

REGULATION OF MINISTER OF COMMUNICATIONS AND INFORMATICS

NUMBER 38 OF 2014

ON

AMENDMENT TO

REGULATION OF MINISTER OF COMMUNICATIONS AND INFORMATICS

NUMBER: 01/PER/M.KOMINFO/01/2010

ON TELECOMMUNICATIONS NETWORK OPERATIONS

BY THE GRACE OF THE ONE AND ALMIGHTY GOD

MINISTER OF COMMUNICATIONS AND INFORMATICS

OF THE REPUBLIC OF INDONESIA,

Considering : a. that in order to promote the growth of telecommunications network operations, it is necessary to amend Regulation of Minister of Communications and Informatics Number: 01/PER/M.KOMINFO/01/2010 on Telecommunications Network Operations;

b. that based on the consideration as referred to in letter a, it is necessary to establish a Regulation of Minister of Communications and Informatics on Amendment to Regulation of Minister of Communications and Informatics Number: 01/PER/M.KOMINFO/01/2010 on Telecommunications Network Operations;

Noting : 1. Law Number 36 of 1999 on Telecommunications (State Gazette of the Republic of Indonesia Year 1999 Number 154, Supplement to State Gazette of the Republic of Indonesia Number 3881);

2. Law Number 39 of 2008 on State Ministries (State Gazette of the Republic of Indonesia Year 2008 Number: 166, Supplement to State Gazette of the Republic of Indonesia Number: 4916);

3. Government Regulation Number: 52 of 2000 on Telecommunications Operations (State Gazette Year

- 2000 Number: 107, Supplement to State Gazette Number: 3980);
4. Government Regulation Number: 53 of 2000 on Use of Radio Frequency Spectrum and Satellite Orbit (State Gazette Year 2000 Number: 108, Supplement to State Gazette Number 3981);
 5. Government Regulation Number 7 of 2009 on Types and Tariffs for Types of Non-Tax State Revenues Applicable in Department of Communications and Informatics (State Gazette of the Republic of Indonesia Year 2009 Number 20, Supplement to State Gazette of the Republic of Indonesia Number 4974), as amended by Government Regulation Number 76 of 2010 (State Gazette of the Republic of Indonesia Year 2010 Number 135, Supplement to State Gazette of the Republic of Indonesia Number 5171);
 6. Decision of Minister of Transportation Number: KM. 4 of 2001 on Determination of the National Fundamental Technical Plan 2000 for the Development of National Telecommunications as has been amended several times, and was last amended by Regulation of Minister of Communications and Informatics Number: 17 of 2014 on the Seventh Amendment to Decision of Minister of Transportation Number: KM. 4 of 2001 on Determination of the National Fundamental Technical Plan 2000 for the Development of National Telecommunications;
 7. Decision of Minister of Transportation Number: KM. 21 of 2001 on Telecommunications Service Operations as has been amended several times, and was last amended by Regulation of Minister of Communications and Informatics Number: 31/PER/M.KOMINFO/09/2008 on the Third Amendment to Decision of Minister of Transportation Number: KM. 21 of 2001 on Telecommunications Service Operations;
 8. Regulation of Minister of Communications and Informatics Number: 13/P/M.KOMINFO/8/2005 on Telecommunications Operations Using Satellite as amended by Regulation of Minister of

Communications and Informatics Number:
37/P/M.KOMINFO/12/2006;

9. Regulation of Minister of Communications and Informatics Number: 08/PER/M.KOMINFO/02/2006 on Interconnection;
10. Regulation of Minister of Communications and Informatics Number: 03/PER/M.KOMINFO/1/2007 on Network Lease;
11. Regulation of Minister of Communications and Informatics Number: 01/PER/M.KOMINFO/01/2010 on Telecommunications Network Operations;
12. Regulation of Minister of Communications and Informatics Number: 17/PER/M.KOMINFO/10/2010 on Organization and Work Procedure of Ministry of Communications and Informatics;

HAS DECIDED:

To establish : AMENDMENT TO REGULATION OF MINISTER OF COMMUNICATIONS AND INFORMATICS NUMBER: 01/PER/M.KOMINFO/01/2010 ON TELECOMMUNICATIONS NETWORK OPERATIONS.

Article I

Several provisions in Regulation of Minister of Communications and Informatics Number: 01/PER/M.KOMINFO/01/2010 on Telecommunications Network Operations shall be amended as follows:

1. The provisions of Article 4 are amended so as to read as follows:

Article 4

- (1) For telecommunications network operations requiring allocation of certain radio frequency spectrum, area codes, and/or network access codes, the number of operators¹ shall be limited.

¹ Translators' Note: The original document/source text should be "operators/*penyelenggara*" instead of "operations/*penyelenggaraan*". This note is written due to mistype in the original document/source text.

- (2) For telecommunications network operations with a limited number of operators as referred to in paragraph (1), the licensing procedure shall be carried out through a selection process.
 - (3) Provisions on the selection process as referred to in paragraph (2) shall not apply to telecommunications network operators that have obtained a license to use area codes or network access codes and intend to operate other types of telecommunications network operations:
 - a. differing from the type of telecommunications network operations they have operated;
 - b. using the radio frequency spectrum allocation according to the radio frequency spectrum license they have owned; and
 - c. requiring new area codes or network access codes.
 - (4) The licensing procedure for telecommunications network operations as referred to in paragraph (3) shall be fulfilled through an evaluation process.
2. The provisions of Article 5 are amended so as to read as follows:

Article 5

For telecommunications network operations that do not require allocation of certain radio frequency spectrum, network codes, and/or network access codes, the licensing procedure shall be fulfilled through an evaluation process.

3. Between Article 5 and Article 6, 1 (one) article, namely Article 5A is inserted so as to read as follows:

Article 5A

Telecommunications network operations principle license and telecommunications network operations license shall be stipulated by the Minister.

4. The provisions in Article 67 are amended so as to read as follows:

Article 67

- (1) Applications for telecommunications network operations principle licenses of which the licensing procedures are through an evaluation process as referred to in Article 4 paragraph (4) and Article 5 may be submitted at any time.
 - (2) The evaluation as referred to in paragraph (1) shall be carried out by taking into account:
 - a. fair business competition;
 - b. investment protection;
 - c. a ratio of service availability (supply-side) to community needs (demand-side); and/or
 - d. national efficiency.
 - (3) The applications for principle licenses as referred to in paragraph (1) shall be submitted to the Minister.
 - (4) Evaluation of the application as referred to in Article 4 paragraph (4) shall be carried out by the Team determined by the Minister.
 - (5) Evaluation of the application as referred to in Article 5 shall be carried out by the Director General.
5. The provisions of Article 68 paragraph (1) are amended so that Article 68 shall read as follows:
- (1) Applications for telecommunications network operations principle license of which the licensing procedures are through an evaluation process as referred to in Article 67 paragraph (1) shall enclose the following requirements:
 - a. company's deed of establishment and the approval of the competent authority;
 - b. amendment to company's deed of establishment and a letter of acceptance of notice from the competent authority;
 - c. Taxpayer Identification Number (NPWP);
 - d. certificate of domicile;
 - e. business plan which comprises:
 1. types of services in accordance with the operation applied;
 2. coverage of deployment areas and services to be deployed (roll out plan) for a five-year commitment;
 - f. bank statement of proof of funds of at a minimum of 5% (five percent) of the total investment for the deployment of

telecommunications facilities and infrastructure for 5 (five) years as stated in the roll out plan;

- g. technical data which comprises:
 - 1. system configuration and network technology to be deployed;
 - 2. network diagram, route, and map;
 - 3. the radio frequency spectrum proposed in the event that the prospective telecommunications network operators intend to use a radio frequency spectrum.
 - h. a statement explaining that the technical data, devices/equipment, telecommunications facilities and/or infrastructure to be deployed conform to telecommunication network technical requirements, configuration and hierarchy based on the fundamental technical plan;
 - i. tax clearance certificate from the tax office for existing companies;
 - j. a statement/report on the composition of direct company's share ownership up to 2 (two) levels above the applicant company, including the country of origin of the shareowners;
 - k. a statement explaining that the company's share ownership composition will not be changed during the validity period of the principle license;
 - l. a statement explaining that the share ownership composition will not be changed after obtaining a telecommunications operation license before fulfilling the deployment obligations of at a minimum of 50% (fifty percent) of the total deployment obligations for 5 (five) years as stated in the telecommunications operation license;
 - m. a statement explaining that there is no affiliation with other companies (at the level of president director).
- (2) The requirements as referred to in paragraph (1) letter j and letter k shall not apply to public companies whose share exchange transactions are carried out on a domestic stock exchange.
- (3) In the event that the requirements for the application for telecommunications network operation principle licenses as referred to in paragraph (1) are incomplete, the application shall be declared to have been canceled and the applicant may submit a new application.
6. The provisions of Article 70 paragraph (2) and paragraph (4) are amended so that Article 70 shall read as follows:
- (1) Based on the results of the selection as referred to in Article 66 paragraph (4) or based on the results of the evaluation as referred to

- in Article 69 paragraph (1), for those who meet the requirements, the Minister shall issue a principle license.
- (2) The principle license as referred to in paragraph (1) shall be valid for a maximum of:
- a. 3 (three) years for network operations whose licensing procedures are through the selection process as referred to in Article 4 paragraph (2) and network operations whose licensing procedures are through the evaluation process as referred to in Article 4 paragraph (4);
 - b. 2 (two) years for network operations whose licensing procedures are through the evaluation process as referred to in Article 5.
- (3) The principle license as referred to in paragraph (2) may be extended if the principle license holder has invested in the preparation for the deployment of facilities and infrastructure according to the results of the assessment by the Team established by the Director General.
- (4) Principle licenses may be extended once with a maximum validity period of 1 (one) year for the principle licenses as referred to in paragraph (2) letter a, and 6 (six) months for the principle licenses as referred to in paragraph (2) letter b.
- (5) In the event that the application for the principle license extension as referred to in paragraph (3) is not determined within a period of 14 (fourteen) working days from the receipt of the application for principle license extension, the principle license shall be declared to have been extended.
7. The provision of Article 74 paragraph (1) is amended so that Article 74 shall read as follows:

Article 74

- (1) Telecommunications network operation licenses shall be valid without time limit and shall be evaluated every year and evaluated comprehensively every 5 (five) years.
- (2) If the result of the evaluations as referred to in paragraph (1) declares failure to fulfil the provisions in the license, the operation license holder shall be subject to sanctions in accordance with the provisions of the laws and regulations.

Article II

This Ministerial Regulation shall come into force from the date of its promulgation.

For public cognizance, it is hereby ordered that this Ministerial Regulation be promulgated in the Official Gazette of the Republic of Indonesia.

Established in Jakarta
on 29 September 2014

MINISTER OF COMMUNICATIONS AND INFORMATICS OF
THE REPUBLIC OF INDONESIA,

signed

TIFATUL SEMBRING

Promulgated in Jakarta
on 8 October 2014

MINISTER OF LAW AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA,

Signed

AMIR SYAMSUDIN

OFFICIAL GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2014
NUMBER 1509

This unofficial English translation is brought by the collaboration between Government translators from Ministry of Communications and Informatics and Cabinet Secretariat: Andhika Widyarani, Aulia Astagina Ramadhani, Chrisna Harimurti, Cintami Agnes Selviani, Erik Limantara, Ivan Atmanagara, Muhammad Ersan Pamungkas, Muhardi, Penni Patmawati Rusman, and Siti Chodijah.