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Consumer Protection against Overclaim of Skincare Products: A Comparison of Regulations of BPOM Indonesia and the Ministry of Food and Drug Safety of South Korea

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Abstract

The development of the skincare industry in Indonesia has been accompanied by increasing overclaiming practices, indicating a legal loophole in consumer protection through regulation and supervision by the Indonesian Food and Drug Administration (BPOM). This study aims to compare the regulations and supervision of BPOM Indonesia and the South Korean Ministry of Food and Drug Safety (MFDS), which has a strong mechanism for regulating and supervising cosmetic products. The method used is normative juridical with a legislative, case, and comparative approach, through a literature study and descriptive analysis. The results show that BPOM's regulation of claims is still general and does not distinguish between general and functional cosmetics, does not set detailed scientific standards for proving claims, and supervision is reactive. On the contrary, South Korea's MFDS has implemented cosmetic classification, scientific evidence standards for claims, and proactive risk-based oversight. Therefore, BPOM is advised to clarify cosmetic classification, establish scientific evidence standards for claims, and develop an Integrated Digital Monitoring Framework System to strengthen proactive digital oversight and consumer protection.

Keywords: Comparative Law, Consumer Protection, Overclaim.

A. Introduction

Along with the development of time, people are increasingly aware of the importance of skin care to look healthy and well-maintained. This awareness is driving the demand for *skincare products* that continues to increase. Based on BPOM data, the number of cosmetic notifications from year to year has grown rapidly, around 106,026 cosmetic notification applications were submitted to BPOM in 2023, this number will increase to 116,135 in 2024, and until the fourth month of 2025, 25,296 cosmetic notification applications have been recorded, which is predicted to exceed the previous year's figure.[1] These figures show

[1]"Number of Cosmetic Notifications Per Year", https://satudata.pom.go.id/datasets/160-jumlah-notifikasi-

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that the *skincare* industry has an important role to support the national economy. This is in line with data published in a report from Statista that revenue from *the skincare* sector in Indonesia is expected to reach USD 732.9 million from 2025 to 2030.[2]

However, the rapid growth of the *skincare* industry in Indonesia also brings big challenges, one of which is the increasing practice *of overclaim* in the marketing *of skincare*[3] products in *e-commerce*. Many products claim excessive benefits or active ingredient content, but do not match the results of laboratory tests. For example, the Azarine product claims to contain 10% niacinamide on the packaging of the Niacinamide 10% + Dipotassium Glycyrrhizate Glorius Serum, but the lab test results show that it only contains 0.45% niacinamide.[4] A similar case was found in Daviena *Skincare products* which claimed to contain 2% Actosome Retinol in the packaging of Daviena Sleeping Mask Retinol Booster products, but lab test results showed that it contained only 0.03%.[5]

Based on data provided by the Food and Drug Supervisory Agency (BPOM), one of the main factors causing cosmetic products that do not meet the requirements (TMK) is *overclaims* on product labeling which is used as a marketing strategy to attract consumers. BPOM supervision data nationally in 2023–2024 shows the percentage of cosmetic products with TMK marking as much as 9.07% in 2024.[6] In addition, if looked specifically at Yogyakarta Province in 2024, out of 319 advertisements circulating, 270 advertisements (84.64%) met the provisions, while 49 advertisements (15.36%) TMK, the main cause of which was because they included excessive claims, to ensure compliance with regulations and protect consumers from misleading information, BPOM followed up by sending warning letters to violating business actors.[7]

This *practice of overclaim* is certainly contrary to Articles 7 and 10 of Law Number 8 of 1999 concerning Consumer Protection (UUPK) which states that "business actors are obliged to provide true, clear, and honest information about the condition of an item" and "business actors are prohibited from producing or trading goods with misleading statements regarding the condition and usefulness of the goods".

The practice *of overclaiming* in the *skincare industry* has a negative impact on

kosmetik-per-tahun, accessed on April 5, 2025.

[2]*"Revenue of the skin care market in Indonesia from 2021 to 2030 (in million U.S. dollars)"*, https://www.statista.com/forecasts/1214255/indonesia-revenue-skin-care-market, diakses pada tanggal 5 April 2025.

[3]Akbar, Sahda Saraswati, Nadila Safitri, Fadzal Mutaqin, and Muthia Sakti. "Legal Liability of Skincare Owners related to Overclaim on Beauty Products." Forschungsforum Law Journal 2, no. 01 (2025): 81-95.

[4]Piyo, Sofyan, Sitti Munawwarah, and Muhamad Khairun Kurniawan Kadir. "Reconstruction of the Reactive Role of BPOM on the Supervision of Overclaim of Skincare Products." Journal of Business Law (J-KUMBIS) 3, no. 1 (2025): 33-44.

[5]Fil'Awalin, Hanif, and Sylvana Murni Deborah Hutabarat. "*Consumer Legal Protection for Overclaimed Skincare Products*." De Lega Lata: Jurnal Ilmu Hukum 10, no. 1 (2025): 32-39.

[6]"BPOM Emphasizes Rules for Marking, Promotion, and Advertising of Cosmetics Must Be Implemented by Business Actors", https://www.pom.go.id/siaran-pers/bpom-tegaskan-aturan-penandaan-promosi-dan-iklan-kosmetik-wajib-dilaksanakan-pelaku-usaha

[7]"Annual Report 2024 of the POM Center in Yogyakarta", https://yogyakarta.pom.go.id/informasi-publik, accessed on May 1, 2025.

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consumers, both from an economic and health perspective. From an economic perspective, consumers are disadvantaged because they buy products that do not match the promised benefits and pay prices that do not match the actual quality of the product. From a health perspective, the use of products with inappropriate ingredients can cause irritation to the skin, allergic reactions that appear in the facial area, such as redness and itching. The practice *of overclaim* clearly violates Article 28D Paragraph (1) of the 1945 Constitution which states that "everyone has the right to fair legal protection", so it can be concluded that every citizen has the right to protection, including in this case consumers.[8] This shows the importance of strict regulation and supervision of the *skincare industry* in Indonesia.

In Indonesia, the Food and Drug Supervisory Agency (BPOM) has the responsibility to ensure that cosmetic products, especially *skincare* in circulation, meet the set safety, usefulness, and quality standards. BPOM regulates product supervision through various regulations, one of which is BPOM Regulation Number 18 of 2024 concerning Cosmetic Marking, Promotion, and Advertising, emphasizing that advertised cosmetic products must have obtained a distribution permit and the information conveyed in the advertisement must be objective and not misleading. In addition, BPOM also supervises cosmetic advertisements to prevent the spread of claims that are excessive or not supported by scientific evidence, by utilizing routine supervision and supervision based on public complaints.

On the other hand, South Korea as one of the countries that has become the main icon of the *skincare industry* in Indonesia[9] has influenced the Indonesian people with the rise of *the K-Beauty* trend, this shows that Indonesian consumers have high interest and trust in cosmetic products from Korea to cause the value of cosmetic imports from South Korea to Indonesia to increase rapidly to 29,187,074 US$.[10] So, it is necessary to make a comparison between Indonesia and South Korea which has been known as the country with the leading *skincare* industry in the world.

The selection of South Korea as a comparative country is based on the strength of the cosmetic product regulation and supervision system implemented by the Ministry of Food and Drug Safety (MFDS). The MFDS not only regulates the safety of the materials used, but also oversees advertisements and claims filed by business actors, especially in the context of excessive benefit claims that often mislead consumers. Cosmetics surveillance in South Korea is based on digital *surveillance* through a *continuous advertising monitoring system* to face the challenges of surveillance in the digital era. In addition, MFDS implements an *evidence-based approach (evidence-based regulation),* where every functional cosmetic product must go through a registration and evaluation process according to *the Korean*

[8]Lubis, Achmad Raihansyah, and Dwi Desi Yayi Tarina. "Legal protection for consumers due to consuming syrup drugs that damage health." Journal of USM Law Review 6, no. 3 (2023): 988-1004.

[9]Andriani, Nur Fitri, and Achma Hendra Setiawan. "Analysis of consumer preferences towards the use of South Korean and local skincare products." *Diponegoro Journal of Economics* 9, no. 4 (2020).

[10]Apriyani, N. P. W., and N. P. W. Setyari. "Analysis of the Competitiveness of South Korean Cosmetics with Indonesian Cosmetics in the Indonesian Market." E-Journal of Development Economics of Udayana University 10, no. 10 (2021): 4143-4171.

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Functional Cosmetics Codex standards to prove its safety and effectiveness.[11] MFDS is in charge of ensuring that the advertisements circulating comply with existing regulations and do not make claims that do not conform to the actual laboratory test results that could harm consumers.

Although BPOM Indonesia and MFDS South Korea share the same goal of protecting consumers, there are differences in terms of regulations and supervision implemented by each country. The main difference is seen in the cosmetic classification system. South Korea's MFDS divides cosmetics into *general cosmetics* and *functional cosmetics* with different supervisory standards, while BPOM Indonesia does not have a similar classification. MFDS also has scientific proof standards for claims that have been regulated in detail, while BPOM does not set a specific form of proof standard.

In addition, BPOM Indonesia is more focused on administrative supervision and testing of products before and after circulation, which is called *pre-market* and *post-market supervision*.[12] BPOM Indonesia in terms of supervision still has weaknesses, namely in digital supervision, especially in advertisements on social media, *marketplaces*, and *influencers* which are increasingly aggressive but have minimal supervision.[13]In post-market *supervision*, BPOM Indonesia is currently still reactive,[14] namely a supervisory mechanism that depends on complaints from the public, so that the enforcement process by BPOM Indonesia tends to be slow and only carried out after violations or reports from the public. Meanwhile, in South Korea, MFDS prioritizes stricter supervision, especially on digital *platforms* and social media. The success of supervision in South Korea in controlling *overclaims*, especially in advertisements that utilize social media, is exemplary as a model to increase the effectiveness of supervision in Indonesia.

Previous studies have discussed the issue of *overclaiming* skincare products from various perspectives. Research by Akbar, et al. (2025) discusses the legal liability of skincare owners as business actors in the case *of overclaiming* beauty products. The results show that Indonesian law through the UUPK and BPOM Regulation has provided protection for consumers against misleading claims, where business actors who are proven to have overclaimed can be subject to administrative sanctions up to the revocation of distribution licenses, while consumers have the right to claim compensation.[15] Furthermore, research by Anastasyia, et al. (2025) focuses on the task of BPOM in protecting consumers against skincare products with *overclaim descriptions through* pre-market *and* post-market *supervision mechanisms*. The results show that the role of BPOM is very important as a

[11] Peters, Doris, and Jae-Seong Choi. "Status of cosmetics regulations in Korea." IRCL 3 (2020): 73.

[12]Anastasyia, Yuniar. "The Duties of the Food and Drug Supervisory Agency in Consumer Protection of *Skincare* with Overclaim Description." Dynamics 31, no. 1 (2025): 11675-11688.

[13]Fil'Awalin, Hanif, and Sylvana Murni Deborah Hutabarat. "*Consumer Legal Protection for Overclaimed Skincare Products*." De Lega Lata: Jurnal Ilmu Hukum 10, no. 1 (2025): 32-39.

[14]Piyo, Sofyan, Sitti Munawwarah, and Muhamad Khairun Kurniawan Kadir. "Reconstruction of the Reactive Role of BPOM on the Supervision of Overclaim of Skincare Products." Journal of Business Law (J-KUMBIS) 3, no. 1 (2025): 33-44.

[15]Akbar, Sahda Saraswati, Nadila Safitri, Fadzal Mutaqin, and Muthia Sakti. "Legal Liability of Skincare Owners related to Overclaim on Beauty Products." Forschungsforum Law Journal 2, no. 01 (2025): 81-95.

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regulator to ensure the safety, honesty of claims, and product compliance with positive laws, as well as protect consumers from misleading claims through supervision before and after products are circulated.[16]

This study differs from the previous two studies because it not only examines the regulations of BPOM Indonesia, but also compares and identifies differences between the regulatory and supervisory system of BPOM Indonesia and the MFDS of South Korea which is known to have stricter and science-based cosmetic regulations. By understanding the differences in the two countries, this study is expected to provide recommendations for BPOM Indonesia in terms of regulations and a more effective supervisory system to prevent *overclaims* and strengthen consumer protection in Indonesia.

Based on the explanation and data obtained, it can be seen that the problem of *overclaim practices in the* skincare *industry* in Indonesia is very relevant to be analyzed more deeply. The rise of *overclaim cases* in Indonesia shows that there are still legal loopholes in the regulatory and supervisory system from BPOM that need to be addressed immediately. By understanding the differences in regulation between BPOM and MFDS, we can dig deeper into which aspects need to be strengthened in Indonesia to protect consumers.

Based on this, this study aims to answer the following questions, namely how to regulate the *overclaim of* skincare *products* between BPOM Indonesia and MFDS South Korea and how to supervise the overclaim *of* skincare *products* between BPOM Indonesia and MFDS South Korea.

B. Research Methods

The research method used is a type of normative juridical research by examining various legal literature and regulations relevant to the legal issues being studied, as well as using a legislative approach that focuses on the analysis of regulations and agreements related to advertising supervision, *skincare* product claims, and consumer protection. [17] In addition, this study also uses a case approach by examining cases related to *overclaim* practices in *skincare* products in Indonesia as well as a comparative approach with doctrinal analysis to in-depth compare the regulatory system and supervisory mechanisms between BPOM Indonesia and MFDS South Korea, which have a strong mechanism in regulating and supervising cosmetic products, so as to identify similarities and differences and formulate recommendations for strengthening regulations and supervisory mechanisms in Indonesia in protecting consumers from *overclaim* practices in *skincare* products. The data source consists of primary legal materials in the form of laws and regulations, such as Law Number 8 of 1999 concerning Consumer Protection, BPOM Regulation Number 18 of 2024 concerning Marking, Promotion, and Cosmetics Act from MFDS South Korea. Secondary legal materials are in the form of books, articles, journals, and print media, as well as tertiary legal materials in the form of dictionaries that provide

[16]Anastasyia, Yuniar. "The Duties of the Food and Drug Supervisory Agency in Consumer Protection of *Skincare* with Overclaim Description." Dynamics 31, no. 1 (2025): 11675-11688.

[17] Muhaimin. *Legal Research Methods*. Mataram: Mataram University Press, 2020.

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interpretation in order to gain a clearer understanding. [18] Data collection in this study was carried out through a literature study which was studied using descriptive techniques.

C. Results and Discussion

a. Regulation on *Overclaim* of Skincare *Products* between BPOM Indonesia and MFDS South Korea

Along with the rapid growth of the *skincare industry* in Indonesia, which is recorded with the number of cosmetic notification applications that continue to increase every year, there are also challenges related to the practice *of overclaiming* skincare products. This *overclaim practice* includes the submission of exaggerated information about the content of active ingredients or the benefits of products that are not in accordance with the results of laboratory tests. This causes losses both in terms of economy and health for consumers, which encourages the need to strengthen regulations to provide protection for consumers and ensure the correctness of the claims submitted by business actors.[19]

Regulations regarding the practice of *overclaiming* skincare products in Indonesia are based on Law No. 8 of 1999 concerning Consumer Protection (UUPK). This law provides strong protection for consumer rights by regulating the obligations of business actors in providing true, clear, and honest information about the goods traded and emphasizing the importance of business actors to act in good faith in carrying out their business activities.[20] For example, Articles 8, 9, and 10 of the UUPK prohibit business actors from producing or marketing goods that are not in accordance with the claims or promises given to consumers, spreading false or misleading information, especially in advertising or product promotion, and producing or trading goods with misleading statements regarding the condition and usefulness of the goods. This is very important because *overclaims* are often used by business actors to attract the attention of consumers without considering the truth of the information on the actual product.

The regulation regarding consumer protection against *overclaim* of skincare *products* in Indonesia reflects the application of the principle of *lex specialis derogat legi generali*, which is a specific legal provision that overrides general provisions.[21] Law Number 8 of 1999 concerning Consumer Protection (UUPK) serves as the basis of general law that regulates consumer protection in general, while specific regulations regarding the marking, advertising, and claim requirements of *skincare products* are regulated in more detail in regulations issued by the Indonesian Food and Drug Supervisory Agency (BPOM), such as BPOM Regulation No. 18 of 2024 concerning

[18]By Vicky Sri. *Textbook of Legal Research Methods*. Yogyakarta: Publika Global Media, 2024.

[19]Akbar, Sahda Saraswati, Nadila Safitri, Fadzal Mutaqin, and Muthia Sakti. "Legal Liability of Skincare Owners related to Overclaim on Beauty Products." Forschungsforum Law Journal 2, no. 01 (2025): 81-95.

[20]Zulham. *Consumer Protection Law*. Jakarta: Kencana Prenada Media Group, 2013.

[21]Irfani, Nurfaqih. "The principles of lex superior, lex specialis, and lex posterior: their meaning, problematics, and use in legal reasoning and argumentation." Journal of Indonesian Legislation 16, no. 3 (2020): 305-325.

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Cosmetic Marking, Promotion, and Advertising and BPOM Regulation No. 3 of 2022 concerning Technical Requirements for Cosmetic Claims. BPOM regulations act as *a lex specialis* which is the main basis for supervising *overclaim* practices, while the UUPK acts as *a lex generalis* or the basis of general law in consumer protection.

The application of these principles is implemented through various technical regulations and supervision mechanisms issued by BPOM. Through this regulation, the obligations listed in the UUPK are carried out to ensure consumer protection.[22] For example, BPOM Regulation No. 18 of 2024 concerning Cosmetic Marking, Promotion, and Advertising clarifies the obligations of business actors in marketing cosmetic products. Article 2 paragraph (1) requires that every marking, promotion, and cosmetic advertisement be carried out objectively, completely, and not misleadingly. However, the provision does not specifically explain the form of proof of objectivity in question or detailed guidelines related to active ingredients in *skincare products*. In Article 12 letters (a) and (b), it provides specific marking guidelines for two categories, namely sunscreen and products containing *Alpha Hydroxy Acids* (AHA), but does not include other active ingredients such as niacinamide, retinol, or vitamin *C* which are widely used in *skincare* products. As a result, the restriction of the content and the procedure for including claims for these materials do not have a detailed legal basis. This is because there is no distinction between general cosmetics and functional cosmetics which causes any benefit claims to be treated by general standards, rather than by the effectiveness of their active ingredients.

In addition, Article 21 of BPOM Regulation No. 18 of 2024 stipulates administrative sanctions for business actors who are proven *to be overclaimed*. In the regulation, administrative sanctions are in the form of written warnings, temporary prohibitions on product circulation, withdrawal and destruction of products, cessation of business activities, revocation of distribution permits, and announcement of violations to the public. Article 62 of the UUPK strengthens the legal basis by regulating criminal threats in the form of imprisonment for a maximum of five years or fines of up to two billion rupiah for perpetrators who mislead consumers.

Then**,** BPOM Regulation No. 3 of 2022 concerning Technical Requirements for Cosmetic Claims emphasizes the aspect of proving claims. In Article 2 paragraph (1) it is written that every cosmetic claim must meet seven criteria, namely compliance with the law, truth, honesty, fairness, provability, clear and easy to understand, and must not state as if the product is a medicine. This rule shows that claims submitted must be based on objective evidence, but BPOM does not specify in detail what form of proof must be used,[23] such as human clinical trials, laboratory tests, or scientific literature.

[22]Supardi, Reisha Rizkia Sabila, and Sylvana Murni Deborah Hutabarat. "Comparative Legal Analysis of Indonesian and South Korean Consumer Protection in Cosmetic Safety Regulations." Rechtsidee 13, no. 1 (2025): 10-21070.

[23]Piyo, Sofyan, Sitti Munawwarah, and Muhamad Khairun Kurniawan Kadir. "Reconstruction of the Reactive Role of BPOM on the Supervision of Overclaim of Skincare Products." Journal of Business Law (J-KUMBIS) 3, no. 1 (2025): 33-44.

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This ambiguity creates a potential legal loophole that can be used by business actors to file claims that are not supported by sufficient and strong scientific evidence, so that there is a risk of causing *overclaim practices* that are detrimental to consumers.

Regulations regarding cosmetics in South Korea are regulated in the Cosmetics Act (No. 13117 of 2015) which is the main legal basis in the regulation of cosmetics. This law distinguishes cosmetic products into two categories, namely *general cosmetics* and *functional cosmetics*, as stipulated in Article 2 paragraph (2). *Functional cosmetics* are a type of cosmetics that are positioned between *general cosmetics* and medicines. Products in this category are still classified as cosmetics because they are used on the surface of the body, but they have certain physiological effects on the skin that are stronger than ordinary cosmetics.[24] *Functional cosmetics* not only function to beautify the appearance, but also provide real changes to the skin, such as *whitening serums* with niacinamide, *anti-wrinkle* creams with retinol, or *sunscreens* with active UV filters.

Meanwhile, *general cosmetics* are products that only function to cleanse, beautify, or maintain skin hygiene without changing its biological function. This classification has direct implications for the product circulation mechanism, products in the *general cosmetics* category do not require a special registration process and can be distributed freely, as long as they meet material safety standards and have an obligation to report sales results as a form of *post-market* supervision, while products in the *functional cosmetics* category, can only be submitted if it complies with the list of active ingredients and certain levels that have been established by MFDS South Korea through implementing regulations, and must be verified by MFDS through an examination or reporting process for its effectiveness and safety. In addition, Article 5 paragraph (1) affirms the responsibility of business actors to ensure that the cosmetics in circulation have met the set safety and quality standards.

Meanwhile, Article 13 prohibits business actors from making false, excessive, or misleading labels or advertisements regarding product quality and benefits, and Article 14 requires business actors to be able to prove the truth of the content of labels and advertisements with objective data or test results, especially for products categorized as *functional cosmetics*. This obligation is emphasized in the MFDS administrative practice, where every product with functional claims is required to include a *dossier* containing safety and *efficacy data* to be verified according to the standards in the *Korean Functional Cosmetics Codex* before obtaining a distribution permit.[25] The existence of this law confirms that South Korea's regulatory system rests not only on product safety, but also on the scientific validity of any benefit claims submitted to consumers. South Korea implements an *evidence-based approach (evidence-based*

[24]Shim, In Seon, and Kyungja Kim. "*Analysis of consumer misconception in cosmeceutical advertisements*." *Asian Journal of beauty and Cosmetology* 18, no. 2 (2020): 195-207.

[25]Peters, Doris, and Jae-Seong Choi. "Status of cosmetics regulations in Korea." IRCL 3 (2020): 73.

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regulation), which effectively prevents *overclaims* in the marketing of *skincare products*.

Then, to strengthen the implementation of the law, MFDS issued the Enforcement Decree of the Cosmetics Act (2015) as an implementing regulation that regulates the law enforcement mechanism in more detail. In Article 11, it is affirmed that violations of the provisions of the Cosmetics Act, including excessive claims on labels or advertisements, are subject to administrative fines of up to 50 million won. In addition, Article 13 regulates MFDS's obligation to publish proven violations, including company name, product name, and reasons for violations, through MFDS's official website. This provision shows that South Korea prioritizes the principle of transparency, which opens up access for consumers to access public information about products that violate the terms of cosmetic claims.

In addition, South Korea also issued regulations in the form of Regulations on Demonstration of Labeling and Advertisement for Cosmetic Products (Notice No. 2014-80). This regulation regulates in detail the standards for proving cosmetic claims (*demonstration of claims*). Based on Article 2, every claim submitted by business actors must be supported by *valid and verifiable demonstration data, either in the form of clinical trials on humans, non-human tests such as artificial skin or cell culture* (in vitro), or relevant and academically recognized scientific literature. Furthermore, Article 4 emphasizes that test results must be obtained through objective scientific methods, reproducible, and implemented by an independent and competent institution, such as an accredited medical faculty or dermatology research center. In the event that research involves a human subject, the test must comply with the ethical principles of the Helsinki Declaration and obtain ethical approval from the competent research committee.

Based on an analysis of the regulations that apply in each country, a comparison of the two can be presented in the following table:

No	Comparison	BPOM Indonesia	MFDS South Korea
1.	Classification of Cosmetics	There is no special classification, all cosmetics are treated according to general standards, not on the basis of the effectiveness of their active ingredients.	Article 2 Number 2 of the Cosmetics Act divides cosmetics into 2, namely *general cosmetics* and *functional cosmetics* (*whitening, wrinkle improvement, UV protection*) with different rules for each category.

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2.	Scientific Proof Standards of Claims	Article 2 of PerBPOM No. 3 of 2022 only stipulates that claims must be provable, but does not stipulate a specific form of standard of proof.	Article 2 of the Regulations on Demonstration of Labeling and Advertisement for Cosmetic Products *(Notice No. 2014-80)* stipulates that every claim must be supported by evidentiary data, whether in the form of human clinical trials, non-human trials, or scientific literature. The data must be obtained through an objective scientific method and carried out by a competent independent institution in accordance with the ethical principles of the Helsinki Declaration.
3.	Sanctions	Article 21 of BPOM Regulation No. 18 of 2024 regulates sanctions for *overclaimers*, ranging from written warnings to revocation of distribution permits. Meanwhile, Article 62 of the UUPK emphasizes the threat of imprisonment for a maximum of five years or a fine of up to two billion rupiah for	Articles 11 and 13 of the Enforcement Decree of the Cosmetics Act *(2015)* provide for administrative fines of up to 50 million won and publication of violations through the official website of MFDS.

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		perpetrators who mislead consumers.	

Table 1. Comparison of BPOM Indonesia and MFDS South Korea Regulations

b. Supervision of *Overclaim* of Skincare *Products* between BPOM Indonesia and MFDS South Korea

Supervision has an important role to ensure that legal regulations are implemented properly, especially in preventing *overclaim practices.* Without an effective supervision mechanism, the rules that have been made will only become a written norm with no power in taking action against business actors who submit excessive claims to consumers. This principle is in line with the provisions in Article 30 of Law Number 8 of 1999 concerning Consumer Protection (UUPK), which emphasizes that the government has the authority to supervise products in circulation to protect consumers. Weaknesses in supervision often lead to violations of *skincare* product claims, as in the case of Azarine Niacinamide 10% + Dipotassium Glycyrrhizate Glorius Serum, which claims a niacinamide content of 10% even though laboratory test results show only 0.45%, and Daviena Sleeping Mask Retinol Booster, which claims 2% retinol but test results show only 0.03%.

The Food and Drug Supervisory Agency (BPOM) as the institution responsible for the supervision of cosmetic products in Indonesia implements two types of supervision, namely *pre-market approval and post-market surveillance*. In the *pre-market stage*, BPOM focuses on administrative examinations of cosmetic product notification documents which include aspects of safety, quality, label correctness, and benefit claims submitted by the intended business actors before obtaining distribution approval from BPOM.[26] Meanwhile, *post-market supervision* is carried out by *sampling*, laboratory testing, and evaluation of cosmetic advertisements to ensure the conformity of the products in circulation with the notification documents so that the circulating cosmetics remain safe, useful, and of quality in accordance with applicable safety standards and requirements.

However, in practice, the effectiveness of BPOM's supervision of *skincare* product claims still faces various obstacles. The supervision carried out tends to be reactive, where enforcement is only carried out after receiving reports from the public, rather than through an early monitoring system and *risk-based approach*, resulting in a slow enforcement process. This is due to the dependence on the reporting system from the community which makes the supervision process more reactive than preventive. Furthermore, supervision of products that have been circulating is still limited, making it difficult to ensure the consistency of claims and quality. The limitations of laboratory testing before the product is on the market also hinder the

[26]Supardi, Reisha Rizkia Sabila, and Sylvana Murni Deborah Hutabarat. "Comparative Legal Analysis of Indonesian and South Korean Consumer Protection in Cosmetic Safety Regulations." Rechtsidee 13, no. 1 (2025): 10-21070.

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verification of the claims and composition of the product's active ingredients before it is on the market. As a result, more supervision is carried out after a violation (*post-market control*) than before the product is distributed (*pre-market control*), so it has not been able to prevent the practice *of overclaiming* before *skincare products* are circulated.[27]

Meanwhile, in South Korea through the Ministry of Food and Drug Safety (MFDS) implements a proactive and risk-based surveillance system, which consists of two stages, namely *pre-market control* and *post-market control*, which is regulated in the Cosmetics Act and its implementing regulations. In the *pre-market stage*, an evaluation is carried out on the safety, quality, and correctness of product claims before the product is circulated and distinguishes checks for products with functional claims such as *whitening*, *anti-wrinkle*, or *UV protection* which are mandatory through the registration process and effectiveness tests before obtaining a distribution permit. Each *product dossier* must contain scientific evidence proving the truth of the claim, and evaluation is carried out directly by MFDS to ensure the safety and effectiveness of the product before circulation.

After the product is in circulation, MFDS carries out *regular post-market* inspections , field inspections, and corrective actions if violations are found. Based on Articles 18 to 20 of the Cosmetics Act and Enforcement Rule of the Cosmetics Act Article 11 and Articles 14-2 to 14-3, MFDS has the authority to conduct surprise inspections, take samples of products in the market, implement a *recall* mechanism, and issue *corrective orders*). This system is called proactive because MFDS not only waits for reports of violations from the public, but also actively conducts scientific evidence-based supervision and early prevention.

In the digital era, the challenge of over-monitoring *overclaims* is increasing along with the rapid development of advertising on social media and *e-commerce* platforms. This is shown by the many products that convey exaggerated information and content without considering honesty.[28] To answer this challenge, MFDS applies a rigorous and adaptive approach to digital developments. MFDS affirms its commitment to strengthen digital *surveillance* through the development of a *continuous advertising monitoring system* to detect misleading or excessive claims,[29] such as claims about active ingredient content that does not match the actual product content. The policy shows that MFDS supervision does not only focus on products that have been circulated, but also on promotional activities on social media and *e-commerce* platforms that are the main media in the dissemination of information. This shows that

[27]Piyo, Sofyan, Sitti Munawwarah, and Muhamad Khairun Kurniawan Kadir. "Reconstruction of the Reactive Role of BPOM on the Supervision of Overclaim of Skincare Products." Journal of Business Law (J-KUMBIS) 3, no. 1 (2025): 33-44.

[28]Indradewi, the son of the great Sagung Ngurah. *Consumer Protection Law; Producer Consumer Relations, Principles, Objectives, and Aspects of Civil, Administrative, Criminal Law*. New York: Udayana University Press, 2020.

[29]"*Regulation Outlook: South Korea Cosmetic Policy Plan 2025*", https://cosmetic.chemlinked.com/expert-article/regulation-outlook-south-korea-cosmetic-policy-plan-2025, diakses pada tanggal 11 Oktober 2025.

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the MFDS surveillance system is proactive and prevention-based, where digital marketing activities are directly monitored to ensure that each claim complies with the principles of honesty and is not misleading to consumers.

Based on the analysis of the surveillance that applies in each country, a comparison of the two can be presented in the following table:

No	Comparison	BPOM Indonesia	MFDS South Korea
1.	Types of Supervision	*Pre-market approval* dan *post-market surveillance.*	*Pre-market control* dan *post-market control.*
2.	Focus on *Pre-Market & Post-Market Supervision*	In the *pre-market stage*, BPOM checks administrative aspects such as notifications, security, quality, labels, and claims before the distribution permit is issued. Meanwhile, at the *post-market stage*, supervision is carried out through *sampling*, laboratory tests, and advertising evaluation, but supervision in the digital space is still weak.	At the *pre-market stage*, an evaluation of safety, quality, and functional claims is carried out, where products with these claims are required to go through registration and effectiveness tests before obtaining a distribution permit. Meanwhile, at the *post-market* stage, supervision includes inspection, reporting, sampling, *recall*, and monitoring of digital advertising through *a continuous advertising monitoring system*.
3.	Surveillance Approach	It tends to be reactive, depending on public reports.	Proactive and risk-based.

Tabel 2. Perbandingan Pengawasan BPOM Indonesia dan MFDS Korea Selatan

The case of Azarine Niacinamide 10% + Dipotassium Glycyrrhizate Glorius Serum and Daviena Sleeping Mask Retinol Booster shows that the regulatory and supervisory framework implemented by BPOM Indonesia is still not effective enough to prevent *overclaim practices*. In terms of regulations, the provisions in BPOM Regulation No. 3 of 2022 and BPOM Regulation No. 18 of 2024, do not expressly regulate the distinction between general cosmetics and cosmetics with functional claims, so that active

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ingredients such as niacinamide and retinol still use general cosmetic proving standards. The regulation also does not specify in detail the forms of scientific evidence that must be used, such as clinical trials, laboratory tests, or scientific literature, thus opening a gap for business actors to make claims of active ingredients without strong data. In terms of supervision, *BPOM's pre-market* mechanism is still administrative, while *post-market supervision* tends to be reactive and depends on public reports. As a result, new violations were detected and BPOM only acted after the product went viral on social media, as happened in the case of Azarine and Daviena, which showed a discrepancy between the active ingredient levels in the actual product and the results of laboratory tests.

The case shows that the regulatory and supervisory mechanisms implemented by BPOM Indonesia have not been adaptive to digital developments, especially in the supervision of advertisements on social media and *e-commerce* platforms. So, to answer these challenges, Indonesia needs to implement a new legal model based on *the Integrated Digital Monitoring Framework System*. Through this model, BPOM can conduct digital supervision in two stages, namely *pre-market* and *post-market*. At the *pre-market* stage, this digital system is used to verify product notification data with laboratory test results by BPOM before the product obtains a distribution permit. Notification data from business actors is automatically compared with laboratory test results to ensure the efficiency and accuracy of information, as well as to detect data discrepancies or potentially excessive claims before the product is circulated on the market.

Meanwhile, at the *post-market stage*, the system will monitor the suitability and accuracy of product content claims submitted in advertisements that have been circulating on social media and *e-commerce platforms* with laboratory test results. All laboratory test data, product notifications, and advertisements are integrated into a single *national database* to check whether claims match official product data. *Artificial Intelligence (AI)*-based *digital monitoring* systems can be used to scan and analyze potentially misleading claims, then provide early *warning* to BPOM to conduct checks and verification, so that supervision does not depend on public reports, but is carried out in a sustainable, scientific evidence-based, and preventive manner. With this model, BPOM can switch from a reactive supervision system to a proactive digital supervision, which not only cracks down on violations, but also prevents *overclaims* from the beginning.

D. Conclusions and Recommendations

A comparison of regulations shows that BPOM Indonesia does not distinguish cosmetics based on claims or active ingredients and does not set scientific standards for scientific proof of claims in detail, thus opening a gap for *overclaims*. On the other hand, South Korea through MFDS already has more detailed and scientific-based regulations, by dividing the classification of cosmetics, into *general* and *functional cosmetics*, the obligation to prove claims must also be supported by verifiable scientific data, such as the results of clinical trials in humans, non-human tests such as *in vitro*, as well as relevant and academically recognized scientific literature. The supervision carried out by BPOM on *skincare* claims in

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Indonesia is still reactive and administrative, because the action is only taken after public reports appear, so it has not been able to prevent *overclaims* from the beginning. In contrast, South Korea's MFDS implements proactive, risk-based surveillance through *pre-market* and *post-market* systems, including digital monitoring of advertisements and product claims. This approach makes supervision in South Korea more effective in detecting and preventing *overclaim* practices before they cause harm to consumers.

So, by comparing the regulatory and supervisory aspects between BPOM Indonesia and MFDS South Korea, it is hoped that it can provide recommendations for BPOM Indonesia in terms of regulations and supervision that are more effective than MFDS South Korea. BPOM Indonesia needs to clarify the classification of cosmetics based on the content of active ingredients, such as the functional *cosmetics system* in South Korea, so that each product claim can be assessed according to its risk level and set scientific proof standards for cosmetic claims to create transparency. The BPOM supervision system needs to shift from a reactive system to a proactive and risk-based system, by strengthening digital supervision, through the implementation of *an early warning system* to detect and supervise the potential for *overclaim* practices on social media. Finally, Indonesia needs to develop a new legal model based on *the Integrated Digital Monitoring Framework System* to realize a proactive digital surveillance system that does not rely on public reports and prevents *overclaim practices* from the early stages of product circulation.

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