

## ANALYSIS OF CONSUMER PROTECTION AGAINST DEFAULT DUE TO AGREEMENT ON MISUSE OF PERSONAL DATA BY ONLINE DRIVERS

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### Abstract

Technological developments have brought online transportation services into people's lives. The presence of online transportation services provides convenience in people's movements. As users of online transportation services, people should receive guaranteed service and consumer protection in accordance with Law Number 8 of 1999 concerning Consumer Protection. However, many users of online transportation services do not receive their rights as consumers. This also gives rise to legal issues of default where the criteria agreed to by consumers are not met. Therefore, legal protection for consumers is very important. This study aims to analyze legal protection for consumers due to default by online drivers regarding the misuse of personal data by analyzing consumer protection in actual practice and the perpetrator's responsibility to consumers who cause feelings of insecurity, discomfort, and loss for consumers. The research technique used is a normative juridical method with a statutory and conceptual approach. The results of the study indicate that the discrepancy in the driver's identity is a form of default because the performance is not carried out in accordance with the electronic agreement. The legal consequences of this default violate consumers' rights to security, comfort, and legal certainty as regulated in the Consumer Protection Law, thus opening up room for accountability for drivers.

**Keywords :** *Consumer Protection, Default, Online Drivers, Personal Data*

### INTRODUCTION

Development technology and information is A inevitability. Technology is a field that is currently developing very rapidly, doing everything instantly, including in the field of transportation. A growing phenomenon from progress technology This is transportation or online transportation that has growing inside community Services growing online transportation moment This is an online driver. This is due to the emergence of online-based transportation. Before explain about online drivers, writers want to explain understanding about online drivers. According to KBBI, a driver is a person who drives a vehicle. vehicle general in the form of motorbikes for deliver passenger until objective with hitchhiking passenger the Good as work and profession , while online drivers are service service online using vehicles that allow its users get service online motorcycle taxi services using technology smartphone.<sup>1</sup> According to data from the Ministry of Transportation , the number of users transportation based online application reaches more from 100 million in 2025 , with transaction daily reach Millions of trips <sup>2</sup>. With the development of technology in the field of online transportation, the introduction of online motorcycle taxi services has created a huge demand for online transportation and made it an important part of society. This actually makes things easier for those who don't have transportation or those who need it. However, behind this, convenience This online application involves pros and cons. The criteria are simple, the online motorcycle taxi industry is growing popular in the digital era today this. Convenience in management condition registration For join in industry This become points interesting where only need car or internal motor prime condition, Tamda Card Resident (KTP), Permit Driving (SIM), License Number Vehicle (STNK), photo self , email address and number telephone active, Android smartphone or iPhone, and consent agreement electronic from application online motorcycle taxi company for start as an online motorcycle taxi. <sup>3</sup>Apart from that , many groups that can use it Because No required background

<sup>1</sup> Muhammad Izul Fuad , Legal Protection for Online Motorcycle Taxi Drivers Transaction Fictional Gofood service ( Case Study at PT. Gojek Semarang)

<sup>2</sup>Ministry of Transportation of the Republic of Indonesia, " Report Annual Digital Transportation 2025," accessed from the official website kemenhub.go.id.

<sup>3</sup>Nila Wati L. J UI, et al ., analysis juridical to sell buy driver account on the service online transportation in the city Kupang , PetikumLawJournal

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behind education or certification certain.<sup>4</sup> Because in practice, with easy requirements as well as agreement contract electronic No close possibility For No occurrence something activity deviation namely borrow driver account or sell buy online driver<sup>5</sup> account. Appears practice misuse of personal data by online drivers resulting in mismatch identity private, such as the driver who comes No in accordance with photo, name, type gender, or license plate number vehicle in the application.. Sa verification often loose, this as found in studies case in Kupang where in one of the online motorcycle taxi application, Maxim account for sale free on social media, such as Facebook. Consumers order service with female driver expectations For security, but what comes is man foreign with different plate vehicles. Phenomenon This No only cause fear and discomfort for consumers, but also has the potential become default in agreement electronics, which require analysis deep about protection consumers. Companies usually compile agreement code ethics that prohibit duplication, sale or diversion account with method whatever. Application company can apply punishment in accordance with agreement If owner account violate provision.

Mismatch This No as it happens technical, but rather symptom systemic trigger default agreement electronics —platform failed fulfill performance essential as per Article 1234 of the Civil Code, where the debtor (platform/driver) is negligent give what was promised. This is plus complicated Because mix Handling personal data, violating PDP Law No. 27/2022<sup>6</sup>. This is also not in line with the laws and regulations regarding consumer protection. In Law No. 8 of 1999 concerning consumer protection, it regulates the rights of consumers, one of which is the right to comfort, security and safety that must be obtained by consumers in consuming goods or services as stated in Article 4 letter a. This is also emphasized in Article 4 letter c where consumers also have the right to obtain correct, clear and honest information regarding the services offered, so that it indirectly violates consumer rights as stipulated in consumer law. From a civil law perspective, this can be classified as a breach of contract. This occurs due to the failure to fulfill obligations, which can result in legal consequences. According to Articles 1234 to 1243 of the Civil Code (KUHPer), a breach of contract is a situation where the debtor fails to fulfill their obligations as they should, either by failing to fulfill a promise, doing something prohibited, or doing something that does not comply with the agreement.

In this case, it constitutes a breach of contract because the obligations under the agreement between the consumer and the service provider have not been fulfilled. When a consumer uses an online transportation application, an electronic agreement is automatically created that binds both parties. The application contains a written agreement between the consumer and the service provider. Of course, it is written that service providers and driver partners have an obligation to maintain the confidentiality and security of consumers' personal data<sup>7</sup>. Therefore, the use of personal data beyond the intended purpose of the service constitutes a violation of the agreement and results in a loss of security for consumers as users of the service. This is clearly inconsistent with Articles 1234 to 1243 concerning the formation of electronic contracts. which includes terms and conditions, privacy policy and consumer rights and obligations. From the corner view protection consumers, misuse of personal data is form harmful acts consumers and violate their rights as guaranteed in Constitution Protection Consumer as well as provision personal data protection. Consumers entitled get a sense of security and protection of personal data when use digital services, including service transportation.

## Formulation of the problem

Based on the problem background above, the author formulates this research as follows:

1. What are the legal consequences of breach of contract committed by online drivers on consumer rights, particularly regarding consumer safety, comfort, and legal certainty in online transportation services?
2. What form of legal protection is provided to consumers for discrepancies in driver identity that could potentially constitute misuse of personal data?

## Research purposes

<sup>4</sup>Muhammad Zaenudin. March 7, 2023. Terms and Procedures for Registering as an Online Motorcycle Taxi Driver

<sup>5</sup>Nila Wati L. J UI, et al., analysis juridical to sell buy driver account on the service online transportation in the city Kupang, *PetiumLawJournal*

<sup>6</sup> Subekti, *Principles of Civil Law* (Jakarta: Intermasa, 2018), p. 150.

<sup>7</sup> Shidarta, *Protection Law Indonesian Consumers*, (Jakarta: Grasindo, 2014), p. 45

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1. This study aims to examine the legal consequences for consumer rights, particularly regarding security, comfort, and legal sanctions for actions carried out by online drivers who misuse personal data against consumers, as well as to examine the legal certainty of consumers in online transportation services regarding consumer rights.
2. This study aims to analyze and explain how legal protection in consumer protection against misuse of driver identity discrepancies is carried out.

## METHODS

Methods used in this study focus on applicable legal norms and the study of legal norms. The method used is legal research material law secondary as the main material, whereas material primary law as supporting research. This uses two kinds of approach, namely the statutory approach where the law that becomes the focus and is applied to the central theme of the research, whereas the Conceptual Approach (conceptual approach) is the approach taken to inspect in a way conceptual on the meaning contained in the terms used in rule legislation, as well as to examine related cases experienced by researchers.

## DISCUSSION

### Legal Consequences of Default on Consumer Rights, Especially Regarding Consumer Security, Comfort, and Legal Certainty in Online Transportation Services.

Connection law between consumers, online drivers, and companies application born since consumers do booking service through application. At this stage this, consumers required to agree to the agreement electronics that contain Terms and Conditions use service. Agreement becomes the base law that binds the parties and gives rise to rights as well as obligations that must be fulfilled. One of the important elements in agreement electronics is the presentation of personal data of online drivers to consumers as a form of transparency, security, and certainty of service. Driver's personal data displayed in application generally includes driver's name, photo, type of vehicle, number of police vehicles, as well as information of other supporters. Information given to consumers with objective so that consumers can ensure the identity of the driver who will give service. With the existence of this data, consumers expected to feel safe and protected, because they can recognize if the driver coming in accordance with the data listed in application. In practice, no mismatch found between the driver's personal data listed in application with the driver coming to the location of consumers. Non-conformity can be in the form of the difference in people driving vehicles, differences in vehicle or number of police, until use of driver account by another party who is not registered in an official way. Condition thus causes legal problems, in particular related to the validity of implementation of agreement electronics and fulfillment of obligations of the parties.

The driver's personal data does not match. Not only impact on aspects of comfort, but also touching aspects of security and protection law for consumers. Consumers who receive service from the driver whose identity is not in accordance with data in the application are in a vulnerable position, because they do not have certainty about who the real party giving service. This is a potential cause of loss, both in a material and immaterial way, such as feeling of not safe, scared, until risk of action crime. In perspective of civil law, agreement electronics used in online transportation service has the same strength as conventional agreement. Therefore, every deviation from the content of agreement can be qualified as breach of contract. Unauthorized use of driver's personal data in accordance with reality on the ground shows that the obligation to give service in accordance with the provision of agreement is not fulfilled as it should be. Thus, the action can be categorized as a default in connection law between consumers and service providers.

Talking about "default" or "injury" promise "no Can off from problems" statements negligent" (ingebrekke stelling) and negligence (vercium).<sup>8</sup> Default is a term taken from Dutch *wanprestatie* with the meaning of one's condition parties (usually agreement) achievement bad because negligence. Default is regulated in Article 1238 of the Civil Code, the debtor is negligent with letter command, or with deed similar that, or based on strength from engagement myself, namely when engagement. This results in the debtor must be considered negligent with past his specified time. Temporary that, the agreement is the agreement that occurred when the parties each other promise to carry out deeds. According to Subekti, agreement is incident when somebody or more promise to carry out something matter actions certain.<sup>9</sup> While according to Yahya Harahap in book Herowati Pusoko<sup>40</sup>, in question with default is, "Implementation of obligations that are not just in time or done according to appropriately. The consequences that arise from default is, a necessity or necessity for debtor to pay "replace" loss (shadevergoeding

<sup>8</sup>Martha Eri Safira, MH, CIVIL LAW, CV. Nata Karya, page 104

<sup>9</sup> Ikhyar Rizki Harahap, et al., Settlement To Default Users Go-Jek Application in the form of Cancellation Orders Unilateral To Go-Food Drivers in Payakumbuh City

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Default in form This cause consequence law in the form of not quite enough answer change loss . Based on Article 1243 of the Civil Code , the negligent party fulfil performance must replace costs , losses , and interest if his negligence cause loss . Losses incurred consequence violation right security No always nature material , but also can in the form of fear , trauma, and worry during journey . In development law modern civil law , losses immaterial kind of This has recognized as part from losses that can occur requested change make a loss .<sup>10</sup>

Rachmad Intercession confirm that failure perpetrator business in ensure security consumer in service based application is form disabled services that are direct violate principle protection consumers .<sup>11</sup> With thus , w anprestasi in the form of driver incompatibility not can viewed as violation light , but rather as violation Serious to right security consumers . Comfort is condition psychological issues that arise when consumer feel safe , calm and confident that the services he received in accordance with information provided . In the context online transportation , comfort is very dependent on trust consumer to system applications , including accuracy driver identity . When consumers find that the driver came No in accordance with identity in application , comfort the in a way automatic lost . Consumers forced to For take decision in condition depressed , namely continue journey with fear or cancel talkxdan journey with consequence time and cost . Situation This show that services provided No fulfil standard comfort as promised in agreement.

In the Undang-Undang Perlindungan Konsumen (UUPK), the general liability of business actors is regulated in Article 19, namely:

1. Providing compensation for damage
2. Providing compensation for pollution
3. Providing compensation for consumer losses resulting from the consumption of goods or services produced.

In a way law , condition the is consequence direct from default . According to doctrine law engagement , achievement No only assessed from results end , but also from quality implementation performance That Alone .<sup>12</sup> If quality service decrease consequence violation agreement , then consumer entitled demand recovery rights , including change make a loss or cancellation agreement . Consequence law from default open room for consumer For go through various effort law . First , consumers can demand change make a loss based on Article 1243 of the Civil Code and Article 19 of the Consumer Protection Law. Compensation can in the form of return costs, compensation ,or other agreed forms . Second , consumers can demand cancellation agreement based on Article 1266 of the Civil Code if default the considered Enough Serious . Apart from through court , consumers can also go through settlement dispute through the Settlement Agency Dispute Consumers (BPSK) as arranged in UUPK. This path assessed more fast and simple , and give more access easy for consumer For get justice . Third , consumers can submit complaint to company application For demand internal accountability , including sanctions towards drivers and repairs system supervision .

### Form of Legal Protection for Consumers Regarding Driver Identity Mismatches That Potentially Constitute Personal Data Misuse.

Development technology information has bring change significant in pattern connection law between consumers and actors business , especially in service transportation on line.. However , behind convenience said , appears various problem potential laws harm consumers , one of them is mismatch driver identity listed in application with the driver coming pick up consumers . Driver identification in online transportation applications—including name, photo, gender, vehicle registration number, and vehicle type—is crucial information that forms the basis of consumer trust in using these services. A discrepancy between the displayed data and the actual facts on the ground not only causes inconvenience but also potentially threatens consumer safety and security. Mismatch This often happen consequence sale or transfer driver account , causing loss for consumer like lost goods or security threatened Consumer entitled For get protection in the form of not quite enough answer on information , responsibility answer law on services provided and responsibilities answer on safety and comfort . Every perpetrator business own not quite enough answer to what is produced or traded to consumers . In principle , the perpetrators business can asked accountability if consumer feel harmed moment use goods and/ or the services he provides accept or in other words no implementation obligation law .

Safety and security consumer is one of the mission from online driver company or in other words that security and safety is matter important in service service transportation general This is online based . However , when This

<sup>10</sup> Subekti , *Contract Law* , Jakarta: Intermasa , 2001, p . 45.

<sup>11</sup> Rachmad Safa'at , “ Protection Consumer in Service Transportation

<sup>12</sup> R . Setiawan, *Principles of Contract Law* , Bandung: Binabuat , 2004, p . 17

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security in use service transportation general online based still in a word low . Although Already There is features security stated in the application , but lack of driver awareness of his obligations result in losses experienced passenger . Constitution Number 8 of 1999 concerning Protection Consumers (UUPK) aims For give guarantee protection law to consumer in every transactions , including digital transactions . Consumers entitled get correct , clear and honest information about conditions , guarantees and risks goods / services used . Non- conformity driver identity is clear is form information that is not appropriate , because consumer expect suitability between the displayed data (name, photo , vehicle ) and the real party come serve they . Mismatch This can become base lawsuit default or actions oppose law if proven harm consumers . Article 4 paragraph 3 of the U PK in particular explicit give right to consumer For get information accurate , while Article 7 letter b requires perpetrator business — such as company Gojek or Grab application— for provide honest data about condition services . In addition , Article 19 of the PK Law stipulates not quite enough answer perpetrator business on loss consumer consequence mismatch services , including change make a loss in form of money or replacement goods equivalent in 7 days time . Mismatch driver identity , for example name, photo , or SIM number that is not suitable with what appears in the application , violates principle balance and certainty law as per Article 2 of the PK Law. Case like This often happened to the Go-Send service in Serang , where the goods is lost because of fake drivers , so the platform is responsible answer in a way law . The government also regulates through Regulation of the Minister of Transportation Number 12 of 2019 ( Minister of Transportation Regulation 12/2019), which requires driver and vehicle identity must in accordance with data in the application .

Imam Sartono state that provider service obliged ensure information displayed to consumer is valid and can accountable , because information is base taking decisions by consumers in use services offered . If mistaken identity , consumer No only harmed morally but also experience uncertainty law on responsible party answer if happen action criminal or actions oppose law . In a way contractual , agreement service online transportation is subject to the provisions general engagement in the Civil Code . Article 1338 of the Civil Code confirm that agreement made in a way legitimate valid as Constitution for the parties . This means that the information driver identity displayed in application become part from mandatory achievements fulfilled <sup>13</sup>. When the identity the No appropriate , then performance No implemented as promised and can qualified as default . In addition , in digital context , trust becomes foundation main connection between consumers and platforms. According to Rahayu, in the digital economy era , transparency information is form protection preventive for consumer. Non-conformity driver identity means disappearance transparency and has the potential cause risk security , including action criminal .<sup>14</sup>

Mismatch driver identity can also be analyzed in perspective personal data protection personal , according to Constitution Number 27 of 2022 concerning Personal Data Protection (PDP Law), is any data about an identified person or can identified in a way alone or combined with information other .<sup>15</sup> In context application online transportation , driver identity (name, photo , number) vehicle ) is personal data processed by the provider service . If driver account loaned or used by someone else, then has happen personal data processing without right or without valid consent . This is potential violate principle lawful and responsible data processing answer as arranged in the PDP Law.<sup>16</sup> In a way theoretical , misuse of personal data No always must in the form of data leak (data breach). Use of data by unauthorized parties authorities also include form abuse . From the corner view protection consumers , personal data No only driver's rights , but also concerns right consumer on correct information . Therefore that, misuse of personal data in context This impact double : violate system platform security and threats safety consumers According to Santoso, responsibility digital platform answer no can released only with reason that the driver is partners , because connection law still is at in system managed by the platform .. Therefore that , protection consumer in case This must see not quite enough answer together between driver and provider service .<sup>17</sup> Form protection law to consumer in case like This can shared into two dimensions main , namely protection preventive and protective repressive .

### a. Protection Preventive

Protection emphasize on efforts prevention before happen loss . In the context of online transportation , platform providers are obliged build system effective verification and oversight . This in line with view that perpetrator digital business has not quite enough answer corporate For ensure safe and reliable system .. Verification

<sup>13</sup> Constitution Number 8 of 1999 concerning Protection Consumers , Article 4

<sup>14</sup>H. Rahayu, Protection Law Digital Consumer (Jakarta: Rajawali Pers, 2023), p . 45.

<sup>15</sup> Constitution Number 27 of 2022 concerning Personal Data Protection , Article 1 number 1.

<sup>16</sup>Ibid., Article 20.

<sup>17</sup>D. Santoso, Personal Data Protection & Digital Platforms (Jakarta: Prenadamedia , 2024), p . 158.

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biometrics periodic , system introduction face when logging in, as well as routine audits of driver account is example concrete protection preventive . Without mechanism said , the platform can considered negligent in fulfil obligation supervision .

## b. Protection Repressive

Protection repressive given after violation occurred . UUPK in Article 19 regulates that perpetrator business responsible answer give change make a loss on losses suffered consumer consequence services provided No in accordance with agreement . In the context of mismatch driver identity , change make a loss can in the form of return cost travel , compensation on loss immaterial , until replacement loss real if happen damage or lost consequence incident the mechanism . fast and hassle -free complaints convoluted become part important from protection effective repression .

In addition , the PDP Law also provides base sanctions administrative to organizer system failed electronics ensure security processing of personal data .. Warning written , termination temporary activity data processing , up to fine administrative can dropped if proven there is negligence systemic . With Thus, protection law to consumer No only individual through change loss , but also has a nature structural through supervision and sanctions towards the platform. Therefore that , form protection ideal law demands not quite enough answer together between drivers as implementer direct and platform as manager system . In the end , protection law to consumer on mismatch driver identity must be understood as part from effort guard trust public to system digital transportation . Without guarantee suitability identity , consumer is at in position vulnerable and potential experience greater losses wide , good in a way material and psychological . With Thus , protection law must realized through system strict prevention , mechanisms effective recovery , as well as enforcement consistent law to every form violation .

## CLOSING

### Conclusion

Based on results research and discussion , can concluded that misuse of personal data of online drivers, especially use account by unauthorized parties entitled , is violation to agreement electronic form that binds the parties .The action fulfil element default Because performance No implemented as promised in accordance provisions of Article 1234 to with Article 1243 of the Civil Code . Apart from being default , use driver accounts by other parties can also be qualified as actions oppose law if cause loss for consumers . This is Because actions the violate obligation law For act Be careful as well as violate right consumer for a sense of security and comfort . As a result law from default the impact directly on the violation right consumer on security , comfort and certainty law as arranged in Article 4 of the Law Number 8 of 1999 concerning Protection Consumers . So that matter This even though the driver is said as partners , but party application is also mandatory accountable on obligation this . This thing in accordance PK Law Articles 8 and 19, platforms are required give compensation in the form of money or replacement goods equivalent .

### Suggestion

Every form abuse account potential cause not quite enough answer law , good in a way civil and administrative.important For understand that driver account is personal and not can diverted to other parties . Therefore that , is necessary improvement system supervision and verification driver account in periodically in party applications , including implementation sanctions firm to abuse account to guarantee security and trust consumers .

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