RECHTSVINDING
Vol. 4, 2 (July-December, 2026), pp. 175-188
EISSN: 2987-4424, DOI: https://doi.org/10.59525/rechtsvinding.1961

Legal Construction of Immaterial Compensation for Telecommunication Service Users Due to Violations of Consumer Rights

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ARTICLE INFO

Keywords:

Compensation for Immaterial Losses;
Telecommunication Services;
Legal Protection

Article history:

Received 2025-05-18
Revised 2026-06-21
Accepted 2026-07-26

ABSTRACT

The development of information and communication technology has made telecommunications services a vital necessity in people's lives. The high dependence on telecommunications services requires providers to ensure the availability of quality, safe, continuous services that comply with consumer rights. However, in practice, telecommunications service users still have the potential to experience losses due to service disruptions, system failures, misuse of personal data, information leaks, or disproportionate service terminations. These losses are not only material but can also include immaterial losses, such as discomfort, anxiety, loss of security, disruption of privacy, and psychological stress. This study aims to analyze the legal construction of providing compensation for immaterial losses to telecommunications service users due to violations of consumer rights. This study uses a normative juridical method with a statutory and conceptual approach. The results show that the legal liability of telecommunications service providers can be constructed through an integration of consumer protection law, civil law, telecommunications law, and personal data protection. However, there are no comprehensive parameters regarding the proof and assessment of immaterial losses. Therefore, it is necessary to strengthen the legal construction oriented towards the restoration of rights, legal certainty, and substantive justice for consumers.

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1. INTRODUCTION

Advances in information and communication technology have reconfigured various aspects of people's lives, from communication patterns and economic activities to the provision of public services. In this development, telecommunications is no longer merely positioned as a medium for conveying information, but has become a strategic infrastructure supporting education, employment, trade, banking, transportation, government administration, and various other digital activities. The public's dependence on telecommunications services increasingly demonstrates the sector's crucial role in modern life. Based on data from the Central Statistics Agency, the proportion of the Indonesian population accessing the internet increased from 66.48% in 2022 to 69.21% in 2023 and reached 72.78% in 2024. In line with this development, the number of Internet Service Provider (ISP) customers also increased, namely from 13,235,212 customers in 2022 to 13,643,379 customers in 2023 and 17,050,609 customers in 2024 (Central Statistics Agency, 2023, 2024, 2025; Ministry of Communication and Digital, 2025). This growth indicates the increasingly widespread use of telecommunications services while increasing the possibility of legal issues arising if the services provided do not comply with service standards, agreements, or legal obligations attached to the provider.

The expansion of telecommunications services simultaneously increases the urgency of legal protection for users as consumers. Complaint data collected by the Indonesian Consumers Foundation (YLKI) shows that problems in the telecommunications sector have recurred in recent years. In 2022, telecommunications issues were among the sectors of greatest consumer concern, along with financial services, e-commerce, and housing (YLKI, 2022). In 2023, complaints related to telecommunications accounted for 12.1% of the 943 complaints received by YLKI. Furthermore, in 2024, 125 complaints related to telecommunications were recorded out of a total of 1,675 complaints, while in 2025, the number of complaints in this sector reached 106 (YLKI, 2023, 2024, 2025). This data series demonstrates that problems between users and telecommunications service providers are recurring and are part of the growing consumer protection issues that have developed alongside the expansion of the digital ecosystem.

Problems reported by consumers relate not only to service continuity but also include billing issues, discrepancies between information and the service received, difficulties obtaining compensation, and aspects of user data and information security. In digital systems, the relationship between consumers and providers becomes more complex because users not only pay for access to a service but also submit personal information, which is then processed and managed by the provider. Thus, consumers are in a position of heavy dependence on the reliability of the provider's technology, security systems, and internal governance. Failure to fulfill these obligations can have consequences that go beyond direct financial loss.

Legally, the relationship between telecommunications service users and providers is a legal relationship between consumers and business actors. Users utilize services to meet their personal needs or interests, while providers provide services professionally and commercially to the public. This relationship creates an obligation for providers to provide safe, high-quality services, in accordance with the information provided, and meet standards established by laws and regulations. On the other hand, consumers have the right to obtain comfort, security, safety, accurate and transparent information, and compensation or redress if the services received do not comply with the agreement or do not meet the appropriate standards.

The relationship between consumers and businesses cannot be fully understood based on the principle of freedom of contract. In practice, structural imbalances exist because providers have greater control over technology, information, infrastructure, operational systems, and service provisions. Consumers generally only accept terms and conditions that have been previously formulated in the form of standard agreements. This situation necessitates legal intervention to prevent freedom of contract from becoming a means of unilaterally limiting business actors' responsibilities. Consumer protection thus serves to correct the imbalance in the parties' positions and ensure that contractual relationships remain within a framework of justice and fairness (Shidarta, 2006; Miru & Yodo, 2015).

Violations of consumer rights in the telecommunications sector can occur in various forms. Repeated or prolonged service disruptions, system failures, billing errors, unjustified service terminations, inappropriate information delivery, and failure to maintain data security are some of the issues that have the potential to cause harm to users. These losses can be economic, such as payments for unusable services or lost income due to disruptions to business activities. However, in the development of a digital society, these losses can also affect non-economic aspects that are more difficult to measure directly.

Intangible losses in telecommunications services can include disruption to private life, anxiety, loss of security, discomfort, psychological distress, reputational damage, and the loss of opportunities to engage in certain activities. A breach of personal data security, for example, can cause a person to feel a loss of control over their information and worry about the potential misuse of that data. Similarly, a disruption in telecommunications access that hinders work, educational activities, transactions, or essential communications can cause suffering and inconvenience that cannot be fully translated into nominal economic losses. This reality demonstrates that the concept of loss in consumer protection law needs to be developed in line with the characteristics of an increasingly digitalized society.

From a civil liability perspective, the obligation to compensate for losses can arise from failure to fulfill a contractual obligation or from an act that fulfills the elements of an unlawful act. In the doctrine of unlawful acts, the existence of a loss is an important element that connects the perpetrator's actions with the obligation to restore. Losses are not limited to a reduction in a person's wealth, but can also be related to the disruption of legally protected non-economic interests (Fuady, 2017). Therefore, errors or negligence by the provider that result in disruption of the privacy, sense of security, comfort, or personal interests of consumers can be the basis for assessing the possibility of a right to compensation for immaterial losses.

The concept of immaterial compensation can also be placed within the theoretical framework of legal protection. Legal protection is fundamentally oriented not only toward resolving disputes after a violation occurs but also encompasses preventative measures through the establishment of regulations, supervision, and the implementation of precautionary obligations. Preventive legal protection is necessary to ensure that consumers receive adequate information, guaranteed service security, and an effective means of complaint. Repressive legal protection, on the other hand, serves to provide a redress mechanism after a consumer experiences a violation, including through the provision of compensation and redress (Hadjon, 1987).

The need to recognize immaterial losses is also closely related to the principle of justice. Consumer redress should not be based solely on the amount of proven financial loss. Consumers who experience privacy violations, loss of security, or psychological distress also have legal interests that deserve redress. Within the framework of justice, economic relationships must be constructed by considering the balance between the benefits derived by business actors and the risks arising from their business activities. Therefore, providers who derive economic benefits from providing services and managing user data should not avoid responsibility when system failures or negligence cause harm to consumers (Rawls, 1999).

The theory of legal responsibility further strengthens this construct. In modern legal developments, liability is not always solely dependent on proving subjective fault, but also relates to the obligation of the party controlling an activity to control the risks arising from that activity. Telecommunications providers have control over infrastructure, technology, operational systems, and user data. This position gives providers greater ability to prevent, anticipate, and control risks than consumers. Therefore, there is a strong legal basis for imposing obligations on providers to implement adequate preventive measures and provide redress when risks within the scope of their business activities cause harm to consumers.

From a consumer protection perspective, service provider liability can also be linked to the doctrine of service liability. Although telecommunications services do not take the form of a physical product, they must still meet standards of security, quality, and conformity to the information and promises made to consumers. If a service failure results in a loss, consumers should not be burdened with the burden of proving all technical aspects that fall under the provider's control. This problem is even more significant in cases of data leaks or system disruptions because consumers generally lack the ability to access and understand the technology architecture, security configuration, or internal procedures used by service providers.

Normatively, the Indonesian legal system provides several legal bases for consumers to seek redress for losses they have experienced. Law Number 8 of 1999 concerning Consumer Protection recognizes the consumer's right to compensation, damages, and/or replacement if the goods or services received do not comply with the agreement or are not as expected. Furthermore, the Civil Code provides a basis for accountability through provisions regarding breach of contract and unlawful acts. In the development of digital law, Law Number 27 of 2022 concerning Personal Data Protection also strengthens protection for data subjects and opens up opportunities for redress in the event of a personal data breach.

Despite the existence of various legal bases, the regulation of compensation for immaterial damages in telecommunications service disputes still faces normative issues. There is no comprehensive standard that regulates the criteria for immaterial damages, methods of proof, assessment of causal relationships, and the basis for determining the amount of compensation. In practice, the amount of immaterial damages is heavily influenced by the judge's assessment, which takes into account propriety, reasonableness, the degree of culpability, and the resulting impact. Differences in assessing these elements have the potential to lead to inconsistent decisions and legal uncertainty for both consumers and telecommunications service providers.

The lack of clearer parameters is increasingly problematic because losses in the digital space differ from those in conventional forms. These losses can be intangible, difficult to observe directly, and sometimes only become apparent after a violation has occurred. Furthermore, many consumers who experience losses do not pursue their cases to the stage of lawsuits or claims for compensation. Therefore, the number of consumer complaints cannot automatically be equated with the number of cases resulting in compensation payments. Nevertheless, complaint data remains an important empirical indicator to demonstrate recurring patterns of problems in the legal relationship between users and telecommunications service providers.

This situation demonstrates the need to develop a legal framework for immaterial damages that can respond to technological developments and the changing nature of legal relations in a digital society. This framework must reconcile consumer protection principles, civil liability doctrine, legal protection theory, principles of justice, regulations on personal data protection, and the specific characteristics of telecommunications services. Through this approach, consumer recovery is not only directed at recovering economic losses but also at recovering for violations of privacy, loss of security, disruption of comfort, and other legally protected personal interests.

Based on the above description, this study raises the following question: how is the legal construction of immaterial compensation for telecommunication service users due to consumer rights violations? This study aims to analyze and formulate the legal construction of immaterial compensation for telecommunication service users by integrating the principles of consumer protection, civil law, telecommunication law, personal data protection, the doctrine of legal liability, and the theory of legal protection and justice.

2. METHODS

This research uses a normative legal research method, which places law as the primary object of analysis, based on norms, rules, and principles. This method was chosen because the research focuses on examining the legal construction of immaterial compensation for telecommunications service users due to consumer rights violations through a review of relevant laws and regulations, legal principles, doctrines, concepts, and court decisions.

The research approach uses a statutory approach and a conceptual approach. The statutory approach is used to analyze legal provisions governing consumer protection, telecommunications, civil liability, and personal data protection. Meanwhile, the conceptual approach is used to examine the concepts of immaterial losses, legal responsibility, consumer protection, justice, and rights restoration as the basis for forming legal arguments (Marzuki, 2017).

The legal materials for this research consist of primary, secondary, and tertiary legal materials. Primary legal materials include laws and court decisions related to the research object. Secondary legal materials include books, journal articles, doctrines, research findings, and legal expert opinions, while tertiary legal materials consist of legal dictionaries and supporting reference sources. The legal materials were collected through a literature review by inventorying and classifying sources based on their relevance. Furthermore, the legal materials were analyzed qualitatively using descriptive-analytical methods to identify norms, identify regulatory weaknesses, and formulate a just legal construction for immaterial compensation. Conclusions were drawn deductively based on the interpretation of the analyzed norms and legal concepts (Soekanto & Mamudji, 2015).

3. FINDINGS AND DISCUSSION

Rights of Telecommunication Service Users as Consumers

Telecommunications service users have legal standing as consumers because they utilize the services provided by providers to meet personal needs and not for the purpose of reselling the services. This status results in users having the right to receive legal protection like consumers in general. In the development of the digital economy, the position of telecommunications users has become increasingly important because communication services have become part of educational activities, work, economic transactions, public services, and social life. Therefore, the relationship between users and telecommunications providers must be understood as a legal relationship that gives rise to legal rights, obligations, and responsibilities, not merely a commercial relationship between provider and customer (Vania Yudiantoro & Parmitasari, 2024; Wibowo, 2020).

From a consumer protection law perspective, telecommunications service users have the right to receive services that provide comfort, security, and safety. This right also includes the right to obtain correct, clear, and honest information regarding the characteristics, quality, rates, and terms of use of the service. Furthermore, consumers have the right to file complaints and obtain resolution when the service received does not comply with the agreement or does not meet the required standards. Thus, consumer rights in telecommunications services extend beyond the right to network access, but also include the right to adequate service and protection mechanisms in the event of violations (Vania Yudiantoro & Parmitasari, 2024; Yusuf & Fibrianti, 2024).

The right to convenience and security in telecommunications services must be interpreted in accordance with the characteristics of digital technology. Service security relates not only to network availability or the functioning of communication devices, but also encompasses the protection of communications, electronic systems, user identity, and personal data. Therefore, telecommunications providers are obligated to develop systems capable of protecting against various digital risks. These changes in the nature of services indicate that the concept of consumer protection must evolve from conventional protection of goods and services to protection of digital security and user privacy (Megawati & Prananda, 2025; Suraji & Prabowo, 2025).

The legal relationship between users and telecommunications service providers is generally established through a subscription agreement. Through this relationship, the provider is obligated to provide services in accordance with the information, standards, and terms offered, while the consumer is obligated to fulfill payments in accordance with applicable tariffs. However, this contractual relationship cannot be separated from obligations derived from statutory regulations. This means that a subscription agreement cannot be used as a basis for reducing or eliminating consumer rights granted by law (Vania Yudiantoro & Parmitasari, 2024; Subagyono et al., 2024).

The position of telecommunications service users as consumers has become increasingly complex because service contracts are generally set out in standard agreements. Consumers typically do not have an equal opportunity to negotiate the terms of the agreement because the terms of use are predetermined by the service provider. This situation raises issues regarding the balance between the parties, as the service provider has advantages in terms of information, technology, and the ability to determine the content of the contract. Therefore, the application of the principle of freedom of contract must remain limited by the principles of good faith, propriety, balance, and protection of parties in a weaker position (Wibowo, 2020; Vania Yudiantoro & Parmitasari, 2024).

This imbalance is also evident in the differences in information and technical capabilities between providers and users. Telecommunication providers control network infrastructure, service systems, billing mechanisms, security technology, and user data. Conversely, consumers generally lack the ability to examine how systems operate or determine the technical causes of service disruptions. In such circumstances, consumers can face difficulties proving provider error. Therefore, consumer protection is necessary to prevent this imbalance of information and economic power from developing into unfair legal relations (Megawati & Prananda, 2025; Subagyono et al., 2024).

The right to information is a fundamental right in the relationship between consumers and telecommunications service providers. Information regarding pricing, service quality, network coverage, usage restrictions, service termination requirements, personal data processing, and complaint mechanisms must be conveyed accurately and easily understood. Consumers who do not receive adequate information lack a sufficient basis for informed decision-making. Therefore, transparency obligations are a crucial component of consumer protection and serve as a tool to prevent business practices that could harm users (Yusuf & Fibrianti, 2024; Subagyono et al., 2024).

The consumer's right to file a complaint is also an essential part of legal protection. Telecommunications service users must have access to a complaint mechanism that is easy, effective, responsive, and accountable. When consumer complaints are not addressed or resolved appropriately, this situation may indicate a failure to fulfill the consumer's right to be heard. Research on IndiHome customer complaints shows that the complaint mechanism is directly related to the fulfillment of consumer rights and legal protection, both through preventive and repressive mechanisms (Vania Yudiantoro & Parmitasari, 2024).

From a legal protection perspective, the complaint mechanism is an initial form of protection before a dispute escalates into a legal case. Complaints provide providers with the opportunity to clarify, improve services, provide compensation, or recover user losses. If these mechanisms fail, consumers still have access to dispute resolution mechanisms through consumer protection agencies, dispute resolution bodies, or the courts. Therefore, consumer protection must provide a tiered and effective resolution pathway (Vania Yudiantoro & Parmitasari, 2024; Wibowo, 2020).

With technological developments, the rights of telecommunications service users are also closely linked to the right to personal data protection. Using telecommunications services can involve processing various information related to user identity and activities. If this data is not adequately protected, consumers can experience losses in the form of identity misuse, loss of control over personal information, privacy violations, and the emergence of fear and anxiety. Therefore, personal data protection must be positioned as an integral part of consumer protection in the digital telecommunications ecosystem (Megawati & Prananda, 2025; Suraji & Prabowo, 2025).

The link between consumer protection and personal data demonstrates that the concept of harm in telecommunications relationships cannot be limited to financial losses. Violations of privacy and information security can have significant non-economic impacts on consumers. Insecurity, psychological distress, loss of trust, and disruption to personal lives are all consequences that can arise from data protection failures. Therefore, the development of consumer protection law needs to recognize that harm arising from digital services can be both material and immaterial (Megawati & Prananda, 2025; Suraji & Prabowo, 2025).

From a legal liability perspective, telecommunications service providers cannot be judged solely on whether consumers fulfill their payment obligations. Assessments must also focus on the provider's ability to meet service standards, maintain system security, provide accurate information, and respond to user complaints. If failure to fulfill these obligations results in losses, there is a basis for imposing liability on the provider in accordance with consumer protection principles and telecommunications law (Vania Yudiantoro & Parmitasari, 2024; Megawati & Prananda, 2025).

Regulations regarding provider liability also demonstrate the importance of balancing business interests with consumer protection. Providers do have an interest in regulating services, setting rates, and determining operational procedures. However, this authority must not be used to unreasonably restrict consumer rights. Any limitations on liability must remain subject to mandatory legal provisions and the principle of protecting consumers as structurally weaker parties (Subagyono et al., 2024; Wibowo, 2020).

An international perspective on digital consumer protection also shows that the rights of communication service users are increasingly focused on comprehensive protection. Consumers require not only access to services but also guarantees of transparency, security, privacy, service quality, and access to redress. These developments demonstrate that consumer protection in the telecommunications sector must adapt to technological changes and the public's increasing dependence on digital services (Subagyono et al., 2024; Suraji & Prabowo, 2025).

Based on this description, the rights of telecommunications service users as consumers can be grouped into three main dimensions. First, the right to quality and continuity of service, which requires providers to provide services in accordance with promised standards and information. Second, the right to security and privacy, which includes protection of users' communications, systems, identities, and personal data. Third, the right to complaints and remedies, which provides consumers with the opportunity to obtain resolution, compensation, or redress when their rights are violated (Vania Yudiantoro & Parmitasari, 2024; Megawati & Prananda, 2025).

These three dimensions form an important basis for constructing legal remedies for immaterial losses for telecommunications service users. If service disruptions or protection failures cause suffering, insecurity, privacy disruption, or psychological impacts, these consequences must be considered in determining the form of redress. The difficulty in converting these losses into monetary value does not mean they lose their legal relevance. In fact, the nature of digital losses demands a more adaptive legal approach to non-economic forms of loss (Megawati & Prananda, 2025; Suraji & Prabowo, 2025).

Thus, telecommunications service users need to be positioned as legal subjects with the right to safe, quality, transparent, and accountable services. Meanwhile, service providers are not only obligated to fulfill the terms of subscription agreements but also to fulfill legal obligations stemming from statutory regulations and consumer protection principles. This construction underlies the principle that violations of consumer rights in telecommunications services can give rise to the responsibility to provide redress, including compensation for immaterial impacts experienced by users (Vania Yudiantoro & Parmitasari, 2024; Subagyono et al., 2024).

Immaterial Losses in Legal Relations of Telecommunication Services

Immaterial losses in telecommunications services are a form of loss that cannot be determined solely based on the reduction of assets or directly quantifiable financial losses. These losses relate to disruptions to personal interests, psychological aspects, social relationships, and individual rights that are protected by law. Contemporary legal developments indicate that the concept of loss has expanded. Losses are no longer understood solely as the loss of economic value, but also include disruptions to privacy, honor, tranquility, security, reputation, and individual freedom. Therefore, violations of consumer rights in the digital ecosystem can have non-economic impacts that still have legal consequences even though the value of the loss cannot be easily converted into a specific monetary amount (Johan, 2022; Musyafah et al., 2018).

The importance of immaterial losses in the telecommunications sector is growing, as these services are closely linked to people's personal lives and digital activities. Telecommunications service users not only obtain communication facilities or network access, but also provide various information related to their personal identities and activities. Data such as customer IDs, telephone numbers, communication information, and other information collected during the service delivery process has the potential to reveal a user's personal life. If system security fails or such information is misused, consumers can lose control of their personal data, experience privacy violations, feel anxious, and lose trust in the provider. This situation demonstrates that losses in telecommunications relationships have a far more complex dimension than simply monetary losses (Johan, 2022; Dewi & Sulistyawan, 2024).

Conceptually, immaterial losses can be analyzed through the theory of protection of personality rights. Privacy, honor, security, tranquility, and personal integrity are inherent legal interests of every individual. If these interests are disrupted due to the actions or negligence of a telecommunications service provider, the existence of the loss can still be legally considered even if there is no direct reduction in assets. In the digital environment, privacy violations have even more specific characteristics because information that has been disseminated or is beyond the control of its owner cannot always be completely restored to its previous state. This situation means that the impact of the violation can continue even after the initial incident has ended (Johan, 2022; Sulistianingsih et al., 2023).

In practice, immaterial losses related to telecommunications services can take various forms. Privacy breaches can occur when users' personal information is accessed, exploited, or disseminated without adequate legal basis. Furthermore, data leaks can lead to a loss of security as consumers realize their information is vulnerable. Other impacts can include psychological distress, anxiety, fear, and feelings of discomfort that arise following a breach. Unauthorized use of telephone numbers or identities can also potentially damage a user's reputation. Furthermore, repeated service disruptions or misuse of telecommunications facilities can reduce comfort and disrupt consumers' personal lives. These various forms demonstrate that immaterial losses are closely related to the protection of the personality rights of telecommunications service users (Dewi & Sulistyawan, 2024; Johan, 2022).

One of the key characteristics of immaterial losses is that there is not always a direct link between the violation and a quantifiable economic loss. A consumer may experience a violation of their privacy without losing a specific amount of money, but still experience fear, anxiety, a sense of security, or mental distress. Therefore, an approach that only measures material losses fails to fully capture the impact of consumer rights violations in the digital space. In the development of data protection law, the loss of a person's ability to control their own information can be viewed as a form of interference with legal interests that have their own protective value (Johan, 2022; Sulistianingsih et al., 2023).

Normatively, recognition of immaterial losses in telecommunications service relationships can be established through the interconnection of several legal instruments. Article 1365 of the Civil Code provides a general basis for liability for unlawful acts that cause losses. Based on this provision, claims for compensation are essentially related to the existence of unlawful acts, errors, losses, and the causal relationship between the act and the resulting consequences. In addition, Law Number 8 of 1999 concerning Consumer Protection provides consumers with the right to receive compensation, restitution, and/or replacement if the goods or services obtained do not comply with the agreement or do not fulfill their requirements. In the sectoral scope, Law Number 36 of 1999 concerning Telecommunications is one of the legal bases that regulates the responsibility of providers for losses arising from their errors or negligence.

Strengthening protection against non-economic losses can also be found in Law Number 27 of 2022 concerning Personal Data Protection. This regulation broadens the perspective of legal protection in digital relationships by protecting the interests of personal data subjects and providing a basis for redress in the event of a breach. In telecommunications services, breaches of user data can have impacts beyond financial ones. Disruptions to privacy, security, and control over personal information can also be part of the relevant consequences for legal assessment (Dewi & Sulistyawan, 2024; Putra et al., 2025).

The existence of the Personal Data Protection Law is crucial in shaping a new understanding of immaterial losses. Personal data cannot be viewed simply as a collection of information with commercial value, but also as part of an individual's identity and personal life. Therefore, telecommunications service providers that collect, store, manage, or use user data are obligated to implement adequate protection. Failure to fulfill this obligation can result in lasting losses, particularly since information that has been disseminated or misused is often impossible to completely restore to its pre-violation state (Dewi & Sulistyawan, 2024; Sulistianingsih et al., 2023).

From a consumer protection perspective, recognizing immaterial losses is closely related to the principle of effective redress. Legal protection loses its meaning if it only recognizes losses that can be proven through financial figures and documents. Consumers who experience a privacy violation, loss of control over personal data, or psychological distress remain disadvantaged even if they cannot provide proof of the transaction or financial loss. Therefore, redress must be directed at considering the full consequences of violations of consumer rights, including non-economic impacts that significantly impact the victim's life (Musyafah et al., 2018; Johan, 2022).

The main problem in applying immaterial damages lies in the aspect of proof and determining the compensation value. Material losses can generally be proven through payment documents, transaction records, financial reports, or evidence of lost assets. In contrast, immaterial losses are more related to personal experiences and the impact on a person's psychological condition and personal interests. Therefore, the evidence needs to be directed at demonstrating the violation, the extent of the disruption to legal interests, the causal relationship, and the actual impact felt by the consumer. This approach is necessary to ensure that immaterial losses are not awarded solely based on the assumption of a violation, but also are not rejected solely because they cannot be calculated using simple economic methods (Lynskey, 2015; Malgieri & Comandé, 2017).

Developments in international law, particularly in the area of personal data protection, demonstrate a debate regarding the relationship between normative violations and the right to compensation. One approach emphasizes that a violation of a legal obligation does not automatically constitute compensable harm. Another approach allows for greater recognition of non-material harm when the violation has a genuine impact on the individual. Such impacts can include fear, anxiety, invasion of privacy, or loss of control over personal information. Therefore, recognition of non-economic harm still requires a rationally identifiable impact (Malgieri & Comandé, 2017; Naranjo, 2022).

These developments can be considered in the development of legal frameworks in Indonesia. Recognition of immaterial losses should not be interpreted as meaning that every violation of telecommunications services or data automatically results in an obligation to pay compensation. Instead, an assessment of the nature of the violation and the consequences experienced by consumers is necessary. Therefore, immaterial losses need to be recognized as a legally claimable category, but their award must be based on proof of a real disruption to privacy, security, peace of mind, reputation, or other personal interests (Naranjo, 2022; Putra et al., 2025).

The responsibility of service providers can also be understood through risk theory and legal liability theory. Telecommunication service providers have control over the networks, technological devices, infrastructure, security systems, and data management mechanisms used in providing services. This superior control puts providers in a better position to identify, prevent, and control risks. Therefore, if a risk within the provider's control results in harm to users, there is a theoretical basis for imposing liability on the provider as long as the relevant elements and basis for legal liability can be proven (Putra et al., 2025; Dewi & Sulistyawan, 2024).

The issue of proof becomes even more complex when losses arise from technical disruptions or data leaks. Consumers generally lack the ability or access to examine the network structure, security systems, activity records, system logs, or internal procedures used by providers. This situation creates an imbalance of information and evidence between the parties. Therefore, in a justice-oriented consumer protection framework, providers should be obligated to provide relevant information and explanations regarding the cause of the disruption or violation, particularly regarding technical facts that are only accessible to the provider (Dewi & Sulistyawan, 2024; Putra et al., 2025).

Based on this description, immaterial losses in telecommunications service relationships should be understood as losses related to disruption of the user's non-economic interests. These losses can include disruption of privacy, loss of security, anxiety, psychological distress, reputational damage, and loss of convenience. Although not always directly quantifiable in financial terms, these losses can still be legally recognized if there is a breach of legal or contractual obligations, an identifiable impact, and a causal relationship between the provider's actions and the loss experienced by the consumer.

Thus, a more appropriate legal construction should not place material losses as the only form of loss with legal value. Non-economic losses (non-pecuniary losses) should also be considered part of the concept of recoverable losses. The difference between the two lies primarily in the nature of the loss and the method of proof, not in their level of legal significance. This approach allows consumer protection law to respond more adaptively to technological developments while simultaneously protecting the personal rights of telecommunications service users.

Construction of Telecommunication Service Providers' Liability for Immaterial Losses

The liability of telecommunications service providers for immaterial losses must be understood within a multidimensional legal relationship. While the relationship between users and providers is generally established through a subscription agreement, the provider's obligations extend beyond the contract's content. Providers are also bound by obligations stipulated by laws and regulations, the principle of propriety, the principle of prudence, and the obligation to protect the security and interests of users. Therefore, violations of user rights can give rise to both contractual liability and liability based on unlawful acts. This construction is crucial because consumer losses in telecommunications services do not always occur due to failure to fulfill contractual obligations but can also arise from negligence in protecting the privacy, data security, and personal interests of users (Johan, 2022; Wibowo, 2020).

Article 1365 of the Civil Code is an important basis for assessing the liability of service providers. This provision requires an unlawful act, fault, loss, and a causal relationship between the act and the resulting loss. In the context of telecommunications services, unlawful acts can take the form of active actions or negligence, such as failing to implement an adequate security system, failing to monitor the network, failing to prevent illegal access, or failing to provide an appropriate response after a disruption occurs. Therefore, failure to fulfill the obligation to protect can be the basis for liability if proven to cause harm to users (Dewi & Sulistyawan, 2024; Sulistianingsih et al., 2023).

The element of error can be intentional or negligent. An assessment of a provider's negligence must consider the characteristics of the technology, the level of service risk, professional capacity, security standards, and the provider's ability to control the risk. The greater the provider's control over the infrastructure, network, security system, and user data, the higher the standard of care that can be imposed on it. This principle aligns with the doctrine of duty of care, which requires the party controlling a risky activity to take reasonable steps to prevent foreseeable losses. In telecommunications services, this obligation includes network security, data protection, preventing unauthorized access, maintaining service quality, and providing transparent information to consumers (Lynskey, 2015; Malgieri & Comandé, 2017).

This accountability must also address the information imbalance between providers and consumers. Providers possess technical information regarding network systems, security mechanisms, activity logs, and the causes of disruptions. Conversely, consumers generally lack access to or the ability to verify these technical aspects. This situation creates information asymmetry, which can make it difficult for consumers to prove provider fault. Therefore, the principle of consumer protection requires that proportional obligations be imposed on the party with the greater ability to prevent, control, and explain the risks that occur (Wibowo, 2020; Subagyono et al., 2024).

Organizers also cannot absolve themselves from responsibility solely through standard clauses in subscription agreements. Provisions that limit or transfer business actors' responsibilities must still comply with Law Number 8 of 1999 concerning Consumer Protection. Standard agreements may not be used to deprive consumers of their legal rights to compensation or redress. Therefore, the principle of freedom of contract must be implemented alongside the principles of good faith, propriety, balance, and protection of parties with weaker bargaining positions (Musyafah et al., 2018; Wibowo, 2020).

In cases related to personal data breaches, the organizer's responsibility must also be linked to Law Number 27 of 2022 concerning Personal Data Protection. Parties controlling or processing data are obligated to ensure that processing is carried out legally, securely, and responsibly. Failure to protect data that results in losses can be grounds for users to seek redress. These losses are not limited to economic losses but can also include disruptions to the user's privacy, sense of security, peace of mind, and personal interests, provided there is a causal relationship with the breach (Dewi & Sulistyawan, 2024; Putra et al., 2025).

Causality is a crucial element in determining the award of immaterial compensation. Not every service disruption or security incident automatically results in an obligation to pay compensation. Consumers must demonstrate a rational connection between the provider's actions or omissions and the losses they experience. For example, anxiety or loss of security must be related to a data leak or security system failure within the provider's scope of responsibility. However, proving immaterial losses cannot be equated with material losses. While material losses can be proven through transaction evidence or financial documents, immaterial losses can be demonstrated through a series of facts demonstrating a disruption to the consumer's privacy, reputation, comfort, sense of security, and psychological well-being (Johan, 2022; Naranjo, 2022).

In constructing accountability, a risk-based liability approach is also relevant. Telecommunications service providers have the ability to design systems, establish security standards, monitor, and respond to disruptions. Therefore, this ability must be considered in determining responsibility when risks within the provider's control cause harm to consumers. However, a risk-based approach does not mean that the provider is absolutely responsible for all losses. Liability must still be based on legal obligations, violations, errors or negligence, losses, and an adequate causal relationship (Lynskey, 2015; Malgieri & Comandé, 2017).

Based on this construction, immaterial compensation for telecommunications service users can be awarded if there is a breach of contractual or legal obligations, there is an error or failure in carrying out protection obligations, there is a real disruption to the consumer's non-economic interests, and there is a causal relationship between the violation and the loss. In determining the form and amount of recovery, the judge can consider the level of seriousness of the violation, the duration of the disruption, the type and sensitivity of the data affected, the number of affected parties, the level of error of the provider, the psychological impact, the disruption to reputation, and the corrective actions that have been taken (Naranjo, 2022; Putra et al., 2025).

Thus, the legal framework for the liability of telecommunications service providers needs to be developed through an integrative approach that combines contractual liability, torts, consumer protection, personal data protection, the duty of care principle, and a risk-based liability approach. Based on this framework, losses in the form of privacy violations, loss of security, anxiety, psychological suffering, reputational damage, and disruption of comfort can be recognized as legal losses that are entitled to recovery if they meet the requirements for liability. Recovery does not always have to be in the form of monetary payments, but can include service improvements, data security or deletion, notification to consumers, cessation of unlawful data processing, or other corrective actions appropriate to the nature of the losses experienced (Johan, 2022; Dewi & Sulistyawan, 2024).

Thus, the ideal legal construction is one that recognizes immaterial losses as part of non-pecuniary losses with legal value, but still requires the existence of a violation, identifiable impact, and a causal relationship. This model is able to strike a balance between consumer protection and legal certainty for telecommunications service providers and positions consumers as legal subjects with the right to effective and equitable remedies. (Johan, 2022; Naranjo, 2022).

4. CONCLUSION

Telecommunications service users have legal standing as consumers who receive protection under consumer protection law, telecommunications law, civil law, and personal data protection law. The legal relationship between users and providers stems not only from subscription agreements but also gives rise to legal obligations to ensure safe, comfortable, and high-quality services, as well as to protect users' privacy and personal data. Violation of these obligations can result in material and immaterial (non-pecuniary) losses, in the form of privacy violations, loss of security, anxiety, inconvenience, reputational damage, and loss of control over personal information.

The legal framework for compensation for immaterial losses needs to be developed in an integrated manner through the principles of contractual responsibility, unlawful acts, consumer protection, personal data protection, and the duty of care and risk-based liability approaches. Compensation can be awarded if there is evidence of a violation, a real impact on the consumer's non-economic interests, and a causal relationship between the provider's actions or omissions and the losses suffered. Determining the form and amount of compensation must take into account the level of violation, duration of disruption, impact on privacy and psychological well-being, and the provider's recovery efforts. Therefore, the law needs to recognize immaterial losses as claimable, while still applying proportional evidentiary parameters to achieve consumer protection, justice, and legal certainty.

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