

LEGAL PROTECTION OF SUBSCRIPTION BROADCASTING INSTITUTIONS AGAINST ILLEGAL SUBSCRIPTION BROADCASTING BASED ON LAW NO 32 OF 2002 CONCERNING BROADCASTING

Raden Handiono

raden.handiriono@ugj.ac.id

Faculty of Law, Universitas Swadaya Gunung Jati, Cirebon, Indonesia

Abstract

Broadcasting activities in Indonesia are divided into various kinds, namely broadcasts by public broadcasters and subscription broadcasters. Subscription Broadcasting is a broadcasting operator of a commercial nature in the form of an Indonesian legal entity, whose business field is only to provide subscription broadcasting services. The purpose of this research is to find out the concept of legal protection of subscription broadcasting institutions against broadcasting carried out by broadcasting providers carried out by subscription broadcasters based on Law No. 32 of 2002. The method used is normative juridical. The specification of the research used is descriptive analytical which provides an overview of the protection of subscribed broadcasting institutions, according to Law number 32 of 2002 concerning broadcasting. The analysis techniques used are descriptive techniques, interpretive techniques, evaluative techniques, systematic techniques, and argumentative techniques. Data collection is carried out through library research, either directly or virtually by studying data from laws and regulations related to the problem. The results of the study conclude that the concept of legal protection of subscription broadcasting institutions as stated in the provisions of the law is a broadcasting institution in the form of an Indonesian legal entity, whose line of business is only to provide subscription broadcasting services and must first obtain a subscription broadcasting license with the aim of assisting the public in obtaining protection. the law of broadcasting institutions against broadcasting carried out by subscription broadcasters based on Law NO 32 of 2002.

Keywords: Subscription Broadcasting, Illegal, Information Technology

INTRODUCTION

Information and communication technology has changed the behavior of society and human civilization globally. In addition, the development of information technology has caused significant social changes to take place so quickly. Information technology is currently a double-edged sword, besides providing benefits, it is also a potential instrument of illegal acts, and secondly it shows how necessary it is to immediately improve the legal sector in this field, including making positive laws related to cyber activities.¹

The development of technology and information in Indonesia is not a strange thing, at least in the 1945 Constitution of the Republic of Indonesia which has been amended four times in Article 28 letter F says that everyone has the right to communicate and obtain information to develop their personality and social environment, and has the right to seeking, obtaining, possessing, storing, processing, and conveying information using all available channels. The development of information and communication technology, especially in the world of broadcasting, has given birth to an information society with great demands on the right to know and the right to obtain information. Information has developed into a basic need for society and has become an important commodity in the life of society, nation and state.²

The development of information and communication technology has implications for the world of broadcasting. The role of broadcasting as a channel of information and the formation of public opinion is increasingly strategic, especially in the development of democracy in Indonesia. The mandate of the Broadcasting Law is to meet the demands of developments in political life, societal dynamics, and the development of democracy. Apart from that, the vast territory of the Indonesian state and the large population also have an impact on the development of technology and information, which gradually demands broadcasting operators who are professional and have credibility that can be accounted for.

Broadcasting and broadcasting were born thanks to the development of electronic technology which is applied in the form of communication and information technology, specifically designed for the purposes of the process of communication between humans, by broadcasting or transmitting via electromagnetic waves.³

According to Law No. 32 of 2002 concerning Broadcasting, article 1 paragraph 2, Broadcasting is the activity of transmitting broadcasts through broadcasting facilities and/or transmission facilities on land, at sea or in space using a radio frequency spectrum by air, cable and/or the media others to be received simultaneously and concurrently by the public with broadcast receiving devices.

Broadcasting institutions according to Article 1 paragraph 9 are broadcast operators, both public broadcasting institutions, private broadcasting institutions, community broadcasting institutions and subscription broadcasting institutions which in carrying out their duties, functions and responsibilities are guided by the applicable laws and regulations.

Broadcasting is a process of point to audience activities, namely the process of sending information or message content from a person or producer to the public through the process of transmitting electromagnetic waves or higher waves, for example light waves. Here, this process can be in the form of radio broadcasts or television broadcasts.

In today's increasingly sophisticated information era, many electronic media are increasingly advanced and developing. Now to get news, entertainment and even preaching or religious knowledge can be easily received through television, radio and the internet.

¹ Ahmad Ramli, *Cyber Law and Haki in the Indonesian Legal System*, Refika Aditama, Bandung, 2004, page 1.

² Ministry of Communication and Informatics of the Republic of Indonesia Directorate of Broadcasting Business, *Broadcasting Implementation in Indonesia*, Depkominfo, Jakarta, 2009, p. 3.

³ J. B Wahyudi, *Fundamentals of Radio and Television Journalism* (Jakarta: Main Grafiti Library, 1996), page 12.

broadcasting according to JB Wahyudi (1996) is a process of communicating from a point to an audience, namely a process of sending information from a person or producer (profession) to the public through a process of electromagnetic emission or higher waves. Broadcasting, which is the equivalent of the word broadcasting, namely all activities that allow radio and television broadcasts which include ideal aspects, hardware and software that use broadcasting or transmission facilities, both on land and in space by using electromagnetic waves or higher waves to be broadcast and broadcast. can be received by the public through radio or television receivers with or without assistive devices.⁴

The history of the world's broadcast media began when a German physicist named Heinrich Hertz succeeded in sending and receiving radio waves in 1887. Hertz's efforts were then continued by Guglielmo Marconi (1874-1937) from Italy who succeeded in sending Morse signals - in the form of dots and lines - from a transmitter to a receiver. The signal sent by Marconi managed to cross the Atlantic Ocean in 1901 by using electromagnetic waves. Before World War I broke out, Reginald Fessenden, with the help of the American General Electric Corporation, succeeded in creating a high-speed radio wave generator that could transmit human voices and music. Meanwhile, a vacuum tube, which at that time was called audion, was successfully created.

While the history of broadcasting in Indonesia began in 1925, during the reign of the Dutch East Indies Prof. Komans and Dr. De Groot succeeded in conducting radio communication using a radio station in Malabar, West Java. This incident was followed by the establishment of Batavia Radio Vereniging and Nirom. In 1930 radio amateurs in Indonesia formed an organization calling itself NIVERA (Nederland Indische Vereniging Radio Amateur), which was the first radio amateur organization in Indonesia. The establishment of this organization was authorized by the Dutch East Indies government.

The role of broadcasting as a channel of information and the formation of public opinion is increasingly strategic, especially in the development of democracy in Indonesia. The mandate of the Broadcasting Law is to meet the demands of developments in political life, societal dynamics, and the development of democracy. Apart from that, the vast territory of the Indonesian state and the large population also have an impact on the development of technology and information, which gradually demands broadcasting operators who are professional and have credibility that can be accounted for.

The development of modern communication media today has made it possible for people all over the world to be able to communicate with each other. This is possible because there are various media that can be used as a means of conveying messages. Broadcasting media, namely television and radio, is a form of mass media that is efficient in reaching a large number of audiences. Therefore the broadcast media plays an important role in the science of communication in general and in particular the science of mass communication, namely the Melvin DeFleur communication model, feedback on the process of mass communication is expressed in the communication theory put forward by Melvin DeFleur (1970). In theory, DeFleur incorporates feedback devices that allow communicators to more effectively construct their communications. Broadcast media has the same analogy with interpersonal communication as two people who are talking, so you can see that currently there are many interactive programs broadcast by broadcast media. These interactive programs include direct involvement of listeners and viewers wherever they are on television or radio broadcasts. Communication between television or radio broadcasters can take place by involving other communication media, for example telephone, SMS, fax and e-mail. Thus the volume of feedback received by the mass media is now unlimited and instantaneous and has no single channel These interactive programs include direct involvement of listeners and

⁴Abdul Rachman, *Fundamentals of Broadcasting*, (Unri Press, 2009), page 15.

viewers wherever they are on television or radio broadcasts. Communication between television or radio broadcasters can take place by involving other communication media, for example telephone, SMS, fax and e-mail. Thus the volume of feedback received by the mass media is now unlimited and instantaneous and has no single channel. These interactive programs include direct involvement of listeners and viewers wherever they are on television or radio broadcasts. Communication between television or radio broadcasters can take place by involving other communication media, for example telephone, SMS, fax and e-mail. Thus the volume of feedback received by the mass media is now unlimited and instantaneous and has no single channel⁵

According to Law No. 32 of 2002 article 13 paragraphs 1 and 2 Broadcasting services consist of:

- (1)
 - a. radio broadcasting services; And
 - b. television broadcasting services.
- (2) Broadcasting services as referred to in paragraph (1) services are provided by:
 - a. Public Broadcasting Institution;
 - b. Private Broadcasting Institutions;
 - c. Community Broadcasting Institutions; And
 - d. Subscription Broadcasting Institutions.

According to Law No. 32 of 2002 article 26 broadcasting is divided into three, namely:

- a. Subscription Broadcasting Institution via satellite;
- b. Subscription Broadcasting Institutions via cable; And
- c. Broadcasting Institutions Subscription via terrestrial.

The law also explains that one type of broadcasting in Indonesia is known as a subscription broadcasting institution, a subscription broadcasting institution as stated in the provisions of the law is a broadcasting institution in the form of an Indonesian legal entity, whose line of business is only to provide subscription broadcasting services and is required to first obtain a license to operate subscription broadcasting.

The development of subscription broadcasting services in Indonesia is currently increasing rapidly, because gradually people have different mindsets regarding the openness of information and knowledge that they expect, with subscription broadcasting institutions, they can enjoy not only local television stations, however, they can enjoy all international television shows as long as they subscribe to packages or content provided by subscription broadcasting institution service providers. With the rapid development of technology and information, people are starting to make television shows no longer just a means of entertainment,

In practice, it is often found that Broadcasting activities are re-subscribed by parties who have subscribed, then with a certain mechanism they redistribute shows that originate from the Subscription Broadcasting Institution to the public, in short, redistribute these shows at a much cheaper price. than operators of legal subscription broadcasting institutions is a new problem in enforcing the law on broadcasting. For example, this happened to subscription broadcasting institution Indovision, whose broadcasts were re-distributed without permission by subscription broadcasters in an illegal nature, experiencing economic losses.

Legal broadcasting according to the broadcasting law must have the appropriate permit in Article 33 concerning licensing paragraphs 1 and 2, what is the problem with broadcasting carried out without a permit? Therefore, based on the background explanation

⁵Hidajanto Djamal, Andi Fachruddin, Fundamentals of broadcasting, (Jakarta: Kencana, 2013), pp. 71-72.

above, there is a problem regarding illegal subscription broadcasting in Indonesia, which refers to how the legal construction of illegal broadcasting carried out by subscription broadcasting operators is based on Law number 32 of 2002.

RESEARCH METHODS

In this study the approach used is normative juridical, namely legal research that prioritizes research on norms or rules, literature studies and is supported by field studies regarding problems within broadcasting providers, especially in this case subscription broadcasting as stipulated. in the Broadcasting Law, one of which is the interview method.

The specification of the research is analytical descriptive in nature, namely describing and explaining clearly the applicable laws and regulations associated with legal theories in practice concerning the problems studied.⁶The problem that will be studied is regarding the existence of broadcasting problems carried out by broadcasting operators who are illegal, but continuously carry out subscription broadcasting activities as broadcasting operators with official permission from the Government.

RESULTS AND DISCUSSION

The definition of broadcasting in Law Number 32 of 2002 concerning broadcasting is:⁷

"Broadcast broadcasting activities by means of transmitters and/or transmission facilities on land, at sea, or in space by using a radio frequency spectrum by air, cable and or other media to be received simultaneously and concurrently by the public with broadcast receiving devices."

Broadcasting institutions according to Article 1 paragraph 9 are broadcast operators, both public broadcasting institutions, private broadcasting institutions, community broadcasting institutions and subscription broadcasting institutions which in carrying out their duties, functions and responsibilities are guided by the applicable laws and regulations.

Legal broadcasting according to Law 32 of 2002, namely broadcasters who have a license according to Article 33 paragraphs 1 and 2 explains that, (1) Before carrying out its activities, a broadcasting institution is required to obtain a broadcasting operation license. (2) An applicant for a license must state his/her name, vision, mission and broadcast format to be held and meet the requirements in accordance with the provisions of this law.

An example of this is the subscription broadcasting service MOLA TV which owns the rights from The Football Association Premier League Limited as the creator of the broadcast work for the English Premier League football tournament 2019-2020 granting its broadcast rights license to PT Global Media Visual (Mola TV) for all regions of Indonesia and Timor. Leste after the bidding process. As the license holder for the 2019-2020 Premier League broadcasting rights, Mola TV has the right to several media rights related to the football tournament, including: television rights, car rights, radio rights, internet, advertising and promotion, branding. Premier League Productions and the protection of trademarks, intellectual property, sub-licences and public exhibition rights (commercial areas).

Mola TV has the right to operate itself or to sell media rights through sub-licence agreements to sponsoring companies, or to broadcasting institutions, or other parties with conditions agreed by both parties. Media rights for the broadcast of the 2019-2020 English Premier League broadcast in the territory of the Republic of Indonesia, Mola TV is working with FTA (Free to Air) broadcasters, namely TVRI, Matrix TV, a pay television service

⁶Ronny Hanitijo Soemitro, *Legal and Jurimetric Research Methodology*, Ghalia Indonesia, 1990, p. 98.

⁷Ministry of Communication and Information of the Republic of Indonesia, *Association of Laws and Regulations in the Field of Broadcasting*, Jakarta, 2009, page 5.

provider using a satellite dish, and Polytron for streaming devices and SMART TV.⁸ Apart from Mola TV, there is another subscription broadcaster called Indovision, where Indovision as an official subscription broadcaster also enters into licensing agreements with other parties to obtain broadcasting rights for a broadcast, whether live or not.

However, if there are actors who carry out broadcasting by redistributing subscription broadcasts, in certain ways, the question that arises is how far the qualifications determined by the Broadcasting Law are regarding the words or the illegal criteria themselves. Behind the illegal broadcasting, there are legal violations that violate broadcasting laws which result in sanctions. The most important rule in the Broadcast Program Standards is related to sanctions, the imposition of sanctions for broadcasting institutions that are proven legally and convincingly to have violated the Broadcast Program Standards is subject to sanctions in accordance with the provisions stipulated in Law Number 32 of 2002 concerning Broadcasting. The Broadcasting Law has regulated the threat of sanctions for various violations of the rules in the Law. Sanctions can be divided into two categories, namely administrative sanctions and criminal sanctions. It should also be remembered that there are still other sanctions provisions outside the Broadcasting Law which can also be imposed on violations in broadcasting because the regulations referred to are also closely related to broadcasting operations.

Administrative sanctions are regulated in Chapter VIII of the Broadcasting Law, in Article 55 it is emphasized that administrative sanctions will be imposed on anyone who commits a violation. This includes violations of Article 36 paragraphs (2), (3) and (4) in the form of obligations to organize television broadcast content. Any violations committed against the provisions that have been regulated are subject to administrative sanctions, which can be in the form of:

- 1) Written warning;
- 2) Temporary suspension of problematic agenda items after going through a certain stage;
- 3) Limitation of broadcast duration and time;
- 4) Administrative fines;
- 5) Freezing broadcast activities for a certain time
- 6) Is not granted an extension of broadcasting operations license;
- 7) Revocation of broadcasting operations license

The rules for criminal sanctions are described in Article 58 letters b and c with a maximum imprisonment of 2 (two) years and/or a maximum fine of Rp. 500,000,000.00 (five hundred million rupiah) for radio broadcasting and shall be punished with a maximum imprisonment of 2 (two) years and/or a maximum fine of Rp. 5,000,000,000.00 (five billion rupiah) for television broadcasting, each person who:

- b. violates the provisions referred to in Article 33 paragraph
- c. violates the provisions referred to in Article 34 paragraph

If the implementation of broadcasting law enforcement has not been able to apply administrative sanctions to the fullest, then there will be a valid presumption that the application of criminal sanctions is still a question mark. A simple example, in Article 58 it is stated that a criminal penalty is imposed 500,000,000.00 (five hundred million rupiah) for radio broadcasting and/or a maximum fine of Rp. 5,000,000,000.00 (five billion rupiah) for television broadcasting, anyone who conflicts with or violates the provisions contained in articles 33 and 34 of the broadcasting law. Therefore, based on this discussion, it is very clear that broadcasting institutions, especially subscription broadcasters in Indonesia, are required to have a broadcasting license, in accordance with the provisions of the applicable law in

⁸ <https://bola.kompas.com/hak-siar-liga-inggrismola-live-arena-dan-sweeping-bagi-pelanggar?page=all>. (accessed 05 July 2022)

Indonesia, namely Law number 32 of 2002 concerning Broadcasting, if violations such as referred to in these rules, broadcasting carried out by parties who do not have a broadcasting license,

CONCLUSION

The 1945 Constitution of the Republic of Indonesia which has been amended four times in Article 28 letter F says that everyone has the right to communicate and obtain information to develop their personality and social environment, and has the right to seek, obtain, possess, store, process and convey information. By using all types of available channels, the role of broadcasting as a distributor of information and forming public opinion is increasingly strategic, especially in the democratic development of Indonesia. In accordance with the mandate of the Broadcasting Law is to meet the demands of developments in political life, societal dynamics, and the development of democracy.

According to Law no 32 of 2002 article 13 paragraph 1 and 2 is a type of broadcasting in Indonesia known as subscription broadcasting institutions, subscription broadcasting institutions as stated in the provisions of the law are broadcasting institutions in the form of Indonesian legal entities, whose line of business is only to provide subscription broadcasting services and must first obtain a license to operate subscription broadcasting. As stipulated in the law, in reality there are still many people who carry out illegal broadcasts by holding watching parties at cafes or broadcasting link sites that do not have permission from the license rights holders. So, that way all acts that violate will be subject to sanctions, which can be in the form of administrative sanctions as instipulated in Chapter VIII of the Broadcasting Law, in Article 55 and in the form of criminal sanctions as stipulated in Article 58 letters b and c.

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