

A Model of Authority of the Indonesian Broadcasting Commission in the Imposition of Administration Sanctions Based on Law Number 32 of 2002 Concerning Broadcasting

M. Riyanto¹

¹ Faculty of Law, 17 Agustus 1945 Semarang University
E-mail: mrr.riyanto@gmail.com

ABSTRACT--Broadcast media has a strong influence or penetration or is called *The Powerful Effect of Media*, especially television, which is the imitation process of television shows both direct and delayed effects in the form of an explosive display of images, and misleading of narratives. Therefore, broadcasting needs to be regulated and specifically broadcast content or programs aired by broadcasters, especially television. In the Broadcasting Law number 32 of 2002, the Indonesian Broadcasting Commission which is an independent State Agency is given the authority to make regulations, advocates and provide sanctions for violations of content or broadcast content to Broadcasting Institutions both radio broadcast services and television broadcast services. The Broadcasting Law in the legal perspective that the content of legal material or legal frameworks illustrates the framework of media accountability with the Type Model Of Rules approach, which refers to regulating the broadcasting system by focusing on compliance with laws and regulations, correct procedures, strict jurisdiction and authority and on the other hand, with the approach to the type of Legal Realism, namely the regulation of broadcast systems that have the dimension of public responsibility morality. Economic value and sovereignty of the country. Authority. The approach method in this research is normative juridical, which will explore the authority model of the Indonesian Broadcasting Commission's State Institution (KPI) in the imposition of administrative sanctions based on Law P No. 32 of 2002 concerning Broadcasting and KPI Regulations Number 01/P/KPI/03/2012 and Number 02/P/KPI/03/2012 concerning the Broadcasting Behavior Guidelines and Broadcasting Standards (P3SPS).

Keywords: *KPI authority model, administrative sanctions, broadcasting law*

I. INTRODUCTION

There are at least three strong reasons for the birth of Law Number 32 Year 2020 concerning First Broadcasting, demands for broadcasting democracy and / or guaranteed freedom of expression and obtaining information through broadcasting in Indonesia, secondly, as an answer to specific historical dynamics namely placing the

previous broadcasting system was in the typical configuration of repressive power which was subject to the wishes of the authorities or the government (repressive instrumentalism) whose estuary became the instrument or mouthpiece of the government, third, was a form of response to economic liberalization that had changed the market structure and rapid growth of the broadcast media industry in Indonesia.

Broadcast media has a strong influence or penetration or is called 'The Powerful Effect of Media', especially television, which is the imitation process of direct and delayed television shows in the form of explorative image display, and misleading narration. Therefore broadcasting needs to be regulated and specifically broadcast content or programs aired by broadcasters, especially Television.

In the Broadcasting Law number 32 of 2002, the Indonesian Broadcasting Commission which is an independent State Agency is given the authority to make regulations, oversee and provide sanctions for violations of the content or content of broadcasts to Broadcasting Institutions both radio broadcast services and television broadcast services. In its system of authority, the Broadcasting Commission in enforcing administrative sanctions is given space for expanding authority by developing procedures and / or a model of the legal event, becoming an in-depth discussion in writing the scientific work of this research.

Of course fundamentally, the discussion will be directed to the formula of a model through a responsive legal approach and system framework by placing logical pieces of thought logically to Satjpto Rahardjo, law is not merely logic, more than that law is a real science, which must be interpreted so that it is always update, which will complete this writing.[1]

II. RESEARCH METHOD

Certainly in this scientific writing the problem must be addressed with the support of a normative juridical research and relevant legal theories so as to provide answers to problems or problems with a solution as to how the procedural law model should be under the authority of the Indonesian Broadcasting Commission in the imposition of administrative sanctions in accordance with the Law Number 32 of 2002 concerning Broadcasting and Regulation of the Indonesian Broadcasting Commission concerning Broadcasting Behavior Guidelines and Broadcast Standards. Certainly based on an approach that illustrates the relationship between the legal sciences with positive law in this case written law. [2]

III. FINDINGS AND DISCUSSION

Before going further in answering the problem in the intent, it is of course necessary to present the Broadcasting Law in a legal perspective, namely a law whose legal material content or legal characteristics illustrate the framework of media accountability with the 'Type approach, Model of Rules which is dimensioned regulating the broadcasting system by focusing on obedience to laws and regulations, correct procedures, strict jurisdiction and authority and on the other hand with the type approach, Legal Realism' namely the broadcasting system regulation which has a dimension public morality of responsibility. Economic value and sovereignty of the country. The Broadcasting Law gave birth to the formation of an independent state institution, the Indonesian Broadcasting Commission.

That the Indonesian Broadcasting Commission has a system of authority governed by the Law and elaborated into the Regulations of the Indonesian Broadcasting Commission. However, because it is based on regulatory norms as imperatively ordered by law, it is certainly very relevant if approached with a system theory approach According to Ludwig von Bertalanvy the understanding of the system as an element that is in an interconnected state. In modern science, dynamic interaction between elements becomes a major problem in all fields of reality and general principles must be established by system theory. In principle, every system always consists of four elements : first , elements in the system, second, objects that can be parts, elements, or variables. It can be physical objects, abstract or both at the same time depending on the nature of the system, third, attributes, which determine the quality and objects, fourth, internal relations between objects in it, fifth, the place where the system is located. [3]

In theory, the name system contained in the system of authority of the State Institution of the Broadcasting Commission can be seen in Law Number 32 of 2002 concerning Broadcasting mentioned in Article 8, paragraph (1) that the Indonesian Broadcasting Commission as a form of community participation functions to accommodate the aspirations and represent the interests of the community will be broadcasting.

As for Article 8 paragraph (2), it is stated that in carrying out its functions as referred to in paragraph (1) has the authority:

- a) Set broadcast program standards;
- b) Formulate regulations and establish guidelines for broadcasting behavior;
- c) Supervise the implementation of regulations and code of broadcasting conduct and broadcast program standards;
- d) Sanction violations of regulations and broadcasting code of conduct and broadcast program standards;
- e) Coordinate and/or cooperate with the government, broadcasters and the community.

The authority of the Indonesian Broadcasting Commission, according to Ridwan HR in his book *State Administrative Law* can be categorized as an authority obtained by attributions original derived from statutory regulations. In terms of attribution, the recipient of the authority can create new authority or expand existing authority.

The Indonesian Broadcasting Commission as an independent state institution has exercised authority in the form of regulatory products in the form of Indonesian Broadcasting Commission Regulation Number 01/P/KPI/ 03/2012 regarding the Broadcasting Behavior Guidelines (P3) and Indonesian Broadcasting Commission Regulation Number: 02/P/KPI/03/2012 concerning Broadcast Program Standards (SPS), Indonesian Broadcasting Commission Regulations regarding P3 and SPS for the content of legal material and/or its arrangements are Rule of Law and Rule of Ethic.

P3SPS is a legal norm and a system that is complemented by other norms, namely ethics in life, whose purpose is to guarantee the balance and regularity of regulation and/or law enforcement. In the Broadcasting Code of Conduct (P3) consisting of Chapter XXX, 54 Articles and Broadcasting Program Standards (SPS) consisting of Chapter XXXII, 94 Articles also regulates the authority of the Indonesian Broadcasting Commission in providing administrative sanctions as elaborated in the command of Law Number 32 of 2002 Concerning Broadcasting regulated in article 8 paragraph (2) letter d.

As for the type of administrative sanctions regulated in Article 55 paragraph (1) there are 25 articles or methods of the Broadcasting Law that can be categorized as an offense that can be subject

to administrative sanctions, while the type of administrative sanctions mentioned in article 55 paragraph (2) in the form of;

- a) Written Warning;
- b) Temporarily terminating the problematic agenda after going through a certain stage;
- c) Limitation of broadcast duration and time;
- d) Administrative fines;
- e) Freezing of broadcast activities for a certain time;
- f) No extension of broadcasting permit is given;
- g) Revocation of broadcasting license.

Whereas in the broadcasting law in Chapter IX article 56 it is regulated regarding Investigation, and in Chapter X it regulates Criminal Provisions articles 57, 58, and 59, the procedure of which follows the general court.

For the imposition of administrative sanctions, the Indonesian Broadcasting Commission has expanded its authority to make mechanisms or procedures as stipulated in the Broadcast Program Standards (SPS) Chapter XXXI articles 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90 and article 91. However, this authority is a form of procedure, which is a subsystem that has not been able to explain as a legal model for administrative sanctions. Of course, to build a model of court in this context, it must first be emphasized that the Broadcast Code of Conduct and Broadcast Program Standards (P3SPS), is a regulation or legal form characterized by responsive law as illustrated theoretically below:

Philippe Nonet and Philip Selznik in his book "Law and Society in Transition Toward Responsive Law";

- a) Responsive Law Is Oriented On The Results To Be Achieved Outside The Law In Responsive Law Order is Negotiated Not Through Sub Ordination
- b) The Distinctive Characteristics of Responsive Law is Finding Values Implied in Regulations and Policies that Better Understand Disobedience and Irregularities that occur.
- c) Wide Open Dialogue and Color Space as a Reality and Try Not to Base Judicial Judgment, But Seeing the Issues From Various Perspectives in Order to Pursue What is Called Substantive Justice.

The responsive legal paradigm becomes the basis for thinking in a model of law and decision making in a system of regulation and the imposition of administrative sanctions in the Broadcasting Behavior Guidelines and Broadcast Program Standards (P3SPS) based on Law Number 32 of 2002 Concerning Broadcasting. The responsive legal paradigm part related to understanding legal rationality as stated by Gunther

Teubner who explained that the Type of Legal Rationality consists of:

- 1) Formal rationality, which is oriented to obedience to the rule of law;
- 2) Substantive rationality oriented towards results and objectives, and
- 3) Rationality Reflections are process-oriented (forming institutions and organizing community participation).[4]

The Broadcast Behavior Guidelines and Broadcast Program Standards (P3SPS) are a form of legal product or regulation of the Indonesian Broadcasting Commission and can be categorized as a responsive legal form in the typology of legal rationality as referred to in understanding the theory above, because the contents of regulatory material contain a means of the provisions social and community aspirations. It is an elaboration of authority as regulated in Law Number 32 Regarding Broadcasting, That the Authority of the Indonesian Broadcasting Commission and the Government's Authority is to provide Administrative Sanctions while the criminal sanctions are those of the Indonesian Police and the Courts.

The types of administrative sanctions implemented by the Indonesian Broadcasting Commission are regulated in the Broadcast Program Standards (SPS). Next it needs to be presented in this paper is the procedural law as a model created to ensure legal certainty of a legal process known as the law of procedure or the rules of justice. And further appeals may be brought into the plenary meeting of the Commissioner of the Indonesian Broadcasting Commission to reject or accept the appeal. From the results of the plenary meeting of the Indonesian Broadcasting Commission, a decision was imposed on administrative sanctions.

The flow chart depicts a model of procedural law in the approach of typology of legal rationality and / or responsive law with the aim of achieving substantive justice that should be carried out by the Indonesian Broadcasting Commission in exercising its authority. The space for filing an objection in practice is not one-sided, but there are dialectical issues, especially related to violation of a rule as the material content of P3SPS regulations, even encroaching on disputes directly broadcasting broadcast program content content contrary to social values, religious moral values and their links with the interests of public protection. Therefore, the solution is not merely approached by a dogmatic approach, but in modern there is a solution by offering a solution or mediation solution in order to obtain improved broadcast program content by broadcasters to adjust to social values, religious moral values and the interests of public protection.

Solution and Mediation is a settlement sub-system within the framework of the procedural law system by making an Alternative Dispute Resolution or Corporate Dispute Resolution model by placing two-way communication in the mediation process, and giving birth to a solution. Because the basic principle is that Mediation is a Solution.[5]

- [3] Ludwig vB, *General System Theory, Foundations, Development, Applicationc*, George Braziller, New York, 1973.
- [4] Guntur H, *PPT, Makalah Disrupsi Hukum*, Sekretaris Jenderal Mahkamah Konstitusi, 2019.
- [5] Acmad R, *Alternatif Dispute Resolution, Teknik Penyelesaian Sengketa di Luar Pengadilan : Negosiasi dan Mediasi*, Setara Press, Malang, Jatim 2016.

IV. CONCLUSION

From the discussion and study of the above research, it can be concluded in scientific writing as follows:

- 1) That the procedural law or procedural law in the imposition of administrative sanctions by the Indonesian Broadcasting Commission (KPI) is based on the authority as instructed by Law Number 32 of 2002 concerning Broadcasting and the authority exercised as upholding the legal products of the Broadcasting Behavior Guidelines and Broadcast Program Standards (P3SPS) in a dogmatic frame, but as the character of the content of legal material is the rule of law and the rule of ethics, the responsive legal approach with the estuary of substantive justice makes it necessary to put forward;
- 2) Considering the violation of the content or content of broadcast programs or television broadcast programs broadcasting on social values, religious moral values and public protection, which is directly in the category of direct dispute with the public, then mediating for a solution becomes a legal model of procedure or procedure in space filing an objection supplemented by a dialectical process by placing an alternative dispute resolution typology is very relevant. Of course, an agreement was reached to improve broadcast program content at broadcasters.
- 3) The Mediation Model for a solution is placed as a sub-system within the framework of the legal system of procedure in the imposition of administrative sanctions based on the authority of the Indonesian Broadcasting Commission (KPI), regulated in the loading of procedural legal material published by the Indonesian Broadcasting Commission.

REFERENCES

- [1] H.R. Otje S dan Anthon FS, *Teori Hukum, Mengingat, Mengumpulkan dan Membuka Kembali*, Refika Aditama, Bandung, 2009.
- [2] Soerjono S dan Sri M, *Penelitian Hukum Normatif, Divisi Buku Perguruan Tinggi*, PT. Raja Grafindo Persada, Jakarta, 1980.