

LAW OF THE REPUBLIC OF INDONESIA
NUMBER 36 OF 1999
ON
TELECOMMUNICATIONS

BY THE GRACE OF THE ONE AND ALMIGHTY GOD
PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering :
- a. that the objective of the national development is to create a just and prosperous society that is spiritually and materially equitable based on Pancasila (state ideology) and the 1945 Constitution of the Republic of Indonesia;
 - b. that telecommunications operations play a strategic role to strengthen the unity and integrity of the nation, to facilitate activities of the government, to sustain the objectives of equitable development and its results, as well as to promote interstate relations;
 - c. that influences of globalization and rapid development of telecommunications technology have brought about fundamental changes in the operations of and perspectives towards telecommunications;
 - d. that in matters related to the fundamental changes in the operations of and perspectives towards telecommunications, it is imperative to restructure and reorder the operations of national telecommunications;
 - e. that in regards to the aforementioned, Law Number 3 of 1989 on Telecommunications is deemed no longer relevant; thereby, it shall be superseded;
- Noting :
- Article 5 paragraph (1), Article 20 paragraph (1), and Article 33 of the 1945 Constitution of the Republic of Indonesia.

With the Joint Approval of:

THE HOUSE OF REPRESENTATIVES OF
THE REPUBLIC OF INDONESIA

To establish : LAW ON TELECOMMUNICATIONS.

CHAPTER I
GENERAL PROVISIONS

Article 1

In this Law, the following terms have the following meanings:

1. Telecommunications means any emission, transmission, and/or reception of information in the forms of signs, signals, writing, images, voice and sound through wire, optic, radio, or other electromagnetic systems;
2. Telecommunications device means any instrument used in telecommunications;
3. Telecommunications equipment means a set of telecommunications devices that enables telecommunications;
4. Telecommunications facilities and infrastructures mean things that enable and support the function of telecommunications;
5. Radio transmitter means a telecommunications device that uses and emits radio waves;
6. Telecommunications network means a set of telecommunications equipment and its paraphernalia used in telecommunications;
7. Telecommunications service means service aimed at meeting the needs for telecommunications by using telecommunications network;
8. Telecommunications operators mean corporates, cooperatives, regional government-owned enterprises (BUMD), state-owned enterprises (BUMN), private entities, government institutions, and state security and defense institutions;
9. Subscribers mean individuals, juristic persons, government institutions that use telecommunications networks and or telecommunications services that are based on contracts;
10. Users mean individuals, juristic person, government institutions that use telecommunications networks and or telecommunications services that are not based on contracts;
11. Consumers mean subscribers and users;
12. Telecommunications operations mean provision and facilitation of telecommunications services that enable telecommunications;

13. Telecommunications network operations mean provision and/or facilitation of telecommunications networks that enable telecommunications operations;
14. Telecommunications services mean provision and/or facilitation of telecommunications services that enable telecommunications;
15. Special telecommunications operations mean telecommunications operations that have special characteristics, objective, and operation;
16. Interconnection means a connection between telecommunications networks from different telecommunications network operators;
17. Minister means the minister whose scope of duties and responsibilities is in telecommunications field.

CHAPTER II PRINCIPLES AND OBJECTIVES

Article 2

Telecommunications operations shall be conducted based on the principles of benefits, justice and equitability, legal certainty, security, partnership, ethics, and self-confidence.

Article 3

Telecommunications operations shall be conducted with the objectives of supporting the unity and integrity of the nation, improving welfare and prosperity of the people in a just and equitable manner, sustaining economic lives and governmental affairs, as well as promoting interstate relations.

CHAPTER III FOSTERING

Article 4

- (1) Telecommunications shall be under the power of the State and the fostering shall be done by the Government.
- (2) The fostering of telecommunications shall be directed to improve the telecommunications operations that encompasses the establishment of policies, regulations, supervisions, and controls.
- (3) The establishment of policies, regulations, supervisions, and controls in the telecommunications field as referred to in paragraph (2) shall be conducted in a comprehensive and integrated manner by considering

thoughts and views that are developing in the society as well as global developments.

Article 5

- (1) In the fostering of telecommunications as referred to in Article 4, the Government shall involve public participation.
- (2) The public participation as referred to in paragraph (1) shall be in the form of expression of thoughts and views that are developing in the society about the direction of the development of telecommunications in an effort to establish policies, regulations, supervisions, and controls in telecommunications field.
- (3) The public participation as referred to in paragraph (2) shall be organized by an independent institution established for the said purpose.
- (4) The institution as referred to in paragraph (3) shall comprise associations in telecommunications field, association of telecommunications profession, association of telecommunications device manufacturers, association of telecommunications networks and services users, and intellectuals in telecommunications field.
- (5) Provisions on the procedures of public participations and establishment of institution as referred to in paragraph (3) shall be stipulated in a Government Regulation.

Article 6

The Minister shall be responsible for the administration of telecommunications in Indonesia.

CHAPTER IV OPERATIONS

Part One General Provisions

Article 7

- (1) Telecommunications operations shall include:
 - a. telecommunications network operations;
 - b. telecommunications service operations; and
 - c. special telecommunications operations.

- (2) In telecommunications operations, the following aspects shall be considered:
 - a. protection of state interests and security;
 - b. anticipation of technology development and global demands;
 - c. professionalism and accountability; and
 - d. public participation.

Part Two
Operators

Article 8

- (1) The telecommunications network operations and/or telecommunications service operations as referred to in Article 7 paragraph (1) letter a and letter b may be conducted by a juristic person established for the said purpose based on the prevailing laws and regulations. Those operators are as follows:
 - a. state-owned enterprises (BUMN);
 - b. regional government-owned enterprises (BUMD);
 - c. private entities; or
 - d. cooperatives.
- (2) The special telecommunications operations as referred to in Article 7 paragraph (1) letter c may be conducted by:
 - a. individuals;
 - b. government institutions; or
 - c. juristic persons other than operators of telecommunications network operators and/or telecommunications service operators.
- (3) Provisions on the telecommunications operations as referred to in paragraph (1) and paragraph (2) shall be stipulated in a Government Regulation.

Article 9

- (1) The telecommunications network operators as referred to in Article 8 paragraph (1) may provide telecommunications services.
- (2) In providing telecommunications services, the telecommunications service operators as referred to in Article 8 paragraph (1) shall use and/or lease telecommunications networks owned by telecommunications network operators.

- (3) The special telecommunications operators as referred to in Article 8 paragraph (2) may operate telecommunications for:
 - a. private purposes;
 - b. state defense and security purposes;
 - c. broadcasting purposes.

- (4) The special telecommunications operations as referred to in paragraph (3) letter a, shall comprise telecommunications operation for the following purposes:
 - a. individuals;
 - b. government institutions;
 - c. special agencies;
 - d. juristic persons.

- (5) Provisions on the requirements for the telecommunications operations as referred to in paragraph (1), paragraph (2), paragraph (3), and paragraph (4) shall be stipulated in a Government Regulation.

Part Three
Prohibition on Monopolistic Practices

Article 10

- (1) In telecommunications operations, prohibition shall be imposed on conducting activities that may cause monopolistic practices and unfair competition among telecommunications operators.

- (2) The prohibition as referred to in paragraph (1) shall be in accordance with the prevailing laws and regulations.

Part Four
Licensing

Article 11

- (1) Telecommunications operations as referred to in Article 7 may be conducted after obtaining a license from the Minister.

- (2) The license as referred to in paragraph (1) shall be granted by considering:
 - a. simple procedure;
 - b. transparent, fair, and non-discriminatory process; and
 - c. short time of completion.

- (3) Provisions on license for the telecommunications operations as referred to in paragraph (1) and paragraph (2) shall be stipulated in a Government Regulation.

Part Five
Rights and Obligations of Providers and the Public

Article 12

- (1) In developing, operating, and/or maintaining telecommunications networks, telecommunications operators may use or traverse state-owned lands and/or buildings owned by or in the powers of the Government.
- (2) The use or the traverse of the state lands and/or buildings as referred to in paragraph (1) shall also apply for rivers, lakes, or seas, both at the surface and at the bottom.
- (3) The development, operations, and/or the maintenance of telecommunications networks as referred to in paragraph (1) shall be conducted after an approval from the authorized government institution in accordance with the prevailing laws and regulations.

Article 13

Telecommunications operators may use or traverse lands or buildings owned by an individual for the purpose of development, operation, or maintenance of telecommunications networks upon agreement between the parties.

Article 14

Any telecommunications consumers shall have an equal right to use telecommunications networks and telecommunications services in accordance with the prevailing laws and regulations.

Article 15

- (1) For error and/or negligence of telecommunications operators that incur damage, the injured parties shall be entitled to file a claim for damages against the telecommunications operators.
- (2) Telecommunications operators shall provide the damages as referred to in paragraph (1), unless such telecommunications operators are able to provide evidence that the damage is not caused by their error and/or negligence.

- (3) Provisions on the procedure for filing and settlement of damages as referred to in paragraph (1) and paragraph (2) shall be stipulated in a Government Regulation.

Article 16

- (1) Any telecommunications network operators and/or telecommunications service operators shall contribute to universal service.
- (2) The universal service contribution as referred to in paragraph (1) shall be in the form of provision of telecommunications facilities and infrastructure and/or other compensations.
- (3) Provisions on the universal service contribution as referred to in paragraph (2) shall be stipulated in a Government Regulation.

Article 17

Telecommunications network operators and/or telecommunications service operators shall provide telecommunications based on the principles of:

- a. equal treatment and excellent provision for all consumers;
- b. improvement of efficiency in telecommunications operations; and
- c. fulfillment of provision standards as well as facilities and infrastructure standards.

Article 18

- (1) Telecommunications service operators shall log/record in detail the use of telecommunications services by telecommunications consumers.
- (2) Telecommunications operators shall provide the log/record of the use of telecommunications services as referred to in paragraph (1) if required by consumers.
- (3) Provisions on the logs/records of the use of telecommunications services as referred to in paragraph (1) shall be stipulated in a Government Regulation.

Article 19

Telecommunications network operators shall guarantee the freedom of their consumers to choose other telecommunications networks to meet their telecommunications needs.

Article 20

Any telecommunications operator shall prioritize transmission, distribution, and dissemination of important information relating to:

- a. state security;
- b. safety of human lives and properties;
- c. natural disasters;
- d. distress; and/or
- e. plagues.

Article 21

Telecommunications operators shall not engage in telecommunications operations business which is against public interest, morality, security, or public order.

Article 22

Any individual shall not commit unlawful, illegal acts to, or manipulate:

- a. access to telecommunications networks;
- b. access to telecommunications services; and/or
- c. access to special telecommunications networks.

Part Six
Numbering

Article 23

- (1) In telecommunications network and telecommunications service operations, a numbering system shall be determined and used.
- (2) The numbering system as referred to in paragraph (1) shall be determined by the Minister.

Article 24

Requests for numbering by telecommunications network operators and/or telecommunications service operators shall be granted based on the numbering system as referred to in Article 23.

Part Seven
Interconnection and Operation Rights Fee

Article 25

- (1) Any telecommunications network operator shall have the rights to obtain interconnection from other telecommunications network operators.

- (2) Any telecommunications network operators shall provide interconnection at the request of other telecommunications network operators.
- (3) The exercise of the rights and obligations as referred to in paragraph (1) and paragraph (2) shall be carried out based on:
 - a. efficient use of resources;
 - b. harmonization of telecommunications system and equipment;
 - c. improvement in quality of service; and
 - d. fair competition.
- (4) Provisions on the telecommunications networks interconnection, the rights, and obligations as referred to in paragraph (1), paragraph (2), and paragraph (3) shall be stipulated in a Government Regulation.

Article 26

- (1) Any telecommunications network operators and/or telecommunications service operators shall pay the operation rights fee for the rights of telecommunications operations collected based on revenue percentage.
- (2) Provisions on the telecommunications operation rights fee as referred to in paragraph (1) shall be stipulated in a Government Regulation.

Part Eight Tariffs

Article 27

Structure for telecommunications network operations and/or telecommunications service operations tariffs shall be stipulated in a Government Regulation.

Article 28

The amount of the tariffs for the telecommunications networks operations and/or telecommunications services shall be determined by telecommunications network operators and/or telecommunications service operators based on a formula determined by the Government.

Part Nine
Special Telecommunications

Article 29

- (1) The special telecommunications operations as referred to in Article 9 paragraph (3) letter a and letter b shall not be connected to other telecommunications operators' networks.
- (2) The special telecommunications operations as referred to in Article 9 paragraph (3) letter c may be connected to other telecommunications operators' networks provided that the connection is used for the purpose of broadcasting.

Article 30

- (1) In the event that telecommunications network operators and/or telecommunications service operators have not been able to provide access in certain areas, the special telecommunications operators as referred to in Article 9 paragraph (3) letter a may operate telecommunications networks and/or telecommunications services as referred to in Article 7 paragraph (1) letter a and letter b after obtaining a license from the Minister.
- (2) In the event that telecommunications network operators and/or telecommunications service operators have been able to provide access in the areas as referred to in paragraph (1), special telecommunications operators may continue providing telecommunications network operations and/or telecommunications services.
- (3) The requirements to obtain the license as referred to in paragraph (1) shall be stipulated in a Government Regulation.

Article 31

- (1) In the event that special telecommunications operators for the purposes of state defense and security as referred to in Article 9 paragraph (3) letter b have not been able to or may not support their activities, special telecommunications operators may use or utilize telecommunications networks owned and/or used by other telecommunications operators.
- (2) Further provisions as referred to in paragraph (1) shall be stipulated in a Government Regulation.

Part Ten
Telecommunications Equipment,
Radio Frequency Spectrum, and Satellite Orbit

Article 32

- (1) Telecommunications equipment traded, manufactured, assembled, imported to and/or used within the territory of the Republic of Indonesia shall comply with the technical requirements and be based on a license in accordance with the prevailing laws and regulations.
- (2) Provisions on the technical requirements of the telecommunications equipment as referred to in paragraph (1) shall be stipulated in a Government Regulation.

Article 33

- (1) Use of radio frequency spectrum and satellite orbit shall require a license from the Government.
- (2) Use of radio frequency spectrum and satellite orbit shall be in conformity with its objectives and shall not cause interference.
- (3) The Government shall supervise and control the use of radio frequency spectrum and satellite orbit.
- (4) Provisions on the use of radio frequency spectrum and satellite orbit in telecommunications operations shall be stipulated in a Government Regulation.

Article 34

- (1) Radio frequency spectrum consumers shall pay the frequency use fee, the amount of which is based on the use of type and frequency bandwidth.
- (2) Satellite orbit consumers shall pay the satellite orbit use rights fee.
- (3) Provisions on the fees as referred to in paragraph (1) and paragraph (2) shall be stipulated in a Government Regulation.

Article 35

- (1) Telecommunications equipment used by foreign-flagged vessels from and into the territorial waters of Indonesia and/or operated within the

territorial waters of Indonesia shall be exempted from compliance with the technical requirements as referred to in Article 32.

- (2) Radio frequency spectrum shall not be used by foreign-flagged vessels within the territorial waters of Indonesia beyond its objectives, except:
 - a. for state security interest, safety of human lives and properties, natural disasters, distress, plagues, navigation, and vessel traffic security; or
 - b. being connected to telecommunications networks operated by telecommunications operators; or
 - c. being part of satellite communications system, the use of which is in accordance with the provisions applicable to telecommunications operations for maritime mobile services.
- (3) Provisions on the radio frequency spectrum use as referred to in paragraph (2) shall be stipulated in a Government Regulation.

Article 36

- (1) Telecommunications equipment used by foreign civil aircraft from and into Indonesian air space shall be exempted from compliance with the technical requirements as referred to in Article 32.
- (2) Radio frequency spectrum shall not be used by foreign civil aircraft from and into Indonesian airspace beyond its objectives, except:
 - a. for state security interest, safety of human lives and properties, natural disasters, distress, plagues, navigation and air traffic security; or
 - b. being connected to telecommunications networks operated by telecommunication operators; or
 - c. being part of satellite communications system, the use of which is in accordance with the provisions applicable to telecommunications operations for aeronautical mobile services.
- (3) Provisions on the radio frequency spectrum use as referred to in paragraph (2) shall be stipulated in a Government Regulation.

Article 37

Granting of license for telecommunications equipment using radio frequency spectrum for diplomatic representatives in Indonesia shall be conducted by considering the principle of reciprocity.

Part Eleven
Telecommunications Safeguards

Article 38

Any individual shall not engage in actions which may cause physical and electromagnetic interferences to telecommunications operations.

Article 39

- (1) Telecommunications operators shall safeguard and protect installations within telecommunications networks used for telecommunications operations.
- (2) Provisions on the safeguards and protection as referred to in paragraph (1) shall be stipulated in a Government Regulation.

Article 40

Any individual shall not conduct unlawful interception of information channeled through telecommunications networks in any form.

Article 41

For the purpose of providing evidence of actual use of telecommunications facilities at the request of telecommunications service consumers, telecommunications service operators shall record the use of telecommunications facilities by telecommunications service consumers, and may record information in accordance with the prevailing laws and regulations.

Article 42

- (1) Telecommunications service operators shall keep the confidentiality of information transmitted and/or received by telecommunications service subscribers through telecommunications networks and/or telecommunications services they operate.
- (2) For the purpose of criminal justice process, telecommunications service operators may record information transmitted and/or received by telecommunications service operators and may provide information required on the basis of:
 - a. written request from the Attorney General and/or Chief of the Indonesian National Police for certain criminal offenses;
 - b. request from investigators for certain criminal offenses in accordance with the prevailing laws.

- (3) Provisions on procedures for request and submission of the recorded information as referred to in paragraph (2) shall be stipulated in a Government Regulation.

Article 43

The submission of recorded information by telecommunications service operators to telecommunications service consumers as referred to in Article 41 and for the purpose of criminal justice process as referred to in Article 42 paragraph (2) shall not constitute a violation of Article 40.

CHAPTER V
INVESTIGATIONS

Article 44

- (1) In addition to the Officials of the Indonesian National Police of the Republic of Indonesia, certain Officials of the Civil Service within the Department whose scope of duties and responsibilities is in the field of telecommunications shall be granted special authority as investigators as referred to in the Code of Criminal Procedure to conduct criminal investigations in telecommunications field.
- (2) The Civil Service Investigators as referred to in paragraph (1) shall be authorized to:
- a. examine the accuracy of the report or the information relating to criminal offenses in telecommunications field;
 - b. examine natural person and/or juristic person alleged to have committed criminal offenses in telecommunications field;
 - c. stop the use of telecommunications devices and/or equipment that deviate from the applicable provisions;
 - d. summon persons for hearing and examination as witness or suspect;
 - e. examine telecommunications devices and/or equipment alleged to have been used or related to a criminal offense in telecommunications field;
 - f. search a place alleged to have been used to commit a criminal offense in telecommunications field;
 - g. seal and/or seize telecommunications devices and/or equipment used or alleged to be in connection with any criminal offense in telecommunications field;
 - h. ask experts for assistance necessary in performing criminal investigation in telecommunications field; and
 - i. cease investigation process.

- (3) The investigation authority as referred to in paragraph (2) shall be exercised in accordance with the Code on Criminal Procedure.

CHAPTER VI ADMINISTRATIVE SANCTIONS

Article 45

Any individual who violates the provisions as referred to in Article 16 paragraph (1), Article 18 paragraph (2), Article 19, Article 21, Article 25 paragraph (2), Article 26 paragraph (1), Article 29 paragraph (1), Article 29 paragraph (2), Article 33 paragraph (1), Article 33 paragraph (2), Article 34 paragraph (1), or Article 34 paragraph (2) shall be subject to administrative sanctions.

Article 46

- (1) The administrative sanctions as referred to in Article 45 shall be in the form of license revocation.
- (2) The license revocation as referred to in paragraph (1) shall be imposed after written warning.

CHAPTER VII CRIMINAL PROVISIONS

Article 47

Any individual who violates the provisions as referred to in Article 11 paragraph (1) shall be sentenced to a maximum of 6 (six) years in prison and/or a maximum of Rp600,000,000 (six hundred million rupiah) in fines.

Article 48

Telecommunications network operators that violate the provisions as referred to in Article 19 shall be sentenced to a maximum of 1 (one) year in prison and/or a maximum of Rp100,000,000 (one hundred million rupiah) in fines.

Article 49

Telecommunications operators that violate the provisions as referred to in Article 20 shall be sentenced to a maximum of 2 (two) years in prison and/or a maximum of Rp200,000,000 (two hundred million rupiah) in fines.

Article 50

Any individual who violates the provisions as referred to in Article 22 shall be sentenced to a maximum of 6 (six) years in prison and/or a maximum of Rp600,000,000 (six hundred million rupiah) in fines.

Article 51

Special telecommunications operators that violate the provisions as referred to in Article 29 paragraph (1) or Article 29 paragraph (2) shall be sentenced to a maximum of 4 (four) years in prison and/or a maximum of Rp400,000,000 (four hundred million rupiah) in fines.

Article 52

Any individual who trades, manufactures, assembles, imports, or uses telecommunications equipment within the territory of the Republic of Indonesia which is not in conformity with the technical requirements as referred to in Article 32 paragraph (1) shall be sentenced to a maximum of 1 (one) year in prison and/or a maximum of Rp100,000,000 (one hundred million rupiah) in fines.

Article 53

- (1) Any individual who violates the provisions as referred to in Article 33 paragraph (1) or Article 33 paragraph (2) shall be sentenced to a maximum of 4 (four) years and/or a maximum of Rp400,000,000 (four hundred million rupiah) in fines.
- (2) In the event of the criminal act as referred to in paragraph (1) resulted in the death of a person, the individual committing the crime shall be sentenced to a maximum of 15 (fifteen) years in prison.

Article 54

Any individual who violates the provisions as referred to in Article 35 paragraph (2) and Article 36 paragraph (2) shall be sentenced to a maximum of 2 (two) years in prison and/or a maximum of Rp200,000,000 (two hundred million rupiah) in fines.

Article 55

Any individual who violates the provisions as referred to in Article 38 shall be sentenced to a maximum of 6 (six) years in prison and/or a maximum of Rp600,000,000 (six hundred million rupiah) in fines.

Article 56

Any individual who violates the provisions as referred to in Article 40 shall be sentenced to a maximum of 15 (fifteen) years in prison.

Article 57

Any telecommunications service operators that violate the provisions as referred to in Article 42 paragraph (1) shall be sentenced to a maximum of 2 (two) years in prison and/or a maximum of Rp200,000,000 (two hundred million rupiah) in fines.

Article 58

Telecommunication devices and equipment used in the criminal offenses as referred to in Article 47, Article 48, Article 52, or Article 56 shall be confiscated for the State and/or destroyed in accordance with the prevailing laws and regulations.

Article 59

The acts committed as referred to in Article 47, Article 48, Article 49, Article 50, Article 51, Article 52, Article 53, Article 54, Article 55, Article 56, and Article 57 shall constitute crimes.

CHAPTER VIII
TRANSITIONAL PROVISIONS

Article 60

As from the time this Law comes into force, the telecommunications operators as referred to in Law Number 3 of 1989 on Telecommunications may continue their operations, provided that they shall adjust themselves to this law no later than 1 (one) year from the date this law declared effective.

Article 61

- (1) With this Law coming into force, certain rights that have been granted by the Government to an Operating Agency for a certain period based on Law Number 3 of 1989 shall remain valid.
- (2) The period of certain rights as referred to in paragraph (1) may be shortened pursuant to the agreement between the Government and the Operating Agency.

Article 62

As from the time this Law comes into force, all implementing regulations of Law Number 3 of 1989 on Telecommunications (State Gazette of the Republic of Indonesia Year 1989 Number 11, Supplement to State Gazette of the Republic of Indonesia Number 3391) shall remain effective insofar as not contradictory and/or not superseded by new ones by virtue of this Law.

CHAPTER IX
CLOSING PROVISIONS

Article 63

As from the time this Law comes into force, Law Number 3 of 1989 on Telecommunications shall be declared ineffective.

Article 64

This Law shall come into force after 1 (one) year from the date of its promulgation.

For public cognizance, it is hereby ordered that this Law be promulgated in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta
on 8 September 1999

PRESIDENT OF
THE REPUBLIC OF INDONESIA,

signed

BACHARUDDIN JUSUF HABIBIE

*Seal of President of
the Republic of Indonesia*

Promulgated in Jakarta
on 8 September 1999

STATE MINISTER OF STATE SECRETARY
OF THE REPUBLIC OF INDONESIA,

signed

MULADI

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 1999 NUMBER
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ELUDICATION
OF
LAW OF THE REPUBLIC OF INDONESIA
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ON
TELECOMMUNICATIONS

GENERAL PROVISIONS

Since the promulgation of Law Number 3 of 1989 on Telecommunications, development and telecommunications operations have shown an increasingly important and strategic role in supporting and sustaining economic activities, strengthening defense and security, educating the life of the people, facilitating the Government's activities, reinforcing the unity and integrity of the nation in the framework of archipelagic outlook (*wawasan nusantara*), and solidifying national resilience as well as promoting interstate relations.

Nevertheless, changes in the global environment and rapid development of telecommunications technology have brought about profound changes, giving rise to a new telecommunications environment, including the results of convergence with broadcasting and information technology. Thus, the reordering of the operation of national telecommunications is deemed necessary.

Adjustment to telecommunications operations at the national level has become a concrete need, given the increased capacity of the private sector in telecommunications operations, mastery of telecommunications technology, and competitive edge in an effort to meet the needs of the people.

In the meantime, development of telecommunications technology at the international level, followed by its increased use as one of the trade commodities with a high commercial value, has resulted in a host of multilateral agreements.

As a country that has actively promoted interstate relations on the grounds of national interests, Indonesia has continued to engage herself in multilateral agreements that bring their own consequences to take and to comply with.

Since the signing of the General Agreement on Trade and Services (GATS) in Marrakesh, Morocco, on 15 April 1994, which was ratified with Law Number 7 of 1994, national telecommunications operations have become an indispensable part of the global trade system.

In accordance with the principles of global trade that put emphasis on the principles of free and non-discriminatory trade, it is imperative for Indonesia to prepare herself to adjust to the telecommunications operations.

By considering the aforementioned, the Government's role is focused on the fostering, which includes establishment of policies, regulations, supervisions, and controls that involves public role.

However, increased public role of telecommunications operations must be without prejudice to basic principles contained in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that the land, the waters, and the natural resources within shall be under the powers of the State and shall be used to the greatest benefits of the people.

Therefore, matters related to the use of radio frequency spectrum and satellite orbits that are scarce natural resources shall be under the powers of the State.

By following the direction and the policies of the national development as well as by considering the ongoing development both at the national and international levels, especially in the telecommunications field, legal norms for the development and telecommunications operations stipulated by Law Number 3 of 1989 on Telecommunications shall be superseded.

ARTICLE BY ARTICLE

Article 1

Self-explanatory.

Article 2

Telecommunications operation fully considers the principles of national development by prioritizing the principles of benefits, justice and equitability, law enforcement, and self-confidence, by also considering the principles of security, partnership, and ethics.

The principle of benefit means that telecommunications development, especially telecommunications operations will be efficient and successful be it as development infrastructures, facilities of the governance, education facilities, transportation facilities, or as economic commodities that can provide greater prosperity for the people both in physical and emotional aspects.

The principle of just and equitable means that telecommunications operations provide equal treatment and opportunities to anyone who meets the criteria and the results shall be enjoyed by the people in just and equitable manners.

The principle of legal certainty means that the development of telecommunication shall be based on rules and regulations that guarantee legal certainty and provide legal protection for investors, telecommunications operators, and telecommunications consumers.

The principle of self-confidence is based on using maximum potentials of national natural resources efficiently as well as mastery of telecommunications technology in order to improve self-sufficiency and reduce dependency as a nation in facing global competition.

The principle of partnership means that telecommunications operation must be able to develop a harmonious climate, reciprocity, and synergies in telecommunications operation.

The principle of safety is meant so that telecommunications operation always considers security factor in its planning, development, and operation.

The principle of ethics is meant so that telecommunications operation always has to be based on professionalism, honesty, morality, and openness.

Article 3

The goal of telecommunications operations in this provision may be achieved, by among others telecommunications reforms to improve performance of telecommunications operations in facing globalization, preparing telecommunications field to enter a professional and fair business competition with transparent regulations, as well as open greater business opportunities for small and medium businessmen.

Article 4

Paragraph (1)

Considering that telecommunications is one of important and strategic production branches in the life of the nation, it shall be within the power of the State and aimed at the greatest benefits and prosperity of the people.

Paragraph (2)

The function of establishing policies is among others formulation of strategic basic planning and basic technical planning of national telecommunication.

The function of regulation covers both general activities and/or technical operations, which among others are reflected in the regulation on licenses and requirements in telecommunications operations.

The function of control is conducted in the form of providing guidance and direction for telecommunications operations.

The function of supervision is supervision of telecommunications operation, including supervision of ownership, commercialization, importation, assembly, use of frequency and satellite orbit as well as device and equipment, facilities and infrastructure of telecommunications.

The functions of establishing policies, regulations, supervision, and control is done by the Minister.

In line with the development of condition, the functions of regulating, supervising and control of telecommunications operation may be delegated to a regulatory agency.

For the sake of efficiency in the fostering, the Government carries out coordination with related institutions, telecommunications operators and involves the public participation.

Paragraph (3)

Self-explanatory.

Article 5

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Self-explanatory.

Article 6

In accordance with the provisions of the International Telecommunications Convention, Telecommunications Administration is a State represented by the Government of the said country.

In this case, Telecommunications Administration exercises rights and obligations of the International Telecommunications Convention and regulations attached to it.

Indonesian Telecommunications Administration also exercises rights and obligations of other international regulations such as a regulation

issued by the Intelsat (International Telecommunications Satellite Organization) and Inmarsat (International Maritime Satellite Organization) as well as other international agreements in telecommunications ratified by Indonesia.

Article 7

Paragraph (1)

Letter a

Self-explanatory.

Letter b

Self-explanatory.

Letter c

Special telecommunications is aimed at among others meteorological and geophysical purposes, TV broadcast, radio broadcast, navigation, aviation, search and rescue, amateur radios, radio communication among the people, and special telecommunications operation done by certain government institutions/private entities.

Paragraph (2)

Self-explanatory.

Article 8

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Article 9

Paragraph (1)

Self-explanatory.

Paragraph (2)

Telecommunication service operators needing telecommunication networks may use telecommunication networks that they have and/or lease from other telecommunications operators.

Leased telecommunications networks are basically used for private purposes. However, if they are released to another party, the Lessor must obtain a license as a telecommunications network operator.

Paragraph (3)
Self-explanatory.

Paragraph (4)

Letter a

Special telecommunications operations for individual purposes is the telecommunications operated in order to meet individual's needs, for example amateur radios or radio communication among the people.

Letter b

Special telecommunication operation for the interests of government institutions is telecommunications operation to support the implementation of general tasks of the institutions, for example, communication among departments or communication among regional governments.

Letter c

Special telecommunications operation for special services is telecommunications operation provided to support official activities such as navigation, aviation or meteorology.

Letter d

Special telecommunications operation for juristic person is telecommunications operation done by state-owned enterprises (BUMN), regional government-owned enterprises (BUMD), private entities or cooperatives, for example, mining telecommunications or train telecommunications.

Paragraph (5)
Self-explanatory.

Article 10

Paragraph (1)

This paragraph aims to create fair competition among telecommunications operators in carrying out their activities. The said prevailing laws and regulations is Law Number 5 of 1999 on Prohibition of Monopolistic Practices and Unfair Business Competition as well as its implementing regulation.

Paragraph (2)

Self-explanatory.

Article 11

Paragraph (1)

License of telecommunications operations is meant as the government's effort in the framework of fostering to encourage the growth of fair telecommunications operation.

The Government is obliged to periodically publish areas/regions that are open for telecommunications network and/or service operations. Telecommunications operation shall meet requirements that have been determined in the license.

Telecommunications operation for experiment purposes is granted special license for certain period of time.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Article 12

Paragraph (1)

The use or traverse of State lands and/or buildings owned/controlled by the Government is a dispensation granted to telecommunications operators.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Government institution means the institution that directly controls, owns, and/or uses lands and/or buildings.

Article 13

Individual means a natural person and/or juristic person, who directly controls, owns and/or uses the lands and/or buildings used or traversed. In granting legal protection to personal properties, its use must obtain approval from the relevant parties.

Article 14

Self-explanatory.

Article 15

Paragraph (1)

Compensation from telecommunications operators is given to consumers or public suffering from losses caused by the telecommunications operators' mistakes or negligence.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Settlement of the compensation is made through mediation or arbitration or conciliation. Such methods are to be made as an effort by any party in achieving a proper settlement. Should the settlement of the compensation through the aforementioned methods prove unsuccessful, it may be settled through the court.

Article 16

Paragraph (1)

The universal service obligation means an obligation to provide a telecommunications network by telecommunications network operator so that the needs of the people, especially those in remote and/or underdeveloped areas, to have access to telephones can be met.

In determining the universal service obligation, the Government takes into account the principle of availability of telecommunications service provision to reach populated areas with good quality and reasonable tariffs. The universal service obligation, especially for areas which are geographically remote and economically underdeveloped and requiring high development costs, including pilot areas, hinterland, border areas, remote areas and/or economically distressed areas.

The obligations to construct telecommunications facilities for universal service are borne by the fixed telecommunications network operators that have obtained licenses from the Government in the form of long distance direct dialing service (SLJJ) and/or local connection service. Telecommunications network operators other than the two aforementioned types of services are obliged to contribute.

Paragraph (2)

The other compensations as referred to in the universal service obligation mean the contribution fee for construction charged in interconnection fee.

Paragraph (3)

Self-explanatory.

Article 17

Self-explanatory.

Article 18

Paragraph (1)

To record the use of telecommunications service is the obligation of the operators, the implementation of which shall be carried out in stages and shall only be applicable for Long Distance Direct Dialing service (SLJJ) and international direct dialing (SLI), provided that it is requested by the telecommunications service consumers.

Record of the use of telecommunications services means the detailed invoice data record (billing) which is used to give evidence of the use of telecommunications services.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Article 19

When a telecommunications network is connected to a number of other networks operating the same services, the consumers of the said network are guaranteed their freedom to choose one of the connected networks through a determined numbering system.

In principle, consumers have the rights to choose a network operator and/or telecommunications service operator to channel their telecommunications connection. In implementing this connection, network operator and/or telecommunications service operator may change the route of the consumers' connection to other network operators without the consumers' knowledge.

Should that happen, it contradicts the principle of fair competition, which may cause harm for both the operator as well as the consumers.

Article 20

The transmission of information is the initial stage of telecommunications process, followed by distribution activities as intermediary process, and concludes with the conveyance of information to be received by the intended parties.

The priority of transmission, distribution and conveyance of information that will be determined by the Government, is, among others, news on disaster.

Article 21

Suspension of telecommunications operations business activities may be imposed by the Government after receiving information creating a strong and convincing suspicion that such telecommunications operations infringe public interest, morality, security, or public order.

Article 22

Self-explanatory.

Article 23

Paragraph (1)

This provision is intended to ensure that the requirements for numbering from network operator and telecommunications service operators as well as the use of the numbering are fulfilled in a fair manner and in line with international provisions.

Number means a series of signs in the form of digits consisting of access codes and subscribers' numbers used to identify an address on the telecommunications networks or services.

Paragraph (2)

Numbering is a scarce resource and therefore the numbering system is regulated by the Minister in a fair manner. Numbering on telecommunications networks is related to international technologies and provisions.

Article 24

Self-explanatory.

Article 25

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Article 26

Paragraph (1)

Fee for the rights of telecommunications operations is an obligation imposed on the network operators and/or telecommunications service operators as compensation for the

license obtained for telecommunications network and/or service operations, the amount of which is determined based on a revenue percentage and constitutes Non-Tax State Revenue (PNBP) deposited into the State Treasury.

Paragraph (2)

Self-explanatory.

Article 27

The tariffs structure for telecommunications network and/or service covering the structures and types of tariff is determined by the Government. Based on these structures and types, telecommunications network operators and/or telecommunications service operators may set the tariffs.

The tariff structure consists of new installation fee (activation), monthly subscription fee, consumer fee and additional services (feature) fee.

Types of tariff consist of the local tariff, the long distance direct dialing (SLJJ) tariff, International Direct Dialing (SLI) tariff, and air time for mobile telephone connection services.

Article 28

The formula as referred to in this provision is a calculation guide to set the amount of the tariffs.

The tariff formula consists of an initial tariff formula and modification formula.

In fixing the initial tariff formula, the cost component has to be considered, whereas in determining the amount of modification tariff formula, the factors of inflation, people's purchasing power, and the sustainability of telecommunications development, among others, must also be taken into account.

Article 29

Paragraph (1)

The prohibition on special telecommunications operations from connecting to other telecommunications operators' networks is intended to provide legal certainty for the scope of special telecommunications operators which only covers their own needs.

Paragraph (2)

Self-explanatory.

Article 30

Paragraph (1)

This provision is intended to address the need for telecommunications services in certain areas which due to certain conditions have not been able to be reached by telecommunications services. Therefore, this law deems it necessary to enable the special telecommunications operators which are originally operating only for their own interests, to provide telecommunications services to the public residing in those areas.

Paragraph (2)

The special telecommunications operators operating telecommunications networks and/or services may continue operating telecommunications networks and/or services taking into account the investment made and the sustainability of services to consumers.

In this matter, the special telecommunications operators concerned are obliged to comply with all provisions applicable to the telecommunications operations networks and/or services.

Paragraph (3)

Self-explanatory.

Article 31

Paragraph (1)

For the purpose of state defense and security, telecommunications facilities owned by other telecommunications operators may be used.

The use of the telecommunications networks as referred to in this paragraph is carried out provided that the telecommunications networks for the purposes of state defense and security, in this case the Indonesian National Defense Forces (TNI), cannot function or is not available.

In the event of state emergency, the provisions of this paragraph are not applicable.

Paragraph (2)

Self-explanatory.

Article 32

Paragraph (1)

The technical requirements of telecommunications devices/equipment constitute mandatory requirements for telecommunications devices/equipment in order that at the time of operation they do not interfere with other telecommunications devices/equipment and/or other telecommunications networks or other devices/equipment of non-telecommunications equipment.

The technical requirements concerned are more intended for the function of the telecommunications devices/equipment in terms of electric/electronic parameters as well as considering aspects beyond the electric/ electronic parameters in accordance with prevailing provisions and other aspects, e.g. environment, safety, and health.

In order to guarantee compliance with technical requirements of the telecommunications devices/equipment, any telecommunications devices or equipment must be tested by a testing center recognized by the Government or by an authorized institution.

The technical requirements must comply with the applicable international technical standards taking into account the public interests and must be based on open technologies.

Paragraph (2)

Self-explanatory.

Article 33

Paragraph (1)

The granting of a license for the use of radio frequency spectrum and satellite orbit is based on the availability of radio frequency spectrum allocated for the telecommunications operations, including broadcasting according to its objectives.

The radio frequency allocation tables are widely distributed in a transparent manner to the public.

If the availability of radio frequency spectrum and satellite orbit cannot meet the demand or the needs of telecommunications operation, obtaining license may be done through, i.e. by auction mechanism.

Paragraph (2)

Radio frequency is a number of electromagnetic vibrations for 1 (one) period, whereas radio frequency spectrum is an accumulation of radio frequencies.

The use of radio frequency is based on the space, the number of vibration and the bandwidth, which can only be used by 1 (one) party. The simultaneous use of the same or coincided space, the amount of vibration, and bandwidth will interfere with each other.

Frequency in telecommunications is used to convey or distribute information. Thus, in order that the information can be properly conveyed or distributed without interferences, the use of the frequency must be regulated. The regulation of the frequency, among others, concerns the allocation of the frequency bands and its assignment.

Satellite orbit is a trajectory in space crossed by a satellite mass center. The satellite orbit consists of geostationary satellite orbit, low satellite orbit, and medium satellite orbit.

The geostationary satellite orbit is a trajectory passed through by a satellite mass center caused by the earth's gravity, which has a fixed position in relation to the earth. The geostationary satellite orbit is located above the equator at a height of 36,000 km.

The low and medium satellite orbit is a trajectory passed through by a satellite mass center with a non-stationary position in relation to the earth. The height of the low satellite orbit is around 1,500 km while the height of medium satellite orbit is around 11,000 km.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Article 34

Paragraph (1)

The fee for the rights of radio frequency spectrum use is compensation for the use of the frequency according to the license obtained. In addition, the fee for the rights of radio frequency use is also intended as a means of supervision and

control to ensure that the radio frequency as a scarce natural resource can be fully used.

The amount of the fee for the rights of frequency use is determined by the type and the width of the frequency band. Type of frequency will affect the quality of operations, whereas the width of the frequency band will affect the capacity/amount of information that can be conveyed or transmitted.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Article 35

Paragraph (1)

Indonesian territorial waters are the territorial sea area including the deep sea. Thus, it includes the concept of an archipelagic state as recognized in the United Nations Convention on the Law of the Sea, ratified by Law Number 17 of 1985.

On the basis that the foreign-flagged vessels equipped with telecommunications equipment of which the installation and the operation are carried out under the provisions applicable in their respective countries, the provisions on the technical requirements stipulated by the Minister cannot be applied to them.

The use of such telecommunications equipment in Indonesian territorial waters must still comply with the prevailing international provisions, i.e. the principle of non-interference and in accordance with its objectives.

Paragraph (2)

Prohibition to use radio frequency spectrum or satellite orbit within the territorial waters of Indonesia is intended to protect state security and to prevent losses to telecommunications operations.

Maritime mobile service is a telecommunication between the coastal station and the ship radio station, intership radio station, onboard interstation supplementary communications, rescue vehicle station, or emergency position-indicating radio station.

This provision shall only be applicable to civil vessels and shall not apply to vessels owned by TNI.

Paragraph (3)

Self-explanatory.

Article 36

Paragraph (1)

The technical provisions on telecommunications equipment stipulated by the Government cannot be applied to foreign aircrafts as they comply with the provisions applicable to their respective countries.

The use of such telecommunications equipment must still comply with the prevailing international provisions, i.e. the principle of non-interference and in accordance with its objectives.

Paragraph (2)

Prohibition to use radio frequency spectrum or satellite orbit within Indonesia airspace is intended to protect state security and to prevent losses to telecommunications operations.

Aeronautical mobile service is telecommunications between aeronautical stations and aircraft stations, inter-aircraft stations, which may also include rescue vehicle stations, and emergency position-indicating radio stations.

Paragraph (3)

Self-explanatory.

Article 37

The principle of reciprocity as referred to in this Article is the principle in international relations to accord equal treatment to foreign diplomatic envoys in Indonesia as is given to the Indonesian envoys in the country concerned.

Article 38

Actions which may cause interferences to telecommunications operation may be in the forms of:

- a. physical actions that inflict damages to telecommunications networks causing improper function;
- b. physical actions causing improper telecommunications connections;
- c. the use of telecommunications devices which is not compatible with applicable technical requirements;

- d. improper use of telecommunications devices operating with radio waves which may cause interference with other telecommunications operations; or
- e. the use of non-telecommunications devices so as to induce undesirable technical effects to telecommunications operations.

Article 39

Paragraph (1)

Telecommunications safeguards activities are carried out by telecommunications operators commencing from construction planning up to the end of the operational period.

The scope of construction planning includes design and engineering, which must take into account the protection and the safeguard against electromagnetic, natural and environmental interferences.

With respect to safeguard and protection of the installation activities, operators shall involve public participation and coordinate with the competent authorities.

Paragraph (2)

Self-explanatory.

Article 40

Unlawful interception as referred to in this Article is the activity of illegally installing any additional devices or equipment to telecommunications network for the purpose of obtaining unlawful information. In principle, information owned by a person is a privacy which must be protected, and therefore unlawful interception must be prohibited.

Article 41

Records of information include conversations records between parties through telecommunications.

Article 42

Paragraph (1)

Self-explanatory.

Paragraph (2)

Criminal justice process in this provision includes investigation, prosecution and trial.

Letter a

Certain criminal offense means a criminal offense subject to imprisonment of 5 (five) years or more, lifetime imprisonment, or death.

Letter b

An example of certain criminal offences according to applicable Laws is criminal offences in accordance with the Law on Narcotics and criminal offenses under the Law on Psychotropic.

Paragraph (3)

Self-explanatory.

Article 43

Self-explanatory.

Article 44

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Article 45

Imposition of administrative sanctions in this provision is intended as an effort of the Government in the context of supervision and control of telecommunications operations.

Article 46

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Article 47

Self-explanatory.

Article 48

Self-explanatory.

Article 49

Self-explanatory.

Article 50
Self-explanatory.

Article 51
Self-explanatory.

Article 52
Self-explanatory.

Article 53
Paragraph (1)
Self-explanatory.
Paragraph (2)
Self-explanatory.

Article 54
Self-explanatory.

Article 55
Self-explanatory.

Article 56
Self-explanatory.

Article 57
Self-explanatory.

Article 58
Self-explanatory.

Article 59
Self-explanatory.

Article 60
Self-explanatory.

Article 61
Paragraph (1)
Operating Agency is the agency as referred to in Law Number 3
of 1989.
Paragraph (2)
Certain rights is the exclusive rights to operate fixed local
connection telecommunications services, Long Distance Direct

Dialing (SLJJ), and International Direct Dialing (SLI) granted by the Government to an Operating Agency.

In line with the spirit of this Law which will abolish monopoly in telecommunications field, the Government may shorten the term of the certain rights.

Acceleration of expiry of the certain rights is done by mutually agreed means and terms, by considering the principles of honesty and fairness, as well as openness, for example, by the granting of compensation.

Article 62

Self-explanatory.

Article 63

Self-explanatory

Article 64

Self-explanatory.

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