

Legal Liability for Celebrities Promoting Goods Through The Instagram Platform

Devlita Almi Az Zahra¹, Herwastoeti², and Dwi Ratna Indri Hapsari^{3*}
^{1,2,3}Faculty of Law, University Muhammadiyah Malang
*Corresponding: dwiratna@umm.ac.id

Abstract

This study aims to investigate the Legal Position of celebrities in promoting goods through the Instagram platform and the form of legal liability by celebrities for endorsements or advertised products. With a normative Legal method supported by statutory and conceptual approaches in the context of problem-solving, and Library Research, this research reveals that the legal position of celebrities holds no legal basis which specifically regulates the legal position of celebrities and no rules used and applied, resulting in a vacuum in norms. When a problem regarding endorsement with indications of products not in accordance with what is advertised emerges, this issue involves Liability based on fault. In such a case, the relevant form of liability where the celebgram is responsible for losses caused by mistakes contravening Article 4 letter h of Law No. 8 of 1999 concerning Consumer Protection asserting that consumers are entitled to compensation, compensation and/or replacement if the goods and/or services received are not by the agreement or not as they should be.

Keywords: Endorsement; Instagram; Responsibility.

Abstrak

Penelitian ini bertujuan untuk dapat mengetahui tentang Kedudukan Hukum selebgram dalam mempromosikan barang melalui platform *Instagram* serta untuk dapat mengetahui tentang bentuk pertanggungjawaban hukum oleh selebgram atas endorsement atau produk yang diklankan. Metode penelitian yang dipakai adalah jenis Penelitian Hukum Normatif dengan metode pendekatan perundang-undangan (*the statute approach*), penelitian ini juga menggunakan pendekatan konseptual (*the conceptual approach*) yang digunakan dalam rangka pemecahan masalah, serta penelitian ini merupakan penelitian kepustakaan (Library Research). Hasil penelitian yang didapat adalah Kedudukan hukum selebgram secara khusus ditegaskan bahwasanya tidak ada dasar hukum yang mengatur secara khusus mengenai kedudukan hukum selebgram dan belum memiliki aturan yang dipakai dan diterapkan akibatnya terjadi kekosongan norma. Ketika terjadi permasalahan mengenai *endorsement* dengan indikasi produk yang tidak sesuai dengan yang diklankan maka bentuk pertanggungjawaban yang dilakukan adalah *Liability base on fault*. Dimana dalam hal ini dapat dijelaskan bahwa Bentuk pertanggungjawaban yang relevan adalah dimana selebgram bertanggungjawab atas kerugian yang disebabkan oleh kesalahan yang dilakukannya terdapat dalam Pasal 4 huruf h UU No. 8 Tahun 1999 tentang Perlindungan Konsumen yang berbunyi konsumen berhak untuk mendapatkan kompensasi, ganti rugi dan/atau penggantian, apabila barang dan/atau jasa yang diterima tidak sesuai dengan perjanjian atau tidak sebagaimana mestinya.

Kata Kunci: Endorsment; Instagram; Pertanggungjawaban.



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A. INTRODUCTION

Digital communication technology is currently developing rapidly.¹ almost all Indonesian industrial sectors are now starting to explore and adapt to this situation. Such development makes it easier for people to access relevant information. Technology supports the immediacy and speed of Communication in this digital age. Ami Muhammad Forsdale argues that communication is a process by which individuals usually send rapid responses as a form of language to change or make others obtain such information. In general, communication can also be said to convey information to people orally or in a written form.²

The development of digital communication technology contributes at all levels of the Community or group to effective communication. One of the forms of development is related to the presence of social media, which is a place where every individual can interact online. People can get to know each other through social media and can learn information together with others without face-to-face encounters. The public can also shop online through the platforms provided. Social media has also begun to replace the role of electronic media and conventional mass media because people assume that information on social media spreads fast. Social media provides a new world for society, in which people see it fit to do online business.³

The digital advertising space⁴ always involves celebrities since the popularity of social media has increased rapidly and its platforms have become closer to people's lives. As the young demographic grows in technology, celebrity marketing is now taking a larger share in digital advertising. Currently, the social media platform Instagram is widely used by celebrities because it is more profitable for business people who want to endorse goods.

The emergence of Instagram creates a wider space for celebrities often dubbed celebgrams (celebrities of Instagram). Celebgrams are defined as celebrities or public figures *on Instagram with the number of followers in their accounts viewed as a business opportunity by business people to help promote their businesses on their accounts. This approach is intended to increase followers.* The celebgrams want to follow businesses or products endorsed by celebgrams. If previously the community advertised products on television, radio, newspapers or street billboards, in this digital era, people market their products on social media. *Marketing products using the Instagram platform are considered more effective.*⁵ People can find out the type of product, quality and quantity of goods only through social media accessible anywhere and anytime, and this paperless transaction system does not require any face-to-face encounter⁶.

¹ Edyta Golab-Andrzejak, "Measuring the Effectiveness of Digital Communication – Social Media Performance: An Example of the Role Played by AI-Assisted Tools at a University," *Procedia Computer Science* 225 (January 1, 2023): 3332–41, <https://doi.org/10.1016/J.PROCS.2023.10.327>.

² Yajie He et al., "Smart All-Time Vision: The Battery-Free Video Communication for Urban Administration and Law Enforcement," *Digital Communications and Networks* 9, no. 6 (December 1, 2023): 1411–20, <https://doi.org/10.1016/J.DCAN.2023.05.007>.

³ Nikolaos Lykousas and Constantinos Patsakis, "Large-Scale Analysis of Grooming in Modern Social Networks," *Expert Systems with Applications* 176 (August 15, 2021): 114808, <https://doi.org/10.1016/J.ESWA.2021.114808>.

⁴ Yogesh K. Dwivedi et al., "Setting the Future of Digital and Social Media Marketing Research: Perspectives and Research Propositions," *International Journal of Information Management* 59 (August 1, 2021): 102168, <https://doi.org/10.1016/J.IJINFOMGT.2020.102168>.

⁵ Janus Sidabalok, *Hukum Perlindungan Konsumen Di Indonesia* (Bandung: Citra Aditya Bakti, 2014).

⁶ A. H Bakatullah, *Perlindungan Hukum Bagi Konsumen Dalam Transaksi E. Commerce Lintas Negara Di Indonesia* (Yogyakarta: UII Press, 2009).

Social media is chosen by business actors as a marketing medium because it is one of the cheapest yet far-reaching marketing methods to reach customers and potential buyers. With the ease and efficiency of access to social media, Instagram results in a domino effect—a cumulative effect produced in an event that gives rise to another event. In this case, the domino effect can be utilized by entrepreneurs or online stores in the promotion of their products. Instagram was chosen as a medium for promotion because Instagram is user-friendly for almost all generations, especially the millennial generation. Instagram enables its users to share stories with their photos and videos and to follow each other.⁷ Instagram users with many followers are famous and may become celebrities—commonly known as celebgrams. Celebrities with good reputations and lots of followers are influential to other users, and their influential position is often viewed as a chance to market products on their Instagram accounts.⁸

The scheme of marketing carried out through Instagram is called *paid promotion* or *endorsement*, where every seller marketing his product will take advantage of the influential power of *celebgrams* to help market products to the public. Usually, celebgrams will upload or post photos or videos to attract followers and encourage them to buy the products or get to know the business actors. Many business people choose to promote their products through Instagram because the Instagram platform is more widely used by the millennial generation and this application has easy-to-use features, often involving photo sharing among users. Each user will follow other users; more followers means more popularity.⁹

Business actors no longer need to think about how to market their products. With this type of *endorsement*, business actors only need to pick the right influencer to endorse products, and how the products should be presented and uploaded as part of the endorsement will depend on the influencer's decision simply because influencers in general have a wider scope of reaching consumers. Production promotion assisted by celebrities is very effective, enabling business actors to gain a lot of benefits from the posts uploaded on celebrities' Instagram accounts. Thus, this approach motivates people to increase their business activities.

Behind the many conveniences obtained by the development of technology through social media, of course, the crime rate is also increasing and increasingly diverse. The public should not turn a blind eye to the facts that occur today as the development of communication technology and crime information will be more diverse. Criminals will certainly look for loopholes to be able to launch their actions. One of the easiest ways is to take advantage of the development of communication and information technology. Several cases of product *endorsements* have shown that unethical conduct has been involved, where several celebrities *endorse* the goods or services not in accordance with testimonials containing false and misleading information that may harm social media users interested in paid ads.¹⁰

⁷ Chairul Huda, *Dari Tiada Pidana Tanpa Kesalahan 'menuju Kepada' Tiada Pertanggung Jawaban Pidana Tanpa Kesalahan* (Jakarta: Kencana, 2011).

⁸ Nida Khohida Safitri, "Perlindungan Konsumen Atas Hak Informasi Produk Endorsement Influencer/Selebgram Melalui Media Instagram" (Universitas Islam Indonesia, 2020).

⁹ Brillianty Nadiva Yana Wibowo, "Kajian New Media Pengembangan Bisnis Paid Promote" (Universitas Sebelas Maret, 2020).

¹⁰ Kartini Muljadi and Gunawan Widjaja, *Seri Hukum Perikatan (Perikatan Yang Lahir Dari Perjanjian)* (Jakarta: Raja Grafindo Persada, 2003).

The efforts made by Influencers in promoting products are required to be able to attract the attention of consumers with their creative ideas; therefore, when creating promotional content, influencers are often found to use *flexing* narratives which tell about something excessively. A Nielsen survey of the Consumer Trust Index reports that 92% of consumers trust influencers more than traditional advertising. This trust is based on the reviews given by these influencers as if they look natural and not artificial.¹¹

As an example of several cases that have occurred recently, namely the case of KP skincare endorsement with Helwa Skincare, in November 2019 Richard Lee reviewed the product "Helwa" and conducted laboratory tests where it found the mercury content of hydroquinone. A few months later, in August 2020 Richard Lee reviewed the product review for "Helwa" because it had changed the packaging and product label (and had BPOM) so laboratory tests were carried out again and concluded that this product contained high hydroquinone by 5.7%, Kartika Putri brand ambassador of "Helwa" did not accept the product being called "bogus" (CNN Indonesia 2021) and made a response video responding to Richard Lee's statement on Point a above, and invited Richard Lee to discuss the issue. The meeting was uploaded on December 12, 2020, on Richard Lee's YouTube (dr. Richard Lee, MARS).¹²

After the meeting, Kartika Putri finally reported Richard Lee for defamation using Richard Lee's Instagram account (@dr.richardlee) to the Jakarta Metro Regional Police. Mediation had been attempted by the police 3 times but to no avail. dr. Richard was taken to the police station to be detained. After going through several proceedings finally, Dr. Richard was found not guilty and Helwa's skincare had used hydroquinone. This certainly made the public question Kartika Putri's responsibility as a skincare brand ambassador. The public was disappointed since Kartika did not first check the BPOM before promoting the product and this negligence has caused losses affecting consumers.¹³

For example, several *celebrity endorsers* were called witnesses by the East Java Regional Police for promoting illegal cosmetic products. *The celebrity endorsers* are rising stars, Nella Kharisma and Via Vallen, who promote illegal cosmetic products under the brand Derma Skin Care (DSC) through their social media accounts. The many benefits obtained and the lack of public knowledge about illegal cosmetics are reasons for unscrupulous business actors to trade illegal cosmetic products. *Endorsers* who promote illegal products certainly harm consumers who use illegal products because they feel invited by the promotion of endorsers.¹⁴

On the other hand, consumers cannot hold the *endorsers* accountable as the advertisers because basically, the accountability will involve the producers or businesses in accordance with the UUPK. Whereas in practice, consumers know the product and use the product for the lure of advertising carried out by *endorsers* or celebrities who promote it. Consumer needs for product information are very important, especially in the pre-transaction stage of consumers. This is because, with the availability of this information, consumers can be careful to use

¹¹ Nielsen, "Consumer Trust in Online, Social and Mobile Advertising Grows," April 2012.

¹² Tim/DAL, "Kronologi Kasus Dokter Richard Lee Vs Kartika Putri Berujung Bui," *CNN INDONESIA*, December 2021.

¹³ Tim/DAL.

¹⁴ Frd/arh, "Via Vallen Klaim Tak Tahu Produk 'Endorse' Ilegal," *CNN INDONESIA*, December 2018.

available sources of funds to buy products that suit their needs. Receiving wrong information will result in wrong choices by consumers and losses that consumers have to bear.¹⁵

From this example, it is clear that celebrities cannot be consistent with the products they use and the results of the products cause some ordinary consumers to feel confused about, for example, what cosmetics they use for clean and bright skin. The prohibitions for business actors are regulated in Article 9 letter (j) of the Consumer Protection Law, contradicting Article 17 of Law No. 8 of 1999 concerning Consumer Protection regarding the prohibition for business actors in advertising activities that deceive consumers.¹⁶

Several studies discuss this *endorsement* practice, one of which is the thesis compiled by Meidiana Cahya Anjarningtyas with the title "Endorser Responsibility for Consumer Losses Due to the Use of Endorsement Products". This study explains that Endorsement can be said to be an action to support a product or service and is part of a form of promotion supported by someone who is considered important or influential. *The endorser is a liaison between the seller and the buyer when promoting an item provided by a business actor and the consumer losses experienced are the responsibility of the business actor who produced the product unless the endorser at the time of promoting breaks the laws and regulations. Therefore, he can be held accountable based on unlawful acts in Article 1365 of the Civil Code.*¹⁷

Research conducted by Desy Purnama Melati entitled "Endorsement Agreement in Consumer Protection Perspective" discussed the legal position between endorsers, sellers and consumers, entailing legal relationship of the parties in the *endorsement* agreement to do work based on Article 1601 letter (c) of the Civil Code, which is included in the category of agreements to perform certain services based on Article 1320 of the Civil Code, also based on the principle of freedom of contract as stipulated in Article 1338 paragraph (1) of the Civil Code. The responsibility of the parties in the *endorsement agreement* for losses affecting consumers due to the use of products or services promoted by celebrities on Instagram *is that the owner of the online shop can be jointly responsible with the celebgram. The basis of a lawsuit against an online shop owner is default, while the basis of a lawsuit against a celebrity is an act against the law.*¹⁸

A thesis written by Putri Thio Artha Simanjuntak, entitled "Consumer Protection Against Marketing Strategies by Using Endorsement Services on Instagram" explains consumer protection of marketing strategies by using endorsement services on Instagram, where business actors lie about the quality of the products and/or services offered which are not in accordance with the sale and purchase agreement made by business actors and consumers and are not in accordance with what is promoted or advertised through celebrity endorsements. Celebrity endorsements that know lies about the quality of goods and or services not according to reality

¹⁵ Valentine Parengkuan, Altje Tumbel, and Rudy Wenas, "Analisis Pengaruh Brand Image Dan Celebrity Endorment Terhadap Keputusan Pembelian Produk Shampo Head and Shoulders Di 24 Mart Manado," *Jurnal EMBA* 2, no. 3 (2018): 1792–1802.

¹⁶ Safitri, "Perlindungan Konsumen Atas Hak Informasi Produk Endorsement Influencer/Selebgram Melalui Media Instagram."

¹⁷ Meidiana Cahya Anjarningtyas, "Tanggung Jawab Endorser Atas Kerugian Konsumen Akibat Penggunaan Produk Endorsement" (Universitas Islam Malang, 2021).

¹⁸ Desy Purnama Melati, "Perjanjian Endorsement Dalam Perspektif Perlindungan Konsumen" (Universitas Lambung Mangkurat, 2020).

but still cooperate in making promotions or advertisements of the product can be subject to demands from consumers provided that consumers can prove that celebrity endorsements are involved in such dishonesty of business actors. The responsibility of business actors in default can be done by continuing/cancelling the agreement and indemnifying the arising from the default. In case of a violation of consumer rights by business actors, the UUPK has also provided a dispute resolution institution between business actors and consumers, namely BPSK or can resolve disputes through the court.¹⁹

Consumer's need for product information is very important, especially in the pre-transaction stage of the consumer because, with the availability of this information, consumers can be careful to use available sources of funds to buy products that suit their needs. The wrong information which consumers obtain may lead to wrong choices of products, thereby putting consumers as the aggrieved parties.

Until now there is no legal basis that regulates and ensnares endorsers. Those who advertise products with fake reviews have deceived followers.

B. METHOD

This research is a normative Legal study that views law as a normative system. The normative system in question is principles, norms, legal rules, court decisions, conventions, and doctrines (doctrines).²⁰ Normative legal research is also referred to as literature study which means from various references relevant to the subject of discussion "Legal Responsibility for Celebrities Promoting Goods through the Instagram Platform". This followed the issuance of Law No. 8 of 1999 concerning Consumer Protection which regulates unlawful acts, particularly in Article 1365 of the Civil Code. Mahmud Marzuki explains that a study with normative law involves a process of discovering the rule of law and legal principles. To respond to legal questions, normative legal research is carried out and new arguments, theories, or concepts are developed as prescriptions (assessments) to the questions posed.²¹

C. RESULTS AND DISCUSSIONS

1. The Legal Position of Celebrities in Promoting Goods through the Instagram Platform

Currently, there is no specific regulation regarding *endorsement* in Indonesia as an advertising medium. *Endorsement* is also a form of innovation from traditional marketing methods and a solution for business stakeholders in setting up their businesses. This is also a symbol of the development of the creative industry due to highly advanced digitalization which has stable development potential. *Endorsement* through *Instagram* involves a collaboration between the communication and advertising industries conventionally, and it continues to grow on social media.²² Marketing is one type of advertising industry, usually a tool to advertise a good or service as well as persuasive communication through certain media. Marketing communications serve as a way of informing, persuading, and influencing consumers about

¹⁹ Yulfin Tandi Buak, "Kajian Hukum Terhadap Jasa Promosi Oleh Influencer Pada Media Sosial Yang Menyimpang Dari Ketentuan Undang-Undang Perlindungan Konsumen," *Lex Privatum* 11, no. 4 (2023): 9.

²⁰ Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI Press, 2006).

²¹ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2017).

²² Mudakir Iskandar Syah, *Hukum Bisnis Online Era Digital* (Jakarta: Sinar Grafika, 2018).

particular products or services. In this case, Instagram is utilized as a medium to do marketing. Departing from such development, currently with the *endorsement* through *Instagram*, of course, celebrities and business actors are bound to each other in a legal relationship.²³

In promotional activities such as those always performed by business actors through social media, it is known that promotions carried out through social media and the intervention of a celebgram are inextricable. Promotional activities carried out are referred to as *endorsement* activities, which take place solely to increase product sales. Through the accounts of celebrities with many prospective consumers or followers, products or services are advertised with the hope of attracting more consumers. This trend often comes with better packaging presented by celebrities. It is important to remember that celebrities are famous figures paid to do marketing or promotion of goods or services. Currently, the value of a celebrity is seen from the number of followers. Celebrities play an essential role in influencing consumers to buy a product, considering that the involvement of celebrities will certainly invite more consumers when prospective buyers are assured that celebrities use the products advertised and that the role of celebrities in purchasing decisions is very extensive.²⁴

The business actors and the celebgrams are bound under a cooperation agreement as specified under the Civil Code. The *endorsement cooperation agreement* must certainly meet the standard requirements of an agreement to ensure that it is enforceable. The conditions for the validity of the agreement according to Article 1320 of the Civil Code consist of an agreement, the existence of a legally capable subject to make an agreement, the existence of the matters the parties agree with, and the existence of a lawful cause or goal to be achieved by the parties.²⁵ Regarding the matters contained in the agreement, the parties are obliged to fulfil it. In such an agreement, the business actor is obliged to provide payment to celebrities, while a celebgram is responsible for promoting content or materials provided by business actors. According to "Article 1319 of the Civil Code, the types of agreements are divided into 2 (two) types, namely named *agreements (nomnaat)* and unnamed agreements (*innominaat*). The "agreement" of cooperation is indeed specifically not contained in the Civil Code. However, in its implementation in the community, this cooperation agreement is adjusted to the needs of the parties who hold it so that the cooperation agreement is included in the type of unnamed agreement. In its execution, an anonymous agreement must remain subject to the general provisions of the Civil Code.²⁶

Rechtbetrekkingen or legal relationship is referred to as a relationship between 2 (two) or more legal subjects regarding the rights and obligations of one party *vis-à-vis* the rights and obligations of the other party. A legal relationship can be established between two legal

²³ Abdul Kholiq, "Kajian Pertanggungjawaban Pidana Influencer Terhadap Investasi Ilegal," *Jurnal Esensi Hukum* 4, no. 2 (2022): 154–70.

²⁴ Syah, *Hukum Bisnis Online Era Digital*.

²⁵ Huswatun Hasanah, Tjuk Wirawan, and Zainuri, "Pertanggungjawaban Hukum Influencer Terhadap Kegiatan Promosi Melalui Aplikasi Tiktok," *Jurnal Pro Hukum* 11, no. 5 (2022): 670–89.

²⁶ Ayu Atha Diva Daniswara and I Wayan Novy Purwanto, "Perlindungan Hukum Terhadap Pengguna Produk Bermasalah Promosi Iklan: Pendekatan Tanggung Jawab Penyedia Jasa Iklan," *Jurnal Kertha Semaya* 8, no. 5 (2020): 789–99.

subjects. This legal relationship can also take place between two legal entities and between a perpetrator and a celebrity.²⁷

Subekti views an engagement as an abstract form of an agreement and an agreement as a concrete form of an agreement. That is, there is a legal relationship between the two parties involving rights and obligations, a right to demand something, and an obligation to fulfil a demand. These legal relationships may occur with fellow legal subjects or between a legal subject and an object. The occurrence of a relationship between legal subjects can be caused by several people, people together with a legal entity, or between legal entities, or between the subject and object of law in the form of what rights are controlled by the subject or the object of law, whether the object is movable, immovable, or tangible.²⁸

The Civil Code Article 1313 states "An agreement is an act in the name of one or more persons binding itself to one or more persons". In addition, the Civil Code regulates the legal conditions of an agreement contained in Article 1320, including:

- a. An agreement from the parties that binds themselves
- b. The ability to make an agreement,
- c. The existence of a certain cause and
- d. The existence of a cause that is not forbidden. The four requirements are grouped into 2 (two) types, namely subjective and objective requirements.²⁹

An endorsement *cooperation* agreement is an agreement in which business actors are obliged to provide achievements in the form of fees or payments for promotions made by celebrities, while celebrities must perform an achievement by promoting the business actors' products. However, it is not uncommon for business actors to ask celebrities to create the impression that the promoted products are good, safe, and well-functioning. The agreement that arises between these parties is juridically specified in Article 1313 of the Civil Code, which explains that an agreement or contract is an event involving two parties agreeing to do something over particular matters. The form of the endorsement cooperation agreement is free but must meet the legal requirements of an agreement as regulated by Article 1320 of the Civil Code.³⁰

Therefore, in the legal relationship between *endorsement business actors* through *Instagram*, both the celebrity and the business actor are bound by a legal relationship when the parties provide information or agreed matters related to the product and/or service and sign an agreement or agree to carry out a cooperative relationship. The parties will certainly carry the rights and obligations to be resolved to other parties. The business actor, *endorser* and *celebrity*, of course, are bound to comply with the provisions contained in the law.

In terms of legal position, the business actor in this case is the person with interest in promoting goods or services to attract their targeted consumers. A business actor is also

²⁷ Buak, "Kajian Hukum Terhadap Jasa Promosi Oleh Influencer Pada Media Sosial Yang Menyimpang Dari Ketentuan Undang-Undang Perlindungan Konsumen."

²⁸ Michael Rivera and Abby Yi, "Social Media Endorsement Activities Can Prompt Securities and Exchange Commission Liability for Celebrities," *Entertainment & Sports Lawyer* 37, no. 1 (2021).

²⁹ Amiruddin and Zainal Asikin, *Pengantar Metode Penelitian Hukum*, 12th ed. (Depok: Rajawali Pers, 2021).

³⁰ Feny Ulfina Murdayantin, Amelia Agustin, and Dita Pebrianti, "Moral Dan Etika Notaris Di Era Society 5.0 : Kajian Fungsi Artificial Intelligence Terhadap Profesi Notaris," *Das Sollen: Jurnal Kajian Kontemporer Hukum Dan Masyarakat* 1, no. 2 (2023): 1–25, <https://doi.org/10.11111/dassollen.xxxxxxx>.

considered as the person who produces goods or services to be advertised, and he/she is also required to obey every regulation therein, according to the provisions in Article 9 paragraph (1) of Law No. 8 of 1999 concerning Consumer Protection (hereinafter referred to as UUPK) stating:³¹

"Business actors are prohibited from offering, promoting, advertising goods and/or services inappropriately, and/or as if:

- a. The goods met and/or had discounts, special prices, certain quality standards, certain styles or fashions, certain characteristics, history or certain uses;
- b. The goods were in good condition and/or new;
- c. The goods and/or services had obtained and/or had sponsorship, approval, certain equipment, certain benefits, certain features or certain accessories;"
- d. The goods and/or services were made by companies that have sponsorship, approval or affiliation;
- e. Such goods and/or services were available;
- f. The item did not contain any hidden defects;
- g. The goods were supplementary to other items;
- h. The goods came from a specific area;
- i. Directly or indirectly denigrating other goods and/or services;
- j. Using excessive words or phrases, such as "safe", "harmless", and "did not contain risks or side effects" without complete description.;
- k. Offering something that contains uncertain promises."

Endorsement agreements consist of Celebrities as endorsement service providers and business actors who are not spared from *e-commerce* problems involving morals and good faith. What is meant by *this endorsement technique is an agreement that includes several parties and causes an achievement, namely the existence of rights and obligations for the parties who carry out the endorsement agreement*. The endorsement agreement *is basically an agreement, but in the Civil Code*, the endorsement agreement is not regulated because Book III of the Civil Code uses an open system, allowing *endorsement* agreements.

The *endorsement agreement* contains the rights and obligations of each party, and such rights and obligations of the business actors are regulated in Articles 6 and 7 of the Law. Rights for business actors in general include:³²

- a. A business actor, in this context, has the right to benefit from what has been performed by an influencer as *an endorser* who helps promote goods/products sold by the business actor to consumers.
- b. A business actor has the right to sue *the endorser if the endorser does not perform obligations in accordance with the agreement agreed by the two parties*.
- c. A business actor has the right to defend himself properly in resolving a dispute against consumers.

³¹ N M R Dwikayanti and N P Purwanti, "Perlindungan Hukum Bagi Pemberi Jasa Endorse Dalam Perjanjian Endorsement," ... *Semaya: Journal Ilmu* ... 9, no. 5 (2021): 747–59.

³² Dewa Ayu Kade and Wida Suryandini, "Pertanggungjawaban Selebgram Terhadap Konsumen Yang Mempromosikan Barang Dan Jasa Di Media Sosial," *Jurnal Kertha Semaya* 8, no. 6 (2020): 922–32.

- d. A business actor is entitled to legal protection and restoration of reputation if the business actor is proven innocent of the charges filed against him.

Furthermore, regarding the obligations of the business actor, among others:³³

- a. A business actor is required to pay in the form of a sum of money to the endorser as the party promoting goods/products owned by the business actor to consumers in compliance with an agreement they have agreed upon.
- b. A business actor is obliged to give direction to a celebgram endorsing the products by providing instructions regarding products or goods promoted.
- c. A business actor is responsible for the information or the condition of the goods they trade.
- d. A business actor must have good faith and be honest in carrying out a business activity and can guarantee the standard/quality of a good or service he/she produces.
- e. A business actor is obliged to provide guarantees or compensations if what is traded is not in accordance with the agreement

Regarding the obligations of the influencers hired, influencers are obliged to promote or post products or goods belonging to business actors on social media through the accounts of influencers in accordance with the agreement. In general, celebrities *as endorsers* or parties promote the products to consumers based on agreements that have been made by both parties. After receiving their rights with a certain amount of payment from business actors, Celebrities or *endorsers* will carry out their obligations to promote products in accordance with the agreement that has been agreed upon by both parties. Both endorsers and consumers do not have any direct legal relationship with one another. That is, consumers cannot sue celebrities as a result of losses affecting consumers.³⁴

In general, this *endorsement* is an innovation of the marketing process on Instagram by paying Instagram account owners with a large number of followers to promote products with the hope that the followers of those accounts are encouraged to buy the products, ranging from food, drinks, clothing, contemporary hangouts, to tourist attractions. Usually, celebrities will upload or post photos or videos related to the products to entice followers into buying or introducing businesses from business actors.³⁵

Celebrities in collaborating with online business owners act as facilitators who facilitate promoting or advertising goods and services. According to Article 1 point 6 of Law No. 8 of 1999 concerning Consumer Protection, promotion is defined as "the activity of imposing or disseminating information on goods and/or services to attract consumer interest in goods and/or services that will be and are being traded". Celebrities are chosen as facilitators to convey messages in the form of information to consumers, the selection of celebrities as facilitators is not merely a promotion but celebrities are considered capable of conveying information in a wide range expected to influence the public to buy the products they promote.³⁶

³³ Kade and Suryandini.

³⁴ Daniswara and Purwanto, "Perlindungan Hukum Terhadap Pengguna Produk Bermasalah Promosi Iklan: Pendekatan Tanggung Jawab Penyedia Jasa Iklan."

³⁵ Ami Muhammad, *Komunikasi Organisasi* (Jakarta: PT Bumi Aksara, 2014).

³⁶ Celina Tri Siwi Kristiyanti, *Hukum Perlindungan Konsumen* (Jakarta: Sinar Grafika, 2008).

Celebrities are chosen to advertise or promote a product or service on social media, so it is necessary to understand in advance how the legal position of celebrities in this endorsement cooperation. Celebrities are chosen by business actors to advertise their goods or services. Regarding the position of celebrities in terms of advertising, Taufik H. Simatupang, in his book entitled *Legal Aspects of Advertising*, asserts that several parties are involved in the advertising business:³⁷

- a. Companies or advertising agencies,
- b. Advertising broadcasters
- c. Advertisers (ad installers)

In terms of the position of celebrities in the field of advertising, Article 16 paragraph (1) of Law No. 32 of 2002 concerning Broadcasting regulates private broadcasters as referred to in Article 13 paragraph (2) point b, mentioning "broadcasters of a commercial nature in the form of Indonesian legal entities, whose business fields only provide radio or television broadcasting services". This Article confirms that there is no legal basis that specifically regulates the legal position of celebrities, for celebrities in carrying out advertising broadcasting activities on social media. Celebrities can be categorized as parties who broadcast advertisements based on the definition of broadcasting. Concerning broadcasting, Article 1 paragraphs (1) and (2) states that:

"Broadcast is a message or a series of messages in the form of sound, images, or sounds and images, or in the form of graphics, characters, whether interactive or not, which can be received through a broadcast receiving device."

"Broadcasting is the activity of transmitting broadcasts through transmission facilities and/or transmission facilities on land, at sea or in space using radio frequency spectrum through air, cable, and/or other media to be received simultaneously by the public with broadcast receiving devices."

Instagram as a social media is included as an advertising broadcaster media that has a legal position as a private broadcaster with the category of broadcasting through electronic media.³⁸

Several parties are involved in the advertising business as mentioned above. Celebrities who *endorse* openly on their personal Instagram accounts and can be seen and accessed by their followers have the same duties and functions as advertising companies in terms of using services in making and promoting advertisements, whereas business actors who usually hire the services of advertising companies are now switching to using the services of celebrities to advertise and promote goods or services. Celebrities in terms of consumer protection are icons or figures who are legally perceived to be direct sources who carry out promotions to convey the message of a product. So, within the scope of consumer protection law, celebrities are seen as part of producers who produce advertising concepts instead of products or services. Celebrities run businesses engaged in selling and advertising services to advertise products or services owned by business actors.

A celebgram introduces and promotes goods on his account on Instagram as one of the social media. However, when a problem arises, the platform cannot be sued because it is not

³⁷ Dwikayanti and Purwanti, "Perlindungan Hukum Bagi Pemberi Jasa Endorse Dalam Perjanjian Endorsement."

³⁸ IGAM Kepakisan and C D Dahana, "Periklanan Intrusive Advertising/Iklan Peralihan Pada Mobile Phone," *Kertha Semaya: Journal Ilmu ...*, 2018, 1-6.

the responsibility of the Instagram platform unless the celebrity uses the features provided by Instagram. The word that is often referred to as *celebrity endorser* is a celebrity who is known to function as an intermediary of information on an item to the public, and also advertisement is often used to promote new goods in the community.³⁹

Although a celebgram and a business actor are bound by a separate agreement, the celebgram as an icon and also as a model in endorsement promotion becomes a source that conveys messages or information about a product directly to consumers without using the services of other companies or advertising agencies. As an advertising business actor, the celebgram must pay attention to what is and is not allowed to do.

Consumer Protection Law No. 8 of 1999 specifically regulates advertising business actors under Article 17 and prohibits matters related to advertising as follows:⁴⁰

- a. Advertising businesses are prohibited from producing advertisements that:
 1. Deceive consumers in terms of the quality, quantity, materials, uses and prices of goods and/or service tariffs, as well as the stipulation of the time of receipt of goods and/or services;
 2. Circumvent warranties/guarantees for goods and/or services;
 3. Contain false or incorrect information on goods and/or services or false statements;
 4. Do not contain information about the risks of using goods and/or services;
 5. Exploit events and/or persons without the relevant seizing authority or consent;
 6. Violate the ethics and/or provisions of the legal regulations on advertising;
- b. Advertisers are prohibited from continuing the circulation of advertisements that have violated the provisions as referred to in paragraph (1);

In the delivery of the correct information system to consumers carried out by celebrities, in its delivery, it is forbidden to exaggerate a product. However, celebrities must tell the truth about the product and avoid Hoax elements. Misused information will result in sanctions. The matters related to the endorsement carried out by celebrities refer to Articles 8 to 17 of the Law.

Certain restrictions in advertising carried out by celebrities are regulated by Law No. 32 of 2002 concerning broadcasting. The law can be a reference for celebrities in promoting goods, but according to Article 1 of the Broadcasting Law, celebrities use their accounts that have a large number of followers and have nothing to do with broadcasting. That is, the law cannot regulate more deeply about endorsements made by celebrities. A celebgram is responsible for providing advertising services on social media, but broadcasting celebrities, as stated above, cannot be regulated further. In this case, celebrities hold no permanent legal force, and this problem is viewed as a legal vacuum. This matter needs to be emphasized to avoid inappropriate information from the media.⁴¹

Delivering correct information to consumers about a product is essential to ensure that consumers are not mistaken for the description of a particular product. The delivery of information to consumers can be in the form of representations, warnings, or in the form of instructions. If the information is considered to contain elements of hoaxes, sanctions can be imposed according to Article 378 of the Criminal Code and Article 1321 of the Civil Code.

³⁹ Kepakisan and Dahana.

⁴⁰ Kristiyanti, *Hukum Perlindungan Konsumen*.

⁴¹ Kristiyanti.

From the Articles, wrong information can lead to the cancellation of the agreement by both parties. Problems regarding advertising are referred to in Articles 8 to 17 of the Consumer Protection Law. Law No. 32 of 2002 concerning Broadcasting strictly regulates the limits on broadcasting, which can set the standard for celebrities before promoting goods.⁴²

The above law does not fully regulate the prohibition of advertising that can be broadcast. An advertisement broadcast with the intention of harming society can be categorized as a betrayal of the value of public decency. Article 1 point 2 of Law No. 32 of 2002 concerning Broadcasting states: "Broadcasting is the activity of transmitting broadcasts through means of transmission and/or means of transmission on land, at sea or in space using radio frequency spectrum through air, cable, and/or other media to be received simultaneously by the public with broadcast receiving devices". Several parties are directly involved in the world of advertising, including companies that carry out promotions, advertising companies that make promotional advertisements, and advertising broadcasters that disseminate information to the public. Based on Article 1 of the Broadcasting Law, in this case, celebrities who promote goods on their accounts have nothing to do with instruments in the field of broadcasting, so the Law cannot more profoundly regulate celebrities who promote goods on their accounts because these celebrities are not existing private broadcasters.⁴³

Article 13 paragraph (1) of Law No. 32 of 2002 concerning Broadcasting regulates broadcasting services consisting of radio broadcasting services and television broadcasting services; matters other than that are not regulated in law and have no legal standing. In this case, related to the position of celebrities in Indonesia, no rules are used and applied, thereby leaving a loophole in the norms concerned. The absence of matters in a regulation, to some extent, is acceptable as long as the procedures concerned are appropriately regulated.

Article 17 of the UUPK asserts that advertising business actors are prohibited from producing advertisements that violate ethics and/or laws and regulations governing advertising. A Celebgram must be guided by advertising ethics and norms as well as laws and regulations. Ethics in advertising in Indonesia are regulated in the Indonesian Pariwara Ethics (EPI) to ensure that advertising in Indonesia is able to compete fairly without harming any parties including consumers. Thus, the ethics and rules contained in the EPI provisions are binding and coercive for all individuals, advertising companies, and Indonesian advertising councils. For this reason, if a celebgram endorses goods or services on social media and this promotion is proven to disadvantage consumers, this endorsement violates applicable legal rules and provisions, specifically the points listed in Article 17 of the Law and other legal rules.⁴⁴

According to Ari Purwadi, deceiving consumers through advertising can occur in the form of "false statements, misleading statements and excessive advertising". For example, for advertisements or promotions that give false statements, the meaning of the word "false statement" is that what is disclosed or informed does not represent the product being advertised.

⁴² Afrizal Tahar, Listya Maharani Rizkia, and Eko Hariyanto, "Taxing Celebrity Social Media Endorsements Income: A Preliminary Study of Instagram Celebrities," *Journal of Accounting and Investment* 21, no. 3 (2020), <https://doi.org/10.18196/jai.2103167>.

⁴³ Rizka Syafriana, "Perlindungan Konsumen Dalam Transaksi Elektronik," *De Lega Lata Jurnal Ilmu Hukum* I, no. 2 (2016): 430–47.

⁴⁴ N. H. T. Siahaan, *Perlindungan Konsumen Dan Tanggungjawab Produk* (Jakarta: Rei, 2005).

This false information is highlighted in the following examples, (1.) a celebgram said in his posting of a cosmetic product she/he promotes that the product contains ingredients that can cure acne and later it is proven that the product does not contain the ingredient and cannot cure acne; (2.) "misleading advertising" is related to the condition where the advertisement uses subjective opinions to reveal the quality of the product excessively without being supported by facts. Celebrities must be aware that violating ethics and/or provisions of advertising legislation is prohibited when promoting products.

Therefore, Article 20 of the UUPK expressly states "every business actor is responsible for advertisements made or produced, resulting in losses to consumers". The Law also regulates the responsibility that must be imposed on advertising business actors in terms of the violations committed.⁴⁵

2. Form of legal liability by celebrities for endorsements or advertised products

The development of the current era has led to the emergence of various products that are increasingly competitive in the eyes of consumers. Consumers are people who use goods or services. Information about goods and services is needed by consumers before they decide to spend their money on goods and services available in the market. Advertising is of course an information medium to promote products that will be produced and will be sold to the public or consumers. Solely to benefit producers, these advertisements are often found providing excessive information and promotions that will entice the public or consumers into buying their products. Sometimes the information is not clear, and the real products are not like those presented in the advertisement. In this globalization era, many alternatives, one of which is through advertising media, are available to promote products to the public.

The existence of advertising is very helpful for consumers to determine the goods or services to be purchased or used, advertising becomes an attraction for consumers to meet their every need. Advertisements are broadly grouped into seven small parts as follows:⁴⁶

- a. Trade advertising
- b. Job advertising
- c. Cross-business advertising
- d. Financial advertising
- e. Consumer Advertising
- f. Retail advertising
- g. Direct advertising

Advertising can have general and specific impacts. In a general scope, people have the chance to know the information and knowledge about advertising but still information must provide a sense of security and at the same time have a real impact, while the special effect is related to the condition where advertising provides positive thoughts about the products advertised and the content of the advertisement is easy to understand.

If examined further, celebrities utilize this type of consumer advertising. There are two types of advertising indicated to be deceptive and have misleading elements for consumers.

⁴⁵ Hasanah, Wirawan, and Zainuri, "Pertanggungjawaban Hukum Influencer Terhadap Kegiatan Promosi Melalui Aplikasi Tiktok."

⁴⁶ Az. Nasution, *Hukum Perlindungan Konsumen: Suatu Pengantar* (Jakarta: Diadit Media, 2017).

First *bait and switch advertising* can be interpreted as fishing advertising, where celebrities are not focused on explaining the real state of the goods or services advertised, but more focused on luring consumers to the advertised goods or services. Second, *mock-up* advertising, often known as a misleading type of advertising, is related to the condition where someone will provide a very exaggerated explanation and excessive visualization of a product not representing the state of the advertised goods. This certainly aims to attract interest from consumers themselves.⁴⁷

For example, several *celebrity endorsers* were summoned as witnesses by the East Java Regional Police for promoting illegal cosmetic products. *The celebrity endorsers* are rising artists, namely Nella Kharisma and Via Vallen, who promoted illegal cosmetic products under the brand Derma Skin Care (DSC) through their social media accounts. The many benefits obtained and the lack of public knowledge about illegal cosmetics were the reasons for unscrupulous business actors to trade illegal cosmetic products. The *endorsers* or celebrities who promoted illegal products certainly harmed consumers who used these illegal products because they were interested in the promotion of the *endorser*. The above case is included in *mock-up* advertising, where VV did not give any detailed explanation about the advertised product and the product was indicated as illegal goods, thus, violating laws and regulations regarding cosmetics and advertising.⁴⁸



Figure 1. Investigator showing the picture of a celebrity illegally endorsing a cosmetic product (CNN Indonesia TV)

Information is one of the constitutional rights guaranteed by laws and regulations. The right to obtain information in Article 4 of Law No. 8 of 1999 concerning Consumer Protection explains that consumers have the right to true, clear, and honest information about the conditions and guarantees of goods and/or services. The existence of Celebrities has an impact on consumers and triggers them to buy advertised products. Celebrities advertise products by

⁴⁷ Dewan Periklanan Indonesia, *Etika Pariwisata Indonesia: Amandemen 2020* (Dewan Periklanan Indonesia, 2020).

⁴⁸ Frd/arh, "Via Vallen Klaim Tak Tahu Produk 'Endorse' Ilegal."

posting photos and videos. Working with celebgrams can certainly help product owners reach more consumers and introduce the product to them.⁴⁹

Notwithstanding the absence of specific regulations regarding advertising by celebrities, celebrities must follow regulations regarding advertising, as in Consumer Protection, Article 17 paragraph (1) of Law No. 8 of 1999 stating that business actors must not deceive guarantees/guarantees for goods and/or services, contain false, or incorrect information about goods and/or services.⁵⁰

In addition, Law No. 19 of 2016 concerning Electronic Information and Transactions also regulates advertising procedures as stated in Article 9 of Law No. 19 of 2016 concerning Electronic Information and Transactions which asserts that promoting a good or service in a trade should provide information that is in line with the product being marketed. In marketing a traded component or service, business actors must provide information in accordance with the products offered. Article 9 of Law No. 19 of 2016 concerning Electronic Information and Transactions also provides a description. In addition to providing information relevant to the products offered, related business actors must also set contract terms which must comply with Article 1320 of the Civil Code.⁵¹

However, when the item is not as presented in the promotion or advertisement displayed, this condition may involve an act of fraud, as in accordance with Law No. 11 of 2008 concerning Electronic Information and Transactions, amended into Law No. 19 of 2016. Misleading advertisements / false advertising information/lies which include the crime of fraudulent acts better known as fraud are more firmly regulated and are also specifically regulated in this statutory regulation. False advertising or false marketing can be punished with criminal penalties and sanctions because they refer to violations of spreading fake news or hoaxes. Article 45A paragraph (1) of the ITE Law states that anyone who deliberately spreads false and misleading news that results in consumer losses in electronic transactions can be subject to a maximum prison sentence of six years and/or a maximum fine of IDR 1 billion.⁵²

False advertising or false marketing can be punished with criminal penalties and sanctions because they refer to violations of spreading fake news or hoaxes. Advertisements do not always provide accurate or complete information about the product. When it comes to advertising, several factors determine which types of advertisements are prohibited. Prohibited advertising practices involve the following elements, as regulated in Article 17 paragraph (1) of the Consumer Protection Law:⁵³

- a. Fraudulent acts or deceiving consumers regarding product prices, product quantity, and materials used in products and services.
- b. Committing fraud regarding product warranty safety

⁴⁹ Dwi Atmoko and Adhalia Septia Saputri, "Tinjauan Yuridis Tanggung Jawab Influencer Yang Melakukan Endorse Produk Skincare Mengandung Bahan Berbahaya Bagi Masyarakat," *Ilmiah Mahasiswa Pendidikan Sejarah* 8, no. 4 (2023): 5772.

⁵⁰ Ulfina Murdayantin, Agustin, and Pebrianti, "Moral Dan Etika Notaris Di Era Society 5.0: Kajian Fungsi Artificial Intelligence Terhadap Profesi Notaris."

⁵¹ Kepakisan and Dahana, "Periklanan Intrusive Advertising/Iklan Peralihan Pada Mobile Phone."

⁵² Michael Rivera and Yi, "Social Media Endorsement Activities Can Prompt Securities and Exchange Commission Liability for Celebrities."

⁵³ Shidarta, *Hukum Perlindungan Konsumen Indonesia* (Jakarta: Grasindo, 2000).

- c. Provide false or deceptive information about the product
- d. Not offering risks arising from the product
- e. Unethically exploiting a person without the consent of the authorities or the person affected
- f. violating advertising laws and regulations.

Regarding elements in points a, b, and c in Article 17 paragraph 1 of the Consumer Protection Law, if there is bad faith from the party who hires the celebrity, the position of advertising business actors can not be accountable for their activities. Point d implies that advertising business actors should know the content of the advertisement ordered if there is a deviation from the provisions such as not containing risks and so on even though the substance is at the will of the hiring party. Similarly, points e and f involve elements such as violations of ethics and professionalism of business actors, in which regarding utilizing or exploiting events to individual people, advertising business actors can be considered to have participated in violating the provisions of the law so that their actions must be held accountable.

The basic principles of the form of responsibility in the legal aspects of a business actor or advertiser are regulated in Law No. 8 of 1999 concerning Consumer Protection specifying two principles of responsibility, namely the Strict liability principle or absolute liability and liability based on fault. The strict liability principle or absolute liability implies that responsibility is absolute without any prior proof. This responsibility is handed over to celebrities for negligence or forms of violations that have been committed in making *endorsements*. In this principle, of course, it is very partial to consumers who have suffered a lot of losses. Furthermore, the principle of liability based on fault is generally applicable in criminal and civil law. In the Civil Code, this principle is firmly specified in Articles 1365, 1366, and 1367. The form of responsibility is considered important because an element of mistakes made by celebrities or business actors certainly causes severe losses to consumers. The element of wrongdoing in this principle must first be proven to determine which party will be liable.⁵⁴

Liability based on fault is considered the relevant liability to use regarding accountability among celebrities. Where in this form of liability it can be explained that the losses suffered by consumers do not come from goods produced by celebrities but only from advertised goods. This form of responsibility is more focused on the element of error that has been made by a celebgram, so the element of the celebgram's mistake must be proven in its proof. On the other hand, in relation to consumers, if the promotion submitted by an endorser or celebgram contravenes the law and leads to legal consequences, it has the potential to be held accountable, and Article 1365 of the Indonesian Civil Code can apply in the case of an unlawful act limited to advertisements that contain false, erroneous, untrue, dishonest, and unclear information, as regulated in Article 28 of Law No. 11 of 2008 concerning Electronic Information and Transactions.⁵⁵

⁵⁴ Kade and Suryandini, "Pertanggungjawaban Selebgram Terhadap Konsumen Yang Mempromosikan Barang Dan Jasa Di Media Sosial."

⁵⁵ Anjarningtyas, "Tanggung Jawab Endorser Atas Kerugian Konsumen Akibat Penggunaan Produk Endorsement."

Celebrities who are found guilty of providing false or misleading information when doing endorsements based on Article 17 paragraph (1) letter of the Law can get criminal sanctions specified in Article 62 paragraph (2) of the UUPK:

1. Business actors who violate the provisions as referred to in Article 8, Article 9, Article 10, Article 13 paragraph (2), Article 15, Article 17 paragraph (1) letter a, letter b, letter c, letter e, paragraph (2), and Article 18 shall be punished with a maximum imprisonment of 5 (five) years or a maximum fine of IDR 2,000,000,000.00 (two billion rupiah)
2. Business actors who violate the provisions as referred to in Article 11, Article 12, Article 13 paragraph (1), Article 14, Article 16, and Article 17 paragraph (1) letter d and letter f shall be punished with a maximum imprisonment of 2 (two) years or a maximum fine of IDR 500,000,000.00 (five hundred million rupiah).
3. For violations resulting in serious injury, serious illness, permanent disability or death, applicable criminal provisions apply.⁵⁶

Article 62 paragraphs (1) and (2) of the Consumer Protection Law regulates the consequences that will be obtained by celebrities who are proven to have made mistakes by providing information that is not in accordance with reality when making endorsements so as to cause harm to consumers. These two articles also clearly mention the length of the prison sentence and the amount of fines that must be paid by celebrities if found guilty.

However, a celebgram can provide proof if the loss caused is not from the endorsement. It is called the best proof. If the mistake is proven not to be his fault, the celebgram can be declared not guilty.⁵⁷

The principle of strict liability cannot be imposed on celebrities because in doing endorsements, *celebrities do not make these goods or services*. In practice, the principle of strict liability can be imposed in cases of violations. This form of strict liability is often found in cases of consumer violations because the responsibility of this principle arises due to consumers consuming products traded by business actors. A consumer who is harmed based on the principle of *Strict Liability* does not need to prove an element of wrongdoing committed by the business actor. The application of this principle can be said to be guilty if the products they sell cause losses to consumers.⁵⁸

Based on the explanation above, it can be concluded that there are two aspects of liability in liability disputes in consumer disputes, namely criminal liability arising from advertisements containing lies that can be categorized as criminal acts of fraud and civil liability arising from a loss affecting consumers and producers responsible for losses that arise.

D. CONCLUSION

Regarding the position of celebrities, there is no legal basis that specifically regulates the legal position of celebrities and no rules have been used and applied. This absence certainly leaves a legal loophole in the norms. Article 1 of the Broadcasting Law implies that celebrities

⁵⁶ Anjarningtyas.

⁵⁷ Hayleigh Boshier, "Key Issues around Copyright and Social Media: Ownership, Infringement and Liability," *Journal of Intellectual Property Law & Practice*, 15, no. 2 (2020): 122–33, <https://doi.org/10.1093/jiplp/jpaa006>.

⁵⁸ Munir Fuady, *Hukum Kontrak (Dari Sudut Pandang Hukum Bisnis)* (Bandung: Citra Aditya Bakti, 2001).

endorsing the products of others on their accounts have nothing to do with instruments in the field of broadcasting. In this case, the law concerned has no firm basis for explaining the matter. Article 13 paragraph (1) of Law No. 32 of 2002 concerning broadcasting regulates broadcasting services consisting of radio broadcasting services and television broadcasting services, and matters not specified in the law will hold no legal standing. It is appropriate for celebrities to be responsible for losses caused by the mistakes they commit and refer to the principle of liability based on fault. The form of liability carried out by celebrities by making compensation is specified in Article 4 letter h of Law No. 8 of 1999 concerning Consumer Protection, where consumers are entitled to compensation, compensation and/or replacement If the goods and/or services received are not in accordance with the agreement or are not as they should be. Article 9 of Law No. 19 of 2016 concerning Electronic Information and Transactions emphasizes that in promoting a good or service to be traded, it should provide information that is in line with the product being marketed. Celebrities disseminating false advertisements or incorrect advertising information are subject to the ITE Law, and consumers have the right to true, clear, and honest information about the conditions and guarantees of goods and/or services in accordance with Article 4 of the Law. Celebrities, such as athletes, actors, and other influencers, often profit from their fame by being compensated to promote businesses and services. In most cases, these endorsements pose little risk of legal action. To save the cost, and time, and prevent unwanted publicity associated with a regulatory inquiry or private litigation, celebrities should seek counsel when considering an endorsement of any type of heavily regulated product, especially when it is investment-related.

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