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Unlawful Acts by Contract Manufacturing Companies Arising from the Use of Hazardous Substances in Indonesia's Cosmetics Industry

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Compensation; Cosmetic Safety; Legal Protection; Service Users; Unlawful Act.

Abstract: This study aims to analyze whether the use of hazardous substances by contract manufacturers in cosmetic production satisfies the elements of an unlawful act and to examine the resulting civil liability. This study employs a normative legal research method using statutory and conceptual approaches. The legal issues are analyzed prescriptively based on the theory of unlawful acts and the theory of legal liability. The findings demonstrate that the use of hazardous substances satisfies all elements of an unlawful act as stipulated in Article 1365 of the Indonesian Civil Code, namely the existence of an act, unlawfulness, fault, damage, and a causal relationship. Such conduct also contravenes Law Number 17 of 2023 on Health, Government Regulation Number 28 of 2024, and regulations issued by the Indonesian Food and Drug Authority concerning cosmetic safety and quality. Accordingly, contract manufacturers may be held civilly liable to provide compensation for material and immaterial damages and to restore the injured parties to their prior condition. Contractual clauses limiting liability do not exempt contract manufacturers from civil liability where the damage arises from their fault or violation of the law.

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1. Introduction

The Indonesian cosmetics industry has experienced substantial growth over the past decade, particularly in the skincare segment. This growth has been driven by increasing public awareness of skin health and aesthetics, changes in lifestyle, and the growing use of digital technology and social media as marketing channels for cosmetic products (Mulyono & Voutama, 2025). The cosmetics industry has emerged as a strategic sector that contributes to national economic growth while creating opportunities for new brands to enter and compete in an increasingly competitive market (Aprilia et al., 2025). In line with this development, the Indonesian Food and Drug Authority (Badan Pengawas Obat dan Makanan, BPOM)

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reported that, as of 2025, 489,819 cosmetic products had obtained marketing authorization. This figure reflects the high level of cosmetic production and distribution activity in Indonesia, while simultaneously highlighting the growing challenges of ensuring product safety, quality, and compliance with applicable laws and regulations (Badan POM RI, 2025).

The increasing number of business actors in the cosmetics industry has not always been accompanied by the capacity to undertake production independently. This situation has prompted a growing number of businesses to rely on contract manufacturing services as an alternative means of producing cosmetic products under their own brands (Safitri, 2025). Many brand owners adopt contract manufacturing as a business strategy because they lack production facilities, laboratories, or human resources that meet industry standards. Under this arrangement, the production process is entrusted to contract manufacturers that possess the requisite technical capabilities, manufacturing facilities, and government-mandated certifications. The legal relationship between a brand owner and a contract manufacturer arises from a cooperation agreement that establishes the respective rights and obligations of each party. The brand owner is responsible for product concept development and marketing, whereas the contract manufacturer is responsible for formulation, raw material selection, production processes, quality control, and product packaging in accordance with the agreed specifications, as stipulated in Regulation of the Director General of Taxes Number PER-70/PJ/2007.

The position of contract manufacturers in the cosmetics industry cannot be regarded merely as that of technical entities responsible for carrying out production. Contract manufacturers exercise significant control over product safety and quality because they oversee the entire manufacturing process, from raw material selection and formulation to laboratory testing and quality control. Accordingly, contract manufacturers bear a legal obligation to ensure that all products they manufacture comply with the safety, efficacy or utility, and quality requirements prescribed by applicable regulations (Tsabita et al., 2023). This responsibility arises not only from their contractual relationship with brand owners but also from public law provisions governing the cosmetics industry and the protection of public health, as stipulated in Law Number 17 of 2023 on Health.

Under Indonesian positive law, these obligations are expressly affirmed by the Health Law, which requires every pharmaceutical preparation, including cosmetics, to comply with safety, efficacy or utility, and quality requirements before being placed on the market. These requirements are further elaborated in Government Regulation Number 28 of 2024, which mandates the use of raw materials that comply with applicable standards and the implementation of quality control systems throughout the cosmetic production process. In addition, the Indonesian

Food and Drug Authority (BPOM) has issued various technical regulations, including BPOM Regulation Number 25 of 2019 on Guidelines for Good Cosmetic Manufacturing Practices (CPKB), BPOM Regulation Number 33 of 2021 on Certification of Compliance with Good Cosmetic Manufacturing Practices, BPOM Regulation Number 12 of 2023 on the Supervision of Cosmetic Manufacturing and Distribution, BPOM Regulation Number 16 of 2024 on Contaminant Limits in Cosmetics, and BPOM Regulation Number 25 of 2025 on Technical Requirements for Cosmetic Ingredients. Collectively, these regulations establish a legal framework requiring the cosmetics industry to exercise due diligence at every stage of the production process to ensure the safety of products distributed to the public.

Despite the existence of a comprehensive regulatory framework, the use of hazardous substances in cosmetic products continues to be identified in practice. BPOM regularly reports findings of cosmetic products containing prohibited substances, such as mercury, hydroquinone at concentrations exceeding the permissible limits, retinoic acid, and corticosteroids, all of which may pose health risks to consumers (Badan POM RI, 2025). One case that attracted public attention involved the detection of dexamethasone in Daviena Skincare's *Intensive Night Cream with AHA*. This finding indicates that deficiencies persist in the supervision of cosmetic manufacturing processes, including the potential use of ingredients that do not comply with BPOM's technical requirements. In addition to posing health risks to consumers, the use of hazardous substances may result in economic losses and reputational damage to brand owners who entrust the manufacturing of their products to contract manufacturers.

From a civil law perspective, the use of hazardous substances by contract manufacturers may constitute not only a breach of contractual obligations but also an unlawful act (*Perbuatan Melawan Hukum*, PMH) within the meaning of Article 1365 of the Indonesian Civil Code. Under this provision, any person who commits an unlawful act that causes damage to another party is obligated to compensate the injured party for the resulting loss. The doctrine of unlawful acts has evolved since the decision of the Hoge Raad in *Lindenbaum v. Cohen*, which broadened the concept of unlawfulness beyond violations of statutory provisions to encompass infringements of the subjective rights of others, breaches of legal obligations, violations of moral norms, and conduct contrary to the principles of propriety prevailing in society (Adriaman et al., 2024). Accordingly, the use of hazardous substances by contract manufacturers should be examined not only from the perspective of breach of contract but also within the legal framework of unlawful acts, which may give rise to civil liability.

Previous studies have examined issues of liability in the cosmetics industry and contract manufacturing relationships from several perspectives. Safitri, analyzed the role and responsibilities of contract manufacturing companies in the production and distribution of cosmetics, including their responsibility toward consumers in cases involving the distribution of illegal products (Safitri, 2025). The study identified contract manufacturing companies as parties responsible for ensuring that the products they manufacture comply with applicable regulatory requirements. Tsabita et al., examined legal certainty regarding liability in the protection of consumers using contract manufacturing services in the beauty industry, particularly with respect to legal remedies and forms of liability arising from violations within the legal relationship between the parties (Tsabita et al., 2023). Meanwhile, Khairina et al., discussed consumer protection in relation to cosmetics containing hazardous substances, focusing on the liability of business actors under Law Number 8 of 1999 on Consumer Protection (Khairina et al., 2023).

Previous research on civil liability has also distinguished between breach of contract and unlawful acts as two distinct grounds for liability. Suryoutomo et al., explained that breach of contract concerns the failure to fulfill obligations arising from an agreement, whereas an unlawful act concerns a violation of legal norms that causes damage to another party (Suryoutomo et al., 2025). In addition, Sitorus and Utama, examined the application of the principle of good faith in contract manufacturing agreements and the legal consequences arising when such agreements are performed inconsistently with this principle (Sitorus & Utama, 2026). Their study underscores the importance of contractual relationships and good faith in determining the legal consequences of contract manufacturing arrangements.

These five studies provide an important foundation for understanding the liability of business actors, consumer protection, contractual relationships, and the distinction between breach of contract and unlawful acts. However, Safitri, primarily focused on the role and responsibilities of contract manufacturing companies in the production and distribution of cosmetics (Safitri, 2025), whereas Tsabita et al., examined legal certainty regarding liability in the protection of consumers using contract manufacturing services (Tsabita et al., 2023). Khairina et al., addressed cosmetics containing hazardous substances from a consumer protection perspective (Khairina et al., 2023), while Suryoutomo et al., discussed breach of contract and unlawful acts in general without specifically relating these concepts to contractual relationships in cosmetic contract manufacturing (Suryoutomo et al., 2025). Sitorus and Utama, meanwhile, focused on the application of the principle of good faith in contract manufacturing agreements (Sitorus & Utama, 2026). Accordingly, previous studies have not specifically examined the legal construction of unlawful acts committed by contract manufacturers through the use of hazardous substances by integrating contractual obligations, legal obligations arising independently of contract, the parameters for establishing fault, and the resulting losses suffered by users of contract manufacturing services.

Building on this research gap, the novelty of this study lies in its construction of the liability of contract manufacturers that use hazardous substances by treating contractual relationships and unlawful acts as two distinct grounds for liability that must be differentiated according to the source of the underlying obligation. This study assesses not only whether a breach of contractual obligations has occurred but also whether the use of hazardous substances or negligence in the manufacturing process may satisfy the elements of an unlawful act under Article 1365 of the Indonesian Civil Code. This analysis is linked to the legal requirements concerning cosmetic safety and quality under the evolving regulatory framework, particularly Law Number 17 of 2023 on Health, Government Regulation Number 28 of 2024, and BPOM regulations in force through 2025. Through this approach, the study seeks to establish normative parameters for determining when the conduct of a contract manufacturer constitutes a breach of contract and when such conduct may be qualified as an unlawful act giving rise to civil liability.

2. Methods

This study employs normative legal research, focusing on the analysis of positive legal norms, legal principles, doctrines, and legal concepts, relevant to the use of hazardous substances by contract manufacturers in cosmetic production. The study is descriptive-analytical in nature, as it describes the legal provisions governing the liability of contract manufacturers while analyzing their application to the legal issues under examination (Kristiawanto, 2022). The analysis focuses on whether the elements of an unlawful act (*Perbuatan Melawan Hukum*, PMH), as stipulated in Article 1365 of the Indonesian Civil Code, are satisfied and on the legal construction of contract manufacturers' liability arising from the use of hazardous substances in the cosmetics industry.

This study adopts statutory and conceptual approaches. The statutory approach involves examining various laws and regulations governing cosmetic safety, the responsibilities of business actors, and unlawful acts, including the Indonesian Civil Code, the Health Law, the Government Regulation implementing the Health Law, Minister of Health Regulation Number 1175/MENKES/PER/VIII/2010, and BPOM Regulations Number 25 of 2019, Number 33 of 2021, Number 12 of 2023, Number 16 of 2024, and Number 25 of 2025. The conceptual approach is employed to examine relevant legal doctrines and scholarly views concerning unlawful acts, fault, causation, and civil liability, which provide the conceptual basis for analyzing the legal issues addressed in this study (Kristiawanto, 2022).

The legal materials used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials comprise laws and regulations relating to civil law and cosmetic regulation. Secondary legal materials include textbooks, scholarly journal articles, previous research, and relevant legal doctrines concerning unlawful acts and liability. Tertiary legal materials include legal dictionaries, the *Kamus Besar Bahasa Indonesia* (KBBI), the official website of BPOM, and other electronic sources that support the study.

Legal materials were collected through library research by identifying, reviewing, and compiling relevant laws and regulations, legal literature, scholarly articles, court decisions, and official documents related to the subject matter of the study. Searches were also conducted through academic databases and official government websites to obtain current and relevant legal materials. All legal materials were subsequently classified according to their level of authority and relevance to the research topic before being analyzed systematically using the Issue, Rule, Application, and Conclusion (IRAC) framework and in a comprehensive manner (Kristiawanto, 2022).

The legal materials were analyzed qualitatively using legal reasoning and a deductive approach, whereby conclusions were drawn from general legal norms and applied to specific legal issues. The analysis involved interpreting legal provisions governing unlawful acts and liability and subsequently applying them to the use of hazardous substances by contract manufacturers in cosmetic production. This analysis was conducted to determine whether the elements of an unlawful act are satisfied and to identify the forms of civil liability that may be imposed on contract manufacturers in relation to users of their contract manufacturing services.

3. Results

The findings indicate that the use of hazardous substances by contract manufacturers in the cosmetics industry may be classified as an unlawful act (*Perbuatan Melawan Hukum*, PMH) where the elements stipulated in Article 1365 of the Indonesian Civil Code are satisfied. The fulfillment of these elements cannot be established solely by the presence of hazardous substances in a cosmetic product; rather, it requires proof of an act or omission, unlawfulness, fault, damage, and a causal relationship between the act or omission and the resulting damage.

The findings further demonstrate that the liability of contract manufacturers largely depends on the allocation of authority between the contract manufacturer and the brand owner. Where the contract manufacturer has authority over raw material selection, formulation, testing, and quality control, failure to exercise due care in performing these obligations may constitute a basis for liability. Conversely, where the brand owner is also involved in determining the ingredients or formulation, its contribution must be taken into account when assessing the fault and respective liability of each party.

Within a contractual relationship, a breach of obligations specifically stipulated in the agreement is more appropriately classified as a breach of contract, whereas a violation of legal obligations concerning cosmetic safety and quality may constitute a basis for an unlawful act (PMH). Accordingly, the existence of a contract manufacturing agreement does not automatically preclude the application of Article 1365 of the Indonesian Civil Code.

The forms of liability that may be imposed include compensation for material and immaterial damages, as well as restitution aimed at restoring the injured party to its prior position. The amount of compensation must be supported by evidence establishing the loss suffered and the causal relationship between the conduct and such loss. In addition to civil liability, contract manufacturers may also be subject to administrative sanctions for violations of cosmetic safety and quality requirements. Accordingly, the liability of contract manufacturers is determined by the source of the underlying obligation, the existence of fault, the allocation of authority between the parties, proven damage, and the causal relationship between the conduct and the resulting damage.

4. Discussion

4.1 Fulfillment of the Elements of an Unlawful Act by Contract Manufacturers in the Use of Hazardous Substances in Indonesia's Cosmetics Industry

The use of hazardous substances by contract manufacturers may be qualified as an unlawful act where the relevant act or omission satisfies the elements stipulated in Article 1365 of the Indonesian Civil Code. Such an assessment cannot be based solely on the presence of hazardous substances in a cosmetic product; rather, it must consider the nature of the act or omission, the legal obligation breached, the fault attributable to the contract manufacturer, the resulting damage, and the causal relationship between the conduct and the damage. In cosmetic manufacturing, the activities undertaken by contract manufacturers encompass a series of stages, including raw material selection, formulation, production, packaging, and product distribution. Accordingly, negligence at any of these stages may constitute conduct subject to assessment under Article 1365 of the Indonesian Civil Code where it causes damage to another party. Under the doctrine of the law of obligations, an unlawful act encompasses not only affirmative acts but also omissions or negligence that cause damage to another party (Marilang, 2017).

In a contract manufacturing arrangement, the assessment of the element of conduct must take into account which party exercises control over each stage of the production process. Where the contract manufacturer has the authority to select raw materials, formulate the product, test materials, and supervise the production process, any act or omission occurring at these stages may provide a basis for determining the existence of conduct that causes damage. For example, the use of an ingredient known to have failed to meet applicable safety requirements constitutes an affirmative act, whereas failure to test raw materials that should have been tested constitutes an omission. This distinction is important because the mere detection of a hazardous substance does not automatically establish the existence of an unlawful act. Rather, it is necessary to identify the specific act or omission falling within the authority and control of the contract manufacturer.

The element of unlawfulness may be considered satisfied where the use of hazardous substances or negligence in the production process contravenes applicable legal obligations. In this context, the use of prohibited ingredients or ingredients that fail to comply with cosmetic safety and quality requirements concerns not only the performance of the contract manufacturing agreement but also the legal obligations inherent in cosmetic manufacturing activities. These obligations are reflected in the Health Law and various BPOM regulations governing cosmetic safety, quality, and the use of cosmetic ingredients. Accordingly, where a contract manufacturer uses prohibited ingredients or disregards mandatory standards in the production process, such conduct may be considered contrary to applicable law. Unlawfulness may also arise from a violation of the principles of propriety and due care where the conduct demonstrates that the contract manufacturer has failed to observe the standard of conduct reasonably required in manufacturing activities directly affecting product safety. Under the modern doctrine of unlawful acts, violations of written legal norms, principles of propriety, and the duty of care may constitute an unlawful act (Febriansyah et al., 2024).

These obligations also demonstrate that product safety standards do not arise only after a product has been placed on the market but apply from the outset of the production process. Accordingly, where a contract manufacturer disregards requirements concerning permitted ingredients, testing procedures, or mandatory production standards, such non-compliance may indicate a departure from its legal obligations and the applicable standard of care. Conversely, where the ingredients are determined by the service user and the contract manufacturer merely carries out the production process in accordance with the prescribed specifications, the assessment of unlawfulness must take into account the allocation of authority between the parties. Such an analysis is necessary to ensure that liability is not imposed solely on the basis of the contract manufacturer's status as the party undertaking production, but rather on the basis of the obligations that actually fall within its authority and control.

The element of fault must be assessed in light of the specific circumstances of the production process rather than inferred solely from the presence of hazardous substances in the product. Fault may take the form of either intent or negligence. Intent may be established where a contract manufacturer knows that a particular ingredient is prohibited but nevertheless uses it in the production process. Negligence, by contrast, may arise where the contract manufacturer fails to exercise the degree of care reasonably required, including by failing to test raw materials, conduct quality control, or comply with mandatory production standards. These obligations establish a duty of care on the part of the contract manufacturer to ensure that the ingredients used and the production processes employed comply with applicable cosmetic safety and quality standards. Accordingly, where the contract manufacturer fails to discharge this duty of care and such negligence contributes to the presence of hazardous substances in the product, the element of fault may be considered satisfied. Conversely, the mere presence of a hazardous substance is insufficient to establish fault unless intent or negligence in the performance of the relevant obligations can be demonstrated. Under Indonesian civil law, both intent (*dolus*) and negligence (*culpa*) may constitute grounds for civil liability (Marilang, 2017).

In determining fault, the allocation of roles between the contract manufacturer and the service user must also be taken into account. Where the contract manufacturer independently selects the raw materials, formulates the product, and assumes responsibility for testing and quality control, failure to properly perform these obligations may indicate negligence. Conversely, where the service user actively determines specific ingredients or formulations that are subsequently used in production, the service user's contribution must be considered in identifying the source of fault. Such circumstances do not necessarily relieve the contract manufacturer of liability where it remains under a legal obligation to refuse the use of prohibited ingredients or ingredients that fail to meet applicable safety standards. Accordingly, the element of fault must be assessed on the basis of the conduct, knowledge, authority, and respective obligations of each party throughout the production process.

The element of damage requires a distinction between losses that can be directly substantiated and those that require further evidence of their actual impact. Material losses arising in the relationship between a contract manufacturer and a service user may include unrecoverable production costs, product recall costs, product destruction costs, and loss of profits. It is insufficient merely to assert that such losses resulted from the use of hazardous substances; they must be supported by evidence demonstrating the amount or value of the loss actually sustained by the service user. Meanwhile, immaterial damage, including reputational harm and loss of market confidence, must be linked to the actual consequences arising from the distribution or discovery of products containing hazardous substances.

Reputational harm, therefore, cannot be presumed to arise automatically from the existence of a violation but must be assessed in light of the circumstances and evidence demonstrating an adverse impact on the reputation of, or confidence in, the product. From the perspectives of consumer protection law and civil law, immaterial damage, including harm to business reputation and corporate image, is also recognized as a form of damage for which compensation may be sought (Sari, 2020).

The element of causation requires a sufficient connection between the act or omission of the contract manufacturer and the damage suffered by the service user. Accordingly, such a causal connection cannot be presumed merely from the presence of hazardous substances in the product; rather, it must be established whether the use of such substances or negligence in the production process caused the damage for which compensation is sought. This connection may be established through production records, laboratory test results, BPOM reports, or other documents demonstrating the origin of the ingredients, the production process, testing results, and the resulting consequences. The assessment must also consider whether other factors contributed to the damage, including the possible involvement or contribution of the service user in determining the formulation, ingredients, or production process. Where the damage can be adequately traced to the use of hazardous substances or negligence attributable to the contract manufacturer, the causal relationship between the conduct and the resulting damage may be considered established. Under civil law, causation constitutes a fundamental requirement for the imposition of liability under Article 1365 of the Indonesian Civil Code (Sari, 2020).

Based on these five elements, the fulfillment of the elements of an unlawful act (PMH) in a contract manufacturing relationship cannot be determined solely from the fact that a product contains hazardous substances. Each element must be assessed on the basis of the specific act or omission involved, the legal obligations imposed on the contract manufacturer, the form of fault, the damage that can be substantiated, and the causal relationship between the conduct and such damage. The assessment must also take into account the allocation of authority between the contract manufacturer and the service user, particularly where the service user is involved in determining the ingredients or product formulation. Under this approach, the presence of hazardous substances serves as the starting point for assessing liability, while the fulfillment of the requirements under Article 1365 of the Indonesian Civil Code ultimately depends on proof of each individual element.

4.2 Liability of Contract Manufacturers for the Use of Hazardous Substances in Indonesia's Cosmetics Industry

The liability of contract manufacturers for the use of hazardous substances in

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the cosmetics industry may arise under Article 1365 of the Indonesian Civil Code where the act or omission of the contract manufacturer satisfies the elements of an unlawful act. Liability is determined not merely by the presence of hazardous substances in the product but also by the source of the obligation breached, the form of fault, the resulting damage, and the causal relationship between the conduct and the damage. Under Indonesian civil law, liability arises where an act, unlawfulness, fault, damage, and a causal relationship can be established, thereby providing a legal basis for restoring the rights of the injured party through compensation (Kusumadewi & Sharon, 2022). In the context of contract manufacturing activities, the contract manufacturer, as a business actor, has a professional obligation to conduct the production process in accordance with applicable cosmetic product safety and quality standards.

The relationship between a contract manufacturer and a service user is fundamentally governed by a contract manufacturing agreement that defines the parties' rights and obligations, product specifications, allocation of responsibilities, and production standards to be fulfilled. Where the contract manufacturer fails to perform an obligation specifically stipulated in the agreement, such as by producing goods that do not conform to the agreed specifications or quality standards, such failure may generally be construed as a breach of contract. A breach of contract concerns the non-performance of obligations arising from an agreement; therefore, the basis of liability derives from the contractual relationship between the parties (Salim H.S., 2021).

Unlike a breach of contract, an unlawful act (PMH) arises from the violation of a legal obligation that is not determined solely by the terms of the agreement. Where a contract manufacturer uses hazardous substances, the doctrine of unlawful acts becomes relevant if the use of such substances or negligence in the production process contravenes legal obligations concerning cosmetic safety and quality and satisfies the elements stipulated in Article 1365 of the Indonesian Civil Code. Accordingly, the existence of a contract manufacturing agreement does not necessarily mean that every dispute must be characterized as a breach of contract. Determining the appropriate basis of liability requires an assessment of whether the obligation breached arises exclusively from the contract or also constitutes an independent legal obligation existing outside the contractual relationship.

The distinction between breach of contract and an unlawful act (PMH) is important because each is based on a different source of obligation and entails different evidentiary requirements. In a breach of contract claim, the service user must establish the existence of an agreement, the obligations stipulated therein, the contract manufacturer's failure to perform those obligations, and the resulting damage. In an unlawful act claim, the service user must establish the elements of unlawfulness, fault, damage, and causation, as analyzed in the preceding section. Accordingly, where a dispute concerns solely the improper performance of contractual obligations, a breach of contract claim is the more appropriate legal basis. Conversely, where the conduct of the contract manufacturer also violates legal obligations concerning product safety, an unlawful act may constitute a basis for liability.

In determining the appropriate legal basis for a claim, the service user must consider the source of the obligation underlying the alleged damage. Where the damage arises from the contract manufacturer's failure to comply with specifications, quantities, quality requirements, or other obligations expressly stipulated in the agreement, a breach of contract claim constitutes the more relevant legal basis. Conversely, where the damage results from the use of prohibited ingredients, failure to test materials, or non-compliance with mandatory safety standards applicable to the contract manufacturer, the matter may be analyzed as an unlawful act, provided that all the requisite elements can be established. This distinction is necessary to ensure that the basis of liability is determined not merely by the existence of a contractual agreement but by the nature and source of the obligation breached.

Indonesian Supreme Court jurisprudence demonstrates that the existence of a contractual relationship does not necessarily preclude conduct from being characterized as an unlawful act (PMH). In Supreme Court Jurisprudence Number 4/Yur/Pdt/2018, derived from Decision Number 1051 K/Pdt/2014, the Supreme Court held that the unilateral termination of an agreement may be characterized as an unlawful act because it contravenes Article 1338 of the Indonesian Civil Code. This approach indicates that the existence of an agreement does not automatically confine the legal assessment to breach of contract where the conduct of one of the parties also contravenes an applicable legal obligation.

In contract manufacturing relationships, breach of contract and unlawful acts likewise cannot be indiscriminately combined as legal grounds for a claim. The service user may base a claim on the legal ground that most appropriately corresponds to the source of the obligation and the nature of the conduct at issue. Where a close connection exists between a contractual breach and unlawful conduct, the matter may be analyzed on multiple legal grounds; however, the factual and legal grounds of the claim (*posita*) and the relief sought (*petitum*) must be clearly formulated to avoid ambiguity regarding the legal basis of the claim. Supreme Court Decision Number 4268 K/Pdt/2022 demonstrates that the combination of breach of contract and unlawful act claims must be assessed on a case-by-case basis. At the court of first instance and appellate levels, the dispute was characterized as a breach of contract, whereas the Supreme Court subsequently characterized it as an unlawful act. Analysis of the decision further indicates that breach of contract and unlawful act claims cannot be combined in the absence of a sufficient connection between them, as doing so may render the claim ambiguous or inadmissible.

In cases involving the use of hazardous substances, the allocation of liability must also take into account the respective duty of care of each party. Contract manufacturers owe a duty of care in relation to the selection and testing of raw materials, formulation, production processes, quality control, and compliance with safety standards falling within their authority and control. Where these responsibilities are entirely within the control of the contract manufacturer and are not properly discharged, such negligence may provide a basis for imposing liability (Hamid, 2017). Conversely, where the brand owner participates in determining the formulation or ingredients used and is aware of the risks associated with their use, such contribution must be taken into account in determining the respective fault of each party. Under civil law doctrine, fault in the form of either intent or negligence may give rise to an obligation to compensate for damage, provided that the other elements required to establish liability can also be proven (P.N.H. Simanjuntak, 2017).

The application of the duty of care is also relevant to evidentiary issues in legal disputes. It is insufficient for the service user merely to demonstrate that the product contains hazardous substances; the service user must also establish that the contract manufacturer was under a duty to take specific measures and failed to discharge that duty properly. Formulation records, raw material records, laboratory test results, quality control documentation, and production records may be used to assess whether the contract manufacturer has fulfilled its duty of care. Accordingly, proof of fault should focus on specific acts or omissions falling within the contract manufacturer's authority and control, rather than solely on the ultimate outcome of hazardous substances being detected in the product.

The allocation of fault also affects the assessment of causation and the amount of compensation. Where the damage is caused solely by the contract manufacturer's negligence in testing or monitoring materials falling within its authority and control, liability may be more directly attributable to the contract manufacturer. However, where the brand owner contributes to the selection of ingredients or formulation that causes the damage, such contribution must be taken into account in determining the respective liability of each party. Accordingly, causation cannot be established merely on the basis that the contract manufacturer is the party that manufactured the cosmetic product; rather, it must be assessed by examining the allocation of authority and the specific conduct of each party.

The forms of liability that may be imposed on a contract manufacturer include compensation for material and immaterial damage, as well as restoration to the prior position (*restitutio in integrum*). Compensation for material damage may include production costs, product recall costs, product destruction costs, and other financial losses that can be substantiated (Nugroho, 2019). Meanwhile, reputational harm and loss of market confidence as forms of immaterial damage must be supported by evidence of the actual impact suffered and cannot be presumed to arise automatically from the mere occurrence of a violation. *Restitutio in integrum* may also serve as a form of redress for the injured party, provided that restoration to the prior position is legally and factually possible (Abbas, 2017).

The determination of the amount of compensation must also take into account causation and the respective contribution of each party. Losses arising from product recalls or destruction, for example, must be substantiated by evidence of the relevant expenditures and by demonstrating that such measures resulted from the contract manufacturer's violation. Similarly, reputational harm must be supported by evidence demonstrating a decline in market confidence or an economic impact associated with the defective product. Where the brand owner participated in determining the ingredients or formulation that gave rise to the damage, such circumstances must be taken into account in allocating liability and determining the amount of compensation. Accordingly, compensation should not be determined solely on the basis of the existence of a violation but rather on the basis of substantiated damage and its causal relationship with the conduct of each party.

Limitation of liability clauses in contract manufacturing agreements must also be examined where the agreement contains provisions limiting or excluding the contract manufacturer's liability. The parties' freedom to determine the terms of their agreement does not mean that every clause purporting to exempt one party from liability may be enforced without limitation. Where such a clause is invoked to exempt the contract manufacturer from liability for negligence in fulfilling product safety and quality obligations, its enforceability must be assessed in light of mandatory legal provisions, principles of propriety, and the nature of the violation involved. Accordingly, a limitation of liability clause must be distinguished from a risk allocation clause reasonably agreed upon by the parties.

The assessment of a limitation of liability clause must also take into account the nature of the obligation being limited. A clause allocating risks arising from production delays or administrative non-compliance may differ in nature from a clause limiting liability for the use of substances that compromise product safety. Where such a clause is, in practice, invoked to exempt the contract manufacturer from obligations that properly fall within its authority and control, its enforceability must be assessed in light of the terms of the agreement, the parties' legal obligations, and the principles of propriety. Accordingly, the existence of a limitation of liability clause cannot serve as a basis for precluding an assessment of the contract manufacturer's fault where negligence in complying with product safety standards is alleged.

Considerations regarding exemption clauses (*exoneration clauses*) are also reflected in Indonesian civil court practice. Supreme Court Decision Number 3416/Pdt/1985, for example, has been referred to in discussions concerning the liability of parking service operators and contractual clauses seeking to shift liability to service users. In such circumstances, the existence of a clause purporting to shift liability does not necessarily relieve a business actor of liability where the legal obligation relating to the goods or services remains within its authority and control. This principle is relevant as an analytical approach to assessing limitation of liability clauses in contract manufacturing agreements, particularly where such clauses are invoked to avoid liability for the contract manufacturer's negligence in the production process.

The liability of contract manufacturers must also be distinguished between liability to brand owners as service users and potential liability to end consumers. Brand owners have a direct contractual relationship with contract manufacturers, whereas end consumers generally obtain products through business actors responsible for marketing and distributing them. Where a product contains hazardous substances as a result of a production process falling within the contract manufacturer's control, the contract manufacturer's involvement must nevertheless be taken into account in determining the parties responsible for the damage suffered by consumers. Such determination requires an assessment of which party exercises control over the selection of ingredients, formulation, production, quality control, and distribution. Accordingly, liability to end consumers cannot be determined solely on the basis of which party sells the product but must be assessed according to the respective contribution of each business actor to the occurrence of the damage.

In resolving disputes, service users may pursue either litigation or non-litigation mechanisms. A claim brought before a court may be based on breach of contract where the dispute centers on the non-performance of contractual obligations, whereas an unlawful act (PMH) may serve as the legal basis where there is a violation of a legal obligation that satisfies the elements stipulated in Article 1365 of the Indonesian Civil Code. The parties may also resort to negotiation, mediation, or arbitration in accordance with the dispute resolution provisions stipulated in their agreement. These mechanisms may provide a more efficient means of resolving disputes while preserving the parties' business relationship (Nugroho, 2017).

In addition to civil liability, contract manufacturers may be subject to administrative sanctions for violations of regulatory requirements concerning cosmetic safety, quality, and production. Such administrative sanctions constitute a form of state regulatory oversight over business actors aimed at ensuring the safety of products placed on the market for consumers (Kusumadewi & Sharon, 2022). Administrative sanctions and civil liability have distinct legal bases and purposes. Accordingly, the imposition of administrative sanctions does not preclude an injured party from seeking compensation, just as civil liability does not eliminate the government's authority to impose administrative sanctions in accordance with applicable laws and regulations.

Based on the foregoing analysis, the liability of contract manufacturers for the use of hazardous substances must be determined by reference to the source of the underlying obligation, the form of fault, the allocation of authority between the contract manufacturer and the brand owner, substantiated damage, and the causal relationship between the conduct and the resulting damage. Breach of contract constitutes the more appropriate legal basis where the violation arises from obligations specifically stipulated in the agreement, whereas an unlawful act (PMH) becomes relevant where the act or omission also violates legal obligations existing independently of the contractual relationship and satisfies the elements stipulated in Article 1365 of the Indonesian Civil Code. These two legal grounds should not be combined without due consideration of their interrelationship and the need for clarity regarding the legal basis of the claim. In cases involving the use of hazardous substances, this distinction is particularly important because it affects the identification of the liable party, the burden of proof, the scope of compensation, and potential liability to end consumers.

5. Conclusion

This study demonstrates that the use of hazardous substances by contract manufacturers in Indonesia's cosmetics industry may, from a legal perspective, be characterized as an unlawful act (*Perbuatan Melawan Hukum*, PMH) under Article 1365 of the Indonesian Civil Code. This characterization is based on the fulfillment of the requisite elements of an unlawful act, namely the existence of unlawful conduct, fault in the form of either intent or negligence, damage suffered by the service user, and a causal relationship between the conduct and the resulting damage. Accordingly, under the framework of civil law, such conduct constitutes not only a breach of contractual obligations but also a violation of general legal obligations, thereby giving rise to civil liability.

This study further finds that the use of hazardous substances by contract manufacturers constitutes a violation of applicable laws and regulations governing public health and the supervision of drugs and food, particularly the Health Law, the Government Regulation implementing the Health Law, and BPOM regulations concerning cosmetic safety, quality, and ingredient standards. Such violations may result in losses to service users, including material losses in the form of production costs, product recall costs, and loss of profits, as well as immaterial damage in the form of reputational harm and loss of market confidence.

In light of these findings, contract manufacturers may be held civilly liable under Article 1365 of the Indonesian Civil Code, which requires the party responsible for an unlawful act to compensate for the resulting damage. Such liability encompasses not only compensation for material and immaterial damage but may also include restoration to the prior position (*restitutio in integrum*), with the aim of restoring the injured party, as far as possible, to the position it occupied before the damage occurred. Furthermore, limitation of liability clauses in contract manufacturing agreements cannot exclude liability where the damage results from unlawful conduct, fault, or negligence that contravenes mandatory legal provisions.

This study is subject to a limitation in that it focuses on the normative aspects of civil law without empirically examining the implementation of court decisions in disputes involving cosmetic contract manufacturing in Indonesia. Accordingly, further empirical research is needed to strengthen the analysis of the effectiveness of enforcing the civil liability of contract manufacturers in practice.

Based on these findings, contract manufacturers should enhance compliance with cosmetic regulations by strengthening systems for raw material control and production process supervision and by consistently implementing Good Cosmetic Manufacturing Practices (CPKB). Service users should exercise greater diligence in selecting contract manufacturing partners and formulate agreements that clearly stipulate quality assurance and legal liability. BPOM should strengthen regulatory supervision and enforcement, while the government should develop more specific regulations governing the legal framework of liability in contract manufacturing relationships to provide greater legal certainty for all parties

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