

Concession is a Determinant for The Implementation of Telecommunication Technology Field in Indonesia

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ABSTRACT

The existence of concessions in Indonesia is actually not a new thing, because previously it was regulated during the Dutch colonial era, which was stated in Burgilijk Wetboek (BW), under the 1899 Indische Mijnwet law which stipulates that all mining cooperation is granted in the form of concessions to Dutch citizens and their allies to explore and exploit the wealth of Mining Resources in Indonesia. And in its development, the concession in Law Number 30 of 2014 concerning Government Administration in Article 1 number 20 is given a definition as: a decision of the Governmental Officer authorized as a form of agreement from the approbation of government bodies and/ or officials with other government bodies and/ or officials in the management of public facilities and/ or natural resources and other management in accordance with the provisions of the legislation. However, at reality the concession in Indonesia is only limited to be used as an approbation or agreement in terms of natural resource management and transportation only, while in terms of the implementation of services related to the public interest, the concession has not been fully utilized. Just like what the author did to do research with the theme of concessions in the field of telecommunication technology. The first purpose of the objective paper is present that concessions license could be applied to telecommunication technology fields in Indonesia and the second is to provide all the regulation in Indonesia that is needed for regulate concessions license for the telecommunication technology field in Indonesia. In conducting this research the author uses the analysis contents method of the regulations that related with concession license, where is the regulation is provided by the National Law Office in the under of Indonesian

Ministry of Law and Human Rights as a provider of data banks for all the regulations that exist in Indonesia. And in addition, besides using the content analysis method of the regulations, the author is also use literature research method from several journals as supporting data. This study does not rule out the possibility that concessions can help and be used in many other fields that are closely related to the public interest that need to be served by the Government of Indonesia. This paper contributes a mind framework for policy makers and government to use concession license for improving the public interest service.

Keywords: *Concessions license, Concession regulation, Public interest, Telecommunication technology field.*

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INTRODUCTION

The meaning of concession is a thing of value that's being given, and there's two terms that make different meaning, that is "concession-making" to describe an activity and "concession" that describe the activity's value which can be measured (Kersten, Vahidov, & Gimon, 2013a) and some understanding of the concession can be given by the author referring to some opinions of experts at administrative law in Indonesia, first the concession is defined as a permit if the private party makes peace with the government to do some part of the government's work (HR, 2002). H.D Van Wijk argued that the form of concession was mainly used for various activities related to the public interest, which the government was not able to run by itself, so government handed over to private companies (Hadjon, 2002). Different in terms of initiative, Utrecht argues that sometimes regulators assume that an act that is important to the public can be held by a private legal object as well as possible, but by interfering from the government, a decision of the state administration that allows the person to carry out the act is to contain a concession (HR, 2002). And about the definition of 'public interest' itself until now is still lacks, because to explain about public interest cause some debate (Paisey & Paisey, 2018a) but tends to be viewed broadly, sometimes regarded as being synonymous with kindness without expecting a reply or general welfare, referring to wide community obligation (Hall, 2005) The conception of the public interest is also subject to different interpretation at different points in time, with developments such as a focus on efficiency, neo-liberalism, new public management, competition and growth. It changes a context for the consideration of the public interest (Paisey & Paisey, 2018b).

In fact, in Indonesia the service for the public interest has not been maximally implemented even though the 1945 Constitution of Indonesia Republic has regulated the definition of public interest, there's in the opening section of the 4th paragraph explain that: "Then from that to form a Government of the Republic of Indonesia that protects the entire Indonesian nation and all spill over Indonesia and to promote public welfare." And this is explained more in Article 33 points 2 and 3. Point 2: the production branches that are important to the state and which affect the subsistence of the public are controlled by the state, and then on the point 3 written that: the Earth, water and natural resources contained therein are controlled by the State and used for the greatest prosperity of the people. And it has become a general opinion that telecommunications technology is one of the elaboration and part of the public interest (Johnson & Cooper, 2009), but in fact the service in the field of communication technology (Hakim, 2014) is still not optimal because there are limitations of the government or policy makers. It can be concluded that the area of telecommunications technology as part of the affairs of the administration of public interest has not been carried out maximally by the government and/or policy makers.

About the object research of this paper, Author draw attention to the legislation that related with the existing concession rules in Indonesia. And then author describe several theories that have the potential as a basis for the form of concession licence that can be used by the government for service on the field of telecommunications technology, such as enterprise theory that give some option to develop or we can say modelling of enterprise that include strategies, policies and operations (Kirikova, 2016). Because the concept of concession permits is closely related to the management of private companies in managing their business affairs, there are agreements and rules for sharing. The second one is principal-agent theory, the theory concerning about two subject economic actors, namely principals and agents. Agency relationship is a contract whereby one or more people (principals) order another person (agent) (Bichler & Paulsen, 2018) to perform a service on behalf of the principal and authorize the agent to make the best decision for the principal (Keser & Willinger, 2007). Next, Author also adduce about concession and agreement (Kersten et al., 2013a; Liu, Chen, Han, & Lin, 2018) then exposure the public interest (Beqaj, 2016; Costello, 2017; Dellaportas & Davenport, 2008a; Pricopie, 2013) that become important thing as a absolute terms for concession licence regulation can be held in Indonesia. In conducting this research the author uses the analysis contents method of the regulations that related with concession license, and in addition besides using the content analysis method of the regulations, the author is

also use literature research method from several journals as supporting data for theory and mind framework.

THEORY AND LITERATURE REVIEW

Enterprise theory

As a basis on enterprise theory, a company is seen as an institution where every decision taken is formed from the influence of all parties involved (parties who are participants of the organization can be given examples are shareholders, employees, creditors, customers, government and the general public) directly with him. The concept of a company is certainly wider than the entity, because enterprise theory views companies to have a direct role in the wider community. Or it can be said that in its activities, companies are assessed through their output contributions to society, in enterprise theory this is called added value. Where value added emphasizes the contribution to the community as a benchmark for social performance by companies (Purdy, 1983). In furthermore, the contribution of a company to the community develops the concept of social enterprise (Zainona et al., 2014), namely an idea or concept about a company that produces a mixed value between economic values and social values (Pratono & Sutanti, 2016). So that it forms a new goal of an enterprise, which is to create social impacts from its economic activities. Economic value is not interpreted narrowly, but refers to the value produced by trade or business, with investment in resources in the form of money, labor, and assets (assets) (Distanont, Khongmalai, & Distanont, 2018). That the principle of the participation of the private sector in cooperation agreements with the government to carry out public services exclusively creates a healthy investment climate, where further participation can provide social and economic benefits to the wider community. For help in explaining about enterprise theory, the author explains about the enterprise system itself as a single entity understanding of the concept.

Enterprise system (ES) is a system that provides business process support, information flow, report recapitulation and complex data analysis, or this can said that enterprise systems are to be considered as complex adaptive systems (Weichhart & Stary, 2017). In an enterprise system, it has been equipped with an enterprise resource planning (ERP) system that is used to manage and plan resources within a company, then ES has also been equipped with enterprise planning system (EPS) and customer relationship management software (CRM). An over all enterprise system is a socio-technical system. Design is required to focus on technical and organisational sub-system, including

human actor and software applications as active elements as well as passive elements like goods and informations exchanged in an enterprise. The organisations behaviour is determined by the behaviour of it's sub systems and implicitly by it's structure, such as organisational structure and processes (Vernadat, 2017). On using the enterprise theory that has been explained to the concept of concession license, the Author underlines that enterprise is a complex system, therefore an enterprise requires such an enterprise planning system (EPS), software applications as an important part to synchronize, and human actors as active elements and passive from an enterprise. This enterprise theory system make author can move forward to next theory to explain why both of this two theory can be a basis for concession license concept, the second theory is The principal-agent theory.

Principal-agent theory

In the growth of the business activity, in particular that related to the management of the company, it is not uncommon to find problems that cause by capital owners limitations, for that cause there is known as a theory that can solve the problem called it with the principal agent theory or also well known as agency theory. Agency theory or principal agent theory explains the relationship between principal and agent, where the principal acts as the party who gives the mandate to the agent, on the other hand the agent is the party who is working on the mandate given by the principal (Ahmad, 2000) In this case the author uses the term shareholders (capital owners) as principals, while the term of professionals as managers or agents. The main objective of agency theory is to explain how parties who make contractual relationships can design contracts that aim to minimize costs as a result of the asymmetric information and uncertainty conditions (Å & Karaivanov, 2010; Keser & Willinger, 2007). But in fact the application of agency theory, there is often condition that managers (agents) who have been given power by shareholders (principals) to make decisions, create potential conflicts based on interests (García, 2014). Next, author want to explain that the principal-agent learning model generalize over the utility-based learning models by considering strategic activity by agents, the learner plays the role of a principal who seeks to classify agents who are also utility maximizing entities, the interestingly with that setting both principal and agents aim to maximize their own utilities turning them into opposite each with conflicting goals of interest (Boylu, Aytug, & Koehler, 2009). This is closely related to what the author explained in the enterprise system section, that human actors are active elements and passive from an enterprise to ensure that the goals of a company can contribute to the community development, so that the company can fulfill the concept of a company that produces a mixed value

between economic values and social values. So it creates social impacts from its economic activities.

Belong to explanation that give by author earlier that the variables in the concept of concession licence are agreement (cooperation), government limitations, the implementation of public interests, and private companies / private parties. So with a number of facts that already presented, the author reveals that agency theory (principal agent theory) and enterprise theory have the potential to be applied in the form of relationships that underlie the concept of implementation concessions in Indonesia. Where the government acts as principal and private companies act as recipients of some authority (recipient of the mandate) known as agents. But in the use of this theory it certainly requires more in-depth adjustments and studies, because the collaborating parties are public institution with private institution or private parties that have the main objective to carry out the public interest, on the other hand it is still possible to take advantage from the agreement (Wang, Xiong, Niu, & Zhuo, 2018b). Of course this is become different when the cooperation agreement or activity is made by one private institution or private parties with another private institution or private parties with the main objective is profit or advantage (Diamantoudi & Xue, 2007).

An affair to organize public interests based on the granting of concessions by the principal (in this case the government) to the agent (private party) as the executor or promoter (concession holder) where the agent is responsible for all activities that include construction, financing, operations, maintenance of a particular project / facility during the concession period before finally transferring all of these facilities to the principal as a full operational facility. During the concession period, the agent owns and operates the facility can collect fees or payments with the aim of returning costs and investments that have been incurred, including maintenance and operating costs and a profit margin.

With this initial understanding, the authors propose a further theory that can be a balancing and important factor in the conceptual use of concession licence. The theory is the agreement theory, and the concept implementation of public interest as regulated in the Constitution of the Republic of Indonesia.

Understanding of agreements in the concept of concessions

Concession is a term commonly used in civil law countries like Indonesia, the meaning of the concession itself is to give a concessionaire the long term right to use all assets conferred on the concession, including responsibility

for operation and some investment, ownership assets authority and authority is responsible for replacement of larger assets. In concession the concessionaire, the concession fee will be regulated by the consumer, and the concessionaire will usually be regulated towards the asset towards placement and expansion. A concession gives a private concession responsibility not only for operation and assets but also for financing and managing all required investment. The concessionaire takes risk for the assets and for investment. A concession may be granted in relation to existing assets, existing utility, or extensive rehabilitation and extension of existing assets (although new projects are called concessions). The author needs to remind that in common law type countries this concession concept is known as a BOT (Build, Operate, Transfer) project (World bank, 2018).

In accordance with what has been explained before by the author in the introduction section that concessions in Indonesia are interpreted as a collaboration agreement between the government and the private sector to jointly manage public interests that cannot be fully carried out by the government by itself (Ferrari, Parola, & Tei, 2015). And as sought by the author to prove that concessions can be applied in many sectors of public interest. This is popular throughout the world wide, the contract in question includes incentive benefits between the private sector and the government regarding social welfare (Kersten, Vahidov, & Gimon, 2013b). In practice to regulate and balance the differences and objectives of these incentives, the government usually provides subsidies to reduce the costs of the private sector and encourages them to expand services and imposes cheaper service costs to the public (Wang et al., 2018b).

Explained the definition of a contract or agreement, the author refers to the definition of the contract regulated in *Burgelijk Wetboek* (BW) as a positive law in Indonesia. In *Burgelijk Wetboek* (BW), the contract is called *overeenkomst*, which is contained in the third book section of *Burgelijk Wetboek* (BW) concerning engagement. In the original Dutch language version mentioned as “*Van verbintenissen die uit contract of overeenkomst geboren worden*”, while in Article 1233 of *Burgelijk Wetboek* (BW) it is written that the engagement is born because of an agreement or because of the law, while the contents of the agreement are explained in article 1234, the agreement is intended to give something, to do something, or not to do something (Republik Indonesia, 1836). So as to explain further about the cooperation agreement between the government and the private sector, the authors base themselves on the elements set out in article 1320 *Burgelijk Wetboek* (BW) and the Republic of Indonesia Presidential Regulation Number 38 of 2015 concerning Government Cooperation with Business

Entities in Infrastructure Provision. It is explained in Article 1 numbers 6 to 11 of the Republic of Indonesia Presidential Regulation Number 38 of 2015 concerning Government Cooperation with Business Entities in the Provision of Infrastructure: (6) Government and Business Entity cooperation, hereinafter referred to as GCBE, is a collaboration between the Government and Business Entity Infrastructure for the public interest refers to specifications that have been previously set by the Minister/ Head of Institution/ Regional Head/ State-Owned Enterprise/ Regionally-Owned Business Entity, which partially or wholly uses Business Entity resources by taking into account risk sharing among the parties. (7) Business Entities are State-Owned Enterprises, Regionally-Owned Enterprises, private business entities in the form of Limited Liability Companies, foreign legal entities, or cooperatives. (8) GCBE (Government Cooperation with Business Entities) Implementing Business Entity, furthermore referred to as the Implementing Business Entity, is a Limited Liability Company established by the Business Entity of the auction winner or directly appointed. (9) Selection is the method of procuring a Business Entity in the framework of preparing GCBE by including as many participants as possible through broad announcements or invitations. (10) Auction is the method of procuring an Implementing Business Entity in the context of implementing GCBE by including as many participants as possible through broad announcements or invitations. (11) Direct Appointment is the method of selecting an Implementing Business Entity in the context of implementing GCBE through negotiations with 1 (one) participant (Republik Indonesia, 2015). To be more clear about the assessment of the weaknesses and strengths of the two systems that rule by Article 1 numbers 8 to 11 of the Republic of Indonesia Presidential Regulation Number 38 of 2015 concerning Government Cooperation with Business Entities in the Provision of Infrastructure can be seen from the study entitled "Impact of government subsidy on BOT contract design: Price, demand, and concession period" (Wang, Xiong, Niu, & Zhuo, 2018a).

As conceptually, the author gives an explanation of the forms of cooperation (public private partnership) which are known by several forms, namely: (1) BOT (Build, Operate, and Transfer), the framework of BOT is the government as the principal delegates to the private sector as an agent to design, build and operate running the public facility with a predetermined period of time, at the end of the concession agreement the facility will be transferred back to the government as principal, but there will be a reward from the private sector as an agent (Justisia, 2015) (2) BOOT (Build Own, Operate, and Transfer), during the concession agreement the private sector as an agent owns and operates public facilities with the aim of returning all investment

and management costs that have been incurred, by not letting the private sector achieve profit or margin value higher than the project (Asikin, 2013). (3) DBFO (Design, Build, Finance, and Operate), is a legal ownership where the facility still exists through a government contract, with the interests of the private sector as an agent in the project based solely on contractual rights to operate the facility and receive income from buyers who buy rather than physically ownership of assets. (4) DCMF (Design, Construction, Manage, Finance), this concept regulates the private sector to finance, build and operate facilities for a considerable period of time (generally around 20 to 50 years), in this concept financial responsibility the government shifted from the payment scheme at the outset to the facility process in performing services (Evstafyev & Evstafyev, 2015).

In Indonesia, the concept is contained in terms and forms as a collaboration between the government and business entities abbreviated and known as government cooperation with business entities (GCBE) that contained in the Presidential Regulation of the Republic of Indonesia Number 8 of 2015, State Gazette of the Republic of Indonesia Number 62 concerning Government Cooperation with Business Entities in Provision Infrastructure. To remind, GCBE is a collaboration between the Government and Business Entity Infrastructure for the public interest refers to specifications that have been previously set by the Minister / Head of Institution / Regional Head / State-Owned Enterprise / Regionally-Owned Business Entity, which partially or wholly uses Business Entity resources by taking into account risk sharing among the parties. Business Entities are State-Owned Enterprises, Regionally-Owned Enterprises, private business entities in the form of Limited Liability Companies, foreign legal entities, or cooperatives (Supanca, 2008). So that GCBE also have meaning parallels in terms of contract of work (hereinafter abbreviated and known as COW), this is contained in Article 1 number 1 Decree of the Minister of Energy and Mineral Resources Number 161 of 2004 concerning Processing Guidelines for Contracts of Work and Agreements Coal Mining Exploitation in the Framework of Foreign Investment: Contract of Work (COW) is an agreement between the Government of Indonesia and a company incorporated in Indonesia in the context of foreign investment to carry out mining business, excluding petroleum, natural gas, geothermal, radio active and coal (Awaliyah, 2014). To make it easier to understand, the authors conclude that the concept of concessions in Indonesian legislation is contained in two formal forms of cooperation agreements namely GCBE and COW, both of which have similarities in meaning or relevance to public interest services that must be held by the government. However, between GCBE and COW have differences in terms of licensing concepts, where

research on licensing can be deepened and further research, but in the writing of this journal the authors limit it to the main goal.

The basis of motivation for the appearance of GCBE as the implementation of public interests can be seen from the weighing parts of letters (a) and (b) of the Republic of Indonesia Presidential Regulation Number 38 of 2015: (a) that the availability of adequate and sustainable infrastructure is an urgent need, to support the implementation of national development in order to improve the national economy, improving the welfare of the community, and increasing Indonesia's competitiveness in global competition, (b) that to accelerate infrastructure development, it is necessary to take comprehensive steps to create an investment climate, to encourage the participation of business entities in the provision of infrastructure and services based on business principles healthy. Whereas the basic motivation for the existence of COW is in the general elucidation of the Government of the Republic of Indonesia Number 23 of 2010 Concerning the Implementation of Mineral And Coal Mining Business Activities: Article 33 of the 1945 Constitution of the Republic of Indonesia underscores that the land and waters and the natural resources contained therein shall be controlled by the state and exploited for the best prosperity of the people. Given that minerals and natural resources are non-renewable natural resources, the management of the needs to be carried out is optimum, efficient, transparent, sustainable, environmentally sound and just how to order the maximum ongoing benefit and greatest prosperity for the people

The Indonesian government as the executant of the public interest

Speaking of public interests, the author bases on the expression that expressed by Sorauf, that the thought of public interest has many definitions which not all understandings have met the right criteria or understanding (Sorauf, 1957, p.631). so what is meant by public interest and how the depth of its meaning in each country is very diverse, this depends on the circumstances and political decisions and the state of democracy from each of the different countries. From political theory, it is known as libertarian theory characterized by liberalism, and communitarian theory characterized by social-democratic or socialist (Wiering & Winnubst, 2017). Different things when we looking at the denomination of philosophy, the author exposure the concept of the utilitarian denomination that related with law that beginning with Jeremy Bentham, John Stuart Mill, and Rudolf von Jhering (Sambas K, 2016, p.34-36), Bentham considers the existence of law needed to keep the clash

of interests from individuals in pursuit of happiness as much as possible. Whereas in the concept of Utilitarianism, we pay attention to the weight of interests at a certain level, in this case Bentham is known as the “majority vote” which defines public interest as the sum of individual interests in which the unity raises collective moral imperatives that can exceed certain or personal interests. The concept of utilitarianism has the aim of maximizing the greatest benefit for a large number of people who, according to the principle of utility, are ethical actions that produce the greatest overall benefit compared to other actions. With this explanation, the normative view of the public interest can be considered as a traditional or classical view, especially with regard to the goodness of the whole community. Public interest is the result of interpretation of political life. In a simple form the public interest is explicitly political ideas and is the government’s sole purpose. The idea arose in the 17th century that there was a difference between public interest and general goodness. It can be further explained that the general good consists of a number of specific objectives designed to promote general human well-being, such as: prosperity, peace, order, order, justice, community, and emphasis on people’s protection. In its development since the 17th century until the next three centuries between the definition of public interest and the general good have experienced confusion, ups and downs and received great attention. This leads to the main theme in all diversity of uses or definitions of public interest. Just as Cochran did to categorize public interests into four classifications: normative theory, ablistionist theory, process theory, and consensus theory (Dellaportas & Davenport, 2008b). Referring to a number of expert opinions applied in Indonesia, the concept of public interest is given various definitions.

Van Poelje gave the meaning of public interest as a broad public interest that must be carried out by the government through government policies (Muchsan, 1997a, p. 43). Van Wijk gave a definition to the public interest as a community law that must be served by the government, in order to realize the welfare of society (Muchsan, 1997b, p. 44). The criteria of public interest can be explained by Adrian Sutedi, as follows: (1) development activities carried out by the government limit that the process of implementing development can only be carried out by the government. This still raises the problem of how the management of development is tendered with the private sector. In practice, many development activities are in the public interest, but the management of their activities is private. (2) the activity is truly owned by the government, this sentence limits that development activities for the public interest cannot be owned by individuals or the private sector. The private sector and individuals cannot have types of development for

the public interest that require land acquisition from the community. (3) not seeking profit, this sentence limits the function of an activity to the public interest, so that it is different from the private interest which aims to make a profit. Activities for the public interest are not permitted at all to seek profit (Sutedi, 2008, p.76)

According to paragraph 4 of the opening of the 1945 constitution, there are also measures to form a government of the state of Indonesia which will protect all of the people of Indonesia and to improve public welfare. It can be seen that the public interest or public welfare is the main goal of the government that must be held, this is also confirmed in article 33 and article 34 of Chapter XIV about The National Economy and Social Welfare 1945 Constitution: (1) The shall be organized economy common endeavor based upon the principles of the family system; (2) Sectors of production which are important for the people and the people of the powers of the State; (3) The land, the waters and the natural resources within the greatest benefit of the people; (4) The organization of the national economy shall be carried out on the basis of economic democracy upholding the principles of togetherness, efficiency with justice, continuity, environmental perspective, self-sufficiency, and keeping balance in progress and unity of the national economy ; (5) Further provisions for implementation of the article shall be regulated by law. And part of Article 34: (1) Impoverished persons and abandoned children shall be taken care of by the State; (2) The state shall develop a system of social security for all people and shall empower the society in accordance with human dignity; (3) The shall have the obligation to provide sufficient medical and public service facilities; (4) Further provisions in relation to the implementation of this article shall be regulated by law. So far, the meaning of public interest in Indonesia has only been regulated in legislation related to land acquisition regulations contained in Act Number 2 of 2012, Presidential Regulation Number 65 of 2006, Presidential Regulation Number 36 of 2005, Presidential Decree Number 5 Year 1993, Domestic Ministerial Regulation Number 15 of 1975, Domestic Minister Regulation Number 2 of 1976 (Muwahid, 2015). Which can be summarized as follows:

Table 1

The meaning of public interest in Indonesia regulations

Comparison Points	Act Number 2 of 2012	Presidential Regulation Number 65 of 2006	Presidential Regulation Number. 36 of 2005	Presidential Decree Number 5 Year 1993
Definition of Public Interest	Public interests are the interests of the nation, state and society that must be realized by the government and used as much as possible for the prosperity of the people	Public interest is in the interests of most layers of society	Public interest is in the interests of most layers of society	Public interest is in the interests of all levels of society
Criteria of Public Interest	There are no restrictions on the criteria of public interest	Owned by the government, but there is no clause "not used for profit seeking"	There are no restrictions on the criteria of public interest	Done by the government; subsequently owned and controlled by the government; and not used for profit
Types of Public Interest Activities	(1). Defense and security; (2). Public roads, highway, tunnels, lanes trains, train stations, and railroad facilities; (3). Reservoirs, dams, weirs, irrigation, drinking water channels, water and sanitation sewers, and other irrigation development; (4). Ports, airports and terminals; (5). Oil, gas and geothermal infrastructure; (6). Generators, transmissions, substations, networks, and power distribution electricity;	(1) Public roads, highways, and railroads; (2). Reservoirs, irrigation dams and other irrigation structures; (3). Ports, airports, train stations and terminals; (4). Public safety facilities, such as embankments for overcoming flood, lava and others; (5). Waste disposal site; (6). Nature reserves and cultural reserves and;	(1). Public roads, toll roads, railroads (on land, in land space, or in basements, drinking water / clean water channels, canals water and sanitation disposal; (2). reservoirs, dams, weirs, irrigation, and other irrigation structures; (3). Public hospitals and community health centers; (4). Ports, airports, stations train and terminal; (5). Place of worship; (6). Education or school;	(1). Public roads, drainage channels; (2) reservoirs, dams and other irrigation structures including irrigation canals; (3). Public hospitals and community health centers; (4). Ports or airports or terminals; (5). place of worship; (6). Education or school;

(continued)

Comparison Points	Act Number 2 of 2012	Presidential Regulation Number 65 of 2006	Presidential Regulation Number. 36 of 2005	Presidential Decree Number 5 Year 1993
Types of Public Interest Activities	(7) Government telecommunications and information networks; (8). Place waste disposal and processing; (9). Government Hospital / Regional Government; (10). Public safety facilities; (11). Government / Regional Government Public Cemetery; (12). Social facilities, public facilities, and public green open spaces; (13). Reserve nature and cultural heritage; (14) Regional / Village Government / Government Offices; (15). Arrangement slums according to the assignment urban, consolidation land, and housing for low-income communities (16). Educational infrastructure or school Government / Local Government; (17). Government / regional government sports infrastructure (18). Public markets and public parking lots.	(7) Generating, transmitting, distributing electricity	(7). Public markets; (8). Public funeral facilities; (9). Public safety facilities; (10). Post and telecommunications; (11). Sporting Goods; (12) Radio, television broadcasting stations and their supporting facilities; (13). Government offices, regional governments, representatives of foreign countries, and / or International Institutions under the auspices of the United Nations; (14). Facilities of the Indonesian National Army and the police of the Republic of Indonesia in accordance with their main duties and functions (15) community institutions and detention centers (16) simple apartment (17) laystall (18) nature reserve and cultural heritage (19) gardens (20) social homes (21) Power transmission and distribution plants	(7). Public market or inpres market; (8). Public funeral facilities; (9). Public safety facilities such as embankments for mitigating floods, lava and other disasters; (10) Post and telecommunications; (11). Sports facilities; (12). Station of radio broadcasting, television and its supporting facilities; (13). Government offices; (14). Facilities of the Armed Forces of the Republic of Indonesia.

DISCUSSION

Based on the first purpose of this article writing, as what been wrote on introduction session. That this article purpose is to exposure the possibility of the concept consession licence concept that can aplicated to the telecommunication technology field in Indonesia, with important variable that become first factor that can connecting between concession licence concept for telecommunication technology field is public interest. furthermore of discussion session of this article, the author will exposure that telecommunication technology field in Indonesia as Public Interest based on regulation that exist in Indonesia.

Telecommunication technology field in Indonesia as public interest

Accordingly technological developments occur quickly with the aim of creating techniques that can help human activities in doing things more efficiently and effectively. Technological developments are always related to the discovery of new methods in various ways that make it easier for humans to carry out their work tasks. With so many fields of development from technology, there is one area that facilitates human activities, namely what is known as the field of information technology and telecommunications (Saefudin, 2008). Human dependence on renewable communication technologies and develops quickly raises the term cyber communication technology. The development of cyber communication technology has led to a revolution in the field of telecommunication industry, and this has an impact on the dependence of wireless technology (electromagnetic frequency spectrum for sending data through various devices and infrastructure) (Russell, 2018). It is undeniable that many technological developments improve various sectors in the economic field. That with the development of technology it is possible to be able to conduct long-distance communication at a low cost, process a lot of data, and make it easier to do various kinds of work. In the sense of development and renewal in the field of technology has become an important thing and is central in transforming society and the economy both from the structure of service activities and in the strategic development process (Gölpek, 2015). In Indonesia, the telecommunications sector is regulated in Law Number 36 of 1999, in the consideration section of the law it is explained that the goal of national development is to create a just and prosperous society that is materially and spiritually based on Pancasila and the 1945 Constitution, and the implementation of telecommunications has a strategic meaning in an effort to strengthen national unity, facilitate government activities, support the creation of goals of development equality and its results, and improve national relations, as well as the influence of

globalization and the rapid development of telecommunications technology. Perspective on telecommunications; whereas in the operation and perspective of telecommunications, it is necessary to restructure and reorganize national telecommunications operations. This is in line with Law Number 11 of 2008 concerning Information and Electronic Transactions. In the consideration section, it is explained that national development is an ongoing process that must always be responsive to various dynamics that occur in the community, in the globalization of information that has placed Indonesia as part of the world information society so that the development of Information Technology can be carried out optimally, evenly, and spread to all levels of society in order to educate the life of the nation. In addition, the use and utilization of Information Technology must continue to be developed to maintain, maintain and strengthen national unity and integrity, this is closely related to the use of Information Technology which plays an important role in trade and national economic growth to realize public welfare. And it must be understood that the use of Information Technology must be carried out safely to prevent abuse by paying attention to the religious and socio-cultural values prevailing in Indonesian society. From several regulations in the telecommunications sector that apply in Indonesia as below:

- Republic of Indonesia Law No.36 of 1999 concerning telecommunications
- Government Regulation No.52 of 2000 concerning telecommunications networks
- Government Regulation No.53 of 2000 concerning the use of radio frequency spectrum
- Ministerial Regulation no. 17 of 2005 concerning operational provisions for the use of radio frequency spectrum
- Ministerial Regulation no.1 of 2010 concerning the operation of telecommunications networks
- Ministerial Regulation no.76 of 2010 concerning types and tariffs for types of Non-Tax State Revenues (PNBP)
- Ministerial Regulation no.29 of 2009 concerning tables of Indonesian radio frequency spectrum allocation (TASFRI)
- Ministerial Regulation no.19 of 2013 concerning the mechanism and overall arrangement of the 2100 MHz frequency band

Form regulations above can be found that the government have inability to keep up with the speed of development of telecommunications technology is caused by limited human resources, financial resources, and limitations of the technology knowledge itself which in this case is owned by the private sector (Hakim, 2014).

CONCLUSION

This research is intended to explain the possibility of using concession permits in the field of communication technology in Indonesia. Because when viewed from the study of the elements of the concession concept itself, communication technology is one of the many fields (requires specific studies that can be opened with extensive discussion) that can be applied with concession permits. As the author did by suggesting several theoretical studies of the existence of concessions in Indonesia, it was found that the basic elements of the use of concession permits were: the inability of the government, public interest, the private sector, agreements or agreements between the private sector and the government. The study of the concept of concessions imposed in Indonesia can be the basis, comparison, and benchmark of the implementation of concessions in countries with the civil law type. And with this research can be a discussion and reference in the implementation of concessions in many fields other than communication technology, namely fields that serve the public interest.

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