



# Implementation Licensing Regulations Telecommunications Network in The Omnibus Law

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## ABSTRACT

The form manifestation of the omnibus law form is Law Number 11 of 2020 concerning Copyright. The law on telecommunications relating to Main Licensing and Technical Licensing has undergone significant changes. Implementing the licensing process requires changes and a common perspective in understanding the articles associated with the licensing process, especially in telecommunications. The problem experienced is that several articles in the omnibus law regarding licensing for the operation of telecommunications networks still need to be clarified, which can potentially cause different perceptions among stakeholders. This study uses a normative juridical analysis method using primary law to analyze the problems that are the focus of the research. The conclusion drawn from this research is the need to clarify the articles in Law 11 of 2020 concerning Job Creation and its derivative regulations regarding procedures for telecommunications operations other than those that already exist, which a Ministerial Decree can stipulate. There needs to be clarity in the rules regarding risk-based business licensing regarding how long the essential and technical licensing process takes and the need to attach a licensing SOP flowchart so that licensing stakeholders have the same perception of the licensing process.

## 1. Introduction

Based on Indonesia's 2045 Vision, Indonesia wants to become one of the top 5 (five) world economic powers by becoming a high-income country in 2040 (Holmemo et al., 2020). Therefore, in the 2020-2024 National Development Planning Agency (Bappenas) National Medium-Term Development Plan (RPJMN) document, the government has targeted economic growth to grow by an average of 6 (six) percent in 5 (five) years and per capita Gross Domestic Product (GDP) growth of 4 (four) +/- 1 (one) percent. The long-term economic transformation in 2020-2024 will get Indonesia out of the Middle Income Trap (MIT) in 2036 (Coordinating Ministry for Economic Affairs, 2020). However, in the current conditions, Indonesia faces significant challenges, both from external and internal sources (Rambe et al., 2022). Global economic conditions experiencing weakening and uncertainty trigger external challenges (Guénette et al., 2022). Geopolitical dynamics in various parts of the world (Hu et al., 2022), as well as the presence of different new technologies in the era of the Fourth Industrial Revolution, which changed the global economic landscape (Ratten, 2020), is a source of uncertainty that limits the movement of the Global Economy (Horner, 2020).

Dealing with new technologies poses a challenge for Indonesia (Setyowati et al., 2021), which demands that the government undertake reforms and innovations in implementing these technologies. This approach aims to enable the optimal utilization of developing technologies to pursue national development objectives. President

Joko Widodo, in his inaugural speech as President for the second term, expressed his desire to simplify some of the existing regulations in Indonesia by making an omnibus law in the form of a statute then passed on November 2, 2020, called Law Number 11 of 2021 concerning Job Creation. In countries that adhere to the Anglo-Saxon legal system, such as the United States, Belgium, Britain, Ireland and Canada, it is known as the Omnibus law (Hamid & 2022; Rachmawati Maruf et al., 2023). A conducive investment climate that will absorb more jobs, increase economic growth, be directly proportional to reduced unemployment, and improve labor productivity is an optimistic hope for the Job Creation Law (Putro, 2021). In that case, it will significantly affect economic growth, a conducive investment climate, and increased employment (Coordinating Ministry for Economic Affairs, 2020).

In 2020, the government issued law Number 11 2020 concerning work copyright as an omnibus law (Syahlan, 2023). Omnibus Law is a method for making a regulation or law consisting of many subjects or subject matter for a specific purpose to deviate from a regulatory norm (Kartiko, 2021). The Omnibus differs from most draft regulations regarding the amount of material covered, the number of articles regulated (size), and complexity. An Omnibus Law covers almost all related material substances (Harahap et al., 2020). The Omnibus Law reflects an integration and codification of regulations whose ultimate goal is to make implementing these regulations more effective (Herlina, 2023). Theoretically and practically, the omnibus law legislation technique still needs to be well-known in Indonesia (Coordinating Ministry for Economic Affairs, 2020).

The omnibus law method has quality legal output, but omnibus law is not a legal product (Harahap & Hamid, 2020). In Indonesia, Regulatory Impact Assessment (RIA) and Rule, Opportunity, Capability, Communication, Interest, Process, Ideology (ROCCUPI) are various techniques/methods of forming prevalent laws and regulations. It is common to form laws when there are norms in statutory regulations produced through legislative techniques that delete or change 1 (one) norm and rearrange it in the initiated law (Coordinating Ministry for Economic Affairs, 2020). In Indonesia, the legal system has recently incorporated the concept of the omnibus law. People typically call this system the sweeping law because it can replace several statutory norms within a single regulation. Furthermore, authorities utilize this concept as a mission to eliminate several standards they perceive as outdated and conflicting with the interests of the Indonesian State.

One of the subjects of the Job Creation Law is responsible for regulating telecommunications operations in Indonesia, before the enactment of Law Number 11 of 2020 concerning Job Creation, Law Number 36 of 1999 concerning Telecommunications and its derivatives served as the framework for the Regulations for the Implementation of Telecommunications (Rozikin et al., 2023). In the telecommunications sector, there are several new things in the regulatory changes made in the area, the licensing of telecommunications operations, namely regarding the existence of the government's authority to determine joint use of radio frequency spectrum, the obligation to pay a fee for the right to use radio frequency spectrum by license holders trying to use radio frequency spectrum, is needed to guarantee business certainty; Shared use of telecommunications passive infrastructure to facilitate investment in telecommunications operations; The government may set the upper limit and/or lower limit for telecommunications operations.

The author conducted a preliminary study and identified several new aspects that require more detailed regulation through interviews with the PPI Kominfo directorate. Regulation is particularly relevant to the impact of copyright law on telecommunications operations, as existing regulations classify telecommunications operations as high-risk endeavors. Furthermore, there is also a need for a shared perception between all stakeholders regarding the contents of the articles in the Job Creation Law, which amend the existing pieces in Law 36 of 1999 concerning telecommunications, to provide a sense of security and certainty for all parties. For example, the work copyright law significantly impacts the Information and Communication Technology (ICT) industry. Licensing will become simpler because these regulations specify that many permits can be obtained directly from the central government. However, we must address specific licensing issues behind this

convenience, particularly those currently only mentioned in connection with the central government. In the future, it should be clear who will take the lead in this sector (Detik.com, 2020)

For telecommunications operations, two significant reforms have occurred, namely the article on Sharing Infrastructure or active sharing and the opening of the use of shared frequency sharing, which leads to active sharing (Detik.com, 2020; Martone & Amin, 2021); implementation must wait for new regulations as derivatives because this is an entirely new article in the performance of telecommunications operations in Indonesia. In this study, researchers focused on regulations related to licensing in the operation of telecommunications networks based on the Job Creation Law concerning Law Number 36 of 1999 concerning Telecommunications and its derivatives. This law is interesting to study because the changes to the articles contained in the work copyright law impact the licensing procedures of telecommunications networks in Indonesia.

## **2. Literature review**

### **2.1 Omnibuslaw**

The concept of omnibus law commences with the term "Omnibus," originating from Latin and signifying everything. This term, "Omnibus," is merged with the word "law," resulting in a novel interpretation: a law encompassing all aspects (Rahardjo, 1980). Another expression frequently used for the omnibus law is the omnibus bill. Bryan A. Garner, as mentioned in Black's Law Dictionary, defines it as follows: An Omnibus bill is a singular legislative proposal that incorporates diverse and separate matters, usually structured in this manner to compel the executive branch to either endorse all the unrelated minor provisions or reject the significant clauses. An Omnibus bill encompasses legislative measures addressing all suggestions related to a specific subject, such as an omnibus judgeship bill encompassing all recommendations for new judicial positions or an omnibus crime bill addressing various issues like new criminal offenses and strategies for crime prevention at the state level (Garner & Black, 2009).

Omnibus law is a concept of drafting a law that contains changes or revokes several provisions in several laws. This concept usually develops in common law countries that use the Anglo-Saxon legal system. These countries include the United States, Britain, Belgium, and Canada. Obesity regulations and overlapping rules gave rise to an omnibus law offering. If these regulatory issues are resolved in the same way as law revisions are generally, it will take longer and cost a lot more. Moreover, if there is a conflict of interest in the process, it will take longer (Busroh, 2017). The purpose of Omnibus law is that everything applied in every field must have a sense. As is the case with using the omnibus law concept in forming a regulation. The existence of this goal is a distinct advantage from the application of the omnibus law concept. The objectives are as follows (Busroh, 2017)

1. Resolve conflicts arising from laws and regulations promptly and efficiently.
2. Standardize governmental policies at central and regional tiers to bolster the investment atmosphere.
3. Enhance the integration, efficiency, and sufficiency of licensing management.
4. Enable the disruption of persisting bureaucratic hindrances.
5. Strengthen coordination among pertinent entities as a comprehensive omnibus regulatory policy mandate.
6. Assure legal confidence and safeguard for policymakers.

### **2.2 Telecommunications Operations Regulations**

The functioning of telecommunications holds a crucial significance in reinforcing the unity and coherence of the nation, expediting government functions, promoting fair distribution of development and its outcomes, and fostering international relationships. Transformations in the worldwide landscape and the swift advancement of telecommunications technology have brought about fundamental shifts, resulting in a novel telecommunications context and variations in viewpoints regarding telecommunications operations. These variations encompass

integration outcomes with information and broadcasting technology, thus necessitating restructuring the national telecommunications process.

Since 1999, the government issued Law Number 36 of 1999 concerning telecommunications, which regulates the operation of telecommunications following global finance developments that require that telecommunications be open to domestic and foreign players. The following are several laws related to Telecommunications Operations Regulations before the Omnibuslaw law and after the Omnibuslaw law came into force.

Telecommunications is any transmission, delivery, or reception of information resulting in signs, signals, writing, images, sound, and sound through wire systems, optical, radio, or other electromagnetic systems from that understanding. The following categories divide telecommunications operations: (Ministry of Communication and Informatics, 1999)

1. Provision of telecommunications services
2. Telecommunication network operations

In the meantime, the characterization of telecommunications networks and services is as follows:

1. The functioning of telecommunications networks involves providing and/or facilitating telecommunications services that facilitate the telecommunications process.
2. It encompasses presenting and/or furnishing telecommunications services intended to enable the functioning of telecommunications.
3. The operation of distinctive telecommunications entails the execution of telecommunications activities characterized by unique attributes, purpose, and role.

Article 11 elaborated on the authorization necessary for the execution of telecommunications operations, as delineated in Article 7. Conversely, Article 47 stipulates that in the event the Minister opts against granting authorization, they retain the authority to incarcerate any individual found in violation of the provisions outlined in Article 11, subsection (1), for a maximum of 6 (six) years or impose a maximum fine of Rp. 600,000,000 (six hundred million rupiahs). The responsibilities incumbent upon telecommunications operators encompass the following: Telecommunications network operators and/or telecommunications service providers are obligated to remit a fee for the privilege of conducting telecommunications operations, and this fee is subtracted from a percentage of their earnings by the government. The Government Regulation prescribes the rates for operating telecommunications networks and/or providing telecommunications services. Government Regulation Number 52 of 2000 concerning Telecommunications operations provides further elucidation on the functioning of telecommunications networks, which comprise:

- 1) Fixed network operation is differentiated into:
  - a. operation of the local fixed network;
  - b. of the fixed long-distance direct dialing network;
  - c. operation of international connection fixed network;
  - d. Maintenance of the network remains closed.
- 2) The operation of the mobile network is differentiated into:
  - a. execution of land-based mobile networks;
  - b. conduct of wireless mobile networks;
  - c. functioning of orbiting mobile networks.

#### Licensing

1. The regulatory authorities grant licenses for the operation of telecommunications through the stages of principal and operating licenses.

2. Conducting specialized telecommunications for personal requirements and distinct services does not necessitate a primary license.
3. Using specialized telecommunications for national defense and security does not mandate a primary or operational license.

**a) Government Regulation Number 53 of 2000 concerning the Operation of Satellite Frequency and/or orbit**

**b) Law Number 11 of 2020 concerning Job Creation**

Article 11

- 1) Article 7 subsection (1) states that you can engage in telecommunications operations after securing a Business Permit from the Central Government.
- 2) Additional regulations concerning Business Licensing, as discussed in section (1), are detailed in Government Regulations.

Article 30

- 1) In instances where telecommunications network operators and/or telecommunications service providers are unable to provide access within specific regions, the designated special telecommunications operators, as outlined in Article 9 subsection (3) letter a, are allowed to run telecommunications networks and/or deliver telecommunications services as described in Article 7 subsection (1) letters a and b, upon acquiring Business Permits from the Central Government.
- 2) If telecommunications network operators have already established access services within the areas mentioned in (1), special telecommunications operators can still carry out telecommunications networks and/or the provisions mentioned in section (1).
- 3) More provisions concerning Business Licensing, as outlined in section (1), are specified in Government Regulations.

Article 34

- 1) Entities granted an Undertaking Permit for radio frequency spectrum usage and approval, as discussed in Article 33 subsection (1) and subsection (2), are obligated to pay a fee for utilizing the radio frequency spectrum. The cost is determined based on the radio frequency usage band's type and width.
- 2) A Government Regulation further elaborates on the fee for using the radio frequency spectrum as mentioned in section (1).

Article 45

- 1) Infringement upon the guidelines of Article 16 subsection (1), Article 18 subsection (2), Article 19, Article 20, Article 21, Article 25 subsection (2), Article 26 subsection (1), Article 29 subsection (1), Article 29 subsection (2), Article 32 subsection (1), Article 33 subsection (1), Article 33 subsection (2), Article 33 subsection (3), Article 33 subsection (7), or Article 34 subsection (1) is subject to administrative penalties.
- 2) Administrative penalties mentioned in section (1) might take the form of:
  - a. written warnings;
  - b. temporary activity suspension;
  - c. administrative fines; and/or
  - d. revocation of Business Permits.
- 1) More provisions outlining criteria, types, acceptable amounts, and procedures for implementing administrative penalties, as noted in section (1) and subsection (2), are specified in a Government Regulation.

Article 47

- 3) Individuals contravening the guidelines outlined in Article 11 subsection (1) could face imprisonment for up to 10 years and/or a maximum fine of Rp 1,500,000,000 (One billion five hundred million rupiah).

**Government Regulation Number 46 of 2021 concerning Post, Telecommunications, and Broadcasting**

- 1) Business entities of national or foreign origin engaging in online business activities directed towards users within Indonesian territory must establish business partnerships with Telecommunications Network operators and/or Telecommunications service providers. These collaborations are to be governed by equitable, rational, and non-discriminatory principles while also upholding service quality as mandated by statutory regulations.
- 2) Furthermore, the stipulations governing collaborations with Telecommunications Network operators and/or service providers, as indicated in section (1), do not apply to Business Entities operating in the capacity of social media account owners, content platform users, marketplace operators, and other analogous channels.

In the laws and regulations concerning the operation of telecommunications networks, the most significant change is in terms of filing permits; article 11 of Law Number 36 of 1999 concerning Telecommunications states that the process of telecommunications must be with the permission of the Minister and in practice, the Minister acting to give consent is the Minister whose scope of duties and responsibilities is in the field of telecommunications, in this case, is the Ministry of Communication and Information Technology.

Meanwhile, Law Number 11 of 2020 concerning Job Creation states that the implementation can occur after fulfilling a Business Permit from the Central Government. The interpretation of the central government includes the ministry responsible for telecommunications and other churches that issue licenses for the operation of telecommunications or, more specifically, the process of telecommunications networks.

**a) Government Regulation Number 5 of 2021 concerning Risk-Based Business Licensing**

A fast-paced environment, including the licensing system, is also required in the digital era. A fast-paced system, where services in licensing must be issued quickly, can cut the licensing process shorter in time and materials. With a licensing system that still needs to be integrated, it is difficult for actors to obtain the necessary permits; based on this, 2021 issued government regulation Number 5 of 2021 concerning risk-based business licensing, a derivative regulation from Law 11 of 2020 concerning Job Creation.

The Presidential Regulation (PP) is an electronically integrated business permit, often called a single submission, abbreviated as OSS. "OSS" signifies the Electronically Integrated Business Licensing System, later called the OSS System. This system operates as a comprehensive electronic framework overseen and managed by the OSS Institution to streamline the licensing process.

The implementation of Risk-Based Business Licensing aims to:

1. Implementation of issuance of business-business Permits more effectively and And
2. Oversight of business activities that is transparent, structured, and accountable following statutory provisions  
To start and carry out business activities, Business Actors must comply with
  - a. Basic requirements for Business Licensing; and/or
  - b. Risk-Based Business Licensing

The PP does not explain what is meant by essential permits and risk-based business permits, only further stipulates that the basic requirements for business permits, as referred to in Article 4 letter a, include suitability for space utilization activities, environmental approvals, building approvals, and certificates of proper functioning. Provisions regarding the basic requirements for business permits, as referred to in paragraph (1), are regulated respectively in laws and regulations in spatial planning, environment, and building construction.

Risk-Based Business Licensing is implemented by evaluating the extent of risk and assessing the magnitude of business operations, including MSEs and/or large businesses. However, the stages of the licensing starts from doing the following things:

1. Risk analysis with stages:
  - a. discerning business undertakings;
  - b. evaluating the degree of risk;
  - c. appraising the likelihood of hazard incidents;
  - d. ascribing risk levels, assigning business size ratings, and
  - e. specifying the category of Business Permit.

In the risk-based business licensing process, through the hazard level assessment stage, the authority further regulates the level of risk in the business sector to be proposed, which classifies it into the following groups:

- a. business endeavors exhibiting minimal risk level
- b. business operations characterized by moderate risk levels; and
- c. business undertakings carrying a substantial risk level

The authorities carry out a risk analysis of business activities for each business activity. Furthermore, they involve the following steps in the Business Activity Risk Analysis process:

- a. the Minister overseeing governmental matters related to the workforce;
- b. the Minister in charge of governmental matters concerning the health sector;
- c. the Minister responsible for governmental matters within the environmental realm;
- d. ministers and/or heads of related sector institutions; And
- e. Business Actors and/or community

One of the business fields regulated in Government Regulation Number 5 of 2021 concerning Risk-Based Business Licensing is the Telecommunications Operations business sector. This business sector includes business midwives, which is categorized as a high-risk business sector while several regulations are as follows:

Business Licensing in the postal, telecommunications, broadcasting, and electronic systems and transaction sectors includes the following sub-sectors:

- a. post;
- b. telecommunication;
- c. broadcasting operations; And
- d. operation of electronic systems and transactions.

Business Licensing in the telecommunications sub-sector is determined based on the results of an analysis of the risk level of business activities consisting of:

- a. telecommunications network operation;
- b. provision of telecommunications services;
- c. implementation of distinct telecommunications; and
- d. telecommunications services, resale services

Business Licensing to Support Business Activities in the sub-sectors of postal, telecommunication, broadcasting, and operation of electronic systems and transactions, including determination of multiplexing;

- a. telecommunications numbering;
- b. anchorage rights of communication systems using sea cables for transmission
- c. international telecommunication;
- d. satellite anchorage rights;

- e. license to use radio frequency spectrum;
- f. telecommunication tools and/or equipment certificates; And
- g. registration of scope electronic system operators
- h. private.

The Minister of Communication and Informatics Regulation, derived from Government Regulation Number 46 of 2021 addressing postal, telecommunications, and broadcasting matters, and the Minister of Communication and Information Regulation Number 5 of 2021 governing telecommunications operations, provides additional guidelines regarding risk-based business licensing within the telecommunications sector. The latter regulation defines Business Permits as the authorized documentation provided to Business Entities for commencing and conducting their commercial undertakings and/or activities.

**b) Regulation of the Minister of Communication and Information of the Republic of Indonesia Number 7 of 2018 concerning Electronically Integrated Business Licensing Services in the Field of Communication and Informatics**

There is an imperative need to overhaul the business licensing procedures within the Ministry of Communication and Informatics to expedite and enhance investment and business implementation processes. Consequently, the government has initiated the Electronically Integrated Business Licensing (Online Single Submission) system. The definition of OSS, as outlined in Article 1 points 1 and 2 of PM Kominfo Number 7 of 2018, denotes the registration granted to Business Entities for the initiation and operation of a business and/or activity, either through a letter/decision of approval or the fulfillment of stipulated requisites and/or commitments.

Electronically Integrated Business Licensing (Online Single Submission), or OSS, pertains to a Business Permit granted by the OSS Institution on behalf of ministers, institutional heads, governors, or regents/mayors to Business Entities via an integrated electronic platform. Below is an overview of the procedure for submitting licenses for the operation of telecommunications networks, in line with the guidelines of PM Number 7 of 2018:

1) Risk-Based Business Licensing

Risk-Based Business Licensing entails the issuance of a business permit contingent upon the degree of risk associated with business activities, with the risk level dictating the category of the business license granted.

Table 1. Risk Level Business Licensing

Risk Level	Business license
Low risk (R)	Business Identification Number (NIB)
Medium low risk (MR)	Business Identification Number (NIB) and Standard Certificate (SS) seek independent statements
Medium high risk (MT)	Business Identification Number (NIB) and standard certificate (SS) that the ministry/institution/local government must verify
High risk (T)	Business Identification Number (NIB), a permit that must be approved by the ministry/agency/local government, and/or a standard certificate (SS) if needed.

Source: (PM Number 7, 2018)

2) Online Single Submission (OSS)

- Online Single Submission (OOS) is an electronically integrated business licensing system managed and administered by the OOS Agency (Ministry of Investment/BKPM)
- Business Actors must use risk-based OSS in applying for Business Licenses for the Operation of Telecommunication Networks.



- For Telecommunication Network Operations Licensing, where the overall level of risk is high, the choice of project type is the main category.  
*Provisions of Government Regulation No. 5 of 2021, article 187 paragraph (2): 'The main business activities as referred to in paragraph (1) letter a are business activities as stated in the legality/deed of Business Actors and have commercial purposes, sources of income, or generate profits for Business Actors.'*
- For Business Actors applying for a (new) Telecommunications Network Operations License, if there is a question, "Do you already have the previous business license?" **MUST BE ANSWERED, YET**

3) KLBI

The government has categorized risk levels based on the business sector or KBLI (Indonesian Business Field Standard Classification). The existing KBLI is the 2020 version, which uses a 5-digit numerical code to represent each business sector. The following is a mapping between KBLI, Types of Telecommunications Network Operations, and Risk Levels:

Table 2. Types of Telecommunications Network Operations, and Risk Levels

No	KBLI Code	KBLI Title	Type of Telecommunication Network Licensing	Risk Level	Licensing
1	61100	Cable Telecommunications Activities	Closed Fixed Network via Terrestrial Fiber Optic Media Closed Fixed Network via Sea Communication Cable Connection Media (SKKL) <b>Circuit Switched Based Local Fixed Network</b> Packet Switched Based Local Fixed Network via Fiber Optic Media <b>International Fixed Dialing Network</b> <b>Fixed Remote Direct Dialing Network</b>	High	NIB and Business Permit
2	61200	Wireless Telecommunications Activities	Closed Fixed Network via Microwave Link Media Packet Switched Based Local Fixed Network via non-cable media (Broadband Wireless Access) <b>Radio Trunking Terrestrial Mobile Network</b> <b>Mobile Mobile Network</b>	High	NIB and Business Permit
3	61300	Satellite Telecommunication Activity	Closed Fixed Network via Satellite Media Closed Fixed Network via VSAT (Very Small Aperture Terminal) media <b>Satellite Mobile Fixed Network</b>	High	NIB and Business Permit

Source: (Ministry of Investment, 2020)

Notes:

- **Red color: Application for operating permits uses a selection mechanism, which is a mechanism for opening up business opportunities for operating telecommunication networks to the public through an open announcement of business opportunities by the Minister**
- **Black color: The application for operating licenses uses an evaluation mechanism, which is a mechanism for submitting licenses to operate telecommunications networks by applicable laws and regulations.**

4) Businessmen

1. State-Owned Enterprises (BUMN)
2. Regional Owned Enterprises (BUMD)

3. Private Business Entities
4. Cooperative
- 5) Attempted Processing Fees



Figure 1. Attempted Processing Fees (Ministry of Communication and Information Technology, 2018)

### 3) Harmonization of laws and regulations

In the Big Indonesian Dictionary (KBBI) context, "Harmonic" is defined as harmony, unity, and concord. Additionally, "Harmonizing" refers to creating harmony, representing a process, method, and action of achieving harmony. The term "Harmony" itself signifies a state or condition characterized by unity and accord.

The harmonization of laws and regulations involves aligning and synchronizing legal norms and rules as an essential component or subsystem within the legal framework to achieve legal objectives.

Law Number 12 of 2011, concerning the Formation of Legislation, addresses the hierarchical arrangement of laws and regulations. Under Article 2 of the law, Pancasila is the fundamental source of all state laws. Article 3, paragraph (1), establishes that "The 1945 Constitution of the Republic of Indonesia is the foundation of statutory regulations." Additionally, Article 7, paragraph (1), reads as follows:

The types and hierarchies of legislation consist of the following:

- a. The Constitution of the Republic of Indonesia 1945;
- b. Decree of the People's Consultative Assembly;
- c. Substitute Government Act/Regulation
- d. Constitution;
- e. Government regulations;
- f. Presidential decree;
- g. Provincial Regulation; And
- h. District/City Regional Regulations.

### **3. Method**

The methodology employed in this study adopts a normative juridical approach. The normative juridical approach is a method that perceives law as a set of rules or norms governing appropriate conduct within society. In other words, it views law as written regulations encapsulated within statutory frameworks (Soekanto, 2006). The research sources utilized consist of secondary data, encompassing primary legal materials such as laws and regulations, secondary legal materials including books and prior research, and tertiary legal materials derived from internet-based information.

The data collection technique employed in this study revolves around library-based data-gathering methods. The data utilized in this study primarily consists of secondary data, comprising primary legal sources, secondary legal materials, and tertiary legal resources. Primary legal materials, particularly binding legal texts like telecommunications and business competition laws and regulations, constitute a pivotal element. Secondary legal materials encompass explanatory resources for primary legal materials, including research outcomes, literature, and other written works pertinent to telecommunications regulations. Furthermore, tertiary legal materials support primary and secondary sources, such as legal dictionaries, language references, and various indices clarifying terminologies within the telecommunications field.

The data collection technique is a critical stage in research, as it facilitates the acquisition of essential data. Qualitative research accomplishes data collection through interviews and literature review. The data analysis method employed herein is qualitative juridical data analysis involving abstraction and legal interpretation. This analysis presents the results in a descriptive form. It obtains them through the triangulation method, which gathers insights from three distinct data sources: literature observation, interviews, and overall perception. Subsequently, researchers interpret these insights, culminating in the formulation of conclusions.

### **4. Result and Discussion**

To achieve the objective of forming the Indonesian State Government and fostering a prosperous, equitable, and thriving Indonesian society based on Pancasila and the 1945 Constitution of the Republic of Indonesia, the nation must undertake diverse measures to ensure citizens' entitlement to employment and a dignified existence. To achieve this, the State is committed to job creation. The formulation of a labor copyright law represents a concerted effort to oversee matters related to the well-being, safeguarding, and empowerment of cooperatives and micro, small, and medium enterprises. Additionally, it strives to enhance the investment environment and expedite critical national projects, thereby contributing to the welfare and security of laborers operating across a spectrum of sectors.

This newly crafted labor copyright law presents a groundbreaking legislative innovation in the form of an omnibus law. An omnibus law entails a comprehensive legal approach that involves revising and/or revoking several provisions within multiple laws. It signifies a notable legislative step, serving as an all-encompassing measure to align various legal aspects for the greater good.

This law is a law that combines around 70 laws covering the sector. One of the objectives of establishing legislation in the form of an omnibus law is to Modify diverse regulatory elements concerning the enhancement of the investment environment, simplification, and expeditious execution of national strategic projects aligned with the nation's priorities, informed by national science and technology and guided by the principles of Pancasila ideology. This adjustment means that the amalgamation of several laws improves the investment ecosystem, provides convenience in carrying out the entire process, and integrates with the risk-based business licensing system. Investment in Indonesia is complicated, and Indonesia's low competitiveness certainly underlines the need for corrective measures in various sectors to support the realization of ease of doing business in Indonesia. Changes in regulations in the job creation law cover various sectors, including the telecommunications sector; around 11 (eleven) articles have been changed from law number 36 of 1999 concerning telecommunications into

law number 11 of 2020 concerning work copyright. Some of these articles include: First, changes to the permits for the postal, telecommunications, and broadcasting sectors were made, among others:

1. Implementation of a Risk-Based Approach for licensing in the postal, telecommunications, and broadcasting sectors;
2. Structuring and regulation of licensing authorities for the postal, telecommunications, and broadcasting sectors;
3. Changes to regulatory material in the Postal sector, namely removing the ministerial permit to become a public company to encourage ease of doing business  
Changes in regulatory material in the telecommunications sector, namely
  1. The government may stipulate shared use of a radio frequency spectrum;
  2. The obligation to pay the fee for the right to use a radio frequency spectrum by a permit holder trying to use a radio frequency spectrum is necessary to guarantee business certainty;
  3. Shared use of passive telecommunications infrastructure to facilitate investment in telecommunications operations;
  4. The government may determine the upper limit and/or lower limit for telecommunications operations

Article 11 elaborates on the execution of telecommunications operations, as indicated in Article 7, being permissible upon acquiring approval from the Minister. Conversely, Article 47 specifies that a person who breaches the regulations outlined in Article 11 subsection (1) by failing to secure Ministerial permission shall be subject to penalties involving imprisonment for a maximum duration of 6 (six) years or a fine reaching Rp. 600.000.000 (six hundred million rupiah). This permit means that the licensing telecommunications network operators must obtain permits from the Minister. Failure to obtain permission from the Minister will result in criminal sanctions and fines. Meanwhile, in the derivative regulations, namely Government Regulation Number 52 of 2000 concerning the implementation of telecommunications, it is stated that:

*For the operation of telecommunications, the regulatory authorities grant licenses through the stages of principal permits and operating licenses. Special telecommunications for individual needs and special services can only occur with primary support. The operation of special telecommunications for state defense and security does not require a principal or operating license*

So, the permitting mechanism undergoes the initial permit stage for one year and can receive an extension for another six months. Another Operational Test mechanism is conducted for telecommunications equipment to obtain an operational or commercial license. All mechanisms precisely determine who can grant permits and how long the licensing process takes. Meanwhile, Law Number 11 of 2020 concerning Job Creation states that the Central Government grants Telecommunications Operations Permits, allowing telecommunications operations to proceed after businesses fulfill a Business Permit. The article needs to explain what is meant by the central government having the authority to issue telecommunications operating licenses. The derivative rules regarding licensing for telecommunications operations refer to Government Regulation Number 5 of 2021 concerning Licensing for Risk-Based Businesses, which states that licensing consists of essential and technical permits.

Several parties who have the authority to grant essential permission:

- a. the Minister administering government affairs in the field of the workforce;
- b. the Minister administering government affairs in the health sector;
- c. the Minister administering government affairs in the environmental area;
- d. ministers and/or heads of related sector institutions; And
- e. Business Actors and/or community

While the competent ministry in the field that is the object of the permit grants technical permits. For technical licenses for the operation of telecommunications, the Ministry of Communication and Information has the authority with the licensing mechanism through one joint door called One Single Submission (OSS).

Based on government regulations regarding risk-based business licenses, OSS Management and Implementing Institutions, in the future referred to as OSS Institutions, are government agencies that carry out government affairs in investment coordination. So, the Coordinating Board for Foreign Investment carries out the entire licensing process. Then, the process is carried out electronically for verification, and the technical ministry will issue a permit with authority over the sector it regulates.

The drawbacks of the Articles governing the licensing process are that they do not specify a definite time for carrying out essential permits and technical permits, and the annex to the regulation does not include a Standard Operating Procedure (SOP) regarding the licensing process, leading to potential variations in interpretations among the stakeholders involved. This situation creates possible errors and discrepancies in interpreting the licensing process. The drawbacks of the Articles governing the licensing process are that they do not specify a definite time for carrying out essential permits and technical permits, and the annex to the regulation does not include a Standard Operating Procedure (SOP) regarding the licensing process, leading to potential variations in interpretations among the stakeholders involved. This situation creates possible errors and discrepancies in interpreting the licensing process.

The PPI Directorate of the Ministry of Communication and Information explained that they categorize the operation of telecommunications as a type of business license with high risk. This classification means that clear regulations are necessary for business activities classified as high-risk to avoid different interpretations among the parties involved. Such laws aim to permit this operation with an appropriate risk mitigation process to minimize the occurring risks.

In addition, the presidential regulation needs to explain how to carry out the process to mitigate risks in each industrial sector and whether the standard procedure is carried out by technical ministries or by the agency responsible for OSS implementation. A risk management SOP is needed for the risk mitigation process to guide stakeholders in applying for essential and technical permits.

The second thing to be analyzed is Licensing for the operation of Telecommunications Networks; in changes to regulations regarding the distribution of telecommunications network operations, some rules are broader than those for the types of network operations contained in Law Number 36 of 1999 concerning Telecommunications. Law 36 of 1999 concerning Telecommunications states that network operations only cover fixed networks, mobile networks, and special telecommunications networks. However, in the work copyright law, the government opens up other types of network operations outside those regulated and can be handled by a Ministerial decree. The derivative regulations of the work copyright law do not mention the mechanisms and procedures for determining and determining the type of telecommunications network operation, so it becomes unclear what the tool is for obtaining permits for operating telecommunications networks other than the operation of existing telecommunications networks.

## **5. Conclusion**

- a. Every article must conclude with a summary of the paper's findings. The conclusion should guide readers toward the paper's significant points, potentially accompanied by suggestions or recommendations. It is vital to elucidate the provisions within Law 11 of 2020 concerning job creation and its accompanying regulations that outline the procedure for organizing telecommunications beyond the current framework, which ministerial decrees may implement.

- b. It is necessary to clarify the regulations related to risk-based business licensing regarding how long the process for essential and technical permits takes and the need to attach a license SOP flowchart so that the permitting stakeholders have the same perception of the licensing process.

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