

ABSTRACT

The processing of personal data in the telecommunications sector presents a dilemma between the protection of the right to privacy as part of human rights and the utilization of data as an asset in the digital economy. The imbalance between data subjects and data controllers resulted in data processing being carried out on a massive scale has led to a commercially oriented telecommunications messages generated through the secondary processing of personal data based on profiling. This reveals ambiguity in the implementation of data subject consent regulation under UU PDP comparably to GDPR in establishing the position of data subject consent over the processing telecommunications messages. This research employs a normative juridical method with statutory, conceptual, and comparative approaches through analysis of UU PDP, GDPR, various doctrines and secondary legal materials. The research has shown that the UU PDP has not comprehensively regulated the consent mechanism, as stated under Article 20, merely establishes explicit consent lack in depth elaboration. Whilst, GDPR regulates consent more strictly through the purpose limitation principle, thereby providing more protection for data subjects rights. This legal vacuum causes the validity of data subject consent in Indonesia to be difficult to prove, as reflected in the practices commercially oriented telecommunications messages sent without customers explicit consent.

Keywords: Data Subject Consent; Personal Data Protection; Promotional Telecommunications Messages