

Unlawful Endorsements: Examining Influencer Liability for Illegal Product Promotion

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Abstract

The rapid expansion of digital technology and social media has transformed marketing practices, positioning influencers as central actors capable of shaping consumer perceptions and purchasing behavior. However, this shift has also generated new legal issues, particularly the increasing number of influencers endorsing illegal products such as unregistered cosmetics, unsafe supplements, and fraudulent investments. The main problem addressed in this study concerns the unclear legal position of influencers in promotional activities involving illegal products and the extent of their civil liability when consumers suffer harm as a result of misleading endorsements. This study aims to analyze the legal status of influencers as endorsers of illegal products under Indonesian civil law and to examine the forms of legal responsibility arising from their promotional activities. Employing a normative juridical method, the research utilizes statutory, conceptual, and case approaches, supported by primary legal materials including the Consumer Protection Law, the Civil Code, and the ITE Law and secondary sources such as academic journals, legal commentaries, and relevant case studies. Qualitative normative analysis is applied to interpret legal norms and construct arguments regarding influencer liability. The findings show that influencers can be classified as business actors when receiving economic benefits from endorsements, thus subject to consumer protection obligations. Endorsing illegal products constitutes an unlawful act due to negligence in verifying product legality, fulfilling the elements of civil liability under Article 1365 of the Civil Code. Therefore, influencers may be held responsible for consumer losses and are required to exercise caution, good faith, and compliance with advertising regulations when promoting products in the digital sphere.

Keywords: Influencer, Endorsement, Illegal Products, Civil Liability, Consumer Protection.



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INTRODUCTION

The flow of globalization encourages the presence of various technological breakthroughs that significantly change the pattern of people's economic interactions. The use of digital technology is the main strategy of business actors in offering and marketing products and services. Social media, which was originally designed as a communication space between individuals, has now developed into a promotional arena that is able to reach consumers quickly, massively, and personally. The high use of platforms such as Instagram, Facebook, and WhatsApp has made people in an almost limitless flow of information and promotion. Although it brings convenience, this dynamic also raises new problems, especially related to the rampant spread of misleading content, hoaxes, and product promotions that do not have legality (Astuti, 2025).

In this digital marketing ecosystem, influencers play the role of central actors who have the ability to influence consumer perceptions and purchasing decisions. The social trust given by the followers makes their opinions and recommendations have high economic value.

Influencer marketing is even considered more efficient than the use of conventional celebrities because of its strong influence at a relatively lower cost (Anggitasari & Ahmadi, 2025). The development of the internet and the increasing use of smartphones have also strengthened the position of social media as the main space for digital promotion (Taryanto et al., 2025), so that the practice of endorsements becomes an increasingly commonly used marketing strategy (Azizah, 2021).

However, the strategic position of influencers cannot be separated from various legal issues. Various cases show that influencers are often involved in the promotion of illegal products, such as cosmetics without a distribution permit, dangerous drugs, and fraudulent investments. This condition emphasizes the need for an in-depth understanding of the legal aspects of endorsement, including the responsibilities of the parties involved. Based on the Consumer Protection Law, influencers can be categorized as business actors because they carry out commercial activities, so they have legal obligations when endorsements are made causing losses (Pertiwi & Barkatullah, 2023).

Various previous studies have discussed this problem. The JMIA study (2023) examines the liability of influencers who promote illegal products from the perspective of engagement law and ITE criminal acts. Other research highlights the civil liability of influencers for misleading claims in endorsements (Appihi, 2022), as well as cases of illegal skincare that cause consumer losses (Brawijaya Law). Studies on celebrities advertising illegal cosmetics on Instagram (E-Journal, 2021) and recent research on misleading endorsement content (Lex Crimen, 2025) show that this issue continues to grow. However, these studies are still focused on certain aspects separately civil, criminal, or consumer protection without an integrative approach that sees influencers as business actors as well as parties who bind themselves in civil relations with consumers.

This condition shows the absence of studies that comprehensively examine the relationship between endorsement practices, the legal position of influencers, and their responsibilities when consumers suffer losses due to illegal product promotion. This gap has become significant amid the increasing role of influencers in the structure of the digital economy and their influence on people's consumptive behavior (Latuneimas, 2023).

This research is here to answer this problem by examining two main issues: (1) the legal position of influencers as parties who endorse illegal products from a civil law perspective, and (2) the form of legal responsibility inherent in influencers when endorsements are made to harm consumers. This research argues that digital marketing transformation has made influencers an economic actor that cannot be separated from legal regulation. Through this analysis, the relationship between digital practices, engagement law, and consumer protection in the contemporary era can be understood in a more in-depth and comprehensive way.

RESEARCH METHOD

This study employs a normative legal research (juridical normative) approach, which examines legal norms, doctrines, and principles governing influencer liability in endorsing illegal products. The research relies on both primary and secondary legal materials to obtain a comprehensive understanding of the applicable legal framework. Primary legal materials consist of statutory regulations, including civil law provisions, consumer protection regulations, the Information and Electronic Transactions Law, and other sectoral rules related to digital marketing and advertising. Secondary legal materials include literature such as journal articles,

legal commentaries, academic books, legal opinions, court decisions, and policy papers that discuss consumer law, endorsement activities, digital commerce, and intermediary liability.

The study uses a statute approach to analyze the consistency and hierarchy of related legal norms, a conceptual approach to examine doctrinal theories on civil liability and consumer protection, and a case approach to review relevant judicial decisions regarding influencer endorsements and illegal product promotion in digital environments. Legal materials are collected through document-based research, classified systematically, and analyzed using qualitative normative analysis to interpret the meaning, relevance, and applicability of the law. The final objective is to construct legal arguments and formulate a theoretical solution regarding the civil liability of influencers who endorse illegal products and the legal protection available for consumers affected by such endorsements (Scott, 2021).

RESULTS AND DISCUSSION

The Legal Position of Influencers as Endorsers of Illegal Products According to Civil Law

Influencers are individuals or figures on social media platforms who have a significant number of followers so that the information they share can influence the actions of their followers (Adenfa & Rasji, 2025). The use of influencers as a promotional tool is now a popular strategy for various companies, with diverse roles ranging from brand ambassadors, paid promotions, to endorsements that appear every day in social media activities. Influencer marketing is understood as an individual appointment strategy that is considered to have influence on the public or a certain group of consumers, and is considered to be able to be the center of attention for the promotion of a brand (Salsabila et al., 2023). In this context, influencers function as parties involved in advertising activities as well as the dissemination of information, using their personal accounts to market goods or services. However, in the event of problems due to the promotion, the social media platform cannot be held accountable because it is not the party that carries out the promotional activities (Padmayani et al., 2022). This is what makes promotion through influencers seen as more effective and efficient than the use of conventional celebrities, so that more and more business actors choose this strategy (Fabino & Prasetyawati, 2023).

According to Article 1 number 6 of Law Number 8 of 1999 concerning Consumer Protection, promotion is an activity of introducing or disseminating information about goods and/or services to attract consumer buying interest. Based on this definition, endorsements can be categorized as a form of promotion because they have the function of conveying product information through social media (Wicaksono et al., 2025). The legal relationship between influencers and business actors is generally outlined in the form of a standard agreement, in line with the principle of freedom of contract as stipulated in Article 1338 of the Civil Code (Ali et al., 2022). However, the agreement must still meet the legal requirements of the agreement as stipulated in Article 1320 of the Civil Code, including the existence of halal causes. Article 1337 of the Civil Code emphasizes that a cause is considered invalid if it is contrary to the law, morality, or public order. Thus, the endorsement agreement remains subject to civil provisions and cannot be justified if the object being promoted is an illegal product (Ghassani et al., 2023).

This condition often causes misunderstandings in the community regarding the practice of endorsements. The public cannot be sure whether influencers are actually using the products they are promoting or simply promoting based on business deals that consumers are not aware

of. In this context, the relationship between business actors, influencers, and consumers is very important. Business actors are responsible for producing and distributing safe goods and collaborating with influencers in promotional activities. Influencers as endorsers receive products and compensation for providing testimonials that can influence consumer decisions, and have the potential to be liable if the information provided is misleading. Meanwhile, consumers have the right to obtain correct information and have a legal basis to file a civil lawsuit if they suffer losses (Prince, 2025).

The UUPK regulates prohibitions in advertising activities, as stated in Article 17, including the prohibition of making misleading advertisements regarding quality, quantity, materials, benefits, prices, delivery times, guarantees, or other information; prohibition of providing false information; prohibition does not disclose the dangers of the product; and prohibition of using certain events or parties without permission. This provision emphasizes behavioral restrictions in promotional activities, including those carried out by influencers (Law No. 8 of 1999). In a civil law perspective, the position of influencers as parties endorsing illegal products places them as legal subjects who can be held accountable. Article 1365 of the Civil Code emphasizes that every unlawful act that causes losses requires the perpetrator to provide compensation. Therefore, influencers who promote illegal products are considered to contribute to consumer losses because they help the spread and marketing of products that are not in accordance with the law. (Amaliasari, 2021).

The Form of Influencer Responsibility for Consumer Losses Due to Endorsing Illegal Products

Responsibility is a condition when a person is obliged to bear all actions and their consequences. Responsibility is inseparable from human life because it is inherent in one's nature and actions. Article 1365 of the Civil Code emphasizes that "every unlawful act that causes harm to another person requires the person who, because of his fault, causes such harm to compensate for that loss." This principle is the main basis for assessing whether a person, including an influencer, can be held accountable when his or her actions cause harm to others (Widiyastuti, 2020).

In the development of civil law in Indonesia, a new form of agreement has emerged known as *Endorsement Agreement*. This agreement was born as a result of the development of information technology, especially social media, which allows individuals with public influence (*Influencers*) to be the party that promotes a product through a digital platform. The absence of special regulations governing endorsement agreements causes this agreement to become part of the dynamics of the legal development of the community (Ismail, 2025). Law as a tool of social engineering (*Law as a tool of social engineering*) must be able to adapt to social and technological transformations (Sanusi, 2001).

The case reported by CNN Indonesia regarding artist Via Vallen (@viavallen) is an important example to see this problem. He is suspected of promoting an illegal cosmetic product, Derma Care Beauty (DSC), through the Instagram Story feature by receiving compensation of IDR 7 million. The product did not have a distribution permit from BPOM and contained hazardous substances (Islamadina et al., 2022). These promotional actions indirectly help expand the marketing reach of illegal products. This is where the legal issue arises: can an influencer be held accountable for promoting products that violate the law?

Legal analysis shows that these acts have the potential to be included in the category of violations of Law Number 8 of 1999 concerning Consumer Protection and BPOM's provisions on cosmetic circulation. Influencers as a party who also markets products can be considered as business actors in certain contexts, especially when they get economic benefits from the promotion. In addition, by influencing consumer purchasing decisions, an influencer has a moral and legal position that is not light (Nafliana, 2023).

This development is also related to the concept of electronic contracts (*Electronic Contract*). According to Gumilang (2024), an electronic contract is an agreement that is carried out through an electronic system. ITE Law through Article 17 emphasizes that electronic transactions must be carried out in good faith. This means that influencers have a legal obligation to ensure that the information they convey to the public is not misleading and does not harm consumers (Wibowo & SH, 2025).

Illegal products that do not comply with the aspects of licensing, composition, labeling, or distribution conditions are clearly contrary to the principles of consumer safety. Article 8 paragraph (1) of the UUPK prohibits the circulation of goods that do not meet the standards, do not have an expiration date, or do not have a distribution permit (Wicaksono et al., 2025). When influencers promote such products, they contribute to potential consumer losses.

Juridically, a lawsuit can be filed based on an unlawful act. The four elements in Article 1365 of the Civil Code—unlawful acts, real losses, causal relationships, and faults—must be fulfilled (Maulidia, 2020). In the context of an endorsement of illegal products, these elements are very likely to be proven. Influencers can be considered negligent (*negligent*) because it does not verify the legality of the product, even though it has the capacity to know and prevent the risk of consumer losses.

The classification of unlawful acts includes willfulness, negligence, and no-fault liability. In the case of influencers, negligence is the most common element because influencers usually promote products based on trust in the party offering cooperation without conducting in-depth checks (Civil Code, n.d.) Thus, from a legal analysis perspective, influencers have the potential for civil liability.

In addition to the legal aspect, there are also moral and social responsibilities. Influencers have a great influence on people's consumption behavior. Therefore, promoting illegal products not only violates the rule of law, but also betrays public trust (Anjarningtyas, 2022). Therefore, this analysis confirms that influencers must not only be legally cautious, but also ethical in any promotional activities.

CONCLUSION

The legal position of influencers in endorsement activities places them as actors who hold a strategic role in disseminating product information and, therefore, bear legal consequences when promoting illegal products. Under the Consumer Protection Law, the Civil Code, and the principle of freedom of contract, endorsements fall within the category of promotional activities that must comply with legal requirements and restrictions. Consequently, an endorsement agreement is deemed invalid if the object being promoted violates statutory regulations. In this context, influencers are not merely marketing intermediaries but legal subjects who may be held liable when their promotions cause consumer harm. The case involving Via Vallen

demonstrates that promoting products without verifying their legality constitutes negligence, which may be classified as an unlawful act under Indonesian civil law.

The responsibility borne by influencers for endorsing illegal products can be categorized as civil liability under Article 1365 of the Civil Code, as the elements of an unlawful act—unlawful conduct, actual damage, causal relationship, and fault—may be fulfilled. Influencers who promote products without ensuring their legality or safety are considered negligent and may contribute to consumer losses. Beyond legal liability, influencers also hold moral and social responsibilities due to their significant influence on public purchasing behavior. Thus, endorsement activities require caution, verification, and adherence to the principle of good faith as mandated by electronic transaction regulations. This affirms that in the digital era, influencers are not only promotional agents but also legal entities obligated to safeguard consumer protection.

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