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## ENFORCEMENT OF LAWS AGAINST BROADCASTING RIGHTS PIRACY FROM A HOLISTIC PERSPECTIVE IN THE CONTEXT OF LEGAL CERTAINTY

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### Abstract

The rapid acceleration of broadcasting rights distribution in Indonesia has introduced new challenges and threats to the enforcement of broadcasting rights and copyright laws. This phenomenon manifests holistically across various forms and media, including the piracy of broadcasting rights via social media platforms, where broadcast content is shared illegally without the consent of the rights holders, as well as the unauthorized use of broadcasting rights for commercial and non-commercial purposes, such as broadcasts played in cafes and bars without paying royalties. This study aims to explore the enforcement of laws against broadcasting rights piracy in Indonesia within the context of legal certainty. Additionally, it examines the efficiency of institutions like the Indonesian Broadcasting Commission (KPI) and the Ministry of Communication and Informatics (Kominfo) in enforcing broadcasting rights without royalties that are distributed illegally, both through social media and live broadcasts. The research employs a qualitative and normative juridical approach by reviewing and understanding the regulations related to broadcasting rights and copyright. Copyright falls under the scope of intellectual property rights and is governed by Law Number 28 of 2014 on Copyright and Law Number 32 of 2002 on Broadcasting. Data is obtained through literature studies and the analysis of these regulations. It is hoped that with appropriate solutions, the enforcement of broadcasting rights laws can become more effective and efficient, providing the necessary legal certainty to protect the rights of broadcasting rights holders in Indonesia. The increasing incidence of live broadcast piracy on the internet has shifted public habits from watching on official platforms to viewing on illegal sites. This undoubtedly harms the rights holders due to the services of these illegal sites.

**Keywords:** Broadcasting Rights Piracy, Legal Certainty, Enforcement of Laws

### INTRODUCTION

Broadcasting rights piracy, especially related to sports broadcasts such as football, has become a significant issue in Indonesia. This phenomenon not only infringes on the copyrights of broadcast owners but also causes substantial economic losses for the broadcasting industry. Unauthorized broadcasting undermines the revenue model of

legitimate broadcasters who invest heavily in acquiring the rights to air popular sports events. One prevalent form of piracy is the illegal broadcasting of live football matches in cafes and bars through streaming on social media platforms like X (formerly Twitter) and Facebook. These venues attract large audiences by providing free or low-cost access to content that would otherwise require a subscription or pay-per-view fee.

The financial implications of broadcasting rights piracy are far-reaching. Legal broadcasters, who often pay substantial sums to secure exclusive rights, face diminished returns on their investments. This loss of revenue can affect the quality and quantity of future broadcasts, as broadcasters may be forced to cut costs. Moreover, piracy impacts the broader economy, reducing tax revenues and potentially leading to job losses within the broadcasting and related industries.

One of the main challenges in enforcing laws against broadcasting rights piracy is the rapid development of technology. Digital technology allows anyone to easily access and distribute broadcast content through various online platforms. Innovations in streaming technology enable individuals or groups to rebroadcast content without permission in real-time. This creates difficulties for law enforcement authorities to monitor and take action against violations that occur almost instantaneously.

The nature of digital piracy means that streams can be shared across a multitude of platforms and services, sometimes with servers located in different countries, further complicating enforcement efforts. This requires a high level of technical expertise and coordination between international agencies to identify and shut down illegal streams effectively.

Despite efforts by the Ministry of Law and Human Rights (Kemenkumham) and other regulatory bodies to crack down on illegal broadcasts, enforcement remains a significant challenge. Regular raids and monitoring efforts by authorities aim to target cafes and bars that engage in unauthorized streaming. However, these efforts are often reactive rather than proactive, responding to violations after they have occurred rather than preventing them.

Legal frameworks also need to keep pace with technological advancements. Current laws may not fully address the nuances of digital piracy, such as the use of VPNs to mask the location of illegal streamers or the rapid setup and dismantling of streaming sites. There is a need for more robust legal tools and international cooperation to tackle these sophisticated piracy networks effectively.

From a socio-legal perspective, addressing broadcasting rights piracy requires a holistic approach that encompasses legal reforms, technological measures, and public awareness campaigns. Legal certainty is paramount to ensure that laws are clear, enforceable, and provide adequate deterrence against piracy. This involves not only updating existing laws but also ensuring that enforcement agencies are adequately resourced and trained to deal with digital piracy.

## **METHOD**

This research employs a qualitative and normative juridical approach. The qualitative approach involves an in-depth understanding of the context, experiences, and perspectives of those involved in or affected by broadcasting rights piracy. The normative juridical approach focuses on the review and analysis of legal regulations pertaining to broadcasting rights and copyright. Data for this research is obtained through literature studies and the analysis of relevant regulations, following a systematic approach. The first step involves a comprehensive review of existing academic literature, journal articles, books, and reports

on broadcasting rights, copyright laws, and digital piracy, including the examination of case studies and precedent-setting legal cases in Indonesia and other jurisdictions. This is complemented by a detailed analysis of Law Number 28 of 2014 on Copyright and Law Number 32 of 2002 on Broadcasting, as well as related regulations, amendments, and enforcement guidelines issued by the Ministry of Law and Human Rights (Kemenkumham) and other relevant authorities. Additionally, secondary data sources such as reports, press releases, and publications from government agencies, industry associations, and international bodies concerned with intellectual property rights and broadcasting regulations are analyzed. Media articles, interviews, and commentary from experts and stakeholders in the broadcasting and legal sectors are also reviewed. The data collected is systematically analyzed to identify key themes, patterns, and insights. This process includes thematic analysis to categorize data into themes such as technological challenges, legal enforcement, economic impacts, and socio-legal perspectives, and comparative analysis to highlight gaps and areas for improvement by comparing Indonesian regulations with international standards and best practices. Finally, the findings are interpreted and synthesized in the context of the Indonesian legal and socio-economic environment to develop a comprehensive understanding of the effectiveness of current regulations and the challenges faced in enforcement.

## **RESULTS AND DISCUSSIONS**

### **Examination of the Rapid Development of Digital Technology and Its Impact on Broadcasting Rights Piracy**

The rapid advancement of streaming technology has made it incredibly easy for individuals to access and distribute live broadcasts. Platforms such as X (formerly Twitter), Facebook, YouTube, and other social media sites enable users to stream live content to a wide audience with minimal technical knowledge and equipment. Technologies that support real-time streaming have advanced significantly, allowing anyone with a smartphone or a computer to broadcast live events as they happen. This real-time aspect poses a significant challenge for authorities who need to detect and stop illegal streams instantaneously.

The proliferation of high-speed internet access globally has facilitated the widespread sharing and viewing of high-quality video streams. Faster internet speeds mean that more people can stream and view live content without interruption, making pirated streams more attractive to viewers. The growth of mobile internet and the increase in the number of mobile devices have expanded the avenues through which illegal streams can be accessed and shared. The development of dedicated streaming software and applications, both legitimate and illicit, has further enabled the illegal sharing of live broadcasts. These applications often come with features that can bypass copyright protections and allow for anonymous streaming.

The use of P2P technology for streaming has made it more difficult for authorities to track and shut down illegal broadcasts. In a P2P network, content is shared directly between users rather than from a central server, making it harder to locate the source of the stream. Emerging technologies such as blockchain can be used to create decentralized streaming platforms that are resistant to takedown efforts, further complicating enforcement.

The ease of streaming has led to an explosion in the number of illegal broadcasts, especially for popular events like football matches. This widespread piracy undermines the exclusive rights held by broadcasters and diminishes their revenue. Digital piracy is not limited by

geographic boundaries. Illegal streams can be accessed globally, making enforcement a complex international issue.

Legitimate broadcasters invest significant resources in acquiring broadcasting rights. Piracy reduces their audience base, leading to substantial revenue losses from both subscription fees and advertising. The ripple effect of broadcasting piracy extends to related industries, such as advertising and sports, where revenue models are also dependent on the legality and exclusivity of broadcasts.

Pirates often use sophisticated methods to remain anonymous and evade detection. Techniques such as using VPNs, proxy servers, and continuously changing streaming URLs make it difficult for authorities to trace and shut down illegal streams. The sheer volume of illegal streams across numerous platforms overwhelms the capacity of enforcement agencies. Monitoring and taking action against each instance of piracy is resource-intensive and often impractical.

The widespread availability of pirated content has led to a societal normalization of piracy. Many viewers may not see the harm in accessing illegal streams, viewing it as a victimless crime, which further fuels the demand for pirated content. There is an ongoing technological arms race between pirates and enforcement agencies. As new anti-piracy technologies and methods are developed, pirates find new ways to circumvent them, leading to a continuous cycle of adaptation and response.

### **Identification of Gaps and Areas for Improvement in the Indonesian Legal Framework**

One of the primary gaps in the Indonesian legal framework concerning broadcasting rights piracy is the outdated nature of existing legal provisions. Laws such as Law Number 28 of 2014 on Copyright and Law Number 32 of 2002 on Broadcasting were established before the exponential growth of digital and streaming technologies. As a result, they do not adequately address the complexities and nuances of modern digital piracy. These laws lack specific provisions that account for the technological advancements and the sophisticated methods pirates use today. Therefore, there is a pressing need to update these laws to reflect the current digital landscape and to incorporate more stringent measures to combat piracy.

Another significant gap lies in the technological capabilities available for enforcement agencies. The rapid development of digital technology means that enforcement agencies often find themselves outpaced by the advancements used by pirates. Current legal frameworks do not mandate sufficient investment in or development of advanced technological tools necessary for effective monitoring and enforcement. For instance, there is a need for better real-time monitoring systems, automated detection tools, and more robust cybersecurity measures to track and prevent illegal broadcasts. Enhancing the technological infrastructure within enforcement agencies would enable more effective implementation of the existing laws. Law enforcement agencies in Indonesia often face limitations in terms of resources and training when it comes to handling digital piracy cases. The existing legal framework does not adequately address the need for specialized training for law enforcement officers on digital piracy and cybercrime. Without proper training and sufficient resources, including skilled personnel and funding, the enforcement of broadcasting rights remains inconsistent and inefficient. Improving the allocation of resources and providing comprehensive training programs for law enforcement officers would significantly enhance their ability to combat broadcasting rights piracy effectively.

Broadcasting rights piracy is a global issue that transcends national borders, yet the current Indonesian legal framework does not sufficiently promote or facilitate international

collaboration. Effective enforcement against digital piracy requires cooperation with international bodies, other countries' law enforcement agencies, and global technology platforms. The existing laws lack clear provisions or mechanisms for such international cooperation. Strengthening international partnerships and creating formal frameworks for cross-border collaboration would enable Indonesia to better tackle piracy networks that operate internationally and affect its broadcasting rights.

The legal framework in Indonesia also shows gaps in public awareness and the effectiveness of legal deterrence. There is a general lack of awareness among the public about the legal and economic implications of broadcasting rights piracy. The penalties for piracy, as stipulated in the existing laws, are not always stringent enough to act as a significant deterrent. Increasing public awareness through education campaigns and implementing harsher penalties for offenders could help reduce the prevalence of piracy. Moreover, making examples of high-profile cases and ensuring that penalties are strictly enforced would serve to strengthen the deterrent effect of the legal framework.

### **Reflection on the Holistic Perspective and the Importance of Legal Certainty in Enforcing Broadcasting Rights**

The enforcement of broadcasting rights in the digital age requires a holistic perspective that considers the interconnectedness of technological, legal, economic, and social factors. This holistic approach recognizes that addressing broadcasting rights piracy goes beyond legal measures alone and requires a comprehensive strategy that integrates technological innovations, economic incentives, public awareness campaigns, and international cooperation. By adopting a holistic perspective, policymakers and enforcement agencies can develop more effective strategies to protect broadcasting rights and combat piracy.

Technological advancements have transformed the broadcasting landscape, making it easier for pirates to illegally distribute content. However, technology also offers solutions to combat piracy, such as digital watermarking, content recognition algorithms, and blockchain technology. These technologies can help detect and prevent piracy, providing a technological barrier against unauthorized use of broadcasting rights.

A robust legal framework is essential for enforcing broadcasting rights and combating piracy. Legal certainty ensures that laws are clear, predictable, and consistently applied, providing a reliable basis for enforcement actions. A clear legal framework gives broadcasters and content creators confidence in their rights and provides a basis for legal action against pirates. Legal certainty also benefits the public by ensuring that the consequences of engaging in piracy are clear, thereby deterring illegal activities.

Broadcasting rights are valuable assets that drive revenue for broadcasters and content creators. Piracy undermines the economic viability of the broadcasting industry by reducing viewership and advertising revenue. Legal certainty in the form of strong copyright laws and enforcement mechanisms is essential for protecting the economic interests of rights holders and ensuring a fair and competitive broadcasting market.

Broadcasting rights piracy has broader social implications, affecting cultural diversity, consumer choice, and the quality of content. Legal certainty is crucial for fostering a culture of respect for intellectual property rights and encouraging innovation and creativity in the broadcasting industry. By ensuring that broadcasting rights are protected, legal certainty contributes to a vibrant and diverse broadcasting landscape that benefits both creators and consumers.

Given the global nature of broadcasting rights piracy, international cooperation is essential for effectively enforcing rights across borders. Legal frameworks and enforcement mechanisms need to be harmonized internationally to prevent pirates from exploiting jurisdictional gaps. International cooperation also facilitates information sharing and joint enforcement actions, enhancing the effectiveness of enforcement efforts.

## **CONCLUSION**

Broadcasting rights piracy, especially in sports broadcasts like football, poses a significant challenge in Indonesia, affecting both copyright holders and the broadcasting industry. Unauthorized broadcasting not only violates copyrights but also leads to substantial economic losses. The ease of accessing and sharing content through social media platforms has exacerbated this issue, particularly in venues like cafes and bars that illegally stream matches.

The financial impact of piracy extends beyond broadcasters to include job losses and reduced tax revenue. Efforts to enforce laws against piracy face challenges due to the rapid technological advancements that enable illegal streaming. The decentralized nature of digital piracy makes it difficult to monitor and take down illegal streams effectively.

Efforts by the Ministry of Law and Human Rights (Kemenkumham) and other regulatory bodies to combat piracy through raids and monitoring are crucial but reactive. To address these challenges, the legal framework needs to be updated to reflect technological advancements. This includes investing in advanced technological tools for enforcement agencies and providing specialized training for law enforcement officers to handle digital piracy cases.

Moreover, international cooperation is essential for combating cross-border piracy networks. Strengthening public awareness about the consequences of piracy and implementing stricter penalties can help deter offenders. A holistic approach that integrates legal, technological, economic, and social measures is necessary to effectively enforce broadcasting rights and combat piracy in Indonesia.

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