

THE MINISTER OF COMMUNICATION AND INFORMATICS OF THE REPUBLIC OF  
INDONESIA  
REGULATION OF THE MINISTER OF COMMUNICATION AND INFORMATICS  
NUMBER 5 OF 2020  
ON  
PRIVATE ELECTRONIC SYSTEM OPERATOR  
BY THE GRACE OF GOD ALMIGHTY  
THE MINISTER OF COMMUNICATION AND INFORMATICS OF THE REPUBLIC OF  
INDONESIA

Official document: [Link](#)

Considering:

that to fulfil the need for the management in private electronic system operator and to implement the provision of Article 5 paragraph (3), Article 6 paragraph (4), Article 97 paragraph (5), Article 98 paragraph (4), and Article 101 of the Government Regulation Number 71 of 2019 on the Provision of Electronic System and Transactions, it is required to issue the Regulation of the Minister of Communication and Informatics on Private Electronic System Operator;

Observing:

1. Article 17 paragraph (3) of the 1945 Constitution of the Republic of Indonesia;
2. The Law Number 39 of 2008 on the State Ministries (State Gazette of the Republic of Indonesia Year 2008 Number 166, Supplement to the State Gazette of the Republic of Indonesia Number 4916);
3. The Government Regulation Number 71 of 2019 on the Provision of Electronic System and Transactions (State Gazette of the Republic of Indonesia Year 2019 Number 185, Supplement to the State Gazette of the Republic of Indonesia Number 6400);
4. The Presidential Regulation Number 54 of 2015 on The Ministry of Communication and Informatics (State Gazette of the Republic of Indonesia Year 2015 Number 96);
5. The Regulation of the Minister of Communication and Informatics Number 6 of 2018 on the Organization and Work Procedure of The Ministry of Communication and Informatics (Official Gazette of the Republic of Indonesia Year 2018 Number 1019);
6. The Regulation of the Minister of Communication and Informatics Number 13 of 2019 on the Provision of Telecommunication Service (Official Gazette of the Republic of Indonesia Year 2019 Number 1329);

HAS DECIDED:

To establish: THE REGULATION OF THE MINISTER OF COMMUNICATION  
AND INFORMATICS ON PRIVATE ELECTRONIC SYSTEM OPERATOR.

## CHAPTER I

### GENERAL PROVISIONS

#### Article 1

Under this Regulation of the Minister, the following definitions are employed:

1. Electronic Information is one or a group of Electronic Data, including but not limited to text, voice, picture, map, design, photo, electronic data interchange (EDI), electronic mail, telegram, telex, telecopy or similar, letter, sign, number, Access code, symbol, or perforation which has been processed which has meaning or may be understood by people who are able to understand it.
2. **Electronic Document** is any Electronic Information which is made, **forwarded, transmitted, received, or stored** in the form of analog, digital, electromagnetic, optical, or similar, which may be seen, displayed and/or heard through computer or Electronic System, including but not **limited to text, voice, picture, map, design, photo, or similar, letter, sign, number, Access code, symbol or perforation which has meaning or may be understood by people who are able to understand it.**
3. **Electronic Data is data in electronic form**, which are not limited to writings, voices, images, maps, designs, photos, electronic data interchange (EDI), electronic mail, telegram, telex, telecopy or the like, letters, markings, numbers, access codes, symbols, or perforations.
4. Electronic System is a series of electronic devices and procedures that function to **prepare, collect, process, analyze, store, display, announce, transmit, and/or distribute** Electronic information.
5. Electronic System Operator is every individual, state official, business entity, and public that provides, manages and/or operates Electronic System individually or collectively for Electronic System User for his own needs and/or other parties' needs.
6. **Private Electronic System Operator hereinafter shall be referred to as Private ESO** is the administration of Electronic System by individuals, business entities, and public.
7. **User Generated Content Private ESO is Private Electronic System Operator whose provision, viewing, upload and/or exchange of Electronic Information and/or Electronic Documents is carried out by Electronic System Users.**
8. Electronic System User is every individual, state official, business entity, and public who utilize goods, services, facilities, or information provided by the Electronic System Operator.
9. Cloud Computing is an even, easy, on-demand model which provides network access for a set of computational resources that can be configured with networks, servers, storage, applications, and services that can be provided and released quickly and with minimum management power or service provision interaction.
10. Cloud Computing Operator is a Private Electronic System Operator that administers, provides, manages, and/or operates Cloud Computing service.

11. **Personal Data** is any data on a person which is identified and/or may be identified individually or combined with other information both directly and indirectly through an Electronic System and non- electronic system.
12. Electronic Transaction is a legal act which is conducted by using a computer, computer network, and/or other electronic media.
13. The Ministry or Institution is a State Official Institution whose task is to monitor and issue regulations concerning the related sector.
14. **Online Single Submission**, hereinafter shall be referred to as **OSS is business licensing issued by an OSS institution** for and on behalf of the minister, chairman of institution, governor, or regent/mayor to business owners through an integrated Electronic System.
15. **Access Blocking** is an act to block access, to close accounts and/or to delete content.
16. **Normalization** is an access recovery process for a blocked Electronic System to be re-accessible.
17. Internet Service Operator, hereinafter shall be abbreviated as ISP, is multimedia service Operator that procures internet access service to connect with public internet networks.
18. **Traffic Data** is Electronic Data produced by the Electronic System concerning Electronic Transaction occurring in such Electronic System as part of the communication chain with other Electronic System, consisting of the origin and destination of the Electronic Transaction that comprise of phone number, internet protocol address, or similar identification number used by Private Electronic System Operator to identify Electronic System User, Electronic Transaction route, the beginning and end of the Electronic Transaction, the size of Electronic data, the type of service of Private Electronic System Operator used by Electronic System User, such as email, instant messaging, or file transfer.
19. **Subscriber Information** is Electronic Data controlled or managed by Private Electronic System Operator related with the service used by Electronic System User that consists of information on the identity of Electronic System User, including the name of Electronic System User used in the service procured by Private Electronic System Operator, residential address of Electronic System User and other address that identified the location of Electronic System User at the time of registering or using the service procured by Private Electronic System Operator, Identification Number used by Electronic System User to register the service procured by Private Electronic System Operator, such as email address and phone number, payment or billing information issued by Private Electronic System Operator to Electronic System User related with the location of equipment installation, service duration.
20. **Communication Content** is Electronic Information or Electronic Document sent, transmitted, or received by Electronic System User through the service through services of Private Electronic System Operator other than the Traffic Data and Subscriber Information.
21. **Specific Personal Data** is data and information on health, biometric data, genetic data, sexual life/orientation, political view, data of children, personal financial data, and/or data other data based on the provisions of the law and regulation.
22. **Law Enforcement Official** is an official of the Law Enforcement Institution who is responsible for an on-going investigation, prosecution, trial.
23. **Law Enforcement Institution** is The Ministry or Institution established by virtue of the Law with authorization to perform investigation, prosecution, or trial of criminal act as governed in a regulation.

24. Contact Person is an official acting as contact point on Private Electronic System Operator, The Ministry or Institution, Law Enforcement Institution and Judicial Institution for access requests for Electronic System and Electronic data and Access Blocking requests.
25. Minister is the Minister who runs government affairs in the sector of communication and informatics.
26. Ministry is the Ministry who runs government affairs in the sector of communication and informatics.

## CHAPTER II

### REGISTRATION OF PRIVATE ELECTRONIC SYSTEM OPERATOR

#### Part One

#### Registration of Private Electronic System Operator

##### Article 2

**(1) Every Private Electronic System Operator shall be obligated to register.**

(2) Private Electronic System Operator as referred to in paragraph (1) consists of:

- a. Electronic System Operator governed or monitored by The Ministry or Institution based on the provisions of the law and regulation; and/or
- b. Electronic System Operator that has portal, site, or application in network through the internet, which are used for:
  1. providing, managing and/or operating providing, managing and/or operating offerings and/or trade of goods and/or services;
  2. providing, managing and/or operating financial transaction services;
  3. sending of paid digital material or content through data network, either by downloading via a portal or website, sending via electronic mail, or via other applications to the device of the Electronic System User;
  4. providing, managing and/or operating communication service, including but not limited to instant messaging, voice call, video call, email, and online conversation in the form of digital platforms, networking services and social media;
  5. search engine service, Electronic Information procurement service in the form of writing, voice, image, animation, music, video, film, and game or a combination of part and/or all of them; and/or
  6. Personal Data processing for operational activities to serve the public related with Electronic Transaction activities. [anyone- unclear mechanism to protect personal data. It's very important to mention because will uncertainty of how personal data will be protected]

(3) Obligation to register for Private Electronic System Operator shall be performed prior the use of Electronic System by Electronic System User.

(4) ISP registration as Private Electronic System Operator shall be performed through licensing conducted by the Ministry in accordance with the provisions of the law and regulation

(5) The public may submit complaints/information against Private Electronic System Operators who fail to fulfil registration obligation.

### Article 3

(1) Private Electronic System Operator registration as referred to in Article 2 paragraph (1) shall be submitted to the Minister.

(2) Submission for Private Electronic System Operator registration application as referred to in paragraph (1) shall be performed through OSS, unless if it is stated otherwise based on the provisions of the law and regulations.

(3) Submission for registration application as referred to in paragraph (2) shall be performed by filling in registration form containing correct information regarding:

- a. General description of Electronic System operation;
- b. Obligation to ensure information safety in accordance with the provisions of the law and regulation;
- c. Obligation to protect Personal Data in accordance with the provisions of the law and regulation; and
- d. Obligation to perform Electronic System commissioning tests in accordance with the provisions of the law and regulation.

(4) Information regarding general description of Electronic System operation as referred to in paragraph (3) letter a, consists of:

- a. Name of Electronic System;
- b. Sector of Electronic System;
- c. Uniform resource locator (URL) website;
- d. Domain name system and/or Internet Protocol (IP) address server;
- e. Business model description;
- f. Brief description on the function of Electronic System and business process of Electronic System;
- g. Information of the processed Personal Data;
- h. Information on the location for management, processing and/or storage of Electronic System and Electronic Data; and
- i. Information stating that the Private Electronic System Operator guarantees and shall perform obligation of access granting for Electronic System and Electronic data in order to ensure the effectiveness in monitoring and law enforcement process in accordance with the provisions of the law and regulation.

(5) Private Electronic System Operator registration exempted from registering through OSS as referred to in paragraph (2) shall be performed by submitting information as referred to in paragraph (3) and paragraph (4) and submitting correct information concerning:

- a. Name of legal entity, address of legal entity, form of legal entity, certificate of incorporation, and latest deed of amendment;
- b. Taxpayer Identification Number;
- c. Name, National Identity Number, phone number; and
- d. Information stating that Private Electronic System Operator has obtained legality to conduct business activities from the Ministry or Institution which has the authority in accordance with the provisions of the law and regulation, which is proven by relevant documents.

#### Article 4

(1) Registration obligation by Private Electronic System Operator as referred to in Article 2 paragraph (1) is also applicable for Private Electronic System Operator established by virtue of another country's law or that has permanent domicile in other country, but:

- a. Provide service in the territory of Indonesia;
- b. Run business in Indonesia; and/or
- c. The Electronic System is used and/or offered in the territory of Indonesia.

(2) Private Electronic System Operator registration as referred to in paragraph (1) shall be performed by filling in information as referred to in Article 3 paragraph (3) and Article 3 paragraph (4) and correct information consisting of:

- a. Identity of Private Electronic System Operator;
- b. Identity of company's chairman and/or identity of the person in charge;
- c. Domicile information and/or certificate of incorporation;
- d. The number of user from Indonesia; and
- e. Transaction value originating from Indonesia.

(3) Information as referred to in paragraph (2) letter c is to be submitted by attaching supporting documents translated in Indonesian Language by a sworn translator.

#### Article 5

Amendment of registration information as referred to in Article 3 paragraph (3), Article 3 paragraph (5), and Article 4 paragraph (2) shall be reported to the Minister.

### Part Two

#### Issuance of Registration ID

#### Article 6

- (1) Registration ID of Private Electronic System Operator shall be issued by the Minister after the registration requirements as referred to in Article 2 to Article 5 are declared complete based on this Regulation of the Minister and shall be listed in the List of Private Electronic System Operator.
- (2) The List of Private Electronic System Operator as referred to in paragraph (1) is posted in the website page managed by the Ministry.

## Part Three

### The Imposition of Administrative Sanction and Normalization

#### Article 7

- (1) The Minister shall impose administrative sanction to Private Electronic System Operator who:
  - a. Fails to register as referred to in Article 2 and Article 4;
  - b. Has obtained registry but did not report the amendment on registration information as referred to in Article 5;
  - c. Fails to provide registration information as referred to in Article 3 paragraph (3), Article 3 paragraph (4), and Article 4 paragraph (2) correctly.
- (2) **In the case that Private Electronic System Operator fails to register as referred to in paragraph (1) letter a, the Minister shall impose administrative sanction in the form of Access Blocking on Electronic System.**
- (3) In the case that Private Electronic System Operator **has obtained registry but did not report the amendment on registration information** as referred to in paragraph (1) letter b or did not provide correct registration information as referred to in paragraph (1) letter c, the Minister shall impose administrative sanction in the form of:
  - a. **Written warning through email (electronic mail) and/or other electronic media;**
  - b. **Temporary termination of Private Electronic System Operator in the case that the written warning as referred to in paragraph (3) letter a is ignored;**
  - c. **Access Blocking on Electronic System and revocation of Registry Electronic System Operator in the case that Private Electronic System Operator fails to provide confirmation within 7 (seven) days period after temporary termination as referred to in paragraph (3) letter b.**
- (4) In requirements as referred to in Article 2 until Article 5, The Minister shall perform Normalization on the Electronic System which access was blocked as referred to in paragraph (2).
- (5) In the case that a Private Electronic System Operator has made an update for the correct registration information, the Minister shall perform Normalization on Electronic System which was temporarily terminated as referred to in paragraph (3) letter b.
- (6) In the case that Private Electronic System Operator has re-register and provide correct registration information, the Minister shall perform Normalization on the Electronic System which access was blocked and which registry of the Electronic System Operator was revoked as referred to in paragraph (3) letter c.

## Article 8

- (1) The Minister may impose administrative sanction to Private Electronic System Operator the case that Private Electronic System Operator has fulfilled the registration based on request from the Ministry or Institution on the basis of violation of the law and regulation in the authorized Ministry's or Institution's sector in accordance with the provisions of the law and regulation.
- (2) In the case that the administrative sanction imposed to Private Electronic System Operator as referred to in paragraph (1) is Access Blocking for the Electronic System, the Minister shall perform Normalization based on recommendation submission by the Ministry or Institution on the basis of Private Electronic System Operator service that has fulfilled the provisions of the law and regulations.

## CHAPTER III

### THE GOVERNANCE AND MODERATION OF ELECTRONIC INFORMATION AND/OR ELECTRONIC DOCUMENT

#### Part One

##### General

## Article 9

- (1) Private Electronic System Operator is responsible for the provision of Electronic System and the management of Electronic Information and/or Electronic Document in the Electronic System in a reliable, safety and responsible manner.
- (2) Private Electronic System Operator shall be obligated to provide service usage instruction in Indonesian Language in accordance with the provisions of the law.
- (3) Private Electronic System Operator shall be obligated to ensure:
  - a. The Electronic System does not contain any prohibited Electronic information and/or Electronic document; and
  - b. The Electronic System does not facilitate the dissemination of prohibited Electronic information and/or Electronic documents.
- (4) Prohibited Electronic information and/or Electronic document as referred to in paragraph (3) is classified into:
  - a. Violation of the provisions of the law and regulation;
  - b. Community anxiety and disturbance in public order; and
  - c. Inform ways or provide access on prohibited Electronic information and/or Electronic documents.
- (5) Prohibited Electronic information and/or Electronic document as referred to in paragraph (4) letter b is stipulated by The Ministry or Institution in accordance with the provisions of the law and regulation.



- (6) Private Electronic System Operator who fails to fulfil the obligations as referred to in paragraph (3) shall be imposed with access blocking on its Electronic System in accordance with the provisions in this Regulation of the Minister.

## Part Two

### Obligations of User Generated Content Private Electronic System Operator

#### Article 10

- (1) In order to fulfil the obligations as referred to in Article 9 paragraph (3), User Generated Content Private Electronic System Operator shall:
  - a. Have governance on Electronic information and/or Electronic document; and
  - b. Provide a reporting facility.
- (2) Governance as referred to in paragraph (1) letter a shall at least contains the following provisions:
  - a. The rights and obligations of Electronic System User in using Electronic System service;
  - b. The rights and obligations of Private Electronic System Operator in conducting Electronic System operational activities;
  - c. Provisions on accountability on Electronic information and/or Electronic document uploaded by Electronic System User; and
  - d. The availability of complaint facility and service and settlement.
- (3) Reporting facility as referred to in paragraph (1) letter b shall be accessible by public and used for complaint and/or report submission on prohibited Electronic information and/or Electronic document contained in the Electronic System managed by such party.
- (4) With respect to complaints and/or reports on prohibited Electronic information and/or Electronic documents as referred to in paragraph (3), the Private Electronic System Operator shall:
  - a. provide response to complaints and/or reports to the complaining and/or reporting parties;
  - b. conduct independent inspection on complaints and/or reports and/or request for complaints and/or reports verification to the Minister and/or the related Ministry or Institution;
  - c. provide notification to Electronic System User regarding complaints and/or reports against Electronic information and/or Electronic documents uploaded by Electronic System Users; and reject complaints and/or reports if the Electronic information and/or Electronic documents reported are not prohibited Electronic information and/or Electronic documents.

(5) The Electronic System access of Private Electronic System Operators who fails to perform the obligations as referred to in paragraph (1) and paragraph (4) shall be blocked (access blocking) in accordance with the provisions in this Regulation of the Minister.

Intermediary liability safe harbor fashioned after DMCA 512 but actually mandatory takedown because it gets blocked per Article 10(5)

#### Article 11

User Generated Content Private Electronic System Operators can be exempted from legal liability regarding prohibited Electronic information and/or Electronic documents that are transmitted or distributed through their Electronic Systems in the case that Private Electronic

#### System Operator:

- a. Has performed the obligations as referred to in Article 9 paragraph (3) and Article 10;
- b. Provides Subscriber Information who uploaded the prohibited Electronic information and/or Electronic document for the purpose of supervision and law enforcement; and
- c. Performs Access Blocking (take down) on the prohibited Electronic information and/or Electronic document.

### Part Three

#### Obligations of Cloud Computing Operator

#### Article 12

- (1) In order to fulfil the obligations as referred to in Article 9 paragraph (3), Cloud Computing Operator shall be obligated to have Electronic information and/or Electronic document governance.
- (2) The governance as referred to in paragraph (1) shall at least contain the following:
  - a. The rights and obligations of Cloud Computing Operator service user in using Cloud Computing;
  - b. The rights and obligations of Cloud Computing Operator in performing Cloud Computing operational activities; and
  - c. Provisions on the accountability of Cloud Computing Operator service user in terms of storing Electronic information and/or Electronic documents on Cloud Computing.
- (3) Cloud Computing Operator shall provide Electronic information and/or Electronic data regarding Cloud Computing Operator service users under their control for the purpose of supervision and law enforcement.

## CHAPTER IV

ACCESS BLOCKING REQUEST FOR PROHIBITED ELECTRONIC INFORMATION  
AND/OR ELECTRONIC DOCUMENT

**Part One**

General

Article 13

- (1) Private Electronic System Operators shall be obligated to take down the prohibited Electronic information and/or Electronic document as referred to in Article 9 paragraph (4).
- (2) The obligation to perform take down as referred to in paragraph (1) shall include Access Blocking on Electronic information and/or Electronic document that can facilitate the dissemination of such prohibited Electronic information and/or Electronic document.

**Article 14**

- (1) Access Blocking request on the prohibited Electronic Information and/or Electronic document as referred to in Article 13 can be submitted by:
  - a. The public;
  - b. The Ministry or Institution;
  - c. Law Enforcement Official; and/or
  - d. Judicial Institution.
- (2) Request as referred to in paragraph (1) can be submitted through:
  - a. website and/or application;
  - b. non electronic mail; and/or
  - c. electronic mail.
- d. Request as referred to in paragraph (1) is urgent in the case it contains:
  - a. terrorism;
  - b. child pornography; or
  - c. content causing unsettling situation for the public and disturbing public order.

**Part Two**

Access Blocking Request by the Public

Article 15

- (1) Access Blocking Request for prohibited Electronic information and/or Electronic document by the public as referred to in Article 14 paragraph (1) letter a shall be submitted to:
  - a. The Ministry or Institution authorized to grant Access Blocking request on:

1. Prohibited Electronic information and/or Electronic document under their authority; and/or
  2. Electronic information and/or Dokumen Elektronik that can facilitate the access of prohibited Electronic information and/or Electronic Document under their authority based on the provisions of the law and regulation, or
- b. The Minister for Access Blocking request on:
1. Prohibited Electronic information and/or Electronic document containing pornography and/or gambling;
  2. Electronic information and/or Electronic document that can facilitate the access of prohibited Electronic information and/or Electronic document containing pornography and/or gambling.
- (2) Access Blocking request submitted by the public as referred to in paragraph (1) shall at least contain information on:
- a. Identity of the applicant;
  - b. image or screen capture showing the prohibited Electronic information and/or Electronic document;
  - c. specific link or Uniform Resource Locator (URL) that leads to the prohibited Electronic information and/or Electronic document which access is requested to be blocked; and
  - d. reasons for request.
- (3) The Ministry or Institution receiving Access Blocking request from the public as referred to in paragraph (1) letter a shall submit Access Blocking request to the Minister.
- (4) The Minister shall instruct Private Electronic System Operator to perform Access Blocking (take down) on the prohibited Electronic information and/or Electronic document as referred to in paragraph (1).
- (5) Access Blocking (take down) instruction as referred to in paragraph (4) shall be submitted through email or other Electronic System.
- (6) Private Electronic System Operator who is instructed to perform Access Blocking (take down) as referred to in paragraph (4) shall perform Access Blocking (take down) on Prohibited Electronic Information and/or Electronic Document at the latest 1 x 24 (one times twenty four) hours after the instruction letter to perform Access Blocking (take down) is received.
- (7) In the case that Private Electronic System Operator fails to perform Access Blocking (take down) on Prohibited Electronic Information and/or Electronic Document as referred to in paragraph (6), the Minister may perform Access Blocking and/or instruct ISP to perform Access Blocking on its Electronic System (access blocking) after taking into consideration the reasons submitted by Private Electronic System Operator.
- (8) For urgent access blocking (take down) request for Prohibited Electronic Information and/or Electronic Document as referred to in Article 14 paragraph (3), Private Electronic System Operator shall perform Access Blocking (take down) on Prohibited Electronic Information and/or Electronic Document immediately without delay at the latest 4 (four) hours after the warning is received.
- (9) In the case that Private Electronic System Operator fails to perform Access Blocking (take down) on such urgent Prohibited Electronic Information and/or Electronic Document at the latest within 4 (four) hours as referred to in paragraph (8), the

Minister may perform Access Blocking and/or instruct ISP to perform Access Blocking on its Electronic System (access blocking) after taking into consideration the reasons submitted by Private Electronic System Operator.

- (10) Private Electronic System Operator for User Generated Content who fails to perform Access Blocking (take down) on Prohibited Electronic Information and/or Electronic Document as referred to in paragraph (6) and paragraph (8) shall be imposed with penalty administrative sanction which amount shall be based on the provisions of the law and regulation concerning Non-Tax State Revenue.
- (11) Sanction as referred to in paragraph (10) shall be informed through a warning letter sent to Private Electronic System Operator for every 1 x 24 (one times twenty four) hours for the provision as referred to in paragraph (6) and 1 x 4 (one times four) hours for the provision as referred to in paragraph (8) with 3 (three) times warning letter conveyance at the most.
- (12) In the case that User Generated Content Private Electronic System Operator fails to perform Access Blocking (take down) and/or fails to pay the penalty as referred to in paragraph (10), the Minister may perform Access Blocking and/or instruct ISP to perform Access Blocking on its Electronic System (access blocking) after taking into consideration the reasons submitted by Private Electronic System Operator.

### Part Three

Access Blocking Request by The Ministry or Institution, Law Enforcement Official and Judicial Institution

#### Article 16

- (1) The concerned Ministry or Institution shall coordinate with the Minister for Access Blocking on Prohibited Electronic Information and/or Electronic Document as referred to in Article 9 paragraph (4).
- (2) Law Enforcement Official may request for Access Blocking on Prohibited Electronic Information and/or Electronic Document as referred to in Article 9 paragraph (4) to the Minister.
- (3) Judicial Institution may instruct Access Blocking on prohibited Electronic information and/or Electronic document as referred to in Article 9 paragraph (4) to the Minister.
- (4) Access Blocking as referred to in paragraph (1), paragraph (2), and paragraph (3) shall be submitted by The Ministry or Institution, Law Enforcement Official or Judicial Institution by attaching at least:
  - a. Official letter from The Ministry or Institution, Law Enforcement Official or decree letter and/or court order from Judicial Institution;
  - b. Legal analysis on Prohibited Electronic Information and/or Electronic Document;
  - c. Image or screen capture showing the Prohibited Electronic Information and/or Electronic Document; and
  - d. Specific link or URL that leads to the Prohibited Electronic Information and/or Electronic Document.

- (5) the Minister shall instruct Private Electronic System Operator to perform Access Blocking (take down) on Prohibited Electronic Information and/or Electronic Document.
- (6) Instruction for Access Blocking (take down) as referred to in paragraph (5) shall be sent through electronic mail (email) or other Electronic System.
- (7) Private Electronic System Operator who is instructed to perform Access Blocking (take down) as referred to in paragraph (5) shall be obligated to perform Access Blocking (take down) on the Prohibited Electronic Information and/or Electronic Document at the latest 1 x 24 (one times twenty-four) hours after the instruction letter for Access Blocking (take down) is received.
- (8) In the case that Private Electronic System Operator fails to perform access blocking (take down) on Prohibited Electronic Information and/or Electronic Document as referred to in paragraph (7), the Minister shall perform Access Blocking and/or instruct ISP to perform Access Blocking on its Electronic System (access blocking).
- (9) For urgent Access Blocking (take down) request on Prohibited Electronic Information and/or Electronic Document as referred to in Article 14 paragraph (3), Private Electronic System Operator shall be obligated to perform Access Blocking (take down) on Prohibited Electronic Information and/or Electronic Document and/or Electronic information and/or Electronic document that can facilitate the accessibility of such Prohibited Electronic Information and/or Electronic Document immediately without delay at the latest 4 (four) hours after the warning is received.
- (10) For Private Electronic System Operator who fails to perform access blocking (take down) as referred to in paragraph (9), the Minister shall perform Access Blocking and/or instruct ISP to perform Access Blocking on its Electronic System (access blocking).
- (11) User Generated Content Private Electronic System Operator for who fails to perform access blocking (take down) on Prohibited Electronic Information and/or Electronic Document as referred to in paragraph (7) and paragraph (9) shall be imposed with penalty administrative sanction which amount shall be based on the provisions of the law and regulation concerning Non-Tax State Revenue.
- (12) Sanction as referred to in paragraph (11) shall be informed through a warning letter sent to Private Electronic System Operator for every 1 x 24 (one times twenty-four) hours for the provision as referred to in paragraph (7) and 1 x 4 (one times four) hours for the provision as referred to in paragraph (9) with 3 (three) times warning letter conveyance at the most.
- (13) In the case that Private Electronic System Operator fails to perform Access Blocking (take down) as referred to in paragraph (7) and paragraph (9) and/or fails to pay penalty as referred to in paragraph (11), the Minister shall perform Access Blocking and/or instruct ISP to perform Access Blocking on its Electronic System (access blocking).

#### Article 17

- (1) Written request for Access Blocking from The Ministry or Institution, Law Enforcement Official, and/or Judicial Institution shall be performed by a Contact Person.
- (2) The provisions for Access Blocking as referred to in Article 15 and Article 16 are not applicable for Private Electronic System Operator for Cloud Computing Operator.

#### Part Four

##### The Role of Internet Service Operator

#### Article 18

- (1) ISP shall perform Access Blocking on Electronic System of Private Electronic System Operator which is instructed by the Minister to block the access as referred to in Article 15 paragraph (6), paragraph (8), and paragraph (12).
- (2) Access Blocking as referred to in paragraph (1) can only be performed by the Minister.
- (3) Access Blocking by ISP as referred to in paragraph (1) and paragraph (2) shall be performed under the procedure, method, and/or technology as set forth by the Minister. In the case that ISP fails to perform Access Blocking as referred to in paragraph (1), ISP shall be imposed with sanction in accordance with the provisions of the law and regulation.

#### Article 19

- (1) ISP shall be obligated to display landing page in performing Access Blocking on Electronic System that contains Prohibited Electronic Information and/or Electronic Document and/or facilitates the dissemination of Prohibited Electronic Information and/or Electronic Document.
- (2) Landing page as referred to in paragraph (1) shall not contain Prohibited Electronic Information and/or Electronic Document and/or offer prohibited products in accordance with the provisions of the law and regulation.
- (3) Landing page as referred to in paragraph (1) and (2) shall refer to the format as stipulated in the Annex, which constitute an integral part of this Regulation of the Minister.

#### Part Five

##### Normalization

#### Article 20

- (1) Private Electronic System Operator whose access is blocked for its Sistem Elektronik or The Ministry or Institution may submit request for Normalization to the Minister.
- (2) Request for Normalization by Private Electronic System Operator whose access is blocked for its Electronic System as referred to in paragraph (1) shall be submitted by attaching:
  - a. Written request letter;
  - b. Identity of the person in charge for Electronic System and Contact Number that can be contacted;
  - c. Scan of Identity Card of the owner and/or person in charge of the Electronic System;
  - d. image or screen capture and link (URL) that proves the Electronic System is no longer containing Prohibited Electronic Information and/or Electronic Document;
  - e. Recommendation letter from The Ministry or Institution, Law Enforcement Official, or court order that has permanent legal force; and
  - f. Other proofs that support the legitimation as Private Electronic System Operator.
- (3) Request for Normalization by The Ministry or Institution as referred to in paragraph (1) shall be submitted through written request letter.

- (4) The Minister shall follow-up the request for Normalization that meets the requirements as referred to in paragraph (2) and paragraph (3) at the latest within the period of 2x24 (two times twenty-four) hours.
- (5) The Minister is authorized to reject Normalization on Electronic System which access has been blocked for more than 3 (three) times.

## CHAPTER V

### PROVISION OF ACCESS TO ELECTRONIC SYSTEM AND/OR ELECTRONIC DATA FOR THE PURPOSE OF SUPERVISION AND CRIMINAL LAW ENFORCEMENT

#### Part One

##### General

##### Article 21

- (1) Private Electronic System Operator shall be obligated to grant access on Electronic System and/or Electronic data to The Ministry or Institution for the purpose of **supervision** in accordance with the law and regulation.
- (2) Private Electronic System Operator shall be obligated to grant access on Electronic System and/or Electronic data to Law Enforcement Official for the purpose of **law enforcement** in accordance with the law and regulation
- (3) **The procedure for provision of access to Electronic System and/or Electronic data for the purpose of supervision and law enforcement shall be performed in accordance with the provisions in part two and part three in this Regulation of the Minister.**

#### Part Two

##### The Procedure for Providing Access to Electronic System and/or Electronic Data for The Purpose of Supervision

##### Article 22

- (1) Access granting as referred to in Article 21 shall be performed based **on request made by the Ministry or Institution and Law Enforcement Official.**
- (2) The Procedure of access request as referred to in paragraph (1) shall govern aspects consisting of:
  - a. Scope of authority of The Ministry or Institution in performing supervision and/or law enforcement task in accordance with the law and regulation that become the basis of their authority;
  - b. the purpose and objective and the interest for such access request on Electronic System and/or Electronic Data;



- c. classification on the type of access required based on the purpose and objective and the interest for such access request;
- d. Protection mechanism for the rights of Personal Data owner and third party's interests on access on Electronic System and/or Electronic data requested by The Ministry or Institution;
- e. The period for the fulfilment of access request on Electronic System and/or Electronic data by Private Electronic System Operator;
- f. The period for the use of access on Electronic System and/or Electronic data by The Ministry or Institution;
- g. Access request on Electronic System and/or Electronic data is in urgent or emergency condition that requires immediate granting by Private Electronic System Operator;
- h. Contact Person of The Ministry or Institution who is authorized to submit access request on Electronic System and/or Electronic data.

#### Article 23

- (1) Access request as referred to in Article 21 paragraph (1) shall be submitted to Private Electronic System Operator in written based on the assessment on the purpose of supervision and proportionality and legality of aspects as referred to in Article 22.
- (2) The scope or type of Electronic System and/or Electronic data for access request as referred to in paragraph (1) shall be based on the provisions of the law and regulation that become the basis of the authority of the concerned Ministry or Institution.

#### Article 24

Access on Electronic System and/or Electronic data granted by Private Electronic System Operator to The Ministry or Institution can only be used for the purpose of supervision as stated in the request as referred to in Article 23 paragraph (1).

#### Article 25

- (1) Private Electronic System Operator shall appoint at least one Contact Person domiciled in the territory of Indonesia who is responsible to facilitate access request on Electronic System and/or Electronic data as submitted by The Ministry or Institution.
- (2) Contact Person as referred to in paragraph (1) shall receive an access request on Electronic System and/or Electronic data from a Contact Person designated by The Ministry or Institution and conveyed to Private Electronic System Operator.

#### Article 26

- (1) Private Electronic System Operator shall grant access on the requested Electronic Data by The Ministry or Institution in the case that such request is officially submitted to the Contact Person of Private Electronic System Operator.
- (2) Access request in Electronic data as referred to in paragraph (1) shall be attached with:

- a. the basis of authority of The Ministry or Institution;
- b. the purpose and objective and interest for the request; and
- c. specific description on the type of requested Electronic data.

#### Article 27

The request as referred to Article 26 shall be fulfilled by Private Electronic System Operator at the latest within 5 (five) calendar days as of the request is submitted by the Contact Person of The Ministry or Institution.

#### Article 28

1. Access on Electronic data requested by The Ministry or Institution can be granted using link, application which is created by Private Electronic System Operator, or any other way as agreed between The Ministry or Institution and Private Electronic System Operator.
2. The use of access for the purpose of supervision shall be performed within the required period and shall be accountable.
3. Provision of access to Electronic data as requested by The Ministry or Institution as referred to in paragraph (1) can be performed through the granting of Electronic data to a Contact Person of the concerned Ministry or Institution.

#### Article 29

1. Private Electronic System Operator shall grant access on the requested Electronic System by The Ministry or Institution in the case that such request is officially submitted to the Contact Person of Private Electronic System Operator.
2. Access request on Electronic System as referred to in paragraph (1) shall be attached with:
  - a. the basis of authority of The Ministry or Institution;
  - b. the purpose and objective and interest for the request;
  - c. specific description on the type of requested Electronic data;
  - d. official of the Ministry or Institution that will access the requested Electronic System.
3. The Ministry or Institution may request for technical assistance or other required assistance to Private Electronic System Operator in the use of access on Electronic System.
4. Provision of access to the requested Electronic System by The Ministry or Institution as referred to in paragraph (1) can be performed by giving inspection or audit result on such Electronic System which scope of inspection or audit is requested by The Ministry or Institution.

#### Article 30

1. Access on Electronic System granted by Private Electronic System Operator shall be limited and confidential.
2. Access on Electronic System can only be used by the official of The Ministry or Institution as appointed in Article 29 paragraph (1).
3. Provision of access to Electronic System shall safeguard and protect:
  - a. the integrity, availability, and confidentiality of Electronic Data;

- b. the reliability and security of Electronic System; and
- c. Personal Data stored, transmitted, or processed in the Electronic System.

#### Article 31

Request as referred to Article 29 shall be fulfilled by Private Electronic System Operator at the latest within 5 (five) calendar days as of such request is submitted by the Contact Person of The Ministry or Institution.

### **Part Three**

The Procedure for Provision of Access to Electronic System and/or Electronic Data for The Purpose of Criminal Law Enforcement

#### Article 32

1. Private Electronic System Operator shall grant access on Electronic Data to Law Enforcement Official for the purpose of investigation, prosecution, or trial of criminal act within the legal territory of the Republic of Indonesia.
2. The criminal act as referred to in paragraph (1) is criminal act which punishment is at least 2 (two) years of imprisonment.

#### Article 33

1. Private Electronic System Operator shall grant access on Electronic System to Law Enforcement Official for the purpose of investigation, prosecution, or trial of criminal act within the legal territory of the Republic of Indonesia.
2. The criminal act as referred to in paragraph (1) is criminal act which punishment is imprisonment:
  - a. for at least 5 (five) years;
  - b. under 5 (five) years but not less than 2 (two) years provided that such act obtains ruling from the court in the legal territory where such Law Enforcement Official has jurisdiction.

#### Article 34

In the case that Private Electronic System Operator performs management, processing, and/or storage on Electronic data or Electronic System outside the territory of Indonesia, Private Electronic System Operator shall grant access on Electronic data or Electronic System for the purpose as referred to in Article 32 and Article 33 related with:

- a. The citizen of Indonesia; or
- b. Business Entity established by virtue of the law of Indonesia.

#### Article 35

Access on Electronic System and/or Electronic data granted by Private Electronic System Operator as referred to in Article 32 and Article 33 can only be used for the purpose of investigation, prosecution, trial as stated in the request submitted to the Law Enforcement Official.

#### Article 36

1. Private Electronic System Operator shall grant access on Traffic Data and Subscriber Information as requested by the Law Enforcement Official in the case that such request is official submitted to the Contact Person of Private Electronic System Operator. So no judicial supervision on access to traffic data and subscriber info.
2. Access request on Electronic data as referred to in paragraph (1) shall be attached with:
  - a. the basis of authority of The Law Enforcement Official;
  - b. the purpose and objective and interest for the request;
  - c. specific description on the type of requested Electronic data;
  - d. the criminal act being investigated, prosecuted or in trial;
3. Private Scope Electronic System Operator shall grant access on Communication Content as requested by the Law Enforcement Official in the case that such request is officially submitted by Private Electronic System Operator.
4. Access request on Communication Content as referred to in paragraph (3) shall be attached with:
  - a. the basis of authority of The Law Enforcement Official;
  - b. the purpose and objective and interest for the request;
  - c. specific description on the type of requested Electronic data;
  - d. the criminal act being investigated, prosecuted or in trial;
  - e. Court Ruling from the Chairman of District Court where the Law Enforcement Institution has jurisdiction.
5. Private Electronic System Operator shall grant access on Specific Personal Data as requested by the Law Enforcement Official in the case that such request is submitted based on the provisions as referred to in paragraph (4).

#### Article 37

Request as referred to in Article 36 shall be granted by Private Electronic System Operator at the latest within the period of 5 (five) calendar days as of such request is submitted by the Contact Person of the Law Enforcement Institution.

#### Article 38

1. Access on the requested Electronic data by the Law Enforcement Official can be granted through a link, application created by Private Electronic System Operator, or

other ways as agreed between the Law Enforcement Official and Private Electronic System Operator.

2. The use of access for the purpose of law enforcement shall be performed within a reasonable period of time and shall be accountable.
3. Provision of access to the requested Electronic data by the Law Enforcement Official as referred to in paragraph (1) can be performed through the granting of such Electronic data to the Contact Person of the concerned Law Enforcement Institution.

#### Article 39

1. Private Electronic System Operator shall grant access on the requested Electronic System by the Law Enforcement Official in the case that such request is officially submitted to the Contact Person of Private Electronic System Operator
2. Access request on Electronic System by the Law Enforcement Official as referred to in paragraph (1) shall be attached with:
  - a. the basis of authority of The Law Enforcement Official;
  - b. the purpose and objective and interest for the request;
  - c. specific description on the type of requested Electronic data;
  - d. the criminal act being investigated, prosecuted or in trial;
  - e. Law Enforcement Official who will access the requested Electronic System;
  - f. Court Ruling from the Chairman of District Court where the Law Enforcement Institution has jurisdiction.
3. Law Enforcement Official may request for technical assistance or other required assistance to Private Electronic System Operator in the use of access on Electronic System.
4. Provision of access to the requested Electronic System by the Law Enforcement Official as referred to in paragraph (1) can be performed by giving inspection or audit result on such Electronic System which scope of inspection or audit is requested by The Law Enforcement Official.

#### Article 40

1. Access on Electronic System submitted by Private Electronic System Operator is limited and confidential.
2. Access on Electronic System can only be used by the Law Enforcement Official as specified in Article 39 paragraph (1).
3. Access request on Electronic System shall safeguard and protect:
  - a. the integrity, availability, and confidentiality of Electronic Data;
  - b. the reliability and security of Electronic System; and
  - c. Personal Data stored, transmitted, or processed in the Electronic System.

#### Article 41

Request as referred to in Article 39 shall be granted by Private Electronic System Operator at the latest within 5 (five) calendar days as of such request is submitted by the Contact Person of the Law Enforcement Institution.

Article 42

1. Cloud Computing Operator shall be obligated to grant access on Electronic System and/or Electronic data for the purpose of law enforcement as referred to in Article 21 paragraph (2).
2. The obligation to grant access as referred to in paragraph (1) is only for the purpose of emergency situation related with:
  - a. terrorism;
  - b. child pornography;
  - c. human trafficking;
  - d. organized crime; and/or
  - e. physical injury and life-threatening emergency situation, in accordance with the law and regulation.
3. The obligation to grant access as referred to in paragraph (1) and paragraph (2) shall be fulfilled at the latest within 5 (five) calendar days as of the request date from the Law Enforcement Official is received

**Part Four**

Track Record of Access on Electronic System and/or Electronic Data for the Purpose of Supervision and Criminal Law Enforcement

Article 43

1. Private Electronic System Operator shall have an audit track record on the use of access on Electronic System performed by The Ministry or Institution.
2. Private Electronic System Operator may perform assessment on the implication of the use of access on Electronic System by the Ministry or Institution concerning:
  - a. the service quality provided by Private Electronic System Operator to its Electronic System User;
  - b. Personal Data protection from its Electronic System User; and/or
  - c. obligation fulfilment of Private Electronic System Operator as governed in the Indonesian law and regulation.
3. The use of access for the purpose of supervision shall be performed within a reasonable period of time and shall be accountable.

Article 44

1. Private Electronic System Operator shall have audit track record on the use of access on Electronic System performed by the Law Enforcement Official.
2. Private Electronic System Operator may perform assessment on the implication of the use of access on Electronic System by the Law Enforcement Official concerning:

- a. the service quality provided by Private Electronic System Operator to its Electronic System User;
  - b. Personal Data protection from its Electronic System User; and/or
  - c. obligation fulfilment of Private Electronic System Operator as governed in the Indonesian law and regulation.
3. The use of access for the purpose of law enforcement shall be performed within a reasonable period of time and shall be accountable.

## **Part Five**

### Imposition of Administrative Sanction

#### Article 45

1. In the case that Private Electronic System Operator fails to grant access as referred to in Article 21, The Ministry or Institution and Law Enforcement Official may report it to the Minister.
2. The report as referred to paragraph (1) shall be submitted in written or in electronic form by attaching related information and documents as referred to this Regulation of the Minister in accordance with the requirement for supervision or law enforcement activities that are performed.
3. The Minister shall impose administrative sanction to Private Electronic System Operator who fails to:
  - a. grant access to The Ministry or Institution or Law Enforcement Official as governed in Article 21;
  - b. has audit track record as governed in Article 43 paragraph (1) and Article 44 paragraph (1).
4. Administrative sanction as referred to in paragraph (3) shall be in the form of:
  - a. Written warning;
  - b. temporary termination;
  - c. Access Blocking; and/or
  - d. Revocation of the Registry of Electronic System Operator.
5. Administrative sanction as referred to paragraph (4) shall be informed through electronic mail and/or other electronic media.

#### Article 46

1. In the case that Cloud Computing Operator fails to grant access as referred to Article 12 paragraph (3) and Article 42, Law Enforcement Official may report it to the Minister.
2. The report as referred to paragraph (1) shall be submitted in written or in electronic form by attaching related information and documents as referred to in this Regulation of the Minister in accordance with the requirement for law enforcement activities that are performed.

3. The Minister shall impose Administrative sanction to Cloud Computing Operator who fails to:
  - a. grant access to Law Enforcement Official as governed in Article 42;
  - b. has audit track record as governed in Article 43 paragraph (1) and Article 44 paragraph (1).
4. Administrative sanction as referred to in paragraph (3) shall be in the form of:
  - a. Written warning;
  - b. Revocation of the Registry of Electronic System Operator
5. Administrative sanction as referred to in paragraph (4) shall be informed through electronic mail and/or other electronic media.

## **CHAPTER VI**

### TRANSITIONAL PROVISION

#### Article 47

Private Electronic System Operator as governed in this Regulation of the Minister shall be obligated to register at the latest within 6 (six) months after this Regulation of the Minister shall come into force.

## **CHAPTER VII**

### CLOSING PROVISION

#### Article 48

At the time this Regulation of the Minister shall come into force:

1. The Regulation of the Minister of Communication and Informatics Number 19 of 2014 on the Handling of Negative Content Internet Websites (Official Gazette of the Republic of Indonesia Year 2014 Number 1003); and
2. The Regulation of the Minister of Communication and Informatics Number 36 of 2014 on The Procedure of Electronic System Operator Registration (Official Gazette of the Republic of Indonesia Year 2014 Number 1432), are revoked and declared to be inapplicable.

#### Article 49

This Regulation of Minister shall come into force on the date of promulgation.



In order that every person may know hereof about it, order the promulgation of this Ministerial Regulation by placing it in the Official Gazette of the Republic of Indonesia.

Issued in Jakarta

On November 16, 2020

THE MINISTER OF COMMUNICATION AND INFORMATICS OF THE REPUBLIC OF INDONESIA,

signature

JOHNNY GERARD PLATE

Promulgated in Jakarta

on November 24, 2020

THE DIRECTOR GENERAL

LAW AND REGULATION

THE MINISTER OF JUSTICE AND HUMAN RIGHTS OF THE REPUBLIC OF INDONESIA,

signature

WIDODO EKATJAHJANA

OFFICIAL GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2020 NUMBER 1376

Copy with the same content as the original

The Ministry of Communication and Informatics

Signed electronically by:

THE CHAIRMAN OF LEGAL BUREAU

Bertiana Sari