

Analisis Penerapan Konsep Net Neutrality pada Layanan Jasa Over the Top Netflix di Jaringan Telkom Berdasarkan Gats dan Regulasi di Indonesia = Legal Research of Net Neutrality Concept on Netflix as Over the Top Service in Telkom Network Based on Gats and Indonesia Regulation

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Abstrak

Riset ini membahas mengenai analisis penerapan regulasi dan kebijakan di Indonesia dari sudut pandang regulasi nasional dan GATS khususnya pada layanan Over The Top (OTT) Netflix, sebagai layanan teknologi informasi yang dijalankan oleh pelaku jasa telekomunikasi dengan konten berupa data, informasi atau multimedia yang berjalan melalui jaringan internet, layanan yang disampaikan yaitu melalui jaringan, infrastruktur internet milik operator, namun tanpa ada kerjasama dengan operator maupun pemerintah di Indonesia. Peraturan yang berkaitan dengan layanan OTT seperti Netflix masih terpecah dalam berbagai regulasi yang ada di Indonesia yang kemudian oleh Netflix berbenturan dengan konsep Net Neutrality yang menurutnya merupakan standar yang sesuai pada ketentuan GATS pada sektor jasa telekomunikasi. Penelitian dilakukan dengan metodologi yuridis normatif dengan pendekatan kualitatif. Hasil penelitian menunjukkan bahwa ada ranah abu-abu hukum pada regulasi di Indonesia dan GATS mengenai Net Neutrality yang menimbulkan perdebatan pada layanan jasa OTT seperti Netflix. Kesimpulannya sudah seharusnya pihak pemerintah segera menerbitkan peraturan khusus terkait layanan OTT seperti Netflix untuk menjamin kepastian hukum, dan keadilan bagi para pihak dalam menjalankan usaha khususnya di bidang Telekomunikasi sesuai komitmen Indonesia di dunia Internasional sertakomitmen negara untuk melindungi hak segenap warga negara Indonesia.

.....This research discusses the analysis of the implementation of regulations and policies in Indonesia from the point of view of national regulations and GATS, especially on Netflix's Over The Top (OTT) service, as an information technology service run by telecommunication service actors with content in the form of data, information or multimedia that runs through the Internet. Internet network, the service delivered is through the network, internet infrastructure owned by the operator, but without any cooperation with the operator or the government in Indonesia. Regulations related to OTT services such as Netflix are still scattered in various regulations in Indonesia, which Netflix then clashed with the concept of Net Neutrality which according to is a standard that is in accordance with GATS provisions in the telecommunications services sector. The research was conducted using a normative juridical methodology with a qualitative approach. The results show that there is a legal gray area in regulations in Indonesia and GATS regarding Net Neutrality which creates debate on OTT services such as Netflix. In conclusion, the government should immediately issue regulations related to OTT services such as Netflix to ensure legal certainty and justice for the parties in running their business, especially in the telecommunications sector, according to Indonesia's commitment in the international community and the state's commitment to protect the rights of all Indonesian citizens.