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## Government Domination on Television Digital Migration Regulation in Indonesia

### Cover Page Footnote

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# Government Domination on Television Digital Migration Regulation in Indonesia

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## Abstract

This study aims to analyze the migration from analog television to digital television in Indonesia, which has been going on for more than a decade. One of the issues is multiplexing management rules that should be used for the benefit of the public because it uses public frequency. Researchers assume that there is government domination in determining policies that accommodate the interests of investors with significant capital and ignore the public interest, including the interests of small investors in the broadcasting industry. This study analyzes various regulations related to digital migration using critical policy analysis methods. The research results show that the Government continues to maintain its dominance in digital migration in Indonesia. Even though it has been sued several times and declared lost in lawsuits, through the new production rules, the Government continues to carry out the digital migration agenda and strengthen its dominance.

## Keywords

Government Domination,  
Television Digital Migration,  
Regulation, Indonesia

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## Introduction

Indonesia's digital terrestrial television migration finally peaked with the Analog Switch Off (ASO) on November 2, 2022. However, the main problems of migrating digital terrestrial television in Indonesia, which have existed since 2009, have continued. The issue in question is related to multiplexing. Multiplexing is a concept that defines the process of combining multiple analog message signals or digital data streams into one signal. This multiplexing can multiply the number of television channels in one signal, making frequency usage much more efficient.

The process of digital migration is challenging for any country in this world. U.S. House Representative from Massachusetts Edward J. Markey said the transition to broadcast digital television (B-DTV) is "a mess" of historic proportions. The slow changeover creates many unexpected obstacles for regulators, broadcasters, related industries, and consumers. A representative from Florida, Cliff Stearns, even said that the transition to digital television is a lot like getting to heaven. Everyone knows what it takes to get there, but no one wants to do what it takes and sacrifice" (Castañeda, 2007).

In Indonesia, the journey toward digitalization of broadcasting still needs to catch up. Fundamental problems, such as the legal basis for digitizing broadcasting, still need to be resolved. Efforts to localize digitalization issues only at the ministerial level

have created new problems. Digital TV regulations issued by the Ministry of Communications and Information (Kominfo) have been repeatedly challenged in court, showing a need for a more positive response from the public (Nurizar, 2020). The shift of the legal basis for the digitalization of broadcasting from the Broadcasting Act (UU Penyiaran) to the Job Creation Act (UU Cipta Kerja) shows that the government is taking shortcuts to implement the digitization of broadcasting. By leaving all decisions and technical aspects of broadcasting digitalization in the hands of only one ministry, it shows that the government considers broadcasting digitalization a ministerial-level issue, even though just one ministry cannot resolve many aspects of broadcasting digitalization.

This article wants to show how the government controls digital broadcasting migration in Indonesia. Through a study of regulatory documents and literature, this research presents a process of the government's efforts to ensure that they have the sole authority to regulate and implement broadcasting digitalization. It will be proven by the contents of regulations related to digitalization, which were produced to strengthen the Government's dominance even though the public has sued it several times.

## **Literature Review**

### *Digital Migration of Broadcasting*

Migration is not just a transfer of technology. Regulating digital migration is a long-term ideological, legal, and cultural project. It is shaped by political winds, elected by appointed government officials, and influenced to varying degrees by public participation, broadcaster and network demand, and content growth through new media technologies (Holt in Bodroghkozy, 2018). Steemers (1997) describes some of the difficulties in constructing policy frameworks. The first is that legislative activity needs to catch up to developments in the marketplace. Second, the internationalization of broadcasting and telecommunications activities and the need for coordination between media and telecommunications policies have reduced the importance and effectiveness of national media laws.

The need for relevant regulations for broadcast digitalization is rooted in current global conditions. Television and radio broadcasters adapted to the digital environment. They had to rely on various new technologies and distribution platforms for transmission and distribution. It has created new regulatory challenges requiring a fundamental rethinking of policy foundations. They have thus far been hard-pressed to keep up with the explosive pace of technological change (Holt in Bodroghkozy, 2018).

The formation of new regulations or fundamental regulatory changes is needed because there are fundamental differences between analog and digital broadcasting. Digital broadcasting standard excels in accuracy, versatility, efficiency, and interoperability with other electronic media. Digital transmission contains as much as six times more data than analog television signals—at least twice the picture resolution (Weber, 2005).

Indonesia finally has a new legal umbrella that regulates digital broadcasting through government laws and regulations, although they were made secretly and suddenly passed. In addition to legal certainty, a regulation must have certainty of partiality. Various interests must be listened to, not to perpetuate the interests of large investors, which leads to monopoly.

In digitalizing broadcasting, technological developments are reasons for politicians to change the formulation of policy frameworks. According to Levy (1999), while the technology deployed across the countries was similar, each respondent was in its own way. In practice, the policy solutions adopted for digital television were dictated more by each country's unique political and market structures than by a typical response to

a single digital technology.

The UK's approach to digital broadcasting was characterized by emphasizing maintaining government control in the face of technological change (Levy, 1999). Tony Blair's Labor government, fueled by previous political interests, strongly supported the early introduction of DTV. These include the desire to give the UK a leading role in the new economy, stimulate the domestic information and communication technology (ICT) market, and allow the private sector to take the risks of innovation and standardization. A shift to DTV will also permit the lucrative sale of the analog spectrum (Born, 2003).

In Japan, the government's decision to shift to a digital broadcasting system on July 24, 2011. It marked a significant turning point for the broadcasting industry. Digitalization is the biggest industry-wide event. It has since the advent of alternative delivery technologies, satellite, and cable, in the 1980s. Preparation for digitalization has put analog business arrangements under pressure and has led to a renewed focus on the industry's future shape (Koga-Browes, 2012). In contrast to Japan, in the United States, a digital broadcasting policy heavily favored incumbent broadcasters (Stover, 2002). Large media conglomerates that run television stations are crucial to the country's digital strategy (Steemers, 1997). On May 1, 1999, all 40 owned networks and associated broadcasting-digital television stations in the top 30 markets must be migrated. The deadline was protested, and stations were allowed to operate at 50% capacity until April 1, 2003, and then at 75% capacity until April 1, 2004 (Castañeda, 2007).

From the decisions of the governments in those countries, in general, politicians shared a common concern to maintain or reassert regulatory authority over a technology that might escape from their control, but how they attempted to do this reflected each country's particular traditions and circumstances, and the differing political sensitivities within that country (Levy, 1999). In Indonesia, the government is taking quite powerful ways to digitize broadcasting.

Broadcasting is a form of unidirectional telecommunication intended for many users with appropriate receiving facilities and carried out through radio networks. These public transmissions may include audio-video and other types of information (Weber, 2021). Digital transformation, conversely, means the gradual switch-off of analog terrestrial television networks to new, fully digital terrestrial networks. This includes converting current broadcasting networks and encouraging the public to convert or upgrade their television, radio, and recording equipment to receive digital broadcasting (Iosifidis, 2007).

The switch to digital television is strongly influenced by the rapid development of technology (Wahyuni, 2014). The availability of technology that can maximize broadcasting quality and even solve the scarcity problem is undoubtedly an opportunity that every country should follow up on. However, a digital switchover is inevitable due to technological progress per se. Policy about digital switchover is often seen as coercive. This is partly because the reasons and motivations for the switch by governments are not fully understood and trusted and partly because analog TV is being "taken away." After all, they think they have to bear the cost to keep watching TV (Iosifidis, 2007). Unfortunately, according to Stover (2002), government policy is one of the inhibiting factors for achieving equality in a digital society where everyone should be equal in getting instantaneous content and connections.

In the transition process towards digitalization, many policy loopholes can create or further widen the existing gaps as regulation is associated with controls, rules, borders, codes of conduct, and state interventions (Holt in Bodroghkozy, 2018). On the other hand, regulation of the transition to digital TV must deliver something new, different, or better (Soothill, 1999). It is because digital requires a complete

transformation. Digital needs transformation from existing video production and distribution infrastructure, from studio cameras to transmission masts. It needs new mechanisms to compensate content creators and distribute them in a world of a button. We can skip traditional advertising and create and distribute perfect copies with the click of a button. In addition, it needs new tools and services available for viewers to navigate the show's maze (Galperin in Cave and Nakamura, 2006). These processes result in more services, better technical quality, clearer reception, improved coverage, better portable and mobile performance, new features such as data, and more local voice programming, or any combination of them (Soothill, 1999).

The state, through regulations, creates control over how the digitalization process will work. Payne et al. (2021) define policy as "why it is", a set of rules for understanding the intent of government directives on digital transformation issues. The policy describes who will be affected and why they should follow government instructions. It differs from the process as the process is the methodology that guides citizens to make the right decisions about how to do something. The government's inability to explain the "why" has had various impacts. Castañeda's (2007) lack of consumer support is described as a dilemma in transitioning to digital TV. Most TV viewers will not buy an upgraded digital receiver due to the high price. Some consumers had to pay an additional \$600 for digital and high-definition television. In China, consumers should expect high entry costs to switch to digital services in the early launch stages. A set-top decoder box costs up to \$360, one-third of China's average annual income (Weber, 2005).

It is easy to get citizens' compliance if the government can adequately explain the reasons behind a change. Some countries that can explain to citizens the reasons for digitizing broadcasting must also address funding issues. The set-top boxes required to receive digital television create new bottlenecks in implementing digital broadcasting (Strover, 2002). The government must also be able to invite the industrial sector to contribute (Weber, 2005).

### *Government Domination*

Domination is conditions in which the government makes decisions that do not consider public input, indicating a practice of using power to regulate society. Domination refers typically to persons and groups with specific short relations. There must be some of them called the "agents" of domination. Different person or group that is the "subject" of domination. Some particular state of affairs or arrangements between these two parties can be named "dominating" (Lovett, 2001). Mastery is, therefore, entirely action oriented. For etymological reasons, "dominus" means "master." In this context, the government is a dominus that seeks to control other parties by creating broadcast digitalization regulations.

Domination is related to power, usually power over other people (McCammon, 2018). This social power is the "present means" to get what we want when interacting with other agents (usually their cooperation). It is an illegitimate or morally illegitimate form of social power. This unchecked, illegitimate power imbalance allows agents or systems to control other agents or the conditions of their actions. According to Weber (1978), domination may be based on the most diverse compliance motives, from simple habituation to the purely rational calculation of advantage.

To see the practice of domination, Pettit (2012) describes the character of people who are not dominated. They securely enjoy resources and protection. You can look for others in the eye without having any reason to feel fear or awe to inspire the power of interference. You can walk with dignity and attain a public status objectively and subjectively on par with the best in that respect. The state must guarantee the liberties of its citizens and implement the various constitutional rights of citizens, including in the process of public policymaking. However, among the numerous



reports, regulatory investigations, and new forms of legislation and regulation applicable to digital communications (Flew & Wilding, 2021), the government applies tactics and strategies to seize power so as not to be questioned and even less likely to be criticized (Vitalis, 2016).

### **Research Methods**

This study uses critical policy analysis (CPA). CPA is rooted in education policy research (Winton & Tuters, 2015; Apple, 2018; Potter, 2020). Critical policy analysis examines approaches to dealing with a problem to understand whether and how it reflects, supports, and advances its interests (Winton & Tuters, 2015). It focuses on paradigms of dominance and subordination, as well as those who seek to disrupt them (Apple, 2018).

Critical policy researchers engage in critique, interrogate the policy process and the epistemological roots of policy work, examine the players involved in the policy process, reveal policy constructions, and consider how policies and the problems they address might appear if reframed from a different perspective (Young and Diem in Lochmiller, 2018). To carry out critical policy analysis, researchers position an issue, in this case, broadcasting digitalization, as a policy to be problematic (Potter, 2020). Researchers see that the government has directed the broadcasting digitalization policy as part of technological developments, so Indonesia must participate. However, in the process, the digitalization policy made by the government contains many problems.

The researchers collected government-issued regulations related to digital migration. The rules are analyzed by exploring which players are involved and dominate or benefit from the regulation. This article also describes the efforts of the suffering party in filing a lawsuit against government regulations. By positioning digital migration policies as problematic, this article also explains the government's efforts through the production and reproduction of digital migration rules to strengthen its dominance.

### **Results and Discussion**

#### *Regulations without a Statutory Basis*

The government has enacted various analog switch-off (ASO) regulations since 2007, but digital broadcasting still needs legislation. In 2011, the government issued Ministerial Decree No. 22/2011 on implementing digital television broadcasting, regulating ASO hours, and using 15 service zones. This service zone is closely related to the party (multiplexer/muxer) that manages the multiplexing (mux).

This Ministerial Regulation was challenged by the Indonesian Network Television Association (ATVJI) and the Indonesian Local Television Association (ATVLI). There are two crucial points in this lawsuit. There is no guarantee for private broadcasting institutions that already have an IPP to be able to broadcast, and the Indonesian Broadcasting Commission (KPI) is not involved at all. The Supreme Court granted the lawsuit in 2013, meaning the ministerial regulation is no longer valid. Even so, the government continues digital migration activities. The government consistently conducts tenders and selects big players in the television industry as mux managers, namely RCTI-MNC Group, TV One-ANTV, SCTV-Indosiar, Trans TV, and Metro TV.

In its history, the broadcasting bill (RUU), debated for a decade from 2009 to 2019, ended up stagnant in the House of Representatives (DPR RI). Instead of the bill being passed as a law in 2020, another law appeared as an omnibus (multi-aspect regulation). The regulation in question is Law No. 11/2020 on Job Creation, which regulates the transition to digital broadcasting.

*Ratification of the Job Creation Act and Legitimacy of the Ministry of Communications and Information as the Sole Regulator of the Digital Transition*

The cessation of discussions on changes to the Broadcasting Law 32/2002 has resulted in digital migration efforts needing a legal umbrella. In addition, because there are no regulations regarding digital broadcasting, legally, there are no regulations that state that the government is the sole actor in making regulations and implementing digital migration. Therefore, the Ministry of Communication and Information is actively promoting the ratification of the Job Creation Act, making the ministry the sole regulator of digital migration. In fact, in 2013, KPI also prepared a blueprint for the “Unpaid Terrestrial Digital Broadcasting System in Indonesia.” It means, referring to the Broadcasting Law 32/2002 that is still in force, the government may have made digital migration regulations together with KPI.

Minister of Communication and Informatics Johnny G. Plate even appeared in the news and emphasized the Government's involvement in encouraging analog to digital migration in the legislation on the Job Creation Bill. “Since 2019, the Government has pushed provisions regarding analog to digital migration” (Laraspost.com, 2022). One is through the Omnibus Law legislation on the Job Creation Bill, which has now been promulgated as Law No. 11 of 2020 concerning Job Creation”. This single broadcast transition regulation can be deduced from Articles 33 and 60A of Law No. 11 of the Year 2020 on Job Creation (Table 1).

Then, the regulations referred to in paragraph 3 of article 33 and paragraph 3 of article 60A came the following year and took the form of Government Regulation No. 46/2021 about Post, Telecommunications, and Broadcasting. In migrating television broadcasting from analog to digital, the government regulation (PP), commonly abbreviated as PP Postelsiar, regulates many issues relating to multiplexing (Table 2).

Table 1. Law No. 11/2020 Article 33 and Critique

<b>Law No. 11/2020 Job Creation</b>	<b>Critique</b>
Article 33, paragraph (1) states, “Broadcasting can be carried out after fulfilling a Business Permit from the Central Government”. Furthermore, paragraphs (2) and (3) explain that broadcasting institutions must pay a Business Licensing fee, and the provisions regarding Business Licensing are regulated in Government Regulations. Section 60A (3) re-emphasizes that further provisions for the conversion of broadcasting from analog to digital technology will be provided in government regulations.	Sections 33 and 60A of the Job Creation Law that the Government (Kominfo) arranges the licenses directly, without assistance or through the Indonesian Broadcasting Commission (KPI), as happened when licensing analog broadcasts.

Table 2. Government Regulation No. 46/2021 and Critiques

<b>Government Regulation No. 46/2021 Post, Telecommunications, and Broadcasting</b>	<b>Critique</b>
Article 78 Paragraph 2 states that the implementation of multiplexing using limited natural resources is controlled by	Articles 78, 81, 82, 84, and 85 explicitly affirm the Government's autonomy, which is thus central in



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**Government Regulation No. 46/2021  
Post, Telecommunications, and  
Broadcasting**

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**Critique**

the state, whose management is carried out by the Minister (Kominfo). The limited natural resource in question is the radio frequency spectrum. The same article, paragraphs 3-8, regulates the operation of terrestrial television broadcasting services using technology. The implementation is carried out through several multiplexing providers only. The Minister determines the number of LPS multiplexing providers for television broadcasting services through an evaluation or selection process. Television of the Republic of Indonesia is determined directly by the Minister without an evaluation or selection process. Paragraphs 9-11 explain the primary considerations when selecting private broadcasting.

Article 81 Paragraph 1 stipulates that public service, private, and community broadcasting can broadcast their programs after renting multiplexing slots at multiplexing operators. Paragraphs 2-4 state that LPP Television of the Republic of Indonesia or LPS for television broadcasting services, which organizes the multiplexing, broadcasts its programs through its multiplexing slot. Multiplexing operators must fulfill leasing requests from public service broadcasting, private broadcasting, and community broadcasting as long as multiplexing slots are still available. This request must be made in compliance with the principles of open access and non-discrimination. Slot rental must also meet the requirements set by the multiplexing organizer.

The following article, Article 82, contains the multiplexing slot rental rates. This formula must refer to the rules and obtain the Minister's approval in its stipulation. Article 84: The Minister determines the numbering of Broadcasting operations for Broadcasting institutions after obtaining a Broadcasting Operations License. In article 85, The Government assists in providing decoders (set-top-boxes/STB) for

determining multiplexing implementation. Likewise, in Article 81, paragraphs 5 and 6 states that KPI can impose sanctions when broadcast content is violated. KPI's position appears when it comes to broadcast content in article 86, paragraph 2, that KPI can impose sanctions when there is a violation of broadcast content.

Article 86, paragraph 3, clarifies the limited capacity of KPI. KPI needs complete authority to impose administrative sanctions on broadcasting institutions by revoking business licenses. KPI can only provide revocation recommendations. The Minister still revokes his business license after a court decision with permanent legal force.

Article 91 states that according to statutory provisions, the Indonesian Broadcasting Commission supervises broadcast content in Broadcasting operations. The law referred to here is Law No.32/2002 concerning broadcasting, which regulates analog broadcasting and mandates KPI as Indonesia's broadcasting regulator.

Article 92, paragraph 1 states that the Minister monitors and evaluates the quality and service products of Business Actors who obtain Business Permits in the Postal, Telecommunication, and Broadcasting sectors by statutory provisions. What is meant by the quality of services and or service products from Business Actors? What does service quality mean in managing multiplexing from the winning selection management institution? If yes, then that is the elaboration of the Government and the Minister's authority in implementing multiplexing as outlined in the previous articles. But what about the quality-of-service products from business actors? If this product means

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**Government Regulation No. 46/2021  
Post, Telecommunications, and  
Broadcasting**

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**Critique**

economically weak families to receive digital television broadcasts via terrestrial. This confirmation is repeated. The mechanism for renting the remaining multiplexing slots must be based on the announcement of the Multiplexing Implementation stipulated by the Minister. The Minister also has autonomy in determining the utilization of the remaining available slots after the implementation of multiplexing.

broadcast content for Broadcasting Institutions, then, in fact, article 92 undermines or appears to negate the KPI position given in articles 86 and 91.

It has not yet ended. The authority of the Minister appears again in articles 97 and 98. Article 97 reads that LPP, LPS, and LPK for television broadcasting services can broadcast analog and digital broadcasts simultaneously (simulcast) until analog television broadcasts stop. The ASO will be held by November 2, 2022. Article 98, the Minister decides on the phases of the ASO implementation process.

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Regarding multiplexing arrangements, the government has made a selection. Minister Johnny G. Plate conveyed the results of this selection in a press conference on May 3, 2021, namely:

1. West Sumatra-1 service area, the number of mux selected was 2, and the winners were ANTV and Metro TV.
2. Riau-1 service area, the number of mux selected was 2; the winners were Trans TV and TVone.
3. Jambi-1 service area, number of mux 2, the winners were Indosiar and Trans TV.
4. South Sumatra Region-1, total mux 2, granted to Indosiar and Trans 7.
5. Bengkulu Region-1, number of mux 2, the winners were Indosiar and RCTI.
6. Lampung Region 1, total mux 3, the winners were ANTV, Metro TV, and Nusantara TV.
7. Kep area. Bangka Belitung-1, number of mux 2, the winners were RCTI and Metro TV.
8. Bali service area, total mux 3, granted to ANTV, Metro TV, and Nusantara TV.
9. Region NTB-1, number of mux 2, the winners were Metro TV and SCTV
10. NTT-1 region, number of mux 2, granted to Metro TV, and RCTI.
11. West Kalimantan Region-1, number of mux 2, the winners were Indosiar and Trans TV.
12. Central Kalimantan Region, number of mux 2, the winners were SCTV and Trans TV.
13. North Sulawesi service area-1, number of mux 2, the winners were Metro TV and Trans TV.
14. Central Sulawesi Region, number of mux 2, the winners were RCTI and SCTV.
15. South Sulawesi service area 1, number of mux 2, the winners were Metro TV and RCTI
16. Southeast Sulawesi Region 1, number of mux 2, the winners were Metro TV and SCTV
17. Gorontalo Region-1, number of mux 2, the winners were RCTI and Trans TV
18. West Sulawesi Region-1, number of mux 1, the winners were RCTI

19. Maluku Region-1, number of mux 2, the winners were RCTI and TVone
20. North Maluku Region-1, number of mux 1, the winners were Trans TV/
21. Papua Region-1, number of mux 2, the winners were RCTI and Trans 7.
22. West Papua service area 4, number of mux 1, granted to SCTV.

From the list, it is clear that large groups get significant results. EMTEK Group received nine service areas, MetroTV Group received nine service areas, ANTV Group received two, RCTI MNC Group received nine, and Viva Group received five.

### *Resistance to Government Domination in Digital Migration*

The derivative regulation, PP No 46/2021, caused problems. Lombok TV submitted a judicial review to the Supreme Court. In its demands, the local television said that PP No. 46/2021 creates discriminatory business competition in the form of control of the radio frequency spectrum that should be controlled by the state to be controlled by a handful of Private Broadcasting Institutions (LPS) managing the multiplexing. The Radio Station License (ISR) and Broadcasting Principle License (IPP) owned by Lombok TV are meaningless. Lombok TV has to rent a Multiplexing Slot to provide broadcast program services. PP 46/2021 has regulated a new obligation that is not regulated at all in the Broadcasting Law and the Job Creation Law, namely the obligation for Private Broadcasting Institutions (LPS) that are not designated as Multiplexing Operators to rent Multiplexing Slots to LPS that are designated as Multiplexing Operators (LPS Multiplexing). The Broadcasting Law and the Job Creation Law only regulate broadcasting technology migration, analog switch-off (ASO), and Business Licensing from the Central Government. Then, PP No.46/2021 also shifted the state's role in public broadcasting by transferring the provision of set-top boxes for poor households to private parties, namely LPS multiplexing.

Lombok TV's efforts are bearing fruit. The Supreme Court granted part of Lombok TV's judicial review request on August 2, 2022. Hukumonline.com reported that in the Supreme Court decision No. 40 P/HUM/2022, the Supreme Court has invalidated Section 81(1) PP No. 46 of 2021 on Leases. Slot multiplexing conflicts with Broadcast Law No. 32 of 2002 and Law No. 11 of 2022 on Job Creation. Article 60A of the Broadcasting Law, inserted by Article 72 point 8 of the Job Creation Law, states that broadcasting is part of a technological development that involves the transition of broadcasting from analog to digital. Transition procedures for terrestrial television broadcasting must be completed within two years of the law coming into force. Other provisions regarding broadcast transitions are laid down in government regulations.

Kominfo responded to the Supreme Court decision by providing a general view via [www.kominfo.go.id](http://www.kominfo.go.id) in the form of a press release. The Government responded by emphasizing ASO, not the issue in the judicial review. It is read from the title, intent, and even the closing sentence of the press release.

The title is written about the Switch Off Analog, which will still fall on November 2, 2022, to comply with the Order of Law No. 11 of 2020 on Job Creation. Meanwhile, the purpose of publishing the press release is to provide information to the public about the Analog Switch Off (ASO) Program, primarily related to the contents of the judicial review decision by the Supreme Court (MA) against PP 46/2021, Kominfo. The closing sentence of the press release reads, "Thus this press release aims to provide information and information regarding the implementation of the ASO program to the public... ."

The press release's content is consistent with the same emphasis on ASO. First, the Supreme Court decision included the repeal of Section 81 (1) of PP No. 46 of 2021. The reason is that the mentioned provision violates Section 60A of the Broadcast law and Section 72 (8) of the Job Creation law. Thus, the Ministry of Communication and Informatics must convey to the public that the Supreme Court has not canceled other

provisions in PP 46/2021 regulating the implementation of digital television migration. Second, until now, the Kominfo has not received a copy of the Supreme Court Decision on the judicial review of Government Regulation Number 46 of 2021 about Post, Telecommunications, and Broadcasting (PP 46/2021) as reported by the media delivered by the spokesperson for the Supreme Court, Deputy Chief of the MA for judicial review on August 2, 2022. Third, the Kominfo is still waiting for a copy of the decision referred to by the Supreme Court. Until now, it is still studied based on information from the news. A comprehensive review can only be carried out after receiving a copy of the decision, including the steps that must be taken by the Ministry as a result of the Supreme Court Decision. Fourthly, the transition to terrestrial television will continue in principle and will be implemented in accordance with the legal provisions mandated by Law No. 11/2020 on Job Creation to terminate terrestrial broadcasting with analog technology (analog switch off/ASO). It must be done by November 2, 2022.

For these reasons, the government continues to carry out regulatory activities similar to what happened in the lawsuit against Ministerial Regulation No.22/2011. In the first incident related to the cancellation of regulations used as the legal umbrella for digital migration, the government continued to announce the results of the tender for the distribution of broadcast zones.

The second incident was the cancellation of the article requiring slot rental to the multiplexing organizer. The government continued the ASO process because it had yet to receive and was waiting for a copy of the Supreme Court Decision and had only received information and reviewed it from various media reports, only after receiving a copy of the new decision. Comprehensive steps must be taken by the Ministry due to the Supreme Court Decision.

#### *Government Domination on Broadcasting Digitalisation Regulations*

Policy decisions about broadcast regulation are anything but intuitive or straightforward, designed by those in power. So, the study of politics becomes the study of how social and political power is exercised, mobilized, and incorporated into the structure and content of the media (Holt in Bodroghkozy, 2018). One of the problems that occurs in the process of preparing broadcast digitalization is ownership and control provisions (Hitchens, 1996). It has continued the practice of classifying the activities of program providers as “broadcasting matters” while the activities of other elements of the digital process are treated as “telecommunications matters.” Administrators may influence broadcasts while circumventing broadcast-specific controls, thus affecting control of future broadcasts. The convergence of technology and the advent of digital television make the role of gatekeepers even more critical. Without massive structural regulation, these gatekeepers have much control over who gets broadcast and what gets broadcast.

In Indonesia, the history of analog broadcasting shows that the big players in broadcasting are not people who have a concern for the media. The media that control the media industry, especially television, are dominated by political actors (Lim, 2012). The five big players in the TV industry, namely the Emttek Group, the MetroTV Group, the ANTV group, the RCTI MNC Group, and the Viva Group, manage the multiplexing. The Ministry of Communications and Information has issued five permanent digital broadcasting licenses.

The government should not dominate the model for forming regulations in communication in democratic countries. Lee and Wilding (2021) note that the government runs a co-regulation scheme to formulate unifying principles for the new regulatory framework for communications. Iosifidis (2007) writes that it brings all stakeholders (broadcasters, supply chains, regulators, and consumer groups) to reach an agreement to develop a clear plan for the digitization of broadcasting. It points out



that there are European countries that have established working groups. The first transformation process in Germany was completed in August 2003, achieving a joint process that ensures socially responsible practices. In Austria, the 'Digital Platform Austria' working group was established in 2002 to develop plans to introduce digital broadcasting rapidly. The group comprises broadcasters, service providers, network operators, and members of consumer organizations. In the United Kingdom, SwitchCo (later renamed Digital UK), an organization appropriately staffed and with a sizeable marketing budget, was set up at the request of the government in April 2005 to initiate the switch to digital television nationwide. Digital UK has three main objectives. The objectives are to coordinate the nationwide technical deployment of digital broadcasting; communicate with the public about the transition to ensure everyone knows what is happening, what to do, and when; and liaise with TV manufacturers, retailers, digital platform operators, and consumer groups to ensure the transition program is understood and supported.

Apart from involving the cross-sectoral public, various departments are interested in the broadcast digitization process. The Department of Justice (together with the Federal Trade Commission) has traditionally focused on concentration, trade restrictions, and monopoly issues in the United States. The Federal Communications Commission (FCC) regulates various permits and practices to varying degrees, including licensing and ownership, technical standards, industry conduct, and content. Congress and the Supreme Court regulate broadcasting through decisions significantly influencing legislation, budget allocations, and industry guidance. Although uncoordinated, these bodies have maintained a somewhat synchronized approach to broadcast regulation, especially since the mid-1980s (Holt in Bodroghkozy, 2018). In China, a policy-making body called the State Radio, Film and Television Station (SARFT) was established to formulate digital broadcasting policies, long-term strategies, and national broadcasting technical standards. SARFT passed several key policies, including the "Four-platform Policy," "Comprehensive Transition Policy," and "Policy on Standardization of Customer Services" to accelerate the digital upgrade of digital cable TV networks (Shengmin et al., 2008).

In contrast to practices in other countries, the Ministry of Communications and Information governs the formulation of regulations on the digitization of broadcasting in Indonesia. This form of rule harms the masses because it marginalizes the interests of the majority society and increases conflict. Dominance can eliminate the cultural existence of society, benefits only a tiny part of society, and most other elements are lost (Widyatama, 2018). Concerning the digitization of broadcasting, the Ministry of Communications and Information's dominance will perpetuate the dominance of analog television moguls in the digital realm. Althusser's (1971, 150) statement is true that the power flow is neither singular nor linear. It works harmoniously between the dominant institutions. The government is in harmony with the big television corporations in regulating and managing multiplexing in the Indonesian terrestrial TV ecosystem.

Policy issues in broadcasting digitalization occur in many countries. There are over 60 legal challenges to the policy in India in different parts of the country (Kumar in Punathambekar and Mohan, 2019). Wahyuni (2015) also attributed the problem to the government's non-involvement of the general public in digitalization, the lack of open public debate, and the government's unclear strategy regarding the transition to digital technology.

Indonesia, as a democratic country, does not show a democratic style of policymaking. In the process of digitalizing broadcasting, especially in formulating policies, the method taken needs to be revised. Judging from the policy direction made by the government regarding broadcasting digitalization and the implications,

especially in terms of subsequent policy-making authority, problems have arisen, and the primary source is the government's side with big players in regulating multiplexing management.

The technical problems in multiplexing management are pretty simple. There are two basic frequency planning approaches: allocation and operational planning. With a quota plan, administrators make available specific channels to cover specific geographic areas, called quota areas. The specific characteristics of transmitters and their location are to be defined later. In assignment planning, a specific channel is assigned to a specific transmitter with defined characteristics: location, power, antenna type, and a.g.l. Height, and so on (Webster, 2021).

Conflicts can also be prevented by referring to the Broadcasting Law still in force. For example, two articles of the Broadcast Act 2002 aim to avoid centralization or monopoly ownership of broadcast media based on the principle that broadcasting frequencies are public property and, therefore, cannot be managed as private property (Sudibyo & Patria, 2013).

However, according to Prabowo (2012), in the digital broadcasting business that builds multiplexing, it is necessary to have policies that favor actors who are weak in terms of capital but are in favor of the community. Wahyuni (2014) said that the government's decision to conduct a private sector tender to manage multiplex could not be justified because it would have implications for monopoly. Rahayu (2016) said private broadcasters had been given many opportunities to win the "contest" to become multiplex operators. Rianto et al. (2012) even stated that learning from the limited frequency multiplexing auction case in mid-2012, the Ministry of Communication and Informatics was not independent and incompetent as a regulator.

Domination by the Government and legitimization by law is a form of impartiality towards the public interest. The interests accommodated are the private interests of the big investors in the television industry. Small investors must continue to struggle for opportunities and loopholes to remain in the industry. It is recorded in the issued regulations and lawsuits over regulations carried out by private parties with small investors.

## **Conclusion**

Terrestrial television migration regulations in Indonesia give total domination to the Government, which creates inequality in a climate that should be democratic. This government domination is in line with the domination of big investors. Both regulations and implementation show how the two streams of power in the form of power and capital are harmonious, especially in regulating and managing multiplex.

The issue of the digital transition in Indonesia reveals a controlled commodification framework in which the state has the most decisive influence over the media, which operates in a profit-oriented socialist commercial market economy (Weber, 2005). It means that the government is reluctant to share authority and will even hinder various forms of public participation in policymaking. Furthermore, because there is no public participation in the process, the government is free to make rules that favor one group and ignore the interests of other groups.

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