

**DECREE OF THE MINISTER OF COMMUNICATION AND INFORMATION  
TECHNOLOGY OF THE REPUBLIC OF INDONESIA**

**NUMBER : 08/PER/M.KOMINFO/03/2012**

**ON**

**PROCEDURE OF IMPLEMENTING *POST MARKET SURVEILLANCE***

**BY THE GRACE OF GOD THE ALMIGHTY**

**MINISTER OF COMMUNICATION AND INFORMATION TECHNOLOGY OF THE  
REPUBLIC OF INDONESIA**

Considering: that in order to implement the provision of Article 72 of the Government Regulation of the Republic of Indonesia Number 52 Year 2000, it is considered necessary to issue a Decree of the Minister of Communication and Information Technology on Procedure of Implementing *Post Market Surveillance*.

Bearing in mind: 1. Law of the Republic of Indonesia Number 36 Year 1999 on Telecommunication (State Gazette of the Republic of Indonesia Number 154 Year 1999, Supplement to the State Gazette of the Republic of Indonesia Number 3881);

2. Government Regulation of the Republic of Indonesia Number 52 Year 2000 on Provision of Telecommunication (State Gazette of the Republic of Indonesia Number 107 Year 2000, Supplement the State Gazette of the Republic of Indonesia Number 3980);

3. Decree of the President of the Republic of Indonesia Number 47 Year 2009 on Formation and Organization of State Ministries of the Republic of Indonesia as amended latest by the Decree of the President of the Republic of Indonesia Number 91 Year 2011 on Third Amendment to the Decree of the President of the Republic of Indonesia Number 47 Year 2009 on Formation and Organization of State Ministries of the Republic of Indonesia;

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4. Decree of the President of the Republic of Indonesia Number 24 Year 2010 on Positions, Duties, and Functions of State Ministries and Organizational Structure, Duties, and Functions of Echelon I of State Ministries of the Republic of Indonesia as amended latest by the Decree of the President of the Republic of Indonesia Number 92 Year 2011 on Second Amendment to the Decree of the President of the Republic of Indonesia Number 24 Year 2010 on Positions, Duties, and Functions of State Ministries and Organizational Structure, Duties, and Functions of Echelon I of State Ministries of the Republic of Indonesia;
5. Decision of the Minister of Communication Number : KM. 3 Year 2001 on Technical Requirements of Telecommunication Tools and Equipment;
6. Decision of the Minister of Communication Number KM. 66 Year 2003 on Procedure of Reciprocal Recognition of Test Result of Telecommunication Tools and Equipment;
7. Decree of the Minister of Communication and Information Technology Number 03/PM.Kominfo/5/2005 on Adjustment of Nomenclatures of a Number of Decisions/Decrees of the Minister of Communication which regulate Special Material Contents in the Field of Post and Telecommunication;
8. Decree of the Minister of Communication and Information Technology Number 21/PER/M.KOMINFO/10/2005 on Guideline for the Implementation of Tariffs on Non-Tax State Income from Certification Fee and Application for Testing Telecommunication Tools /Equipment;
9. Decree of the Minister of Communication and Information Technology Number 29/PER/M.KOMINFO/09/2008 on Certification of Telecommunication Tools and Equipment;
10. Decree of the Minister of Communication and Information Technology Number 17/PER/M.KOMINFO/10/2010 on Organization and Work Method of the Ministry of Communication and Information Technology;
11. Decree of the Minister of Communication and Information Technology Number 04/PER/M.KOMINFO/03/2011 on Organization and Work Method of Office of Telecommunication Equipment Testing Laboratory;

12. Decree of the Minister of Communication and Information Technology Number 15/PER/M.KOMINFO/07/2011 on Adjustment of Nomenclatures of a Number of Decisions and/or Decrees of the Minister of Communication and Information Technology which regulate Special Material Contents in the Field of Post and Telecommunication and Decisions and/or Decrees of the Director General of Post and Telecommunication.

## **DECIDES**

**To issue : DECREE OF THE MINISTER OF COMMUNICATION AND INFORMATION TECHNOLOGY ON PROCEDURE OF IMPLEMENTING POST MARKET SURVEILLANCE**

## **CHAPTER I**

### **GENERAL PROVISIONS**

#### Article 1

In this Ministerial Decree, what is meant by:

1. Telecommunication is any emission, transmission and or reception of any information in the form of signs, signals, writing, images, voices, and sounds by wire, optical, radio or other electromagnetic systems.
2. Telecommunication tool is any tool used in telecommunication.
- 3/ Telecommunication equipment is a group of telecommunication tools enabling telecommunication.
4. Certification is a process related to providing certificate.
5. Certificate is a document which indicates the compliance of the type of telecommunication tool and equipment with technical requirements and or with defined standard.

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6. Testing of telecommunication tool and equipment is the evaluation of the conformance between the characteristics of telecommunication tool and equipment and the prevailing technical requirements.
7. Technical requirements are electrical/electronic parameters, safety requirement, and or *electromagnetic compatibility* requirement which conform with Indonesian National Standard (SNI) or defined by the Director General.
8. *Post Market Surveillance* is an activity to assess conformance of telecommunication tool and equipment that have been certificated and currently prevailing in the market vis-à-vis technical requirements.
9. Testing Institution hereinafter referred to as Balai Uji, is state-owned or private-owned laboratory appointed by Designating Authority to carry out testing of telecommunication tool and equipment.
10. Sample is a test sample of telecommunication tool and equipment that has been certificated which forms an object of *Post Market Surveillance*.
11. Director General is the Director General of Resources and Equipment of Post and Information Technology.
12. Director of Standardization is the Director of Standardization of Postal and Information Technology Equipment.
13. Directorate is the Directorate of Standardization of Postal and Information Technology Equipment.

## CHAPTER II

### COMPLIANCE WITH TECHNICAL REQUIREMENTS

#### Article 2

- (1) Any telecommunication tool and equipment shall comply with the technical requirements in accordance with the prevailing legal regulations.

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- (2) To ensure the sustainability of the conformance of telecommunication tool and equipment that have complied with the technical requirements and certificated referred to in paragraph (1), it is considered necessary to implement *Post Market Surveillance*.

### CHAPTER III

#### IMPLEMENTATION OF *POST MARKET SURVEILLANCE*

##### Article 3

- (1) *Post Market Surveillance* referred to in Article 2 paragraph (2) is implemented by the Directorate by involving the related parties.
- (2) *Post Market Surveillance* referred to in paragraph (1) is implemented towards certificate holders.
- (3) Certificate holders referred to in paragraph (2) are as follows:
- a. manufacturers;
  - b. representatives of manufacturers;
  - c. importers, and / or
  - d. distributors.

##### Article 4

*Post Market Surveillance* is implemented by taking into account the following things:

- a. popularity of a product;
- b. the existence of significant price difference with similar technological product;
- c. the potential danger against telecommunication network;
- d. the potential danger against safety and health of human beings;
- e. a product using new technology; and/or

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- f. history of non conformance of a product.

#### Article 5

*Post Market Surveillance* referred to in Article 4 is implemented periodically and specially.

#### Article 6

- (1) *Post Market Surveillance* which is implemented periodically referred to in Article 5 is carried out at a certain time and according to programme.
- (2) *Post Market Surveillance* specially implemented as referred to in Article 5 is carried out based on complaints from the community.

#### Article 7

- (1) *Post Market Surveillance* specially implemented referred to in Article 6 paragraph (2) is carried out by evaluating the telecommunication tool and equipment which are estimated of not complying with technical requirements.
- (2) In order to evaluate the specially implemented *Post Market Surveillance*, additional testing may be done to other samples as comparison standard.

#### Article 8

*Post Market Surveillance* is implemented through the following stages:

- a. selecting samples;
- b. taking selected samples;
- c. evaluation on the selected samples;
- d. evaluation of conformance.

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#### Article 9

The sample selection referred to in Article 8 point a is done at random by the Directorate of Standardization from the list of telecommunication tools and equipment that have been certificated.

#### Article 10

- (1) Taking samples referred to in Article 8 point b is done by the Directorate with the following method:
  - a. buying samples from the market with the budget expenses borne by the State Budget of Income and Expenditure; or
  - b. borrowing samples from the manufacturer, representative of manufacturer, importer, or distributor.
- (2) The Directorate drafts a Record of sample taking referred to in paragraph (1) point b.
- (3) Record of sample taking referred to in paragraph (2) is indicated in Attachment I which is an integral part of this Ministerial Decree.

#### Article 11

- (1) Evaluation on samples referred to in Article 8 point c is conducted through two (2) phases:
  - a. Physical evaluation, in the form of sample testing done by Balai Uji through in-house test or through on site test; and
  - b. Document evaluation conducted by the Directorate covering examination of test result and other related documents.
- (2) The expenses for the evaluation referred to in paragraph (1) are borne by the State Budget of Income and Expenditure.

#### Article 12

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- (1) Evaluation of conformance referred to in Article 8 point d is conducted by the Directorate.
- (2) Evaluation of conformance referred in paragraph (1) is conducted by comparing the result of sample test vis-à-vis technical requirements which form the reference in the certificate.

#### Article 13

- (1) The evaluation of conformance result referred to in Article 12 paragraph (2) is incorporated in the letter of statement on evaluation of conformance as indicated in Attachment II which is an integral part of this Ministerial Decree.
- (2) The letter of statement mentioned in paragraph (1) states that the telecommunication tool and equipment have complied or not complied with the evaluation of conformance based on technical requirements which form the reference in the certificate.
- (3) In the event that the sample taking is done by borrowing samples referred to in Article 10 paragraph (1) point b, the letter of statement referred to in paragraph (2) is delivered to the certificate holder.

#### Article 14

- (1) If the evaluation of conformance result shows that the sample does not comply with the technical requirements referred to in the reference, then the Director revokes the certificate.
- (2) Before the Director revokes the certificate referred to in paragraph (1), the certificate holder is given the opportunity to submit objections to the Director on the evaluation of performance result.

#### Article 15

- (1) The submission of objections referred to in Article 14 paragraph (2) is done with the following provision:
  - a. providing proofs in the form of technical documents; and



- b. submission for testing with other similar samples circulated in the market by bearing the testing expenses.
- (2) The period of submission of objections referred to in paragraph (1) is maximum twenty (20) work days since the receipt of the letter of statement on evaluation of conformance.
- (3) During the process of submission of objections and period of submission of objections referred to in paragraphs (1) and (2), certificate of telecommunication tool and equipment is frozen by the Director.
- (4) As long as the certificate of telecommunication tool and equipment is frozen, the certificate holder in question is prohibited to produce, import, and/or to sell or buy the prescribed telecommunication tool and equipment.

#### Article 16

- (1) If within the period of twenty (20) work days the certificate holder does not submit objections, the Director revokes the certificate.
- (2) The telecommunication tool and equipment for which the certificate has been revoked referred to in paragraph (1), the concerned certificate holder shall:
- a. re-export the imported telecommunication tool and equipment;  
or
  - b. withdraw from the market the telecommunication tool and equipment produced domestically.

#### Article 17

In the event that the result of evaluation of conformance for which objections submitted as mentioned in Article 14 paragraph (2), shows that the tested sample complies with the technical requirements referred to in the reference, the Director may revoke the freeze of the certificate and such certificate is still valid.

## Article 18

- (1) After *Post Market Surveillance* has been processed,
  - a. the sample bought becomes the property of the State; and
  - b. the sample obtained through borrowing is returned to the related manufacturer, importer, or distributor.
- (2) The information as regards the return of the sample referred to paragraph (1) point b is incorporated in the Record as stated in Attachment III which is an integral part of this Ministerial Decree.

## CHAPTER IV

### PROVIDING INFORMATION

## Article 19

Within the framework of providing protection to consumers, the Directorate disseminates information regarding the freeze, revocation of freeze, and revocation of certificate as a result of the implementation of *Post Market Surveillance* through media.

## Article 20

- (1) Request and provision of information from and to other countries relating to the result of *Post Market Surveillance* which is confidential in nature are performed based on reciprocal agreement between countries in accordance with the legal regulations.
- (2) The confidential information referred to in paragraph (1) may be in the form of:
  - a. result of testing on *Post Market Surveillance* and/or
  - b. complaints toward products.

**CHAPTER V**  
**FINAL PROVISION**

Article 21

This Ministerial Decree shall come into force on the date of its promulgation.

In order to make known to every body, instruct the promulgation of this Ministerial Decree by placing it in the State Announcement of the Republic of Indonesia.

Done at: JAKARTA  
On : March 15, 2010

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**MINISTER OF COMMUNICATION AND INFORMATION TECHNOLOGY OF THE  
REPUBLIC OF INDONESIA**

Signed

**TIFATUL SEMBIRING**

Promulgated at Jakarta  
On March 20, 2010  
MINISTER OF LAW AND HUMAN RIGHTS

Signed

**AMIR SYAMSUDIN**

STATE ANNOUNCEMENT OF THE REPUBLIC OF INDONESIA YEAR 2010 NUMBER  
335

Copy conform to the original

HEAD OF LEGAL BUREAU

Signed

**D. SUSILO HARTONO**

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ATTACHMENT I: DECREE OF THE MINISTER OF COMMUNICATION AND  
INFORMATION TECHNOLOGY OF THE REPUBLIC OF  
INDONESIA

NUMBER : 08/PER/M.KOMINFO/03/2012 ON PROCEDURE  
OF IMPLEMENTING *POST MARKET SURVEILLANCE*

**RECORD OF SAMPLE TAKING**

LETTER HEAD: DIRECTORATE GENERAL OF RESOURCES AND EQUIPMENT  
OF POST AND INFORMATION TECHNOLOGY

**RECORD OF SAMPLE TAKING**

On this day .....date.....month.....year .....  
We, the undersigned

No	Name	NIP	Division	Signature
1				
2				

have carried out sample taking in location :

Name of the Company	
Address	

with the Company's team

No	Name	Division	Signature
1			
2			

This sample taking through the method of borrowing is performed within the framework of implementing *Post Market Surveillance* with the provision based on the Decree of the Minister of Communication and Information Technology Number :..... Year : ..... on the Procedure of Implementing *Post Market Surveillance* with the following sample data :

No	Tool/Equipment	Number	Observation
1			
2			

This Record of Sample Borrowing is hereby done truly for proper usage.

MINISTER OF COMMUNICATION AND INFORMATION TECHNOLOGY OF THE  
REPUBLIC OF INDONESIA,

Signed

TIFATUL SEMBIRING

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ATTACHMENT II: DECREE OF THE MINISTER OF COMMUNICATION AND INFORMATION TECHNOLOGY OF THE REPUBLIC OF INDONESIA

NUMBER : 08/PER/M.KOMINFO/03/2012 ON PROCEDURE OF IMPLEMENTING *POST MARKET SURVEILLANCE*

**LETTER OF STATEMENT ON EVALUATION OF CONFORMANCE OF *POST MARKET SURVEILLANCE***

LETTER HEAD: DIRECTORATE GENERAL OF RESOURCES AND EQUIPMENT OF POST AND INFORMATION TECHNOLOGY

**STATEMENT ON EVALUATION OF CONFORMANCE OF *POST MARKET SURVEILLANCE***

Number : /DJSDPPI.5/KOMINFO/ /

Based on testing conducted within the framework of implementing *Post Market Surveillance* on :

- a. Name of the Company :
- b. Address of the Company :
- c. Type of tool/equipment :
- d. Brand :
- e. Model/Type :
- f. Number of Certificate :

is hereby declared of compliance/non-compliance \*) with the evaluation of conformance in the process of *Post Market Surveillance* in accordance with the Regulation ..... (Regulation on Technical Requirements of telecommunication tool and equipment tested)

Jakarta, .....  
DIRECTOR OF STANDARDIZATION OF POSTAL AND  
INFORMATON TECHNOLOGY EQUIPMENT ,

Signed

(FULL NAME)

\*) delete whichever inapplicable

MINISTER OF COMMUNICATION AND INFORMATION TECHNOLOGY OF THE  
REPUBLIC OF INDONESIA,

Signed

TIFATUL SEMBIRING

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ATTACHMENT III: DECREE OF THE MINISTER OF COMMUNICATION AND  
INFORMATION TECHNOLOGY OF THE REPUBLIC OF  
INDONESIA

NUMBER : 08/PER/M.KOMINFO/03/2012 ON PROCEDURE  
OF IMPLEMENTING *POST MARKET SURVEILLANCE*

**RECORD OF SAMPLE RETURN**

LETTER HEAD: DIRECTORATE GENERAL OF RESOURCES AND EQUIPMENT  
OF POST AND INFORMATION TECHNOLOGY

On this day, .....date .....month.....year .....

We the undersigned :

No	Name	NIP	Division	Signature
1				
2				

have conducted the return of sample for the implementation of *Post Market Surveillance* with the following data :

No	Tool / Equipment	Number	Observation
1			
2			
3			

To :

Name of the Company	
Address	

With the Team of the Company

No	Name	Division	Signature
1			
2			

This Record of Sample Return is hereby done truly for proper usage.

MINISTER OF COMMUNICATION AND INFORMATION TECHNOLOGY OF THE  
REPUBLIC OF INDONESIA,

Signed

TIFATUL SEMBIRING

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