

## Perubahan pengaturan penyelenggaraan sistem penyiaran televisi terestrial di Indonesia = Regulation transform of the management of terestrial television broadcasting systems in Indonesia

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### Abstrak

Perubahan teknologi penyiaran televisi terestrial dari analog ke digital adalah sebuah keniscayaan mengharuskan perubahan pengaturan, Pemerintah telah melakukan proses-proses menuju perubahan tersebut sampai pada implementasi komersil namun kemudian dibatalkan oleh Mahkamah Agung karena menurut Mahkamah belum ada dasar hukum penyelenggaraannya. Tesis ini membahas bagaimana kewenangan Menteri Komunikasi dan Informatika dalam melakukan pengaturan dan dampak yang ditimbulkan dari keluarnya keputusan Mahkamah Agung terkait pembatalan tersebut. Metode penelitian yang digunakan ada yuridis normmatik bersifat deskriptip analitis dengan teknik pengumpulan data kepustakaan dan wawancara. Hasil penelitian menunjukkan bahwa dari sisi peraturan perundang-undangan penyiaran televisi digital terestrial diatur oleh Undang-Undang 36 tentang Telekomunikasi (lex generalis) dan Undang-Undang 32 tentang Penyiaran (lex specialist), Menteri Komunikasi dan informatika mempunyai kewenangan untuk melakukan pengaturan penyiaran televisi digital baik atributif diperoleh dari Undang-Undang 39/2008 tentang Kementerian Negara dan delegatif diperoleh dari Peraturan Presiden nomor 24/2010 tentang Kedudukan, Tugas, dan Fungsi Kementerian Negara Serta Susunan Organisasi, Tugas, dan Fungsi Eselon I Kementerian Negara. Munculnya kekosongan hukum sebagai dampak dari putusan Mahkamah Agung membatalkan tindakan pemerintah sehingga menghilangkan aspek legalitas implementasi komersil yang telah dimulai juga melahirkan ketidakpastian hukum penyelenggaraan sehingga terjadinya krisis kanal penyiaran televisi terestrial, krisis bandwidth telekomunikasi, hilangnya potensi digital deviden, munculnya praktek monopoli, rendahnya posisi tawar klaim penggunaan frekuensi oleh negara di wilayah perbatasan.

.....The change in technology from analog to digital terrestrial television broadcasting is a necessity requiring a change in regulation, the Government has carried out the processes to change until the commercial implementation but later canceled by Supreme Court because according to Mahkamah there is no legal basis for its implementation. This thesis discusses how the authority of the Minister of Communication and Information in regulating and the impact arising from the issuance of the Supreme Court's decision regarding the cancellation. The research method used there is normmatic juridical descriptive analysis with library data collection techniques and interviews. The results of the study indicate that in terms of the laws and regulations of terrestrial digital television broadcasting are regulated by Law 36 concerning. Telecommunications (lex generalis) and Law 32 concerning Broadcasting (lex specialist), the Minister of Communication and Informatics has the authority to regulate digital television broadcasting both attributive obtained from Law 39/2008 concerning State Ministries and delegates obtained from Presidential Regulation number 24/2010 concerning Position, Task, and Function of State Ministries as well as Organizational Structure, Tasks, and Functions of Echelon I of State Ministries. The emergence of a legal vacuum as a result of the Supreme Court ruling overturned the government's actions to eliminate the legal aspects of commercial implementation that had also begun to create legal uncertainty in the implementation

of terrestrial television broadcasting channel crises, telecommunication bandwidth crisis, loss of digital dividend potential, monopolistic practice, low bargaining position claims for frequency use by countries in the border region. In order to avoid similar things happening in the future, it needs convergence/merging of the Telecommunications Law and Broadcasting Law, as a tactical step to overcome the short-term impact of the Supreme Court's ruling, it is necessary to establish a Substitution Government Regulation.