CELLULAR OPERATORS LEGAL LIABILITY RELATED SHORT MESSAGE SERVICE (SMS) SPAM LINKED WITH LAW NUMBER 8/1999 ABOUT CONSUMER PROTECTION JUNCTO LAW NUMBER 36/1999 ABOUT TELECOMMUNICATIONS

ABSTRACT

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The rapid development of science and technology spawned a variety facilities for everyone in doing any activities. Through this technology, cheap communication and highly capable with a variety of systems can be realized. Short Message Service is one feature that definitely exist in every cell phone, but these technologies can lead to an unlawful action, one of them is a sms spam. Accordingly be some problems, that is how Law Number 8/1999 About Consumer Protection juncto Law Number 36/1999 About Telecommunications regulating legal liability of cellular operators and legal action can be done to cellular operators by its cellular customers.

This research is using an analytical description with normative juridical approach. The data has been qualitative juridical analyzed considering the hierarchy of the regulations itself and to achieve legal certainty.

Based on the research, that was done by cellular operators of sms spam that was sent to cellular subscribers due to leakage of cellular customer data, has been violated Article 4 Law Number 8/1999 About Consumer Protection and Article 42 paragraph 1 Law Number 36/1999 AboutTelecommunications, legal consequences arising from sms spam are routed through the telecommunications network existence of a material and immaterial losses suffered by cellular subscribers. Besides that, based Article 1365 Civil Code, act against the law of sms spam has fulfilled elements of act against the law. The legal action that could be done related act against the law of spam sms which has caused losses should be an act or effort, resolve the dispute in litigation or nonlitigation, such as negotiation, mediation, conciliation, also arbitration according with applicable regulations.