



Legal Review of Media Broadcasting Activities In The Perspective of Law No. 32 of 2002

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Abstract

The definition of broadcasting in the Broadcasting Law does not mention broadcasting via internet networks/infrastructure or over the top, thus broadcasting via social media platforms is still a question of whether it is subject to the Broadcasting Law or other laws. Regarding this matter, RCTI and iNews TV (MNC Group) submitted a material review to the Constitutional Court which essentially requested that the definition of broadcasting as mentioned in Article 1 paragraph (2) of the Broadcasting Law include providers of over-the-top (OTT) audiovisual services, or internet-based digital platforms such as YouTube, Instagram, or Facebook. RCTI and iNews argue that the request for judicial review of the Broadcasting Law for equality and moral responsibility of the nation is motivated by the desire to provide equal treatment and protection for all Indonesian people. This type of research is Normative research. The approaches used are a statutory approach and a conceptual approach. The data source used is secondary data. Data analysis was carried out descriptively and qualitatively. Concluding is carried out using a deductive method from general to specific to those related to the research issue. Legal Review of Media Broadcasting Activities in the Perspective of Law no. 32 of 2002. This research shows that if we look more closely, Law No. 32 of 2002 concerning Broadcasting has two important spirits, firstly, a broadcasting structure that is free and used solely for services to the community, not the interests of media owners. Second, the spirit of strengthening local entities which includes the spirit of regional autonomy by covering a comprehensive network system extending to the outermost areas. Broadcasting operations in several countries in the world are regulated by the laws and regulations in force in that country. Indonesia regulates broadcasting in Law Number 32 of 2002 concerning Broadcasting (Broadcasting Law).



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1. Introduction

Broadcasting has a very strategic role in building democracy in a nation, therefore broadcasting is also a supporting force for democracy that must be supported and given space for the benefit of society. Broadcast media in general such as television and radio media in particular are dynamic and attractive mass media and are creative media that encourage public curiosity to find out more about the process of broadcasting and advances in broadcasting technology as well as the regulations and government policies that govern it (Mendel, 2013). For the Indonesian people, television and radio media today are not only media for education, entertainment, and information but have also

become a means of binding the community (viewers) and broadcasters within an industrial circle. Therefore, there is a great need for information from practitioners in the field of broadcasting who can provide answers regarding the problems of organizing television and radio broadcasting in particular and broadcasting in general. (Heryanto, 2017).

The Broadcasting Law tries to enforce democratization in the broadcasting sector. The basic principles of broadcasting are related to the principles of guarantees from the state so that broadcasting activities carried out by broadcasting institutions have a positive impact on the public. In this case, the public must have adequate access to be involved, utilize, obtain protection, and benefit from broadcasting activities. To achieve success from this principle, other principles are also needed, which are embedded in supporting it, namely the principles of diversity of ownership and diversity of content from broadcasting institutions (Seethaler & Beaufort, 2017). Broadcasting is carried out to strengthen national integration, foster the character and identity of a nation of faith and piety, educate the life of the nation, and advance the general welfare, to build an independent, democratic, just, and prosperous society, as well as growing the Indonesian broadcasting industry. Broadcasting is directed at upholding the implementation of Pancasila and the 1945 Constitution of the Republic of Indonesia, maintaining and improving morality and religious values as well as national identity, improving the quality of human resources, maintaining and strengthening national unity and integrity, and increasing awareness of legal compliance and national discipline, channeling public opinion and encouraging the active role of society in national and regional development as well as preserving the environment, preventing monopoly ownership and supporting healthy competition in the broadcasting sector, encouraging the improvement of the people's economic capacity, realizing equality and strengthening the nation's competitiveness in this globalization, providing correct, balanced, and responsible information, and advancing national culture (Hajar, 2019).

Law of the Republic of Indonesia Number 32 of 2002 concerning Broadcasting (Broadcasting Law) explains the definition of broadcasting in Article 1 paragraph (2) with the words "Broadcasting is the activity of broadcasting broadcasts through broadcasting facilities and/or transmission facilities on land, at sea or in outer space with using the radio frequency spectrum via air, cable, and/or other media to be received simultaneously by the public and the receiving device. The definition of broadcasting in the Broadcasting Law does not mention broadcasting via internet networks/infrastructure or over the top, thus broadcasting via social media platforms is still an inquiry of whether it is subject to the Broadcasting Law or other laws. Regarding this matter, RCTI and iNews TV (MNC Group) submitted a material review to the Constitutional Court which essentially requested that the definition of broadcasting as mentioned in Article 1 paragraph (2) of the Broadcasting Law include providers of over-the-top (OTT) audiovisual services, or internet-based digital platforms such as YouTube, Instagram, or Facebook (Kridasaksana, 2017). RCTI and iNews argue that the request for judicial review of the Broadcasting Law for equality and moral responsibility of the nation is motivated by the desire to provide equal treatment and protection for all Indonesian people.

Broadcasting is the activity of spreading broadcasts through broadcasting facilities and/or transmission facilities in the air, at sea, or in outer space using the radio frequency spectrum via air, cable, and/or other media so that they can be received simultaneously and simultaneously by the public with broadcast receiving devices (Handiriono, 2023). Broadcast itself according to Article 1 paragraph (1) of the Broadcasting Law is a message or series of messages in the form of sound, images, or sounds and images or the form of graphics, or characters, whether interactive or not, which can be received via broadcast receiving devices. Broadcasts regulated in the Broadcasting Law are broadcasts whose broadcast uses the radio frequency spectrum, which is a limited natural resource and is a national treasure. The use of radio frequency spectrum should be used for the greatest prosperity of the people by the spirit of the ideals of the Proclamation of 17 August 1945.

The development of information and communication technology has had a huge impact on the world of broadcasting, including broadcasting in Indonesia. Broadcasting as a distributor of information and shaper of public opinion, has an increasingly strategic role, especially in developing democracy in Indonesia. Broadcasting has become a means of communication for society, broadcasting institutions, the business world, and government. These developments have caused the existing legal basis for broadcasting regulation to become inadequate (Stirman, 2016). The community's participation in carrying out some of the general government tasks, especially in the field of broadcasting operations, cannot be separated from the general rules of telecommunications operations that apply universally. According to broadcasting law, broadcasting is the activity of broadcasting broadcasts through broadcasting facilities and/or transmission suggestions on land, at sea, or in outer space using the radio frequency spectrum via air, cable, and other media to be received simultaneously and simultaneously by the public with broadcast reception devices (Kiflu, 2015).

Since its enactment in 2002, the Broadcasting Law has established a special body in the broadcasting regulatory system in Indonesia, namely the Indonesian Broadcasting Commission (KPI). During the New Order era, a

Broadcasting Law was also established, namely Law Number 24 of 1997. However, broadcasting was controlled by the state, whose guidance and control were carried out by the government. It was the democratic process that led to the amendment of the New Order broadcasting law by placing the public as the main owner and controller of the broadcasting domain. Because frequency is public property and is limited in nature, its use must be maximized for the public interest. In broadcasting, there are four different but interrelated legal substances. The first is a technical issue or technological aspect (Bahreisy, 2017).

Media is a changing and growing industry that creates jobs, goods, and services, and vitalizes other related industries; Media is also a separate industry that has regulations and norms that connect these institutions with society and other social institutions (Smith, Evens, & Iosifidis, 2015). On the other hand, media institutions are regulated by society. Media is a source of power, a tool of control, management, and innovation in society that can be used as a substitute for other resources. The media is a forum that increasingly plays a role in presenting events in people's lives, both at national and international levels. Media plays a role as a vehicle for cultural development, not only in the sense of developing art forms and symbols but also in terms of developing procedures, fashion, style, life, and norms. Media is the dominant source for individuals and society to obtain images and images of social reality; The media presents normative values and judgments mixed with news and entertainment (Burri, 2015).

Management of broadcast media in Indonesia is regulated in Law Number 32 of 2002 concerning Broadcasting. In this law, it is explained that: "Broadcasting is the activity of broadcasting broadcasts through broadcasting facilities and/or transmission facilities on land, at sea or in outer space using the radio frequency spectrum via air, cable and/or other media to be received simultaneously. and simultaneously by the public and broadcast receiving devices." Broadcasting media consists of radio and television. Radio broadcasting is a media for mass listening communication, which transmits ideas and information in the form of sound in a general and open manner, in the form of regular and continuous programs; Meanwhile, television broadcasting is a mass communication medium for hearing and viewing, which transmits ideas and information in the form of sound and images in general, both open and closed, in the form of regular and continuous programs. Broadcast media can take the form of (a) Public Broadcasting Institutions; (b) Private Broadcasting Institutions; (c) Community Broadcasting Institutions; and (d) Subscription Broadcasting Institutions which have different characteristics. Characteristics of the Broadcasting Institution (Fitriyani, 2017).

Regulations regarding procedures for Indonesian broadcasting in general are regulated in the Broadcasting Law. According to Article 1 paragraph (1) of the law, broadcast is defined as a message or 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 via broadcast receiving devices. This broadcast-receiving device can be interpreted as a broadcast-receiving device. This device is a device in the form of a microphone and/or lens system that can function to change electromagnetic waves. Later these electromagnetic waves carry a charge in the form of image signals or sound signals which can be enjoyed by the signal recipient. Examples of broadcast-receiving devices that we usually know about in the Broadcasting Law are television and radio. Broadcasting in Article 1 paragraph (2) of the Broadcasting Law is explained as the activity of broadcasting broadcasts through broadcasting facilities and/or transmission facilities on land, at sea, or in outer space using the radio frequency spectrum via air, cable, and/or other media to be received. simultaneously and simultaneously by the public with broadcast receiving devices." There are three elements of broadcasting, namely the studio, transmitter, and receiver, these three elements are usually called the broadcast trilogy. (Hasan, 2010).

2. Materials and Methods

This type of research is Normative research. The approaches used are a statutory approach and a conceptual approach. The data source used is secondary data. Data analysis was carried out descriptively qualitatively (Moleong, 2021). Concluding is carried out using a deductive method from general to specific, especially those related to the research topic. Legal Review of Media Broadcasting Activities in the Perspective of Law no. 32 of 2002. Qualitative data analysis is carried out if the empirical data obtained is in the form of a collection of words and not a series of numbers and cannot be arranged into categories. Data can be collected in various ways (interview observations, document instances, and recording tapes). It is processed before being used in qualitative research, including the results of interview transcripts, data reduction, analysis, data interpretation, and triangulation (Amirudin, 2010).

3. Results and Discussions

Implications of Legal Review of Media Broadcasting Activities in the Perspective of Law No. 32 of 2002

Broadcasting operations in several countries in the world are regulated by the laws and regulations in force in that country. Indonesia regulates broadcasting in Law Number 32 of 2002 concerning Broadcasting (Broadcasting Law). Regulations regarding broadcasting in Indonesia began before independence, with the issuance of Radiowet by the Dutch East Indies government in 1934. Indirectly, this regulation became the basis for the establishment of NIROM (Nederlands Indische Radio Omroep Maatschaapij) which received special rights from the Dutch East Indies government. After the independence of the Republic of Indonesia, the regulation of private broadcast radio developed along with the emergence of broadcast radio and communication radio, especially during the transition from the old order to the new order. Therefore, the government issued Government Regulation Number 55 of 1970 concerning Non-Governmental Broadcast Radio. For almost 27 years, broadcast radio has only been regulated by rules spread across various laws and regulations. However, entering 1997, the process was quite long. The House of Representatives of the Republic of Indonesia (DPR RI) finally approved the Draft Law on Broadcasting which was then ratified by the President as Law Number 24 of 1997 concerning Broadcasting on September 29, 1997 (Heryanto, 2017).

During this period, there was a significant amount of discourse surrounding the enactment of the Broadcasting Law. It appeared that the President harbored some hesitancy in signing the legislation due to certain substances that remained pending approval by the Government. As a result, it remained unclear as to whether the law would be signed shortly. The substance is related to the existence of the KPI and also the government's authority in granting broadcasting permits. The Government feels that these two substances cannot be implemented due to the formation of a new institution, namely the KPI. According to the government, the formation of this new institution will raise pros and cons from society regarding freedom of opinion. The government also believes that broadcasting permits should be within the government's territory, in this case, the Ministry of Communication and Information. The government argues that frequency is a state asset that must be managed by the state for the prosperity of the people. Apart from that, many people also believe that Law Number 32 of 2002 concerning Broadcasting still does not support reform and curbs press freedom. However, Article 20 paragraph (5) of the 1945 Constitution of the Republic of Indonesia states that in the case of a Draft Law that has been jointly approved by the DPR RI and the President, it is not ratified by the President within thirty days of the Draft Law. The law is approved, the draft law is valid and becomes law and must be promulgated. Therefore, the Broadcasting Law was legally promulgated on December 28, 2002 (Kridasaksana, 2017).

There are two regulatory bodies for broadcasting in Indonesia, namely the government and the Indonesian Broadcasting Commission (KPI). Based on the 2004 Constitutional Court decision, it is stated that the Ministry of Communication and Information has the authority to issue regulations/laws regarding broadcasting, apart from content. This decision had a fatal impact, where the government was deemed to have neglected its obligation to organize the life of the broadcasting industry. The main basis for the ideals and objectives of passing the Broadcasting Law is regulations to eliminate monopoly among a group of capital owners in the broadcasting industry. It is feared that this will have an impact on public opinion's control of information that develops in wider society. So the mission of this law is to ensure the creation of diversity and democracy in broadcasting to remote areas. So the frequency owner has the right to manage and control the media.

If you look more closely, Law No. 32 of 2002 concerning Broadcasting has two important spirits, firstly, a broadcasting structure that is free and used solely for services to the public, not the interests of media owners. Second, the spirit of strengthening local entities which includes the spirit of regional autonomy by covering a comprehensive network system extending to the outermost areas. Since the law was passed, there have been several main changes to the broadcasting service system, the essence of which is the spirit of realizing and respecting the rights of the entire community. The basic change lies in the spirit of the law in the form of a limited transfer of authority from broadcasting services which is intended as the government's exclusive right to KPI. The agency mentioned aims for a system whose management is in the community interest and is free from the intervention of any party. As a matter of experience in the new order which utilized the media only to support the hegemony of the public regime in strategic power, they also took the opportunity to combine several ruling groups and elites. (Stirman, 2016).

The Urgency of Legal Review of Media Broadcasting Activities in the Perspective of Law No. 32 of 2002

Regulations regarding procedures for Indonesian broadcasting in general are regulated in the Broadcasting Law. According to Article 1 paragraph (1) of the law, the broadcast is defined as "a message or 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 via broadcast receiving devices. "This broadcast-receiving device can be interpreted as a broadcast-receiving device. This device is a device in the form of a microphone and/or lens system that can function to change

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The Broadcasting Supervisory Agency is called the Indonesian Broadcasting Commission abbreviated as KPI. The KPI established by law is responsible to the DPR RI as a representative of the people, with the other meaning that the KPI in carrying out its functions and duties does not receive direct pressure from the government. With the presence of KPI as an independent institution that has the task of supervising broadcasting activities, the public hopes that the existence of this State Institution will create legal certainty in the broadcasting sector in Indonesia and also obtain useful broadcast content. Useful broadcast content such as providing educational understanding and increasing public knowledge is a benchmark for KPI in carrying out its duties, functions, and authority. In Article 8 paragraph (2) of the Broadcasting Law, the KPI's authority is outlined in the form of: 1. KPI can form regulations and ratify broadcasting behavior guidelines (SP3SPS); 2. Can set standard broadcast programs; 3. Supervise the implementation of regulations that have been made, supervise broadcasting behavior guidelines and broadcast program standards; 4. Provide penalties for violators of broadcasting rules and code of conduct as well as broadcasting program standards; 5. Carry out coordination and/or have a cooperative relationship with the Government, community, and Broadcasting Institutions (Hajar, 2019).

The need for information using communication technology must be well maintained, in other words, a security system is needed because technically the need for information and this system itself is very vulnerable to not working as it should (malfunction), can be changed or breached by parties either by people or institutions who do not mean evil or who do. The basic principles of broadcasting as a result of developments in technology and information are closely related to the principles of guarantees from the state so that broadcasting activities carried out by broadcasting institutions have a positive impact on the public (Susanti, Adi, 2015). In this case, the public must have adequate access to apply, utilize, obtain protection, and benefit from broadcasting activities. The law provides rights, obligations, and responsibilities as well as community participation to develop broadcasting, such as developing individuals and their social environment, searching, obtaining, owning and storing, processing and conveying information in broadcasting institutions as well as developing literacy and/or monitoring activities to supervise and protect the public from broadcast content that is detrimental to society.

In addition to the development of communication and information technology, it has had implications for the world of broadcasting, including broadcasting in Indonesia, making broadcasting apart from being a means of communication for society, the business world, and government, broadcasting has also become a business institution that also plays a role in national economic activities. Therefore, it is necessary to protect the world of broadcasting in legislative regulations against criminal acts related to broadcasting. Efforts to control and overcome criminal acts in the broadcasting sector are to determine an act as a crime (criminalization). The criminalization of broadcasting in Indonesia only began in 1997, namely with the publication of Law Number 24 of 1997 concerning Broadcasting (Heryanto, 2017). This law regulates all aspects related to broadcasting, including regulations regarding the ownership of broadcasting institutions. Based on the provisions of Law Number 24 of 1997, domestic broadcasting institutions must be oriented towards Indonesia's national interests, so the capital for establishing private broadcasting institutions must be national capital so that they are not influenced by other interests from outside (foreign parties). Law Number 24 of 1997 concerning Broadcasting was subsequently replaced by Law Number 32 of 2002 concerning Broadcasting. Each type of broadcasting institution has regulated procedures for its implementation by the Government.

4. Conclusion

If you look more closely, Law No. 32 of 2002 concerning Broadcasting has two important spirits, firstly, a broadcasting structure that is free and used solely for services to the public, not the interests of media owners. Second, the spirit of strengthening local entities which includes the spirit of regional autonomy by covering a comprehensive network system extending to the outermost areas.

Broadcasting operations in several countries in the world are regulated by the laws and regulations in force in that country. Indonesia regulates broadcasting in Law Number 32 of 2002 concerning Broadcasting (Broadcasting Law).

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