



Consumer Right to Information towards Product Endorsements by Influencers: Consumer Protection Law and Indonesian Advertising Ethics Perspective

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ABSTRACT

This article explore the current landscape of influencer marketing, its impact on consumer protection, and the need for tailored legal instruments to enhance transparency and accountability in this domain. The evolution of marketing practices, driven by technological advancements, has introduced significant shifts in consumer habits related to product promotion and purchase decisions. This article aims to analyze the urgency of Influencers' knowledge on the provisions of the Consumer Protection Law and Indonesian Advertising Ethics before over-promoting some products to consumers and to determine the legal regulation for Influencers who provide information that can harm consumers according to the Consumer Protection Law. This study uses normative legal research methodology with secondary data taken from the library and previous-related journals. The result of this study shows that there is no specific regulation that can ensnare Influencers if they are proven to provide untrue, unfavorable, and dishonest information. Because there is no statement stating that Influencers are included and can be categorized as advertising business actors in promoting a product. This is because Influencers are a new element in promoting products following the times. Consumer protection law must also have all efforts to ensure legal certainty for consumers and provide protection to consumers. This includes consumer rights that must be respected and become a reference for business actors in offering their products in the future. Therefore, legal certainty is needed to regulate the responsibility of Influencers in consumer protection.

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PRELIMINARY

Humans are intelligent creatures who always experience improvements in their lives, and always create innovations to facilitate each of their activities, so that these innovations are expected to have a positive impact in streamlining every action they take. This is of course also driven by the development and advancement of technology due to the demands of the globalization era, where many things have shifted in the pattern of human activities.¹ Digital and electronic activities with data as the main factor, individuals are no longer limited to space and time, they can communicate, wherever and whenever. Likewise with the

¹ Muhammad Danuri. (2019). Perkembangan dan transformasi teknologi digital. *Jurnal Ilmiah Infokam*, 15(2). 116-123

phenomenal in commercial activities or buying and selling, starting from advertising a product, until the purchase can be done by anyone through a container such as social media.

The phenomenon that occurs from cultural shifts and habits from the effects of technological advances and the demands of this globalization era is the presence of Ewom (Electronic Word of Mouth) and the many ways of promoting goods and or services using social media and has led to the existing of influencers.² So that in terms of promotion or advertising, business people can sell their products not only on media such as television, but they can use the services of an Influencer. Advertising is one of the marketing tools that is very much used by business actors to promote, or introduce business actors' products to consumers so that their products are known and familiar to consumers.³ Based on research that focuses on this phenomenon, and the research has been conducted by The Creative Industries Premium Directory.⁴ With the cooperation between business actors and Influencers, there is a cooperation agreement and gives rise to rights and obligations that must be carried out from both parties. In accordance with the elements that have been regulated in Article 1320 of the Civil Code regarding the validity of an agreement. When cooperation has occurred, the Influencer also has an obligation to be responsible for conveying true and honest information regarding the product he is promoting.⁵

Influencers can be categorized as part of the advertising cast, or publicity. Influencers act as someone who becomes an intermediary to provide product information. Influencers, of course, in communicating or promoting a product must be in line and follow the provisions of advertising ethics, and always provide clear and bright information to the public, which will later be proclaimed as consumers. Endorse is a system used by influencers to advertise business products after the agreement between the business owner and the influencer, then of course there will be rights and obligations that must be carried out based on the endorsement agreement.⁶

In other words, we can conclude that Influencers are part of the business actor's business, in order to be part of the person responsible for introducing and promoting the goods of the seller, and of course have rights and obligations also in consumer protection law, therefore Influencers are also considered as marketing tools for products that will be purchased by consumers.⁷ Therefore, it is necessary to educate and enable Influencers to learn the patterns in advertising ethics and the laws and regulations governing consumer protection law, namely Law Number 8 Year 1999 on Consumer Protection (hereinafter referred to as the Consumer Protection Law).

In accordance with Article 1 Point 1 of the Consumer Protection Law, the meaning of consumer protection is "all efforts that ensure legal certainty to provide protection to consumers." Therefore, in accordance with the function of Influencers in providing services related to promotion, which also has a legal basis in Article 1 Point 6 of the Consumer Protection Law, which explains the meaning of "Promotion is the activity of introducing or disseminating information on goods and / or to attract consumer buying interest in goods and / or services that will and are being traded", it can be seen that Influencers in disseminating information on goods and services must have legal certainty and protection

² Sari Anjani and Irwansyah (2020). Peranan Influencer Dalam Mengkomunikasikan Pesan di Media Sosial Instagram. *Polyglot: Jurnal Ilmiah*, 16 (2), 203-209

³ Agustrajanto. 2002. *Copywriting: Seni Mengasah Kreativitas dan Memahami Bahasa Iklan*. Bandung: PT. Remaja Rosdakarya, 4.

⁴ Paper Blog. 2023. Ini Dia Harga Rata-rata Endorse Influencer di Instagram. Cited September 25, 2024, From <https://www.paper.id/blog/bisnis/ini-dia-harga-rata-rata-endorse-influencer-di-instagram/>

⁵ Yulfin Tandi Buak. 2023. Kajian Hukum Terhadap Jasa Promosi Oleh Influencer Pada Media Sosial yang Menyimpang dari Ketentuan Undang-Undang Perlindungan Konsumen. *Lex Privatum*. XI (4), 1-13

⁶ Imam Sjahputra. (2010). *Perlindungan Konsumen Dalam Transaksi Elektronik*, Bandung: PT Alumni, 1

⁷ Anggun Pulumoduyo, et.al. (2024). Legal Protection Against Auction Prices of Goods Through Instagram in Review of Law Number 8 of 1999 concerning Consumer Protection of Goods and Services. *Estudiante Law Journal*, 1(1), 239-257.

for consumers, in packaging narratives and attractiveness of their products in accordance with the provisions of the Pariwara Ethics and Consumer Protection Law.

True, clear and honest information that Influencers must have in advertising a product is certainly in line with consumer rights according to Article 4 letter c of the Consumer Protection Law which reads "Consumer rights are the right to correct, clear and honest information about the conditions and guarantees of goods and / or services." Therefore, there is a need for some kind of legal instrument for influencers in promoting goods and services, for the benefit of consumers.

Advertising business actors are prohibited from deceiving consumers regarding the quality, quantity, usefulness and price of goods and/or services as well as the timeliness of receiving goods and/or services.⁸ Business actors in terms of advertising should not deceive consumers, especially under the guise of having reviewed and used the goods. Then the problem is how can we guarantee that the Influencer has used the goods, and is honest in advertising the product which is the endorsement agreement between the business actor and the Influencer.

In practice, consumers are often victims of fraud by influencers, one example is because consumers simply want to get the same smooth skin as the influencer, because influencers actually have the power to influence their fans and want to be as beautiful as the influencer.⁹ In fact, each product will certainly react differently with all different skin types. In this case, there are several Influencer cases involving two public figures, Nella Charisma and Via Vallen, who were summoned by the East Java Regional Police in December 2018 for endorsing Derma Skin Care brand "oplosan" (mixed) cosmetics which were declared illegal without a distribution permit and did not have permission from the Food and Drug Supervisory Agency (hereinafter referred to as BPOM), and many more cases caused by bad Influence from Influencers who do not understand the importance of learning how to promote goods and services properly.¹⁰

The need for consumers to obtain product information is important especially at the stage before making a transaction. This is because with the availability of this information, consumers can be careful to choose and buy products that suit their needs. If consumers obtain misleading and exaggerated information, which of course the responsibility in promoting is burdened on business actors, and Influencers in this case as a medium of publication and disseminating information on these products, so that consumers are not wrong in making choices, so as not to cause harm to consumers. Therefore, it is necessary for Influencers to understand the choice of words and how to promote well according to the provisions of Consumer Protection Law, and the provisions of Indonesian Pariwara ethics that have been regulated in the Press rules to promote a product.¹¹

Therefore, there is a need for legal instruments that can regulate the ethics of Influencers in endorsing or advertising products, so that consumers are not harmed. As well as how the form of Influencer liability if proven to advertise or provide false and lying reviews, which will certainly harm consumers in terms of making their choices. Based on the above background, the researcher is interested in conducting research with the title "Consumer Right to Information towards Product Endorsements by Influencers Based on Consumer Protection Law and Indonesian Advertising Ethics."

METHOD

⁸ I Kadek K.A Putra & I Nyoman Bagiastra. (2024). Juridical Review of Consumer Protection in Buying and Selling Transactions Using Electronic Media. *Policy, Law, Notary and Regulatory Issues*, 3(3), 398-405.

⁹ Nurul Fibrianti, et.al. (2023). Legal Culture and Legal Consciousness of Consumers: The Influence on Regulation and Enforcement of Consumer Protection Laws. *JILS*, 8 (2), 1267-1310

¹⁰ Dadang Kurnia. 2018. Endorse Produk Kosmetik Ilegal, Ini Klarifikasi Via Vallen. Cited September 25, 2024, From <https://news.republika.co.id/berita/pk19xn377/endorse-produk-kosmetik-ilegal-ini-klarifikasi-via-vallen>

¹¹ Dedi Harianto. (2010). *Perlindungan Hukum bagi Konsumen Terhadap Iklan yang Menyesatkan*. Bogor: Ghalia Indonesia. 5

This research uses normative juridical research methods, using a research approach through a statutory approach and a conceptual approach.¹² This research uses two (2) legal materials, namely primary legal materials which include laws and regulations and secondary legal materials consisting of books, journals, electronic media news related to consumer protection law. The collection of legal materials is carried out through literature study techniques by examining books, laws and regulations.¹³

Secondary data is the type of data used in this study. In order to gain a theoretical basis in the form of opinions, writings from experts or authorized parties, and information in the form of formal provisions and data through existing official texts, secondary data is obtained through library research. Secondary data is gathered from books, conferences, journals, papers, archives, and the internet in addition to Indonesia's applicable laws and regulations.¹⁴

After the data is collected, the data analysis technique that the author will use in analyzing the above problems is a qualitative data analysis technique. The aim is to describe a phenomenon and its characteristics. This research is more concerned with what than how or why something happens. This technique is not centered on numbers, but on explanations, causes, and things that underlie the topic.

RESULT AND DISCUSSION

1. The reason for the need for Influencers' knowledge of the provisions of the Consumer Protection Law and Indonesian Advertising Ethics in promoting products to consumers.

Consumer protection is all efforts to ensure legal certainty for consumers, and provide protection to consumers. It includes consumer rights that must be respected and become a reference for business actors in offering their products in the future.

As contained in Article 4 of the GCPL, there are several consumer rights, namely:¹⁵

- a. The right to comfort, security, and safety in consuming goods and/or services;
- b. The right to choose goods and/or services and obtain these goods and/or services in accordance with the exchange rate and conditions and guarantees proposed;
- c. The right to correct, clear, and honest information regarding the conditions and guarantees of goods and / or services;
- d. The right to have their opinions and complaints about the goods and / or services used heard;
- e. The right to obtain advocacy, protection, and efforts to resolve consumer protection disputes properly;
- f. The right to receive guidance and consumer education;
- g. The right to be treated or served correctly and honestly and non-discriminatory;
- h. The right to compensation, compensation, and/or replacement, if the goods and/or services received are not in accordance with the agreement or not as they should be;
- i. The rights stipulated in the provisions of other laws and regulations.

Consumer rights according to President Jhon F. Kennedy in one of his interviews are:

- a. The right to safety (the right to safe products);
- b. The right to information (the right to be informed about products);
- c. The right to choose (the right to definite choices in selecting products);
- d. The right to be heard regarding consumer interests.

Then the Organization of Consumers Union (IOCU) has added several consumer rights, including:

¹² Nurul Qamar and Farah S. Rezah. (2020). *Metode Penelitian Hukum: Doktrinal dan Non-Doktrinal*. Makassar: Social Politic Genius (SIGn), 65

¹³ Suteki dan Galang Taufani, (2018). *Metodologi Penelitian Hukum, Filsafat, Teori dan Praktik*, Jakarta: PT Raja Grafindo Persada, 139

¹⁴ Zainuddin Ali. (2021). *Metode Penelitian Hukum*, Jakarta: Sinar Grafika, 11

¹⁵ Article 4 of Law Number 8 Year 1999 on Consumer Protection.

- a. The right to consumer education;
- b. The right to obtain compensation.

Judging from the rights obtained by consumers, we can see that the right to be able to get true and honest information is repeated in several opinions about consumer rights that must be fulfilled, so we can see, the State must provide protection for consumers, and make arrangements for how to convey or narrate in product promotion in accordance with the provisions of the GCPL and Indonesian Advertising Ethics, which later becomes a reference for Influencers in communicating or informing true and honest things to consumers.

Not only that, Influencers must also be aware of the selection of words that are allowed, and not provoke or seem inappropriate in the process of promoting a product.¹⁶ Other norms (consumer protection) outside the GCPL can be used as a reference by placing the GCPL as a legal protection system for consumers. Through these provisions, it can be understood explicitly that the GCPL is a special provision (*lex specialis*) to the provisions of laws and regulations that existed before the GCPL (*Lex generalis*).¹⁷

The next explanation is regarding the obligations of business actors that must be fulfilled by business actors, in accordance with Article 7 of GCPL are:

- a. Good faith in conducting their business activities;
- b. Provide correct, clear and honest information regarding the conditions and guarantees of goods and/or services and provide explanations for use, repair and maintenance;
- c. Treat or serve consumers correctly and honestly and non-discriminatory;
- d. Guarantee the quality of goods and/or services produced and/or traded based on the provisions of the applicable quality standards for goods and/or services;
- e. Provide opportunities for consumers to test, and/or try certain goods and/or services and provide guarantees and/or warranties for goods made and/or traded;
- f. Provide compensation, compensation and/or replacement for losses due to the use, consumption and utilization of goods and/or services traded;
- g. Compensation, compensation and/or replacement if the goods and/or services received or utilized are not in accordance with the agreement.

If we take a closer look to the explanation of consumer rights and the obligations of business actors, we can see that there is synchronization, that consumers have the right to obtain good, true and honest information from business actors. Likewise, business actors are obliged to provide correct, clear and honest information about the condition and guarantee of products, both goods and services, and provide explanations for the use, repair and maintenance of these products. We can see this in the explanation of the contents of the GCPL article above.

The provision of good, true and honest information is found in one of the activities of providing information, namely promotion, which is an activity of disseminating or introducing information on goods or services to attract consumers' buying interest in goods and or services that will and are being traded.¹⁸ In relation to promotion, business actors are prohibited from doing the following:¹⁹

¹⁶ Rendytha K. Amandha & Heru Sugiyono. (2024). The Responsibilities of Influencer Doctors Promoting Skincare Products on Social Media. *Jurnal Daulat Hukum*, 7(2), 119-133.

¹⁷ Hulman Panjaitan & Nindyo Pramono. (2023). Legal Protection of Consumers in Digital Transactions. *Russian Law Journal*, 11(3), 1431-1437.

¹⁸ Herry Polontoh & Sinta S. Silambi. (2024). Analysis of Legal Protection of Banking Customer Data in Review of Law Number 8 of 1999 Concerning Consumer Protection. *MSJ: Majority Science Journal*, 2(1), 416-423.

¹⁹ Gita A. Sitorus, G.A. (2018). Tinjauan Yuridis Pembinaan dan Pengawasan dalam Mewujudkan Hubungan Sehat antara Pelaku Usaha Dengan Konsumen (Berdasarkan Peraturan Pemerintah Republik Indonesia Nomor 58 Tahun 2001 Tentang Pembinaan dan Pengawasan Penyelenggaraan Perlindungan Konsumen) (Doctoral dissertation, UAJY).

- (1). Business actors are prohibited from offering, promoting, advertising a good and/or service incorrectly, and/or as if:
 - a. the goods have met and/or have discounts, special prices, certain quality standards, certain styles or fashions, certain characteristics, certain history or uses;
 - b. the goods are in good condition and/or new;
 - c. the goods and/or services have obtained and/or have certain sponsorships, approvals, certain equipment, certain advantages, certain working characteristics or accessories;
 - d. the goods and/or services are made by a company that has sponsorship, approval or affiliation;
 - e. the goods and/or services are available
 - f. the goods do not contain any hidden defects
 - g. the goods are a complement to certain goods;
 - h. the goods originate from a particular region;
 - i. directly or indirectly denigrate other goods and/or services;
 - j. using excessive words, such as safe, harmless, contains no risks or side effects without complete information;
 - k. offering something that contains an uncertain promise.
- (2). The goods and/or services as referred to in paragraph (1) are prohibited from being traded.
- (3). Business actors who violate paragraph (1) shall be prohibited from continuing to offer, promote, and advertise such goods and/or services.

Providing this information is intended so that consumers before consuming the product can find out clear and correct information about the products they use, so that consumers can make choices about what products are useful, which can have a bad effect on their bodies, and other informative things, all of which are aimed at the good for consumers, because we both know that consumers have the right to get honest and good information.²⁰

And the provision of clear and clear information is certainly the responsibility of business actors, and Influencers as an extension of business actors also have full responsibility also in promoting a product, because both we know that Influencers have value to be followed by their followers and have attractiveness, of course they must also have value in selecting and checking the truth of the goods to be promoted.²¹

The following are the provisions of the prohibition when business actors carry out advertising production activities, which of course must also be adhered to by influencers as one of the elements that carry out promotional activities for a product, in accordance with the provisions of the Law on Consumer Protection:²²

- (1). Advertising business actors are prohibited from producing advertisements that comply with the following rules:
 - a. Deceiving consumers regarding the quality, quantity, material use and price of goods and/or service rates as well as the timeliness of receipt of goods and/or services;
 - b. Deceiving the guarantee/warranty of goods and/or services;
 - c. Containing false, incorrect, or inaccurate information regarding goods and/or services;

²⁰ Cindy Santika & Safrina. (2023). Perlindungan Konsumen Pengguna Jasa Titip Online Terhadap Hak Atas Informasi Yang Benar, Jelas Dan Jujur Mengenai Kondisi Dan Jaminan Suatu Produk. *Jurnal Ilmiah Mahasiswa Bidang Hukum Keperdataan*, 7(1), 12-24.

²¹ Dian S. Fauzela. (2023). Perlindungan Hukum Bagi Konsumen Terhadap Produk Kosmetik Yang Mengandung Bahan Berbahaya Dalam Jual Beli Online (E-Commerce). *Inovasi Pembangunan: Jurnal Kelitbangan*, 11(01), 1-10.

²² Pasal 17 Ayat (1) dan (2) Undang-undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen

- d. Not containing information regarding the risks of using goods and/or services;
- e. Exploiting an event and/or a person without the authorized permission or consent of the person concerned;
- f. Violates ethics and/or the provisions of laws and regulations regarding advertising.

(2). Advertising business actors are prohibited from continuing the circulation of advertisements that have violated the provisions in paragraph (1).

Furthermore, there is a regulation to regulate the ethics of business actors in expanding information to promote a product, namely the regulation of the Indonesian Advertising Ethics (hereinafter referred to as EPI). Which according to the provisions on the procedures for the general application of the EPI says that all advertising business actors are obliged to provide correct and adequate information about the product to be advertised, and advertisers are obliged to respect business standards that apply to advertising business actors.²³ As well as advertising businesses must respect and comply with the Indonesian Advertising Business Standards (SUPI), Influencers must automatically comply with this SUPI, because they are part of the people who have the task of promoting goods and services that will later be purchased by consumers. Then, Influencers must comply with SUPI, as they are considered part of the party that advertises and promotes the goods or services.

It is possible to be a reference also for business actors in the field of advertising in promoting products, especially for Influencers to know the meaning of the function of advertising in order to know the value and what should be used as ethical indicators in conveying information to consumers, in that way the hope of fulfilling consumer rights to obtain good and clear information will also be achieved. The following are the functions and moral principles in an advertisement.²⁴

The function of advertising is, namely the informative function and the persuasive function, the meaning of course is that advertising has a function to provide information needed by the parties, and the persuasive function is basically that advertising functions to persuade and provide subtle affirmation to consumers by convincing consumers. In this case to be interested in the offer in the advertisement. Therefore, there are ethics or limits that must be referred to by advertising businesses in providing information or advertisements to consumers, so that consumers get correct and honest information, so that consumers are not harmed by the way of publication provided by Influencers.

After that, there are also moral principles that must be considered by advertising businesses, namely the principle of honesty, which relates to the fact that advertising language often uses exaggerated language, so that in presenting information, the value of honesty in conveying information cannot be achieved, therefore the principle of honesty is needed in the delivery of advertisements, therefore Influencers must understand the limits of words and sentences that will be conveyed to consumers, so that consumers can be comfortable and get the right information.²⁵

Furthermore, the principle of human dignity as a person means that advertising should respect human dignity as a person and is an entity that has rights and obligations, and here what must be considered is the right of humans to receive good, true and honest information. And consumers are in principle buying and have a great right to know the information of the product promoted by this influencer. The principle of

²³ Ali Sunarno & Asep Ikbal. (2023). Perlindungan Konsumen Terhadap Iklan yang Menyesatkan dari Perspektif Hukum Perdata dan Kode Etik Periklanan Indonesia. *Jurnal Paris Langkis*, 3(2), 161-175.

²⁴ Rusli A. Junaedi. (2024). Kajian Aksiologi Etika Pariwisata Indonesia Amandemen 2020. *Biram Samtani Sains*, 8(2), 61-71.

²⁵ Husna M. Putri. (2024). Analisis Praktik Endorsement Ditinjau Dari Hukum Ekonomi Syariah (Studi Kasus Pada Selebgram Banjarmasin) Analisis Praktik Endorsement Ditinjau Dari Hukum Ekonomi Syariah (Studi Kasus Pada Selebgram Banjarmasin). *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory*, 2(2), 461-477.

advertising and social responsibility, advertising must be responsible for social action, which always upholds ethics and norms, so as not to harm consumers and not spread false and exaggerated news. Herein lies an important task for the government, which must protect the consumer society against the ferocity of advertising.²⁶

Control by advertisers is done by developing a code of ethics, a number of norms and guidelines approved by the advertising profession itself. Control by the public, where the public needs to be educated regarding the practices of delivering advertising information that may be considered excessive and unethical, then the public should also have clear and responsive control over it.²⁷ One form of article in the EPI that discusses ethics for business actors in conveying information is the point that has been violated in the Indonesian Pariwara Ethics related to vitamins, minerals and supplements in point 2.5.5, namely "Advertising should not state or give the impression that health, vigor, and beauty, will be obtained only from the use of related products" and not obtained from instant things.

The point of all the above discussion is, the author expect the legal certainty for Influencers as one of the elements of business actors to provide information that is present due to technological developments, in order to have ethics and uphold norms so that the fall does not become public deception when conveying information in terms of promotional activities carried out by Influencers. Therefore, a legal framework or SOP is needed that regulates what indicators must be owned by Influencers, and Influencers must upgrade their knowledge, especially must understand the provisions of consumer protection law to be able to convey good, true and honest information to the public.

2. Legal arrangements for Influencers who provide information that may harm consumers according to the Consumer Protection Law.

The influencer's position is as a party that promotes the products of business actors, they take pictures with the promoted products with captions that attract consumers. The two parties have worked together beforehand, so that the products sold can be recognized and consumed by the influencer's followers. So that the behavior of consumers who become followers of this influencer feels confident and trusts the information provided by the influencer during promotion. Sometimes without checking the truth of the product to be purchased, because basically, consumers already believe in the information from the influencer, so they decide to buy the promoted product.²⁸

When conducting promotions through endorsements, business actors are legally obliged to provide true, clear and honest information about the conditions and guarantees of goods and / or services when endorsing with the influencers they want, this is in accordance with the obligations of business actors according to Article 7 paragraph (2) of GCPL Law. Consumers have the right to obtain correct, clear and honest information regarding the condition and guarantee of goods and/or services in accordance with Article 4 letter c of the GCPL. This is intended so that consumers are fulfilled their rights and avoid losses that will harm consumers over information from endorsement promotions carried out through influencers.

Consumers who are harmed by the product information obtained, then consumers have the right to request responsibility for the products they have purchased. The product liability that must be fulfilled by influencers is known as product liability, which is the legal responsibility of a business actor, which is closely related to defective

²⁶ Zuwardi, et.al. (2024). Challenges and Solutions to the Use of Online Shopping Applications in The Perspective of Islamic Economy in Indonesia. *International Journal of Economic Literature*, 2(4), 972-983.

²⁷ Inco H. Perdana. (2022). Indonesian Advertising Ethics: Guard of Industry & Protector of Advertising Consumer in Indonesia (Study Case of the Role and Function of the Advertising Regulatory Agency on the 2020 Indonesian Advertising Ethics Amendment). In *Proceedings of International Conference on Communication Science*, 2 (1). 375-382.

²⁸ Annasya Fefatikha, et.al. (2023). Perlindungan Hukum Bagi Konsumen Terkait Influencer Pelaku Endorsement Pada Media Sosial Instagram Berdasarkan Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen. *Semarang Law Review (SLR)*, 4(2), pp.26-35.

products. A defective product is a product that does not fulfill the purpose for which it was manufactured either through intentionality or negligence in the production process or in its circulation.²⁹

The defective product is divided into 3, namely defects due to production errors, design defects, defects in inadequate information. When consumers are harmed due to the information on the product provided during the endorsement promotion, consumers can hold the business actor product accountable for defects in inadequate information, so that is where the Influencer's responsibility lies as part of the party promoting and advertising the product to consumers.³⁰ The responsibility is regulated in Article 19 of GCPL so that the responsible party is the business actor.

The way influencers work is to provide information by promoting or advertising goods, so this is the same as the duties of advertising businesses. The GCPL only explains what is meant by business actors but does not explain in detail what and who is meant by advertising business actors. According to AZ Nasution, if guided by the Indonesian Advertising Manners and Procedures, what is meant by business actors from the advertising angle are 3, namely advertisers, advertising agencies and advertising media, as follows:³¹

- a. Advertisers are companies or individuals (manufacturers, distributors, suppliers) that advertise to promote, market, and/or offer a product (goods or services).
- b. Advertising agency is a company or bureau engaged in advertising services and functions as a party that brings together advertisers with the media. It is in this advertising agency that advertisements will be made to be marketed to consumers.
- c. Advertising media, namely mass communication media, such as print media (newspapers, tabloid magazines) and television. Ads that have been created by advertising agencies will be promoted through this advertising media.

When viewed in terms of endorsements, influencers have the same duties and functions as advertising agencies, namely using their services in making and promoting advertisements. Influencers make endorsements without an advertising agency or advertising company under them and influencers are not a company, influencers are people who have a large number of followers on their social media so they are called influencers.³²

Influencers also promote or advertise this product by utilizing their social media such as Instagram, YouTube, Twitter, and so on through direct direction from business actors. So the position of this influencer replaces the advertising agency where businesses that usually hire the services of advertising agencies now switch to using influencers to advertise and promote goods or services and the business actors who endorse influencers are included as advertisers.³³

In this study above, the existence of applicable laws and regulations, namely Law Number 8 of 1999 concerning Consumer Protection, has not fully guaranteed legal protection for consumers who are harmed by influencers who make endorsements. In the case of this endorsement, the business actor and the influencer work together to promote the business actor's product. Still, in the GCPL, legal responsibility is fully borne

²⁹ Ediyanto Arief, et.al. (2023). Legal Protection for Consumers Buying and Selling Electronic Goods with Defective Products. *Jurnal Indonesia Sosial Sains*, 4(5), 432-438.

³⁰ Ahmadi Miru. (2013). *Prinsip-prinsip Perlindungan Hukum Bagi Konsumen di Indonesia*. Jakarta: Raja Grafindo Persada, 26.

³¹ Sudjana. (2021). Tanggung Jawab Pelaku Usaha Terhadap Penayangan Iklan Niaga yang Menyesatkan Konsumen" (Dialogia Luridica: *Jurnal Hukum Bisnis dan Investasi*. 12 (2). 1-21

³² Riski Febrianti & Windi B. Prihandoyo. (2024). Pengaruh Endorsement Influencer Terhadap Penjualan Kassa Cake & Dessert. *Al-I'lam: Jurnal Komunikasi dan Penyiaran Islam*, 7(2), 42-47.

³³ Aini Restub Mardotillah & Maya Ariyanti. (2023). Pengaruh Online Consumer Review, Social Media Advertisement, dan Influencer Endorsement Terhadap Online Purchase Intention Produk Azarine di Kota Bandung. *Jurnal Ilmiah Manajemen, Ekonomi, & Akuntansi (MEA)*, 7(2), 950-968.

by the business actor as a seller of products and/or services and also as an advertiser who utilizes influencers to promote their products.

Law No. 32 of 2002 on Broadcasting regulates the broadcast of advertisements, which is stipulated in Article 1 point 6 of the Broadcasting Law, which reads "Commercial advertisement broadcasts are commercial advertisement broadcasts broadcast through radio or television broadcasting to introduce, socializing, and/or promote goods or services to the target audience to influence consumers to use the products offered". When looking at the provisions of Article 1 point 9 on broadcasting institutions, individuals in the case of influencers as parties promoting goods on social media instagram are not included in broadcasting institutions.

Article 13 Paragraph 1 of Broadcasting Law also stipulates "Broadcasting services consist of radio broadcasting services and television broadcasting services", so broadcasts made on social media are not included in the broadcasting services. It can be concluded that the Broadcasting Law does not regulate promotions made by influencers through social media.

Therefore, from the explanation above, there is no specific regulation that can provide special sanctions to influencers if they provide false or untrue information. Therefore, this is the focus of the author to propose a special policy and consider that Influencers are included in the category of advertising business actors who if proven to disseminate dishonest and untrue information can be held accountable for their behavior and there is legal certainty that regulates it. This is solely to ensure the protection of consumers who must be the focus of the State and protect their needs and rights to obtain good, honest and correct information.

CLOSING

Influencers are a new element in promoting products in accordance with the times. Consumer protection law must also have all efforts to ensure legal certainty for consumers, and provide protection to consumers. This includes consumer rights that must be respected and become a reference for business actors in offering their products in the future. Therefore, legal certainty is needed to regulate Influencers.

There is no specific regulation that can guarantee the act of Influencers if proven to provide untrue, unfavorable, and dishonest information. Because there is no statement stating that Influencers are included and can be categorized as advertising business actors in promoting a product.

Based on the conclusion above, it can be concluded that there is a need for education and operational standards for Influencers in how to provide information on a product, in order to fulfill consumer rights that must be fulfilled. In accordance with the provisions of the Legislation, namely Consumer Protection. With the existence of legal certainty and rules that discuss Influencers, it is expected that there is a law that regulates the liability of Influencers, if proven to spread false information

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