



**DEPARTMENT OF COMMUNICATIONS  
DIRECTORATE GENERAL OF POST AND TELECOMMUNICATIONS**

**LAW OF THE REPUBLIC INDONESIA NO.36 OF 1999  
REGARDING TELECOMMUNICATIONS**

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**ISSUED BY:  
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**LAW OF THE REPUBLIC OF INDONESIA  
NO. 36 OF 1999**

**ON  
TELECOMMUNICATIONS**

**WITH THE BLESSINGS OF ALMIGHTY GOD**

**PRESIDENT OF THE REPUBLIC OF INDONESIA,**

- Considering : a. that the objective of national development is to achieve a just and prosperous society that is materially and spiritually balance based on Pancasila and the 1945 Constitution;
- b. that the operation of telecommunication has a strategic meaning in the effort to strengthen the nation's unity and solidarity, to facilitate the government's activities, to support the achievement of the objective of equitable distribution of development and its benefits and to enhance relations among nations;
- c. that the influence of globalization and the extremely rapid development of telecommunications technology have caused fundamental changes in the operation and the way of thinking about telecommunications ;
- d. that given everything related to the fundamental changes occurring in the operation and the way of thinking about telecommunications, it is necessary to re-organize and re-arrange the operation of national telecommunications;
- e. that in connection with the above matters, Law No. 3 of 1989 on Telecommunications is deemed to no longer be appropriate, and therefore should be replaced ;
- Recognizing : Article 5 paragraph (1), Article 20 paragraph (1) and Article 33 of the 1945 Constitution;

With the approval of the

**PEOPLE'S REPRESENTATIVE BODY OF THE REPUBLIC OF INDONESIA**

**R E S O L V E S:**

To stipulate : **THE LAW ON TELECOMMUNICATIONS.**

**CHAPTER I**

**GENERAL PROVISIONS**

**Article 1**

In this Law what is meant by:

1. Telecommunications is any transmission, emission and/or reception of signs, signals, writings, images and sounds or intelligence of any nature by wire, *radio*, optical or other electromagnetic systems;
2. Telecommunications device is any devices and/or instrument used to provide telecommunications;
3. Telecommunications equipment is a group of telecommunications devices which enable to provide telecommunications;
4. Telecommunications facilities and infrastructure is everything that facilitates and supports the functioning of telecommunications;
5. Radio transmitter is a telecommunications device that uses and transmits radio waves;
6. Telecommunications network is a series of telecommunications equipment and peripherals used in telecommunications;
7. Telecommunications services are the provision of telecommunications to meet the telecommunications needs using telecommunications network;
8. Telecommunications operator is an individual, cooperative, regional-owned business enterprise (BUMD), state-owned business enterprise (BUMN), private enterprises, government agency, and state defense and security agency;
9. Subscriber is an individual, legal, entity, government agency using telecommunications network and/or telecommunications services based on contract;

10. Consumer is an individual, legal entity, government agency using a telecommunications network and/or telecommunications services not based on contract;
11. User is a subscriber and consumer;
12. Telecommunications operation is the activity of providing and telecommunications services to enable the operation of telecommunications;
13. Telecommunications network operation is the activity of providing and/or extending telecommunications networks to enable the operation of telecommunications;
14. Telecommunications services operation is the activity of providing and/or extending telecommunications services to enable the operation of telecommunications;
15. Special telecommunications operation is the operation of telecommunications which by its nature, allocation and operation is special;
16. Interconnection is the connection among telecommunications networks of various telecommunications network operators;
17. Minister is the Minister which scope of tasks and responsibilities is in the field of telecommunications.

## **CHAPTER II**

### **PRINCIPLE AND OBJECTIVE**

#### **Article 2**

Telecommunications is operated based on the principle of justice and equitable benefit, legal certainty, security, cooperation, ethics and self confidence.

#### **Article 3**

Telecommunications is operated for the purpose of supporting the unity and solidarity of the nation, to enhance the welfare and prosperity of the people fairly and equitably, to support economic growth and government activities and to enhance relations among nations.

**CHAPTER III**  
**ADMINISTRATION**

**Article 4**

- (1) Telecommunications is ruled by the State and its administration is carried out by the Government.
- (2) Telecommunications administration is aimed for enhancing telecommunications operations, covering the stipulation of policies, regulations, supervision and control.
- (3) The stipulation of policies, regulations, supervision and rules in the sector of telecommunications referred to in paragraph (2) shall be carried out in a comprehensive and integrated way, with due observance of the views developed within society as well as global developments.

**Article 5**

- (1) In carrying out telecommunications administration referred to in Article 4, the Government shall involve public participation.
- (2) Participation of the public referred to in paragraph (1) shall be by conveying any ideas and views developed within society concerning the direction of telecommunications development in the context of determining the policy, regulation, control and supervision in the sector of telecommunications.
- (3) The implementation of public participation referred to in paragraph (2) shall be carried out by an independent institution established for such purpose.
- (4) The institution referred to in paragraph (3) shall consist of associations engaged in the business of telecommunications, telecommunications professional associations, telecommunications equipment producers associations, association of telecommunications networks users and telecommunications services, as well as the intellectual community in the sector of telecommunications.
- (5) Provisions concerning the procedures for participation of the public and the establishment of the institution referred to in paragraph (3) shall be regulated by Government Regulation.

**Article 6**

The Minister shall act as the party responsible for the Indonesian Telecommunications Administration.

## **CHAPTER IV**

### **OPERATION**

#### **Part One General**

##### **Article 7**

- (1) Telecommunications operation shall include:
  - a. the operation of telecommunications networks;
  - b. the operation of telecommunications services;
  - c. the operation of special telecommunications.
- (2) The following matters shall be observed in telecommunications operations:
  - a. to protect the interests and security of the state;
  - b. to anticipate technological development and global demand;
  - c. to be carried out professionally and in an accountable manner;
  - d. participation of the public.

#### **Part Two Operator**

##### **Article 8**

- (1) The operation of telecommunications networks and/or the operation of telecommunications services referred to in Article 7 paragraph (1) letter a and letter b may be carried out by a legal entity established for such purpose based on prevailing statutory regulations, i.e.:
  - a. state-owned enterprises (BUMN);
  - b. regional-owned enterprises (BUMD);
  - c. private business enterprises; or
  - d. cooperatives.
- (2) The operation of special telecommunications referred to in Article 7 paragraph (1) letter c may be carried out by:
  - a. individuals;
  - b. government agencies;
  - c. legal entities other than telecommunications network operators and/or telecommunications services operators.
- (3) Provisions concerning the operation of telecommunications referred to in paragraph (1) and paragraph (2) shall be regulated by Government Regulation.

## **Article 9**

- (1) The operator of telecommunications network referred to in Article 8 paragraph (1) may operate telecommunications services.
- (2) The telecommunications services operator referred to in Article 8 paragraph (1) in operating telecommunications services shall use and/or lease telecommunications networks owned by telecommunications network operators.
- (3) The operator of special telecommunications referred to in Article 8 paragraph (2) may operate telecommunications for:
  - a. own requirement;
  - b. the needs of the state defense and security;
  - c. the needs of broadcasting.
- (4) The operation of special telecommunications referred to in paragraph (3) letter a shall consist of the operation of telecommunications for the needs of :
  - a. individuals;
  - b. government agencies;
  - c. special institutions;
  - d. legal entities.
- (5) Provisions concerning requirements for the operation of telecommunications referred to in paragraph (1), paragraph (2), paragraph (3) and paragraph (4) shall be regulated by Government Regulation.

## **Part Three Prohibition of Monopolistic Practices**

### **Article 10**

- (1) In operating telecommunications it is prohibited to carry out activities which may cause the occurrence of monopolistic practices and unfair business competition among telecommunications operators.
- (2) The prohibition referred to in paragraph (1) shall be in accordance with prevailing statutory regulations.

## **Part Four Licenses**

### **Article 11**

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

- (2) The license permit referred to in paragraph (1) shall be granted with due observance of :
  - a. simple procedures;
  - b. a transparent, fair and non-discriminative process; as well as
  - c. completion within a short time.
- (3) Provisions concerning licenses for telecommunications operations referred to in paragraph (1) and paragraph (2) shall be regulated by Government Regulation.

**Part Five**  
**Rights and Obligations of the Operator and the Public**

**Article 12**

- (1) In the context of development, operation and/or maintenance of telecommunications networks, telecommunications operators may use or cross state lands and/or buildings owned or controlled by the Government.
- (2) The use or crossing of state lands and/or buildings referred to in paragraph (1) also apply to rivers, lakes or seas, both surface and bottoms.
- (3) Construction, operation and/or maintenance of telecommunications networks referred to in paragraph (1) shall be carried out after obtaining approval from the responsible government agency with due observance of prevailing statutory regulations.

**Article 13**

The telecommunications operator may use or cross lands and/or buildings owned by private individuals for the purpose of construction, operation or maintenance of telecommunications networks after agreement is reached between the parties.

**Article 14**

Every telecommunications user shall have the same right to use telecommunications networks and telecommunications services with due observance of prevailing statutory regulations.

**Article 15**

- (1) For mistakes and/or negligence caused by telecommunications operators causing losses, the aggrieved parties shall have the right to file claims to the telecommunications operator for compensation.



- (2) Telecommunications operators are obligated to provide compensation referred to in paragraph (1), unless the telecommunications operator can prove that the loss was not caused by its mistake and/or negligence.
- (3) Provisions concerning the procedure for filing and settlement of compensation referred to in paragraph (1) and paragraph (2) shall be regulated by Government Regulation.

### **Article 16**

- (1) Every telecommunications network operator and/or telecommunications service operator is obliged to provide a contribution to universal services.
- (2) The universal services contribution referred to in paragraph (1) shall be in the form of provision of telecommunications facilities and infrastructure and/or other compensation.
- (3) Provisions on universal service contribution referred to in paragraph (2) shall be regulated by Government Regulation.

### **Article 17**

The telecommunications network operator and/or telecommunications service operator is obligated to provide telecommunications services based on the following principles:

- a. equal treatment and the best service for all users;
- b. increase of efficiency in telecommunications operations; and
- c. fulfilling the standards of service as well as the standards of providing facilities and infrastructure.

### **Article 18**

- (1) The telecommunications services operator is obligated to note/record in detail the use of telecommunications services by telecommunications users.
- (2) If the user requires the notes/records of the use of telecommunications services referred to in paragraph (1), the telecommunications operator is obligated to provide these.
- (3) Provisions on noting/recording the use of telecommunications services referred to in paragraph (1) shall be regulated by Government Regulation.

### **Article 19**

The operator of a telecommunications network is obligated to guarantee that its users are free to choose other telecommunications networks to meet their telecommunications needs.

### **Article 20**

Every telecommunications operator is obligated to give priority to the transmission, distribution and conveyance of important information relating to:

- a. state security;
- b. safety of human life and property;
- c. natural disasters;
- d. grave danger; and/or
- e. epidemics.

### **Article 21**

A telecommunications operator is prohibited from engaging in telecommunications operations business, which violates the public interest, morals, security or public order.

### **Article 22**

Any person is prohibited from committing unlawful, illegal actions or manipulate

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

## **Part Six Numbering**

### **Article 23**

- (1) In operating telecommunications networks and telecommunications services, a numbering system shall be determined and used.
- (2) The numbering system referred to in paragraph (1) shall be determined by the Minister.

## **Article 24**

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

## **Part Seven Interconnection and Fees for the Right of Operation**

### **Article 25**

- (1) Every telecommunications network operator shall have the right to procure interconnection from other telecommunications network operators.
- (2) Every telecommunications network operator is obligated to provide interconnection if requested by other telecommunications network operators.
- (3) The exercise of the rights and obligations referred to in paragraph (1) and paragraph (2) shall be carried out based on the principle of:
  - a. efficient utilization of resources;
  - b. compatibility of the system and the telecommunications equipment;
  - c. increase of service quality; and
  - d. fair competition, which is not mutually damaging.
- (4) Provisions on telecommunications network interconnection, and the rights and obligations referred to in paragraph (1), paragraph (2) and paragraph (3) shall be regulated by Government Regulation.

### **Article 26**

- (1) Every telecommunications network operator and/or telecommunications service operator is obligated to pay the fee for the rights of telecommunications operation collected based on a percentage of revenue.
- (2) Provisions concerning the fee for the right of telecommunications operation referred to in paragraph (1) shall be regulated by Government Regulation.

## **Part Eight**

### **Tariff**

#### **Article 27**

The structure of tariffs for telecommunications network operation and/or the tariffs for the telecommunications service operation shall be regulated by government regulation.

#### **Article 28**

The amount of the tariff for the operation of telecommunications networks and/or telecommunications services shall be determined by the telecommunications network operator and/or the telecommunications service operator based on a formula stipulated by the government.

## **Part Nine**

### **Special Telecommunications**

#### **Article 29**

- (1) Special telecommunications operations referred to in Article 9 paragraph (3) letter a and letter b are prohibited to be connected to other telecommunications operator's networks.
- (2) The operation of special telecommunications as referred to in Article 9 paragraph (3) letter c may be connected to other telecommunications operator's networks to the extent used for the purpose of broadcasting.

#### **Article 30**

- (1) In the event that the telecommunications network operator and/or the telecommunications service operator is not yet able to provide access in certain areas, the special telecommunications operator referred to in Article 9 paragraph (3) letter a may operate telecommunications networks and/or telecommunications services referred to in Article 7 paragraph (1) letters a and letter b after obtaining a license from the Minister.
- (2) In the event that the telecommunications network operator and/or the telecommunications service operator is already able to provide access in the areas referred to in paragraph (1), then the special telecommunications operator concerned may still provide telecommunications network operations and/or telecommunications services.

- (3) The conditions to secure the license referred to in paragraph (1) shall be regulated by Government Regulation.

### **Article 31**

- (1) In the event that the operator of special telecommunications for purposes of state defense and security referred to in Article 9 paragraph (3) letter b is not yet or not able to support its activities, the operator of the special telecommunications concerned may use or utilize the telecommunications network owned and/or used by other telecommunications operators.
- (2) Further provisions referred to in paragraph (1) shall be regulated by Government Regulation.

## **Part Ten Telecommunication Equipment, Radio Frequency Spectrum and Satellite Orbit**

### **Article 32**

- (1) The telecommunications equipment traded, manufactured, assembled, imported and/or used within the territory of the Republic of Indonesia shall comply with the technical requirements and be based on a license pursuant to prevailing statutory regulations.
- (2) Provisions concerning the technical requirements of the telecommunications equipment referred to in paragraph (1) shall be regulated by Government Regulation.

### **Article 33**

- (1) The use of radio frequency spectrum and satellite orbit shall be based on acquiring a license from the Government.
- (2) The use of radio frequency spectrum and satellite orbit must be in accordance with its allocation and not interfere with each other.
- (3) The Government shall exercise supervision and control over the use of radio frequency spectrum and satellite orbit.
- (4) Provisions on the use of radio frequency spectrum and satellite orbit used in the operation of telecommunications shall be regulated by Government Regulation.

### **Article 34**

- (1) The user of radio frequency spectrum is obligated to pay the fee for the use of frequency, the amount of which is based on the use of the type and frequency bandwidth.
- (2) The user of satellite orbit is obligated to pay the fee for the right for use satellite orbit.
- (3) Provisions concerning the costs referred to in paragraph (1) and paragraph (2) shall be regulated by Government Regulation.

### **Article 35**

- (1) Telecommunications equipment used by foreign flag vessels from and into the territorial waters of Indonesia and/or operated within the territorial waters of Indonesia shall not be obligated to comply with the technical conditions referred to in Article 32.
- (2) The radio frequency spectrum is not permitted to be used by foreign flags vessels which are within the territorial waters of Indonesia beyond their allocation, except:
  - a. for the sake of the state security, the safety of human life and property, natural disasters, extreme danger, epidemic, navigation and safety of vessel navigation; or
  - b. connected to telecommunications networks operated by the telecommunications operator; or
  - c. as part of a satellite communications system, the use of which is in accordance with the provisions applicable to the operation of maritime mobiles services telecommunications.
- (3) Provisions concerning the use of radio frequency spectrum referred to in paragraph (2) shall be regulated by Government Regulation.

### **Article 36**

- (1) Telecommunications equipment used by foreign civil aircraft from and into Indonesian air space is not obligated to comply with the technical conditions referred to in Article 32.
- (2) Foreign civil aircraft are prohibited to use radio frequency spectrum from and into Indonesian air space beyond their allocation, except:

- a. for the sake of state security, the safety of human life and property, natural disasters, extreme danger, epidemic, navigation and air traffic safety; or
  - b. connected to telecommunications networks operated by telecommunication operators; or
  - c. as part of a satellite communications system, the use of which is in accordance with prevailing provisions applicable to the operation of aeronautical mobile services telecommunications.
- (3) Provisions concerning the use of radio frequency spectrum referred to in paragraph (2) shall be regulated by Government Regulation.

### **Article 37**

The granting of licenses for the use of telecommunications equipment which uses radio frequency spectrum for diplomatic envoys in Indonesia shall be granted with due observance of the principle of reciprocity.

## **Part Eleven Telecommunications Security**

### **Article 38**

Every person is prohibited from taking actions, which may cause physical and electromagnetic disturbances to telecommunications operations.

### **Article 39**

- (1) Telecommunications operators are obligated to provide security and protection to installations within telecommunications networks used for telecommunications operations.
- (2) Security and protection provisions referred to in paragraph (1) shall be regulated by Government Regulation.

### **Article 40**

All persons are prohibited from eavesdropping in any form whatsoever information channeled through telecommunications networks.

### **Article 41**

In order to evidence the correct usage of telecommunications facilities at the request of the telecommunications service user, the telecommunications services operator is obligated to record the use of the telecommunications facility by the user of telecommunications services, and may record information in accordance with prevailing statutory regulations.

### **Article 42**

- (1) The telecommunications services operator is obligated to keep confidential the information transmitted and/or received by a telecommunications services subscriber through the telecommunications networks and/or telecommunications services that it is providing.
- (2) For the purposes of criminal prosecution, the telecommunications services operator may record the information transmitted and/or received by the telecommunication services operator and may provide the information required on the basis of:
  - a. a written request from the Attorney General and/or the Chief of Police of the Republic of Indonesia for certain criminal offenses;
  - b. the request of an investigator for certain criminal offenses- in accordance with prevailing laws.
- (4) Provisions concerning the procedures for requests and submission of the recorded information referred to in paragraph (2) shall be regulated by Government Regulation.

### **Article 43**

The delivery of recorded information by the telecommunications services operator to the telecommunications services user referred to in Article 41 and for purposes of criminal prosecution referred to in Article 42 paragraph (2) shall not constitute a violation under Article 40.



## **CHAPTER V INVESTIGATION**

### **Article 44**

- (1) In addition to Police Investigative Officers of the Republic of Indonesia, certain Civil Servant Officers within a Department, the scope of duties and responsibilities of which is in the field of telecommunications, are given special authority as investigators referred to in the Law on Criminal Procedure to carry out investigations of criminal offenses in the telecommunications sector.
- (2) The Civil Servant Investigator referred to in paragraph (1) is authorized to:
  - a. carry out examination of the accuracy of the report or information related to criminal offenses in the telecommunications sector;
  - b - carry out examination of persons and/or legal entities alleged to have committed criminal offenses in the telecommunications sector;
  - c. stop the use of telecommunications devices and/or equipment deviating from the prevailing provisions;
  - d. summon a person to be heard and examined as a witness or suspect;
  - e. carry out examination of the telecommunications devices and/or equipment alleged to have been used or alleged to be related to a criminal offence in the telecommunications sector;
  - f. search a place alleged to have been used to commit a criminal offence in the telecommunications sector;
  - g. seal and/or seize telecommunications devices and/or equipment used or alleged to be related to any criminal offence in the telecommunications sector;
  - h. ask for expert assistance in performing the task of investigating criminal offenses in the telecommunications sector; and
  - i. stop an investigation.
- (3) The authority for investigations referred to in paragraph (2) shall be exercised in accordance with the provisions of the Law on Criminal Procedure.

## **CHAPTER VI ADMINISTRATIVE SANCTIONS**

### **Article 45**

Whoever violates the provisions of 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 liable to administrative sanctions.

### **Article 46**

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

## **CHAPTER VII CRIMINAL PROVISIONS**

### **Article 47**

Whoever violates the provisions referred to in Article 11 paragraph (1), shall be penalized by imprisonment for at most six (6) years and/or a fine of a maximum of Rp.600,000,000.00 (six hundred million Rupiahs).

### **Article 48**

The telecommunications network operator violating the provisions referred to in Article 19 shall be penalized by imprisonment for at most one (1) year and/or a fine of a maximum of Rp.100,000,000.00 (one hundred million Rupiahs).

### **Article 49**

The telecommunications operator violating the provisions referred to in article 20, shall be penalized by imprisonment of a maximum of two (2) years and or a fine of at most Rp.200,000,000.00 (two hundred million rupiah).

### **Article 50**

Whosoever violates the provisions referred to in Article 22, shall be penalized by imprisonment for at most six (6) years and/or a fine of a maximum of Rp.600,000,000.00 (six hundred million Rupiahs).

### **Article 51**

A special telecommunications operator violating the provisions referred to in Article 29 paragraph (1) or Article 29 paragraph (2), shall be penalized by imprisonment of at most four (4) years and/or fine of a maximum of Rp.400,000,000.00 (four hundred million Rupiahs).

### **Article 52**

Whosoever shall trade, manufacture, assemble, import or use telecommunications equipment within the territory of the Republic of Indonesia which is not in accordance with the technical condition referred to in Article 32 paragraph (1), shall be penalized by imprisonment for at most one (1) year and/or a fine of a maximum of Rp.100,000,000.00 (one hundred million Rupiahs).

### **Article 53**

- (1) Whosoever shall violate the provisions referred to in Article 33 paragraph (1) or Article 33 paragraph (2), shall be penalized by imprisonment for at most four (4) years and/or a fine of a maximum of Rp.400,000,000.00 (four hundred million rupiah).
- (2) If the criminal offence as referred to in paragraph (1) causes the death of a person, the person committing the offence shall be penalized by imprisonment for at most 15 (fifteen) years.

### **Article 54**

Whoever shall violate the provisions as mentioned in Article 35 paragraph (2) or Article 36 paragraph (2), shall be penalized by imprisonment of at most two (2) years and/or a fine of a maximum of Rp.200,000,000.00 (two hundred million Rupiah).

### **Article 55**

Whosoever shall violate the provisions referred to in Article 38, shall be penalized by imprisonment of at most six (6) years and/or a fine of a maximum of Rp.600,000,000.00 (six hundred million Rupiah).

### **Article 56**

Whosoever shall violate the provisions as referred to in Article 40 shall be penalized by imprisonment of at most 15 (fifteen) years.

### **Article 57**

A telecommunications services operator who violates the provisions referred to in Article 42 paragraph (1) shall be penalized by imprisonment of at most two (2) years and/or a fine of a maximum of Rp.200,000,000.00 (two hundred million rupiahs).

### **Article 58**

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

### **Article 59**

The acts 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 are crimes.

## **CHAPTER VIII**

### **TRANSITIONAL PROVISIONS**

#### **Article 60**

At the time this law comes into effect, the telecommunications operator referred to in Law no. 3 of 1989 on telecommunications may still operate its business, provided that within at the latest one (1) year from the date this law is declared to be effective, is obligated to adjust itself to this law.

#### **Article 61**

- (1) By the coming into effect of this Law, certain rights conferred by the Government to an Operating Body for a certain period based on Law No. 3 of 1989 shall still be valid.
- (2) The time period of the certain rights referred to in paragraph (1) may be shortened in accordance with an agreement made between the Government and the Operating Body.

## **Article 62**

At the time this Law comes into effect, all implementing regulations of Law No. 3 of 1989 on Telecommunications (Statute Book of 1989 No. 11, Supplement to Statute Book No. 3391) shall still be valid to the extent not contradictory to and/or not yet replaced by new regulations based on this Law.

## **CHAPTER IX CLOSING PROVISIONS**

### **Article 63**

With the coming into effect of this Law, Law no. 3 of 1989 on Telecommunications shall be declared to be no longer valid.

### **Article 64**

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

In order that everyone may take cognizance hereof, to order the promulgation of this Law by insertion in the Statute Book of the Republic of Indonesia.

Legalized in Jakarta  
on 8 September 1999

PRESIDENT OF  
THE REPUBLIC OF INDONESIA  
signed

BACHRUDDIN JUSUF HABIBIE

Stipulated in Jakarta  
On 8 September 1999  
STATE MINISTER OF NATIONAL SECRETARY  
THE REPUBLIC OF INDONSEIA  
signed

## **SUPPLEMENT TO THE STATUTE BOOK OF THE REPUBLIC OF INDONESIA OF 1999 NO. 154**

The copy is accordance with the original

SECRETARIATE OF CABINET  
Head of Bureau of Rules and Regulations I,  
signed

**ELUCIDATION TO  
THE LAW OF THE REPUBLIC OF INDONESIA  
NO. 36 OF 1999  
ON  
TELECOMMUNICATIONS**

**GENERAL**

Since the enactment of Law No. 3 of 1989 on Telecommunications, the development and operation of telecommunications has played a significant and strategic role in supporting and driving economic activities, stabilizing defense and safety, developing the mentality of the nation, enhancing the government's activities, strengthening the nation's solidarity and unity within the archipelago concept, and stabilizing national resilience as well as improving international relations.

Changes in the global environment and the very rapid development of telecommunication has reinforced the emergence of fundamental changes, creating new telecommunications environments, and changes in perspective regarding the operation of telecommunications, including the benefits resulting from the convergence of information technology and broadcasting, so that it is deemed necessary to reorganize the operation of the national telecommunications.

Re-aligning telecommunications operation at the national level has become a real need, considering the increased ability of the private sector in the operation of telecommunications, control of telecommunications technology, and its competitive superiority in fulfilling the needs of the public.

The development of telecommunications technology at the international level, followed by the increase of its use as a trade commodity with high commercial value, has reinforced the emergence of various multilateral agreements.

As a country active in developing international relationships based on national interest, the participation of Indonesia in various multilateral agreements has led to various consequences, which must be confronted and followed. As from the signing of the General Agreement on Trade and Services (GATS) in Marrakesh, Marocco, on 15 April 1994, which was ratified by Law No. 7 of 1994, the operation of national telecommunications has become an inseparable part of the global trading system.

According to global trading principles emphasizing free and non-discriminating trade, Indonesia must prepare itself to re-align the operation of telecommunications.

With due observance of the above matters, the role of the Government is focused on guidance which covers the statement of policies, regulations, supervision and control, with the participation of the public.

The increase of the public's role in the operation of telecommunications does not lessen the basic principle stated in Article 33 paragraph (3) of the 1945 Constitution, i.e. that the earth and water and the natural wealth contained therein are controlled by the state and used to the maximum extent for the people's welfare. Therefore, matters related to the use of radio frequency spectrum and satellite orbit, being a limited natural resource, is controlled by the state.

In staying focused on the direction and policy of national development and with due observance of ongoing developments, nationally and internationally, especially in the field of telecommunications technology, the legal norms applicable to the guidance and operation of telecommunications as regulated in Law No. 3 of 1989 on Telecommunication, need to be replaced.

## **ARTICLE BY ARTICLE**

**Article 1** - Self-explanatory.

### **Article 2**

The operation of telecommunications shall truly be based on the principle of national development, giving priority to the principle of benefit, the principle of just and equitable distribution, the principle of legal certainty and the principle of self confidence, as well as paying attention to the principle of safety, cooperation and ethics.

The principle of benefit means that the development of telecommunications, especially telecommunications operations, will be more efficient and productive, whether as infrastructure development, government operations facilities, educational facilities, communication facilities as well as an economic commodity which has the capability to further improve the public's welfare.

The principle of just and equitable distribution means that telecommunications operations shall give the same opportunity and treatment to all qualified parties and the benefits are thereof enjoyed by the public on a just and equitable basis

The legal certainty principle means that telecommunications development, especially telecommunications operations, must be based on statutory regulations ensuring legal certainty, and providing legal protection to investors, telecommunication operators as well as to telecommunications users.

The self confidence principle is carried out by maximizing the potential of national resources efficiently as well mastery of telecommunications technology, in order as a nation to increase our independence and reduce our dependence in facing global competition.

The cooperation principle means that the operation of telecommunications must be able to develop a harmonious, mutually beneficial and synergetic environment in telecommunications operations.

The safety principle is intended so that telecommunications operations always observe the safety factors in planning, development and operations.

The ethics principle is intended so that telecommunications operations always are based on spirit of professionalism, integrity, morality and transparency.

### **Article 3**

The purpose of telecommunications operations in this provision can be achieved, among other things, through the reform of telecommunications to increase the performance of telecommunications operations in facing globalization, preparing the telecommunications sector to enter into healthy and professional business competition with transparent regulations, as well as to open more business opportunities for small and medium scale businesses.

### **Article 4**

#### Paragraph (1)

Given the fact that telecommunications is one of the important and strategic sectors of production in national life, it shall be controlled by the state and its operation as much as possible directed toward the interests and prosperity of the public.

#### Paragraph (2)

The function of policymaking, among other things, is the formulation of basic strategic planning and national telecommunications basic technical planning.

The regulating function covers general and/or technical operational activities which, among others, are reflected in the arrangement of licenses and requirements in telecommunications operations.

The control function is exercised in the form of directives and guidance for telecommunications operations.

The supervision function is the supervision over telecommunications operations, including supervision over the control, business, importation, assembling, use of frequency and satellite orbit, as well as telecommunications devices, equipment, facilities and infrastructure.

The function of policymaking, regulating, supervision and control is carried out by the Minister. In accordance with the development of the



situation, the regulatory function, supervision and control of telecommunications operations may be delegated to a regulatory body.

In the framework of effective guidance, the government may coordinate with related agencies, telecommunications operators and involve the participation of the public.

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, what is meant by Telecommunications Administration is the State represented by the government of the country concerned. In this matter the Telecommunication Administration shall exercise the rights and obligations of the International Telecommunication Convention and its accompanying regulations.

The Indonesian Telecommunications Administration shall also perform the rights and obligations under other international regulations such as the regulations stipulated by *Intelsat (International Telecommunication Satellite Organization)* and the *Inmarsat (International Maritime Satellite Organization)* as well as international agreements in other telecommunication sectors that have been ratified by Indonesia.

## **Article 7**

Paragraph (1)

Letter a

Self-explanatory.

Letter b

Self-explanatory.

Letter c

Special telecommunications operations is among other things for the purpose of meteorology geophysics, television broadcast, radio broadcast, navigation, aviation, search and rescue, amateur radio, inter-population radio communications and operation of certain government special communications agencies/private parties.

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)

The operator of telecommunications services requiring a telecommunication network may use its own network and/or may lease it from other telecommunications network operators.

A leased telecommunications network is basically for own use, but if it is sub-leased to another party, the party sub-leasing the network must obtain a license as a telecommunications network operator.

#### Paragraph (3)

Self-explanatory.

#### Paragraph (4)

##### Letter a

Meant by operation of special telecommunications for individual purposes is the operation of telecommunications for individual needs, e.g. amateur radio and inter-population radio communications.

##### Letter b

Meant by operation of special telecommunications for the needs of government agencies is the operation of telecommunications to support the performance of the general tasks of certain authorities, e.g., departmental communications or regional government communications.

##### Letter c

Meant by operation of special telecommunications for special official body use is the operation of telecommunications to support the activities of the official body concerned, among others, navigation, aviation or meteorological activities.

##### Letter d

Meant by operation of special telecommunications for legal entities is the operation of telecommunications carried out by State-Owned Enterprises (BUMN), Regional-Owned Enterprises (BUMD), private business enterprises, or cooperatives, e.g. banking telecommunications, mining telecommunications or railway telecommunications.

#### Paragraph 5

Self-explanatory.

## **Article 10**

### Paragraph (1)

This article is intended to create healthy competition among telecommunications operators in performing their activities.

The prevailing statutory regulation intended is Law No. 5 of 1999 on Prohibition of Monopolistic Practices and Unfair Business Competition and its implementing regulations.

### Paragraph (2)

Self-explanatory.

## **Article 11**

### Paragraph (1)

Licenses for the operation of telecommunications are intended as an effort of the Government in guiding and facilitating the growth of healthy telecommunications operations.

The Government is obligated to publicize periodically the areas/territories open for the operation of telecommunications networks and/or telecommunication services.

Telecommunications operation shall comply with the conditions stipulated in the license.

Telecommunications operation for experimental purposes shall be granted a special license for a certain term.

### Paragraph (2)

Self-explanatory.

### Paragraph (3)

Self-explanatory.

## **Article 12**

### Paragraph (1)

Meant by to use or to cross state lands and/or buildings owned/controlled by the Government is the dispensation granted to the telecommunications operator.

### Paragraph (2)

Self-explanatory.

### Paragraph (3)

Meant by government agency is the agency that directly controls, owns and/or uses the land and/or building.

## **Article 13**

Meant by individual is a person and/or legal entity, which directly controls, owns and/or uses the lands and/or buildings used or crossed.

In the context of granting legal protection to the personal rights of individuals, the exercise thereof must obtain approval from the relevant parties.

## **Article 14**

Self-explanatory.

## **Article 15**

### Paragraph (1)

Compensation from the telecommunications operator shall be given to the user or public damaged because of the negligence or mistake of the telecommunications operator.

### Paragraph (2)

Self-explanatory.

### Paragraph (3)

Settlement of the compensation shall be made through mediation or arbitration or conciliation. Such methods are intended as an effort by the parties to achieve a quick settlement. If the settlement of the compensation through the above methods is unsuccessful, it may be settled through the court.

## **Article 16**

### Paragraph (1)

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

In determining the universal service obligation, the government shall take into account the principle of making telecommunications services available to reach populated areas with good quality and appropriate tariffs.

The universal service obligation, especially for areas which are geographically remote and economically not yet developed and requiring high development costs, including pioneer, hinterland, border land, remote areas and/or economically depressed areas.

The obligation to construct telecommunications facilities for universal services shall be charged to permanent 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 providers of the two types of services mentioned above shall give contributions.

### Paragraph (2)

Other compensation as intended within the universal service obligation is the cost contribution for construction charged through interconnection costs.

### Paragraph (3)

Self-explanatory.

## **Article 17**

Self-explanatory.

## **Article 18**

### Paragraph (1)

Recording the use of telecommunications services shall be the obligation of the operator, 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), to the extent requested by the telecommunications service user.

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

### Paragraph (2)

Self-explanatory.

### Paragraph (3)

Self-explanatory.

## **Article 19**

When a telecommunications network is connected with a number of other networks operating the same services, the user of the said network must be guaranteed the freedom to choose one of the connected networks through a stipulated numbering system.

In principle, the user is entitled to choose a network operator and/or telecommunications service to channel his telecommunications connection. In implementing this connection, network operator and/or telecommunications services operator may change the route of the user's connection to other network operators without the knowledge of the user.

If this occurs, this situation is contrary to the principle of fair competition, which may harm both the operator as well as the user.

## **Article 20**

The transmission of information is the initial stage of the telecommunications process, followed by channeling activities as the intermediate process, and concluding with the conveyance of information to be received by the intended party. The priority of transmission, dissemination and conveyance of information shall be determined by the government, among others, emergency messages.

## **Article 21**

Telecommunications operations may be stopped by the government after receiving information creating a strong and convincing suspicion that the operation of such telecommunications violates the public interest, morals, safety or public order.

## **Article 22**

Self-explanatory.

## **Article 23**

### Paragraph (1)

This provision is intended to ensure that the numbering requirements of the network operator and the telecommunications service operator and the users are fulfilled in a fair manner and in line with international stipulations.

A number is a series of signs in the form of digits consisting of access codes and customer numbers used to identify an address on the telecommunications network or service.

### Paragraph (2)

Numbering is a limited resource and therefore the numbering system shall be regulated by the Minister in a fair manner. Numbering on telecommunications networks is related to technology and international stipulations.



## **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)

The fee for the right of telecommunications operation is an obligation imposed on the network operator and/or telecommunications services operator as compensation for the license obtained for the operation of the telecommunications network and/or service, the amount of which shall be determined based on a percentage of the revenue and shall constitute State Non-tax Revenue (PNBP) paid to the State Treasury.

Paragraph (2)

Self-explanatory.

## **Article 27**

The tariff structure for telecommunications networks and/or services covering the structure and type of tariff shall be determined by the government. Based on this structure and type, the telecommunications network operator and/or telecommunications service operator may determine the tariff.

The tariff structure shall consist of new installation fee (activation), monthly subscription fee, user fee and additional services (feature) fee.

The types of tariff consist of the local pulse tariff, the Long distance direct dialing (SUJ) pulse tariff, International Direct Dialing (SLI) tariff and air time for mobile telephone connection services.

## **Article 28**

The formula referred to in this provision is a calculation guide to determine the amount of the tariff.

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

In fixing the initial tariff formula, the cost component must be considered, whereas to fix the tariff level modification formula, among others, the inflation factor, the ability to pay of the public, and the continuity of telecommunications development shall be taken into account.

## **Article 29**

### Paragraph (1)

The prohibition for special telecommunications operations to be connected to other telecommunications operator networks is intended to provide legal certainty for the scope of special telecommunications operations which indeed is only for own use.

### Paragraph (2)

Self-explanatory.

## **Article 30**

### Paragraph (1)

This provision is intended to overcome problems in the need for telecommunications services in a certain area which because of certain conditions cannot yet be reached by telecommunications services.

Therefore, this Law deems it necessary to enable the special telecommunications operator who is actually only operating for his own interest, to provide telecommunications services to the public residing in such area.

Paragraph (2)

The special telecommunications operator operating telecommunications network and/or services may continue operating telecommunications networks and/or services taking into account the investment made and continuation, of the services to users.

In this matter the special telecommunications operator concerned is obligated to comply with all provisions applicable to the operation of telecommunications networks and/or services.

Paragraph (3)

Self-explanatory.

**Article 31**

Paragraph (1)

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

The use or utilization of the telecommunications networks referred to in this paragraph shall be carried out to the extent the telecommunications network for purposes of state defense and security, in this case the Indonesian Army, cannot function or is not available.

If the state is in a state of emergency, the provisions of this paragraph shall not be applicable.

Paragraph (2)

Self-explanatory.

**Article 32**

Paragraph (1)

The technical requirements of telecommunications devices/equipment constitute mandatory requirements for the 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 devices/equipment, other than telecommunications equipment.

The technical requirements concerned are more directed at the function of the telecommunications devices/equipment in terms of the

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.

To guarantee compliance with technical requirements of the telecommunications devices/equipment, each telecommunications devices or equipment must be tested by a test center recognized by the government or by a competent institution.

The technical requirements shall comply with the applicable international technical standard taking into account the public interest and must be based on technology, which is open.

Paragraph (2)

Self-explanatory.

### **Article 33**

Paragraph (1)

The granting of a license for the use of radio frequency spectrum and satellite orbit shall be based on the availability of radio frequency spectrum allocated for the operation of telecommunications, including broadcasting according to its allocation.

The radio frequency allocation table shall be widely distributed to the public so that they may be made aware of it.

If the availability of radio frequency spectrum and satellite orbit cannot meet the demand or needs of telecommunications operations, among other ways of obtaining licenses may be through an auction mechanism.

Paragraph (2)

Radio frequency is the number of electromagnetic vibrations for one period, whereas radio frequency spectrum is an accumulation of radio frequencies.

The use of a radio frequency is based on the space, number of vibrations and bandwidth, which can only be used by one party. The simultaneous use on the same space, number of vibrations and bandwidth or very close together will interfere with each other.

Frequency in communication is used to convey or distribute information. Therefore, in order that the information can be properly brought or distributed properly without disturbance, the use of the frequency must

be regulated. The regulation of the frequency, among others, concerns the allocation of the frequency band and its usage.

Satellite orbit is a line in the sky crossed by a of satellite. The satellite orbit consists of geostationary satellite orbit, low satellite orbit and the medium satellite orbit.

The geostationary satellite orbit is a line passed through by a center of the satellite mass caused by the earth's gravitation, which has a permanent 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 line passed through by a satellite mass center with a nonstationary position in relation to the earth. The height of the low satellite orbit is around 1,500 km and the medium satellite orbit around 11,000 km.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

## **Article 34**

Paragraph (1)

The fee for the right of use radio frequency spectrum is compensation for the use of the frequency according to the license obtained. In addition, the fee for the use of the frequency is also intended as a means of supervision and control, so that the radio frequency as a limited natural resource can be utilized to the maximum.

The amount of the cost for the use of the frequency shall be determined based on the type and width of the frequency band. The type of frequency will affect the quality of the operation, whereas the width of the frequency band will affect the capacity/amount of information that can be conveyed/transmitted.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

**Article 35**

Paragraph (1)

Meant by Indonesian territorial waters is the territorial sea area including the deep sea. Therefore, this meaning includes the concept of an archipelago state as recognized in the United Nations Convention on International Maritime Law, ratified by Law No. 17 of 1985.

Because foreign flag vessels are equipped with telecommunications equipment the installation and operation of which follow the provisions prevailing in their country, the provisions on technical requirements stipulated by the Minister cannot be applied to them.

The use of telecommunications equipment in Indonesian territorial waters must follow prevailing international provisions, i.e. the principle of non interference and in accordance with its usage.

Paragraph (2)

The prohibition to use radio frequency spectrum or satellite orbit within Indonesian territorial waters is intended to protect state security and to prevent losses to telecommunications operations.

Maritime mobile service is the telecommunications between the coastal station and the ship station, inter-ship station, on board inter-station supplementary communications, rescue vehicle station, or radio sign station for emergency position direction.

This provision shall only be applicable to civil vessels and shall not apply to vessels owned by the Indonesian National Army.

Paragraph (3)

Self-explanatory.

**Article 36**

Paragraph (1)

The technical provision on telecommunications equipment stipulated by the Government cannot be applied to foreign aircraft, because foreign aircraft follow the provisions in force in their own country.

The use of such telecommunications equipment must follow prevailing international provisions, i.e. the principle of not causing interference and being in accordance with its allocation.

#### Paragraph (2)

The prohibition to use radio frequency spectrum or satellite orbit within Indonesian air space is intended to protect state security and to prevent harming the operation of telecommunications.

Aeronautical mobile service means the telecommunications between aeronautical stations and aircraft stations and inter-aircraft stations, which may also cover rescue vehicle stations, and radio call stations for emergency directions.

#### Paragraph (3)

Self-explanatory.

### **Article 37**

The reciprocity principle as intended in this article is the international relations principle to give the same treatment to foreign diplomatic envoys in Indonesia as is given to Indonesian envoys in the Country Concerned.

### **Article 38**

Acts, which may cause disturbances to telecommunications operation, may be in the form of :

- a. physical acts causing damage to a telecommunications network, so that the telecommunications network cannot function properly;
- b. physical acts causing telecommunications connections to not operate as intended;
- c. the use of telecommunications devices which not compatible with prevailing technical requirements;
- d. the improper use of telecommunications devices operating by radio waves which may cause interference with other telecommunications operations; or
- e. the improper use of non-telecommunications devices so as to cause undesirable technical effects to a telecommunications operation.

## **Article 39**

### Paragraph (1)

Telecommunications security activities shall be carried out by telecommunications operator commencing from construction planning up to the end of the operation period.

The scope of the construction planning, among others, design and engineering, the protection and security of which must be taken into account vis-à-vis electromagnetic, natural and environmental disturbances.

With respect to security and protection of the installation activities, the operator shall invoke public participation and coordinate with the competent authorities.

### Paragraph (2)

Self-explanatory.

## **Article 40**

Meant by tapping in this article is the activity of installing additional devices or equipment to the telecommunications network for the purpose of obtaining information through illegal methods. In principle, information possessed by a person is a personal right, which must be protected, and therefore tapping must be prohibited.

## **Article 41**

Recording of information, among others, recording of conversations between parties communicating through telecommunications

## **Article 42**

### Paragraph (1)

Self-explanatory.



Paragraph (2)

The criminal court procedures intended by this provision covers investigation, prosecution and trial.

Letter a

The certain criminal offences intended is a criminal offence subject to imprisonment of five (5) years and over, life long or death.

Letter b

An example of certain criminal offenses according to prevailing Laws is The criminal offence pursuant to the Law on Narcotics and criminal offences under the Psychotropical Law.

Paragraph (3)

Self-explanatory.

**Article 43**

Self-explanatory.

**Article 44**

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

**Article 45**

The 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)

The Operating Body is the Operating Body as referred to in Law No. 3 of 1989.

### Paragraph (2)

Meant by certain matters is the exclusive right to operate fixed local connection telecommunications services, Long Distance Direct Dialing (SUJ), and International Direct Dialing (SLI) granted by the Government to an Operating Body.

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

Acceleration of the termination of the period of special rights shall be accomplished by means and under terms mutually agreed, with due observance of the principle of integrity and justice as well as transparency (fairness), e.g. by the granting of compensation.

## **Article 62**

Self-explanatory.

## **Article 63**

Self-explanatory.

## **Article 64**

Self-explanatory.