Penal Responses to Illegal Cosmetic Distribution: Legal Politics in Indonesia and Russia

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Abstract

The circulation of illegal cosmetics containing hazardous substances or lacking marketing authorization has become a serious threat to public health and economic integrity in Indonesia and Russia. This research aims to analyze criminal law policy and regulatory frameworks governing the circulation of illegal cosmetics in Indonesia and Russia, as well as to evaluate the effectiveness and challenges of criminal law enforcement in the digital era in providing consumer protection. This study employs normative legal research using comparative, statutory, and conceptual approaches. The analysis examines secondary legal materials, including legislation, court decisions, and scholarly literature from both jurisdictions. The findings demonstrate that Indonesia, through Law Number 17 of 2023 on Health, has strengthened criminal sanctions for violations involving illegal cosmetics, with penalties of up to 12 years of imprisonment, reflecting a shift toward a more punitive criminal law policy for health protection. Meanwhile, Russia relies on the technical regulation TR CU 009/2011 and Article 238 of the Criminal Code, supported by the mandatory digital traceability system Chestny ZNAK. The comparative analysis reveals that the effectiveness of law enforcement largely depends on the synergy between administrative and criminal sanctions, as well as the capacity of regulatory frameworks to adapt to the development of electronic commerce platforms.

I. Introduction

The global cosmetics industry has undergone a massive transformation over the past two decades, as societal perceptions of beauty are no longer merely associated with aesthetic needs but have shifted toward becoming a fundamental value in social and professional appearance (Gabriella & Bakhtiar, 2023). This growth has created significant economic opportunities; however, it has also triggered intense business competition, which often leads to illegal practices, including the distribution of cosmetics without marketing authorization, counterfeit products, and the use of hazardous chemicals such as mercury and hydroquinone (Kerti, 2023). In Indonesia, the Food and Drug Authority (BPOM) records thousands of findings of illegal cosmetics each year, while in Russia, similar challenges are encountered within the framework of the common market of the Eurasian Economic Union (EAEU) (Sebayang et al., 2025).

The legal policy for combating these crimes in Indonesia reached a turning point with the enactment of Law Number 17 of 2023 on Health. This law functions as an omnibus law that consolidates various sectoral regulations to provide greater legal certainty and impose more severe sanctions on unscrupulous business actors (Disantara et al., 2024). The transition from the previous paradigm toward more progressive consumer protection is reflected in the drastic increase in the severity of criminal sanctions and fines (Abhiseka & Mahadewi, 2025). Meanwhile, the Russian Federation adopts a highly centralized criminal law policy through the Criminal Code of the Russian Federation (UGKRF), in which Article 238 serves as the primary instrument for prosecuting the distribution of products that fail to meet safety standards.(Wikipedia, 1996)

The dynamics of law enforcement in both countries are confronted with extraordinary digital disruption. Social media platforms such as TikTok and Instagram have become major distribution channels for illegal cosmetics, making them difficult to monitor through conventional methods (Marzuqi et al., 2023). Russia responds to this challenge by implementing mandatory digital tracking technology, whereas Indonesia continues to grapple with limitations on the administrative authority of supervisory agencies and evidentiary obstacles in judicial proceedings (Abhiseka & Mahadewi, 2025). This study will examine in depth two main issues: first, how legal policy and criminal regulatory frameworks are constructed in Indonesia and Russia; and second, the effectiveness and institutional challenges of law enforcement against the distribution of illegal cosmetics in the digital era.

2. Research Method

This study employs a normative legal research method that focuses on the analysis of written legal norms and legal principles relevant to the distribution of

illegal cosmetics (Masnun, Muh. Ali, Prasetio, Dicky Eko, 2025). The approaches employed include a statute approach to examine Law No. 17 of 2023 in Indonesia and the UGKRF in Russia, a comparative approach to identify the convergences and divergences between the legal systems of the two countries, and a case approach through an analysis of recent court decisions that have acquired permanent legal force (Marzuki, 2016). Primary legal materials are obtained from statutory texts and judicial decisions, while secondary legal materials are obtained from scientific journals, official reports from supervisory agencies (BPOM and Rospotrebnadzor), and international legal literature. The analysis is conducted qualitatively using deductive techniques to produce comprehensive conclusions regarding criminal law policy in both jurisdictions.

3. Results and Discussion

The Criminal Law Policy and the Construction of Criminal Regulations on the Distribution of Illegal Cosmetics in Indonesia and Russia

Criminal law policy in the context of the distribution of illegal cosmetics constitutes the state's official policy in determining which acts are deemed criminal offenses and what sanctions should be imposed to achieve the state's objective of protecting public health (Probo et al., 2024). In Indonesia, this policy direction is strongly influenced by the need for legal harmonization through the omnibus law method (Fauzia et al., 2023). The enactment of Law Number 17 of 2023 on Health reflects the legislators' intention to establish a resilient national health system by reinforcing the position of cosmetics as pharmaceutical preparations that pose significant health risks if not managed according to strict quality standards. Normatively, Article 1 point 12 of Law No. 17 of 2023 defines pharmaceutical preparations as drugs, medicinal ingredients, natural medicinal products, including cosmetics (Tania et al., 2025). The legal policy that places cosmetics in the same category as drugs demonstrates that the state views the effects of cosmetics as extending beyond mere aesthetics on the surface of the skin, recognizing their potential systemic impact on long-term health (Dewi & Rifai, 2025).

The regulatory framework in Indonesia requires every person who manufactures or distributes cosmetics to comply with safety, efficacy, and benefit standards and to obtain a marketing authorization (notification) from BPOM. A comparison of criminal sanctions between the former and current legal regimes in Indonesia demonstrates a substantial strengthening of sanctions as a response to the widespread distribution of illegal cosmetics.

Table 1. Comparison of Criminal Sanctions for Violations Involving Pharmaceutical Preparations (Cosmetics) in Indonesia

Legal Basis	Main Type of Violation	Imprisonment	Fine
Law No. 36 of 2009 (Former)	Failure to meet quality/safety standards (Article 196)	Maximum of 10 years	Maximum of IDR 1 billion
Law No. 36 of 2009 (Former)	Without a marketing authorization (Article 197)	Maximum of 15 years	Maximum of IDR 1.5 billion
Law No. 17 of 2023 (Current)	Providing false/misleading information (Article 435)	Maximum of 12 years	Maximum of IDR 5 billion
Law No. 17 of 2023 (Current)	Without a marketing authorization/non-compliance with standards (Article 435)	Maximum of 12 years	Maximum of IDR 5 billion

Source: Law No. 36 of 2009 and Law No. 17 of 2023 (processed).

The increase in fines to IDR 5 billion under Law No. 17 of 2023 reflects efforts to undermine the economic incentives underlying the distribution of illegal cosmetics (Abhiseka & Mahadewi, 2025). Theoretically, this legal policy adopts a retributive approach combined with a preventive function through imposing substantial fines. However, challenges arise when these sanctions are applied to Micro, Small, and Medium Enterprises (MSMEs), which account for a significant proportion of violations in practice (Kashuri et al., 2025). Data indicate that 89.2 percent of cosmetics industry operators in Indonesia are small and medium-sized industry (IKM) players, meaning that the imposition of maximum sanctions is often considered disproportionate by law enforcement officials at the implementation level (Supardi & Hutabarat, 2025).

Turning to the Russian Federation, criminal law policy is regulated exclusively by federal authorities, under which regions or federal subjects do not have the authority to enact their own criminal laws (Butler, 1999). The Russian criminal law codification, the Criminal Code of the Russian Federation (UKRF), which has been in force since 1997, constitutes the sole source of criminal law.(Federation Council, 1996b) In the context of consumer protection and product safety, Russia relies heavily on Article 238 of the UKRF, entitled "Production, Storage, Transportation, or Sale of Goods and Products, Performance of Works, or Provision of Services That Do

Not Meet Safety Standards."(Federation Council, 1996a).

The regulatory framework in Russia cannot be separated from the role of the Eurasian Economic Union (EAEU). Technical standards for cosmetics are regulated through Technical Regulation TR CU 009/2011, "On Safety of Perfumes and Cosmetic Products."(Schmidt, 2011). This regulation was adopted to harmonize safety standards across all member states (Russia, Belarus, Kazakhstan, Armenia, and Kyrgyzstan) in order to prevent the distribution of hazardous products within the single market.(CE.way Regulatory Consultants, 2019) Russia's legal policy in this regard is technocratic in nature; compliance with technical standards is demonstrated through the EAC Declaration for general products and State Registration (SGR) for high-risk products (Schmidt, 2011).

Russia classifies offenses based on the degree of public danger, as stipulated in Article 15 of the UKRF. Violations of product safety standards may be classified as serious offenses if they result in severe harm to health or death (Council of the Russian Federation, 1996).

Table 2. Classification of Criminal Sanctions Based on the Degree of Danger in Russia (Article 238 UKRF)

Violation Condition	Type of Punishment	Sanction
Violation of General Safety Standards	Fine or compulsory labor	Fine of up to 300,000 rubles or imprisonment for up to 2 years.(Federation Council, 1996a)
Committed by an Organized Group / Against Children Under 6 Years of Age	Imprisonment and fine	Imprisonment for up to 6 years and a substantial fine.(Gowling WLG, 2015)
Resulting in Serious Injury or Death	Imprisonment and fine	Imprisonment for 5 to 8 years and a fine of up to 3 million rubles.(Gowling WLG, 2015)
Resulting in the Death of 2 or More Persons	Imprisonment	Imprisonment for up to 10 years.(Gowling WLG, 2015)

Source: UKRF and Russian Legal Analysis (processed) (Federation Council, 1996a).

A striking difference can be observed in the evidentiary approach. In Indonesia, the main focus of prosecution is often merely on the absence of a marketing authorization (administrative formality), whereas in Russia, the emphasis on Article 238 requires evidence that the product is indeed unsafe for health (substantial safety hazard (CE.way Regulatory Consultants, 2019). This indicates that

Russia's legal policy places greater emphasis on proving actual harm to the public, whereas Indonesia places greater emphasis on compliance with the centralized BPOM licensing system as a proxy for safety (Ezarya & Ratnaningsih, 2025).

In addition, Russia also has Article 180 of the UKRF, which specifically addresses the illegal use of trademarks or the counterfeiting of product markings (Ermakov et al., 2022). Given that many illegal cosmetics are counterfeit products, Article 180 is often applied in conjunction with Article 238. Law enforcement against counterfeiting in Russia is viewed as an issue of economic integrity and intellectual property protection, as well as public health protection (Ermakov et al., 2022). The perpetrator may be subject to criminal liability if the act causes "major damage," defined as exceeding 250,000 rubles (Ermakov et al., 2022).

The dynamics of criminal law policy in both countries also reflect the influence of globalization. Indonesia has begun to adopt the principle of strict liability in the discourse of consumer protection law to strengthen the position of victims, although in pure criminal practice, the principle of mens rea (guilty mind) remains a key element that must be proven by the prosecutor (Darmawanto et al., 2025). In Russia, legal reform is directed toward the digitalization of oversight through the EAEU Joint Action Program 2026–2030, which aims to create a transparent economic space with market rules that can be understood globally (Darmawanto et al., 2025).

The harmonization of laws in Indonesia through the 2023 Health Law also seeks to address the overlap between administrative and criminal sanctions. In the past, many perpetrators were subject only to administrative sanctions in the form of warnings or product recalls without criminal prosecution, which was considered insufficient to provide a deterrent effect (Rastiawaty & Alrip, 2024). This new criminal law policy encourages criminal sanctions to be imposed in parallel with administrative sanctions, particularly for intentional and repeated violations (Via Dianti et al., 2024). Conversely, Russia has long maintained a clear yet complementary separation between the Administrative Code (KoAP) and the Criminal Code (UKRF), whereby serious administrative violations automatically transition into the criminal sphere through the Dadin scheme (Gowling WLG, 2015).

An analysis of these legal policies reveals that both Indonesia and Russia are moving toward stricter regulation. Indonesia is strengthening its framework through punitive national legislation, while Russia is reinforcing technical regulations at the regional level, supported by an established system of criminal codification. Both face the same challenge: how to ensure that these stringent legal norms do not merely remain on paper, but are capable of reaching perpetrators in a market increasingly fragmented by technology (Darmawanto et al., 2025).

Dynamics of Law Enforcement, Effectiveness of Sanctions, and Challenges in the Digital Era of Consumer Protection

The effectiveness of criminal law enforcement against the distribution of illegal cosmetics is tested by the ability of institutions to respond to the speed of goods distribution in online markets. In Indonesia, data from 2022 recorded 1,541 types of illegal cosmetics found on the market, most of which were marketed through e-commerce platforms and social media (Sebayang et al., 2025). This phenomenon is further complicated by the involvement of influencers who promote products without verifying their legality, thereby creating a false sense of trust among consumers (Tania et al., 2025). Criminal law enforcement in Indonesia against the online trade of cosmetics has been illustrated in several recent court decisions. In Decision No. 82/Pid.Sus/2024/PN Smn, the defendant, Nur'aini, was proven to have sold RD Glow products containing mercury and hydroquinone through a Shopee account. Although the maximum penalty under the Health Law is very severe, the panel of judges sentenced her to six months of imprisonment and ordered the destruction of the evidence (Sebayang et al., 2025). A similar phenomenon occurred in Decision No. 123/Pid.Sus/2024/PN Bir involving Yona Noranza, who sold cosmetics without authorization on TikTok after repeatedly receiving warnings from BPOM (Sebayang et al., 2025).

There is a significant disparity between the normative criminal penalties and the reality of judicial decisions. While the regulations provide for penalties of up to 12 or 15 years of imprisonment, the average sentences imposed by Indonesian courts range only from several months to 1.5 years of imprisonment (Sebayang et al., 2025). This has prompted criticism that criminal law enforcement has not yet been effective in achieving the objective of deterrence (prevention), because the economic gains obtained by perpetrators far exceed the burden of punishment imposed.

Table 3. Analysis of Court Decisions Concerning Illegal Cosmetics in Indonesia

Case Number	Defendant	Platform	Main Violation	Sentence
82/Pid.Sus/2024/PN Smn	Nur'aini	Shopee	Mercury content & no marketing authorization.	6 months' imprisonment.
123/Pid.Sus/2024/PN Bir	Yona Noranza	TikTok	Ignoring BPOM warnings	6 months' imprisonment.
39/Pid.Sus/2024/PN Lembata	Anonymous	Physical/ Market	Exaggerated claims without scientific evidence.	1 year 6 months' imprisonment.
600/Pid.Sus/20	Anonymous	Physical	Distributing products	1 year

23/PN Llg			without BPOM authorization.	imprisonment.

Source: Compilation of Court Decisions (processed).

Institutional challenges in Indonesia also lie in inter-agency coordination. BPOM plays a central role in oversight, but its investigative authority is often hampered by its dependence on the police for certain pro-justitia actions (Ezarya & Ratnaningsih, 2025). In addition, the distribution of illegal imported products, particularly from China, entering through unofficial channels further complicates the process of tracing the primary source of the goods (Sebayang et al., 2025). BPOM reported that during the October–November 2024 operation alone, the economic value of the seized illegal cosmetics exceeded IDR 8.91 billion (Sebayang et al., 2025)

In Russia, the effectiveness of law enforcement is supported by the integration of a mandatory digital tracking system. The Government of the Russian Federation has introduced the "Chestny ZNAK" system, managed by the Center for the Development of Advanced Technologies (CRPT). This system requires manufacturers and importers to affix a unique Data Matrix code to each cosmetic package (Schmidt, 2011).

1. The "Chestny ZNAK" mechanism operates through the following stringent stages:
2. Registration of business entities in the national identification system.
3. Ordering identification codes for each product unit.
4. Affixing the codes by manufacturers or importers before the goods enter circulation.
5. Scanning the codes at each logistics transit point.
6. Final scanning at the retail checkout to remove the products from circulation (Schmidt, 2011).

This system effectively closes loopholes for smuggled and unauthorized products because any product without a valid code will be rejected by the checkout system and can be promptly identified by Rospotrebnadzor as an illegal product (Schmidt, 2011). Russia has established a mandatory labeling schedule for various cosmetic products as follows:

Table 4. Mandatory Digital Labeling Schedule for Cosmetics in Russia ("Chestny ZNAK")

Start Date	Product Category	Regulatory Status
March 1, 2025	Bath Soap and Bar Soap	Mandatory.
July 1, 2025	Deodorants, Hair Products, Shaving Products	Mandatory.
October 1, 2025	Decorative Cosmetics and Toothpaste	Mandatory.

Source: Rospotrebnadzor and EAEU Regulation Updates.

The use of this technology reflects a paradigm shift from human-based oversight (physical inspections) toward data-driven oversight. Nevertheless, Russia continues to face challenges in enforcing the law against international online platforms that do not have legal representation within the EAEU territory (Official website of Clinical Excellence Group, 2026). Criminal sanctions under Article 238 of the UKRF remain the last line of defense when the administrative digital tracking system is deliberately violated for substantial financial gain (Gowling WLG, 2015).

One important aspect of the effectiveness of law enforcement in Russia is the recognition of consumers' moral damages. Under the Russian legal system, consumers harmed by illegal products are entitled not only to material compensation (medical expenses or refunds), but may also claim compensation for the physical and moral suffering they have experienced (Cherstobitov, 2001). This differs from practice in Indonesia, where victim protection in cases involving illegal cosmetics remains heavily focused on punishing the perpetrator (offender-oriented), while compensation mechanisms for victims are often overlooked in criminal proceedings (Ezarya & Ratnaningsih, 2025).

Another challenge emerging in both countries is the phenomenon of the "shadow economy," in which cosmetic products are manufactured on a household scale using highly unsuitable ingredients. In Surabaya, Indonesia, law enforcement has been carried out against perpetrators who manufacture counterfeit cosmetics using bar soap, alcohol, and food coloring without a professional formulation process (Aufi, 2021).This case demonstrates that health risks arise not only from pure chemical substances, but also from highly substandard sanitary conditions and production methods. In Russia, similar challenges have been identified in the distribution of "counterfeit" perfumes and cosmetics using toxic chemicals that are not listed in the annexes to TR CU 009/2011 (CE.way Regulatory Consultants, 2019).

The effectiveness of law enforcement is also influenced by the level of legal literacy among the public. In Indonesia, many consumers continue to purchase illegal cosmetics because of their low prices and immediate results, as well as a lack of knowledge about the mechanisms for reporting such products to BPOM (Tania et al., 2025). In Russia, the "Chestny ZNAK" mobile application has helped increase consumer awareness by enabling individuals to instantly verify products before making a purchase (Schmidt, 2011). The synergy between public participation, tracking technology, and the strict enforcement of criminal sanctions is a key factor in reducing the circulation of illegal cosmetics.

Ultimately, the comparison between Indonesia and Russia demonstrates that criminal law enforcement must evolve from merely providing a reactive response to findings in the market into an integrated system combining criminal law,

administrative law, and technological innovation. The strengthening of legal policy through the 2023 Health Law in Indonesia provides a strong foundation, but the adoption of tracking technology such as that implemented by Russia could serve as a crucial complementary measure to address the disruption of the anonymous and massive digital market.

4. Conclusion

Criminal law policy in addressing the distribution of illegal cosmetics in Indonesia and Russia demonstrates the states' commitment to strengthening public health protection through more punitive and technocratic regulatory instruments. Indonesia has taken progressive steps by enacting Law No. 17 of 2023, which significantly increases the thresholds for criminal sanctions and fines, reflecting a shift from a purely administrative approach toward more stringent criminal liability for business operators. On the other hand, Russia strengthens its health sovereignty through the integration of EAEU regional technical standards and the implementation of a mandatory digital tracking system that systematically restricts the circulation of illegal products at points of sale. The effectiveness of law enforcement in both countries continues to face major challenges in the form of disparities in court sentences, which are often far below the maximum penalties, as well as disruption of the digital market, which enables perpetrators to remain anonymous. This comparative analysis suggests that the successful suppression of illegal cosmetics depends not only on the severity of imprisonment, but also on the synergy between the speed of digital investigations, supply chain transparency through labeling technology, and victim protection encompassing effective compensation mechanisms. Indonesia may consider adopting a Data Matrix-based tracking system similar to that of Russia to complement BPOM oversight, while both countries need to strengthen international cooperation to disrupt cross-border supply chains of hazardous cosmetics. Consumer legal awareness remains a key pillar, whereby criminal law enforcement must function not only as an instrument for punishment, but also as an instrument of public education to create a safe and responsible beauty market ecosystem.

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