmetic that does not meet the safety requirements and applicable licensing requirements.

Juridically, illegal cosmetics are cosmetics that are produced, imported, distributed, or traded without complying with the provisions of laws and regulations, especially without a distribution permit from the Food and Drug Supervisory Agency (BPOM), contain ingredients that are prohibited or exceed the permissible threshold, and do not meet safety, quality, and utility standards as specified in health regulations.¹⁷ Thus, a cosmetic product can be categorized as illegal not only because it does not have a distribution license number, but also if the production process, ingredient composition, labeling, or distribution is contrary to the applicable legal provisions.

The circulation of illegal cosmetics is a serious threat to the protection of public health. Various studies show that illegal cosmetics often contain harmful chemicals, such as mercury, hydroquinone in levels that exceed the permissible limit, rhodamin B, lead, arsenic, and other toxic substances that have the potential to cause skin irritation, kidney damage, nervous system disorders, reproductive disorders, and even increase the risk of cancer if used in the long term. This risk is increasing because consumers generally do not have the ability to distinguish between legal and illegal products, so they tend to rely on information provided by influencers as parties who are considered to have knowledge about the products being promoted.¹⁸

¹⁶ Nathaniel J Evans et al., "Disclosing Instagram Influencer Advertising: The Effects of Disclosure Language on Advertising Recognition, Attitudes, and Behavioral Intent," *Journal of Interactive Advertising* 17, no. 2 (2017): pp. 138-149.

¹⁷ Mariana Ferreira et al., "Overview of Cosmetic Regulatory Frameworks around the World," *Cosmetics* 9, no. 4 (2022): p. 72.

¹⁸ Sana Sarkar, Anuj Pandey, and A B Pant, "Regulatory Requirements for Safety/Toxicity Assessment of Cosmetics/Nanocosmetic Products: Challenges and Opportunities," *Skin 3-D Models and Cosmetics Toxicity*, 2023, pp. 149-176.

In the Indonesian legal system, supervision of cosmetics is part of the state's responsibility to protect people's rights to health as guaranteed in Law Number 17 of 2023 concerning Health. Every cosmetic produced or imported for trade must obtain a distribution permit from BPOM as a form of preventive supervision of product safety. This obligation is emphasized in BPOM Regulation Number 18 of 2024 which states that cosmetics can only be advertised after obtaining a distribution permit in the form of a notification from the Head of BPOM. This provision shows that the legality of a product is an absolute prerequisite before promotional activities are carried out to the public.

In addition to being regulated in Law Number 17 of 2023 concerning Health, the protection of cosmetic consumers also has a legal basis in Law Number 8 of 1999 concerning Consumer Protection which requires business actors to provide true, clear, and honest information about the condition of the goods being traded. This obligation is basically not only imposed on manufacturers or distributors, but is also relevant to those who actively help introduce products to the public, including influencers who gain economic benefits from these promotional activities.

Thus, influencers who promote illegal cosmetics cannot always be positioned as a party at all regardless of the legal consequences. If the influencer knows or should suspect that the promoted product does not have a distribution permit or contains misleading information, then the promotional action has the potential to be part of a series of actions that support the circulation of illegal cosmetics in the community. Although until now there is no specific provision that explicitly regulates the criminal liability of influencers in the promotion of illegal cosmetics, various provisions in criminal law, health law, and consumer protection law open up space to examine the possibility of such liability based on the role, intentionality (*dolus*), and negligence (*culpa*) carried out by influencers in digital promotion activities.¹⁹

Therefore, the development of influencers as digital economy actors cannot be separated from the principle of legal responsibility. The greater the influence it has on consumer decisions, the higher the duty of *care* standards that must be met before promoting a product. This principle is the meeting point between the development of the digital economy, consumer protection, and criminal law in assessing the extent to which influencers can be held accountable for the promotion of illegal cosmetics that result in losses to the community. The discussion of the legal position of influencers is a conceptual basis for analyzing the form of criminal liability of influencers according to positive criminal law and the perspective of Islamic criminal law in the next section.²⁰

Criminal Liability and Influencer Involvement in the Crime of Promoting Illegal Cosmetics

An influencer can be held criminally liable for the promotion of illegal cosmetics if all elements of criminal liability as known in Indonesian criminal law are met, namely the existence of a criminal act (*actus reus*) accompanied by a mistake (*mens rea*). The concept is an implementation

¹⁹ Giulia Anselmo, Giorgia Mannaioli, and Alessio Sardo, "Ensuring Fairness in the Digital Marketplace: A Communicative and Cognitive Analysis of Deceitful Influencer Marketing within Regulatory Frameworks and Benchmarks," *International Journal for the Semiotics of Law* 39, no. 1 (2026): pp. 189-224.

²⁰ Lalu Saipudin et al., "The Concept of Corporate Criminal Liability in the Indonesian Criminal Law System," *IUS Journal of Law and Justice Studies* 13, no. 2 (2025): pp. 475-499.

of the principle of *geen straf zonder schuld* (*nulla poena sine culpa*), which requires that a person can only be convicted if the guilt of his or her actions can be legally proven according to the law.²¹ This principle has been explicitly codified in Article 37 of Law Number 1 of 2023 concerning the Criminal Code, which states that “No one can be convicted without a fault.” The formulation emphasizes that the proof of a criminal act does not stop at the fulfillment of the elements of the prohibited act, but must also be proven that there is an element of intentionality (*dolus*) or forgetfulness (*culpa*) inherent in the perpetrator. Thus, in the case of illegal cosmetic promotion, the existence of promotional content uploaded by influencers has not automatically given rise to criminal liability if the element of fault has not been proven.

In digital marketing practices, a form of intentionality (*dolus*) can be found when an influencer knows that the cosmetics he is promoting do not have a distribution permit from the Food and Drug Supervisory Agency (BPOM), contain harmful ingredients, or have been declared as an illegal product by BPOM, but are still willing to promote because they gain economic benefits. In such circumstances, influencers already have the knowledge as well as the will to expand the marketing of products that are contrary to the provisions of the law. On the other hand, if the influencer does not know directly about the illegal status of the product but ignores the obligation to conduct due *diligence*, for example by not verifying the BPOM distribution permit number that can actually be accessed publicly, then the negligence can be qualified as a form of *culpa*.²² Therefore, the measure of criminal liability is based not only on what the influencer actually knows, but also on what should have known based on a standard of due diligence in carrying out commercial promotional activities.

The position of influencers becomes increasingly important when analyzed through the concept of *participation* (*deelneming*). Article 20 of Law Number 1 of 2023 concerning the Criminal Code determines that a person convicted as a perpetrator of a criminal act is anyone who commits a criminal act himself, orders to commit a criminal act, participates in committing a criminal act, or moves another person to commit a criminal act. This provision shows that Indonesian criminal law expands the subject on which criminal responsibility can be held not only to the main perpetrator (*pleger*), but also to the party who knowingly contributes to the occurrence of a criminal act. In the context of illegal cosmetic promotion, influencers are not manufacturers or distributors, but if they know the illegal status of the product and consciously cooperate with business actors to increase sales through social media, then the promotion they carry out can be seen as a form of real contribution to the circulation of illegal cosmetics. From the perspective of the doctrine of inclusion, such a situation fulfills the elements of conscious cooperation (*bewuste samenwerking*) and common will (*gemeenschappelijke wil*) to realize goals that are contrary to the law.²³

The construction of criminal liability must then be read systematically with the provisions in Law Number 17 of 2023 concerning Health. Article 138 paragraph (2) determines that every

²¹ David O. Brink, “The Nature and Significance of Culpability,” *Criminal Law and Philosophy* 13, no. 2 (2019): pp. 347-373.

²² Hamish Stewart, “Crimes, Harms, and Wrongs: On the Principles of Criminalisation,” *University of Toronto Law Journal* 62, no. 3 (2012): pp. 458-461.

²³ Aleksandra Miśkiewicz and Alexander Vadokas, “Models of Criminal Liability of a Plurality of Perpetrators under Polish and German Criminal Law: Comparative Approach,” in *Annales of Istanbul Law Faculty* (Istanbul University, 2024), pp. 271-305.

pharmaceutical preparation distributed in Indonesian territory must meet the requirements of safety, efficacy or usefulness, and quality. Furthermore, Article 138 paragraph (3) emphasizes that pharmaceutical preparations, including cosmetics, can only be distributed after obtaining a license in accordance with the provisions of laws and regulations. This norm is the legal basis that requires every cosmetic to have a distribution permit from BPOM before being marketed to the public. Violations of these provisions obtain criminal consequences through Article 435, which stipulates that any person who produces or distributes pharmaceutical preparations that do not meet the standards of safety, efficacy, usefulness, or quality as required by law may be subject to criminal sanctions. Thus, the relationship between Article 138 and Article 435 shows the existence of a tiered construction of norms, where Article 138 contains legal obligations regarding the legality of cosmetics, while Article 435 provides criminal consequences for violations of these obligations. If the influencer knowingly helps to expand the marketing of cosmetics that does not meet the provisions of Article 138, then his actions have the potential to qualify as a form of participation in criminal acts as stipulated in Article 435.

In addition, the promotion of illegal cosmetics is also closely related to Law Number 8 of 1999 concerning Consumer Protection. Article 17 paragraph (1) prohibits advertising business actors from making or disseminating advertisements that deceive consumers about the quality, quality, materials, usefulness, price, or guarantee of an item. The prohibition essentially aims to protect consumers' rights to obtain true, clear, and honest information as stipulated in Article 4 of the Consumer Protection Law. For violations of these provisions, Article 62 paragraph (1) determines that business actors who violate the provisions of Article 17 paragraph (1) are punished with a maximum prison sentence of five years or a maximum fine of Rp2,000,000,000.00 (two billion rupiah). Although influencers are not business actors in the sense of being producers, the development of digital marketing practices shows that influencers have carried out advertising functions through contractual relationships with business actors. Therefore, if an influencer knowingly makes false claims about the legality, safety, or benefits of cosmetics that mislead consumers, then such actions can be seen as part of an act prohibited by the Consumer Protection Act.

In addition, the use of social media as a means of promotion also opens up the possibility of implementing Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions. Article 28 paragraph (1) states that *"Every Person deliberately and without the right spreads false and misleading news that results in consumer losses in Electronic Transactions."* These provisions are not solely aimed at business actors, but also to everyone who uses electronic media to disseminate misleading information that results in consumer losses. Furthermore, Article 45A paragraph (1) determines that violations of Article 28 paragraph (1) are punishable by imprisonment for a maximum of six years and/or a maximum fine of Rp1,000,000,000.00 (one billion rupiah). If the influencer consciously states that a cosmetic has a BPOM permit, is safe to use, or has gone through clinical trials even though the information is not true, then the information encourages consumers to make electronic transactions that lead to losses, then the elements of Article 28 paragraph (1) in conjunction with Article 45A paragraph (1) have the potential to be fulfilled.

Based on the overall legal construction, the criminal liability of influencers is not born solely because of their existence as a public figure who promotes a product, but because of the existence

of a real legal contribution to the circulation of illegal cosmetics through the dissemination of unlawful commercial information. Therefore, the imposition of criminal liability must be carried out through comprehensive proof of the existence of errors as referred to in Article 37 of the Criminal Code, the existence of a form of participation as stipulated in Article 20 of the Criminal Code, and the existence of a causal relationship between the promotions carried out and violations of the provisions of the Health Law, the Consumer Protection Law, and the Electronic Information and Transaction Law. On the other hand, if the influencer has done *adequate due diligence*, such as verifying the BPOM distribution license number, requesting product legality documents, and does not have reasonable grounds to suspect that the cosmetic is an illegal product, then the element of fault is not met so that based on the principle of *geen straf zonder schuld*, criminal liability cannot be imposed on him.²⁴

The Construction of Influencer Accountability in the Promotion of Illegal Cosmetics Perspectives on Islamic Criminal Law

The development of information and communication technology has changed conventional trade patterns to digital commerce that relies on the use of social media as the main means of product marketing. This transformation has given birth to new actors in electronic commerce activities, one of which is influencers.²⁵ In modern marketing practices, influencers are no longer seen only as individuals who have many *followers*, but have evolved into part of a marketing strategy that is able to build perception, increase trust, and influence consumer purchasing decisions through personal and interactive communication.²⁶ This phenomenon is known as *electronic word of mouth* (e-WOM), which is the dissemination of information through digital media that has a higher level of effectiveness than conventional advertising because it is based on the emotional connection and level of trust between influencers and their followers.²⁷ Noveirra's research shows that the credibility, appeal, and expertise of a *beauty influencer* have a significant effect on consumers' buying interest and purchase decisions, so recommendations submitted by influencers are often considered objective and trustworthy information.

This power of influence is ultimately used by some business actors to increase the competitiveness of their products through commercial cooperation with influencers. In ideal practice, such cooperation is part of a legitimate marketing strategy as long as the product being promoted meets the applicable legal provisions. However, the development of digital marketing also presents new legal problems when influencers are used as a means to promote cosmetics that do not have a distribution permit, contain harmful ingredients, or do not meet safety standards as determined by the Food and Drug Supervisory Agency (BPOM). Through the image of influencers,

²⁴ Kevin Aquilina and Klejda Mulaj, "The International Criminal Court and Responsibility for Mass Atrocities: Can JCE Enhance Capacity to Hold Masterminds Accountable?," *Contemporary Justice Review* 27, no. 2-3 (2024): pp. 132-156.

²⁵ Peter C Verhoef et al., "Digital Transformation: A Multidisciplinary Reflection and Research Agenda," *Journal of Business Research* 122 (2021): 889-901.

²⁶ Karina Sokolova and Hajer Kefi, "Instagram and YouTube Bloggers Promote It, Why Should I Buy? How Credibility and Parasocial Interaction Influence Purchase Intentions," *Journal of Retailing and Consumer Services* 53 (2020): 101742.

²⁷ Nicky Chang Bi and Ruonan Zhang, "I Will Buy What My 'Friend' Recommends: The Effects of Parasocial Relationships, Influencer Credibility and Self-Esteem on Purchase Intentions," *Journal of Research in Interactive Marketing* 17, no. 2 (2023): pp. 157-175.

products that are not legally suitable for circulation gain social legitimacy in front of the public. As a result, consumers can more easily trust the safety and quality of the product without verifying its legality. In such conditions, influencers are no longer just a medium for delivering information, but have become part of the information distribution chain that contributes to the widespread circulation of illegal cosmetics.²⁸

This phenomenon poses more complex problems than just administrative violations in the field of cosmetic licensing. The influence of influencers is able to create public trust in a product so that the recommendations conveyed are often used as a basis by consumers in making economic decisions. If the information submitted turns out to be inconsistent with the actual conditions, for example by stating that certain cosmetics are safe to use, have BPOM permits, or have benefits that have not been scientifically proven, then these actions not only have the potential to mislead consumers, but can also cause economic and health losses. Therefore, the involvement of influencers in the promotion of illegal cosmetics must be seen as a legal issue that has dimensions of consumer protection, public health, as well as criminal liability. This condition is exacerbated by the fact that some influencers prioritize the economic value of the endorsement contract rather than verifying the legality of the product being promoted. In fact, access to information regarding BPOM's distribution license number has been publicly available, so checking the legality of products is basically a form of prudence that should be carried out before a product is promoted to the public.²⁹

From the perspective of Islamic criminal law, the promotion or marketing of a product is basically included in the scope of muamalah, so the original law is permissible (*ibāhah*).³⁰ The rules of fiqh state:

الأصل في المعاملات الإباحة حتى يدل الدليل على التحريم

"The original ruling in every form of muamalah is that there can be evidence that shows its haram."

This rule shows that endorsement and product promotion activities through social media are not prohibited acts in Islam as long as they are carried out honestly, transparently, and do not contain elements that are contrary to sharia. Thus, the influencer profession is essentially a justified profession as long as promotional activities are carried out on products that are halal, legal, and provide correct information to the public. On the other hand, when influencers consciously promote cosmetics that do not meet the provisions of the law, contain harmful ingredients, or make claims that do not conform to the actual conditions, then the activity can no longer be seen as part of the permissible muama, but has turned into an act that is contrary to the principles of sharia.³¹

²⁸ Noman Ahsan, Sobia Jamil, and Madiha Rais, "The Influence of Social Media Influencers on Consumer Decision-Making: A Comprehensive SEM Analysis," *International Journal of Social Science & Entrepreneurship* 4, no. 2 (2024): pp. 317-341.

²⁹ Priska Linda Breves et al., "The Perceived Fit between Instagram Influencers and the Endorsed Brand: How Influencer-Brand Fit Affects Source Credibility and Persuasive Effectiveness," *Journal of Advertising Research* 59, no. 4 (2019): pp. 440-454.

³⁰ Habib Ahmed and Abdulazeem Abozaid, "State Laws and Shari Ah Compatibility: Methodological Overview and Application to Financial Laws," *J. Int'l L. Islamic L.* 18 (2022): 123.

³¹ Rr Hesti Setyodyah Lestari, Andia Kusuma Damayanti, and Mowafg Abraham Masuwd, "Optimizing Societal Welfare: The Strategic Role of Maqashid Shariah and Maslahah in Contemporary Islamic Economics and Business," *Al-Insyiroh: Journal of Islamic Studies* 11, no. 1 (2025): pp. 20-40.

The prohibition has a strong normative basis in the Qur'an, especially Surah Al-Mā'idah verse 2, which affirms:

وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَىٰ وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ

"And help yourselves in virtue and piety, and do not help each other in sin and enmity."

This verse contains the fundamental principle of the prohibition of cooperating in any act that is contrary to the law of Allah. In the context of illegal cosmetic promotion, the cooperative relationship between influencers and cosmetic manufacturers or distributors who do not comply with the provisions of the law can be qualified as a form of *ta'āwun 'alā al-ithm*, that is, helping each other in committing prohibited acts. Although influencers are not directly producing or distributing cosmetics, their promotions make a real contribution to increasing public trust and increasing the number of consumers who buy these products.³² Thus, substantially influencers take part in a series of activities that cause the circulation of products that endanger society. This view is in line with the rules of jurisprudence which states that every form of assistance for an unlawful act basically obtains the same law as the purpose of the act (*al-wasā'il lahā ahkām al-maqāṣid*), so that the medium or means used to realize a forbidden act also acquires the same legal status as the main act.³³

In addition to the principle of prohibition of aiding sinful acts, Islam also pays great attention to the protection of people's rights in commercial activities. The Qur'an through Surah Ash-Shu'arā verse 183 emphasizes:

وَلَا تَبْخَسُوا النَّاسَ أَشْيَاءَهُمْ وَلَا تَعْتُوا فِي الْأَرْضِ مُفْسِدِينَ

"And do not harm man to his rights, and do not cause harm on the earth."

This verse not only prohibits the reduction of people's economic rights, but also prohibits any form of act that causes damage (*fasād*) in social life. In the context of illegal cosmetic promotion, the losses experienced by consumers are not only in the form of losing a certain amount of money due to buying products that do not meet legal standards, but also in the form of threats to health due to the use of cosmetics that contain harmful ingredients. Therefore, influencers who know these conditions but continue to promote have essentially contributed to the emergence of *mafsadah* in the community. His actions are no longer just seen as marketing activities, but as actions that increase the risk of loss for consumers and are contrary to the purpose of sharia in maintaining the public interest.³⁴

The principle of protection for the benefit of the community is also affirmed in the hadith of the Prophet PBUH narrated by Ibn Mājah, Ahmad, and al-Dāruqutnī, namely:

لَا ضَرَرَ وَلَا ضِرَارَ

"Must not pose a danger to oneself or to others."

³² Samsul Hidayat et al., "Digitalization of Halal Markets and Sharia E-Commerce: Reassessing Sharia Compliance and Ethical Consumerism in the Age of Technological Disruption," *ILTIZAM Journal of Shariah Economics Research* 9, no. 2 (2025): pp. 192-208.

³³ Yudi Ahmad Faisal, "Rethinking Islamic Finance: Toward A Hybrid Model," *Journal of Islamic Thought and Civilization* 16, no. 1 (2026): pp. 212-233.

³⁴ Mr Shakir Hussain and Ashfaq Ahmed, "Maqasid Al-Shariah and Its Influence on Islamic Governance and Policy: A Framework for Contemporary Reform," *Journal of Religion and Society* 4, no. 2 (2025): pp. 277-287.

The hadith is one of the universal rules (*al-qawā'id al-kulliyyah*) in Islamic law which is the basis for various legal provisions aimed at preventing losses in the life of society. The principle of *lā ḍarar wa lā ḍirār* means that every economic activity, trade, and muamalah relationship must be carried out by paying attention to the aspect of benefit (*maṣlaḥah*) and avoiding all forms of harm (*mafsadah*). In the context of illegal cosmetic promotion, the use of social media to encourage people to buy products that do not meet safety standards clearly has the potential to cause danger, both to health and to the economic interests of consumers. These hazards are not only individual, but can also develop into public health problems if cosmetics containing harmful ingredients are widely used.³⁵ Therefore, an influencer who knowingly promotes illegal cosmetics not only violates the norms of honesty in transactions, but also goes against the basic principles of sharia that prohibit any form of action that causes harm to others.

In the study of fiqh muamalah, the behavior of influencers who promote illegal cosmetics can also be analyzed through the concept of *tadlīs*, which is the act of hiding facts or providing incorrect information about a transaction object so that the other party makes a contract based on misinformation. The concept of *tadlīs* is a form of *fraud* that is expressly prohibited in Islam because it is contrary to the principles of honesty (*ṣidq*) and openness (*transparency*) in muamalah activities.³⁶ The Prophet PBUH said:

مَنْ غَشَّائَنَا فَلَيْسَ مِنَّا

"Whoever deceives us, he is not of our group." (HR. Muslim).

The hadith shows that Islam places honesty as the main foundation in trading activities. In the context of cosmetic promotion, the actions of influencers who convey claims that a product is safe to use, have certain benefits, or have obtained BPOM permission even though the information is not correct is a form of *tadlīs* because it causes consumers to make purchase decisions based on incorrect information. Even if the influencer does not explicitly make a false statement, but deliberately conceals the fact that the product does not have a distribution permit or contains harmful ingredients, the act can still qualify as *tadlīs* because the information conveyed does not reflect the actual state of the product.³⁷

In addition to *tadlīs*, illegal cosmetic promotions also contain elements of *gharar*, which is ambiguity or uncertainty that can harm one party in the transaction. In Islamic law, *gharar* is not only understood as ambiguity about the object of the contract, but also includes ambiguity about the quality, safety, benefits, and legality of the goods being traded.³⁸ When consumers buy cosmetics based on influencer recommendations without knowing that the product does not have a distribution permit or has not been tested for safety, the transaction takes place in conditions that contain *gharar*. Consumers' decisions to buy products are no longer based on

³⁵ Andi Marwah, Nasrullah bin Sapa, and Abdul Syatar, "Integrating Maqashid Al-Shariah into Islamic Economic Practices: A Contemporary Analytical Framework and Its Applications," *El-Kahfil Journal of Islamic Economics* 6, no. 1 (2025): pp. 36-44.

³⁶ Sulaeman Sulaeman et al., "Islamic Business Ethics in the Framework of Higher Ethical Objective (Maqasid Al-Shariah): A Comprehensive Analysis and Future Research Directions," *International Journal of Ethics and Systems*, 2025, 1-29.

³⁷ Nur Kholis and Arrizqah Bariroh, "Sharia Global Trade and Sustainable Economic Growth: A Narrative Review of Justice Principles and Ethical Business," *Journal of Economics and Business Letters* 5, no. 6 (2025): pp. 1-15.

³⁸ Helmi Fitriansyah and Siti Aisyah, "Prohibited Contracts and Sharia Economic Law Review of Counterfeit Goods Practices on E-Commerce Platforms," *Mabahits Al-Uqud* 1, no. 2 (2024): pp. 79-93.

intact information, but rather on perceptions formed by influencer promotional activities.³⁹ Therefore, the existence of influencers in the illegal cosmetics marketing chain cannot be seen as a neutral party, because their communication activities are actually a factor that increases the level of ambiguity of information received by consumers.

In addition, these actions can also be categorized as *ghisy*, which is fraudulent acts in trade activities that are carried out by giving the impression as if an item has a certain quality when in reality it is not. The concept of *ghisy* has a broader scope than *tadlis* because it includes not only the concealment of defects in goods, but also any form of manipulation aimed at creating a positive perception of a product. In digital marketing practices, the use of fabricated testimonials, benefit claims that are not supported by scientific evidence, or the submission of information that raises the belief that certain cosmetics are safe to use even though they do not have legality are forms of *ghisy* that are contrary to the principle of justice in muamalah.⁴⁰ Therefore, influencers who derive economic benefits from such promotional activities cannot escape moral or legal responsibility simply because the information about the product comes from the manufacturer.

This analysis becomes even stronger when it is associated with the concept of *maqāsid al-shari'ah*, which is the main goal of the formation of Islamic law which is directed to realize the benefits of humans. According to al-Syātibī, Islamic law aims to safeguard five basic interests (*al-ḍarūriyyāt al-khams*), namely the protection of religion (*ḥifẓ al-dīn*), the soul (*ḥifẓ al-nafs*), reason (*ḥifẓ al-'aql*), posterity (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*). In the case of illegal cosmetic promotion, there are at least two purposes of sharia that are directly threatened, namely the protection of life and the protection of property.

The aspect of *ḥifẓ al-nafs* is related to the obligation of the sharia to maintain human safety and health. Illegal cosmetics containing mercury, hydroquinone with levels exceeding the threshold, or other harmful chemicals have the potential to cause skin irritation, organ disorders, and even increase the risk of chronic diseases. Thus, any form of promotion that encourages people to use the product indirectly increases the risk of disrupting the protection of life. In the perspective of *maqāsid al-shari'ah*, such actions are contrary to the main purpose of the Shari'ah because they pave the way for damage that can be prevented from the start.⁴¹

Meanwhile, the aspect of *ḥifẓ al-māl* is related to the protection of the property rights and property of the community. Consumers who buy illegal cosmetics based on influencer recommendations suffer economic losses because they spend a certain amount of money to obtain products that do not meet safety or legality standards. These losses are even greater if consumers have to bear medical costs due to the side effects of using these cosmetics. Therefore, illegal cosmetic promotion activities not only harm public health, but also eliminate consumers' right to correct information so that it is contrary to the purpose of sharia in protecting property.⁴²

³⁹ Ian Alfian, Muhammad Ramadhan, and Muhammad Yafiz, "Unraveling Gharar Practices: A Literature Study on Islamic Economic Transactions in the Global," in *Proceeding International Conference on Economic and Social Sciences*, vol. 2, 2024, pp. 707-715.

⁴⁰ Lutfi Maulana et al., "Digital Uncertainty In Islamic Business Law: A Systematic Literature Review On Gharar And Maisir In Contemporary E-Commerce Transactions," *Hakam: Journal of the Study of Islamic Law and Islamic Economic Law* 10, no. 2 (2026): p. 35.

⁴¹ Bella Ababil et al., "Legal Certainty of Tarim Cream Use: A Consumer Protection Law and Maqashid Sharia Perspective," *Journal of Islamic Economic Laws* 8, no. 02 (2025): pp. 24-48.

⁴² H L Rahmatiah et al., "Strict Liability and Product Safety: The Case of Dangerous Syrup in Indonesia in the Maqashid Syariah Perspective," *AHKAM: Journal of Sharia Science* 23, no. 2 (2023): p. 39.

Based on these overall principles, the involvement of influencers in the promotion of illegal cosmetics cannot be viewed solely as a neutral digital communication activity. The social influence that influencers have has made them part of the information distribution chain that determines people's consumption behavior. Therefore, when such influence is used to expand the marketing of products that are contrary to the law and endanger society, then the responsibility that is born is not only moral, but also legal. From the perspective of Islamic criminal law, such acts fall into the category of *jarimah ta'zīr*, which is a criminal act whose form or type of punishment is not determined directly by the Qur'an and Sunnah, but the determination of the sanction is left to *ulil amri* or the government based on the level of harm caused. The concept of *ta'zīr* provides space for the state to establish a proportionate form of punishment as an instrument of protection for the public interest (*maṣlahah al-'āmmah*) as well as a preventive effort so that other perpetrators do not commit similar acts.⁴³

Thus, the construction of influencer accountability in Islamic criminal law has an orientation that is in line with Indonesian criminal law, although it is built on a different philosophical foundation. Indonesian criminal law bases liability on the principle of error (*geen straf zonder schuld*), the concept of inclusion (*deelneming*), and consumer protection, while Islamic criminal law bases liability on the prohibition of *ta'āwun 'alā al-ithm*, the principle of *lā ḍarar wa lā ḍirār*, the concepts of *tadlīs*, *gharar*, and *ghisy*, as well as the purpose of sharia (*maqāṣid al-syarī'ah*) in safeguarding the soul and property.⁴⁴ Although using different normative approaches, the two legal systems have the same common point, which is to place influencers as legal subjects who cannot escape liability if intentionally or through negligence they contribute to the marketing of illegal cosmetics that endanger society. Therefore, the greater the influence an influencer has in shaping public consumption behavior, the greater the legal responsibility and ethical responsibility inherent in every commercial information he conveys. This concluding sentence also emphasizes that freedom of expression in digital media is not absolute freedom, but must be carried out in the corridor of positive law and sharia values that uphold honesty, usefulness, and protection of society from all forms of harm.

Conclusion

This study shows that influencers can no longer be positioned solely as a promotional medium, but as legal subjects who can be held accountable if their involvement in promoting illegal cosmetics meets the elements of guilt and contributes to the occurrence of criminal acts. In Indonesian criminal law, accountability is built through the principle of error, the concept of participation (*deelneming*), and the relationship of norms in the Criminal Code, the Health Law, the Consumer Protection Law, the Electronic Information and Transaction Law, and BPOM Regulations regarding cosmetic promotion. Meanwhile, Islamic criminal law views the promotion of illegal cosmetics as an act that is contrary to the principles of *ta'āwun 'alā al-ithm*, *lā ḍarar wa lā ḍirār*, the prohibition of *tadlīs*, and the purpose of *maqāṣid al-syarī'ah* in protecting life and property, so that it can be qualified as *jarimah ta'zīr*. Thus, both legal systems have the same

⁴³ Noor Aimi Mohamad Puad and Asep Saepul Hamdi, "Maqasid Shariah and Consumer Protection in E-Commerce: Strengthening Legal Safeguards in Indonesia's Digital Economy," *International Journal of Islamic Economics and Finance Research* 4, no. 1 (2025): pp. 64-75.

⁴⁴ Habib Ahmed, "Islamic Normative Legal Theory: Framework and Applications," *Journal of Law and Religion* 4, no. 2 (2025): pp. 1-31.

orientation, namely providing protection to the public from misleading marketing practices and emphasizing that the influence that influencers have in the digital space must be balanced with legal responsibility and ethical responsibility in every promotional activity.

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