

Monopoly Practices of the Private Television Industry in Indonesia

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Abstract

Berkembangnya industri televisi swasta menjadi kesatuan ekonomi berbentuk perusahaan grup berakibat perlunya tafsiran hukum baru dalam wilayah hukum perseroan terbatas, hukum penyiaran dan hukum anti monopoli. Media Nusantara Citra (MNC) grup sebagai perusahaan induk televisi swasta RCTI, Global TV, MNC TV membentuk ketiga perusahaan tersebut dengan mengakuisisi sahamnya. Kepemilikan MNC grup atas tiga perusahaan itu bila didasarkan pengambilan saham dengan akuisisi dimaknai Undang-Undang Perseroan Terbatas sebagai usaha untuk melakukan pengendalian, sedangkan dalam Undang-Undang Penyiaran kepemilikan silang dibatasi dan menurut Undang-Undang Anti Monopoli dilarang untuk melakukan kepemilikan saham yang berakibat pada terjadinya monopoli. Kemudian dalam lampiran Peraturan Komisi Pengawas Persaingan Usaha (KPPU) tentang tafsiran Pasal 27 Undang-undang Anti Monopoli terhadap kepemilikan saham, dilarang untuk melakukan pengendalian terhadap dua atau lebih perusahaan yang bergerak di bidang yang sama. Rumusan masalah penelitian ini adalah Mengapa terjadi praktek monopoli industri televisi swasta di Indonesia? Hasil penelitian menyatakan bahwa terjadinya monopoli industri televisi swasta dikarenakan terbukanya peluang bagi pelaku usaha untuk melakukan monopoli. Saran saya agar Komisi Penyiaran Indonesia hendaknya menyikapi monopoli industri televisi di Indonesia dengan tegas agar tidak ada penyalahgunaan televisi swasta oleh sekelompok orang.

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1. INTRODUCTION

Television is one of the media information in Indonesia. Nowadays, people use television to get information quickly and interestingly. Television services provide information with images and sound. The form of television packaging in the form of images and sound certainly has a significant impact on society. This significant influence is the reason for regulations regarding the television industry in Indonesia to be regulated.

One of the factors that influences changes in legal provisions in Indonesia is the advancement of legal thought patterns. The legal mindset is based on conditions that continue to change according to the times. The advancement of legal dynamics in Indonesia as a democratic country has implications for the television industry. Initially, the television industry was exclusively controlled by the state. Krishna Sen, Researcher from Mudoch University said that television broadcasting media is the private life of a nation state. The meaning of private life is that it is related to matters of a public nature, so initially broadcast media was regulated by a special agency formed by the state

The political situation that seemed authoritarian during the New Order era forced legal experts to help improve the law. The legal area regarding the private television industry is a priority area. Regulations in the television sector changed quite drastically with the promulgation of Law No. 32 of 2002 concerning Broadcasting (UUP). The UUP regulates several broadcasting institutions, one of which is private broadcasting institutions. Further regulations regarding private television will be regulated in applicable legislation.

Based on the considerations for the formation of the UUP, it is to carry out democratization and support the fulfillment of the interests of the community in channeling their aspirations in accordance with Pancasila. Then, in organizing television activities, the UUP explains Article 5 letter g which states that broadcasting is directed not to be a monopoly and is carried out based on healthy competition. Likewise in Article 18 paragraph (2) of the UUP states that cross-ownership of private television is limited. Private television regulations are further regulated in government regulations.

In accordance with the rules of statutory regulations, the government also plays a role in issuing regulations that have a structure under the law to regulate in more detail the issues regulated in the law. Norms regarding private television are regulated in Government Regulation No. 50 of 2005 concerning Private Broadcasting Institutions (PPLPS). Article 1 number 2 PPLPS states that private broadcasting institutions are commercial broadcasting institutions in the form of Indonesian legal entities, whose business sector only provides radio or television broadcasting services.

The role of Government Regulation is to prevent monopolistic practices in the private television sector, so restrictions on private television ownership are regulated in this regulation. The concentration of ownership and control of private broadcasting institutions by one person or by one legal entity, either in one broadcast area or in several broadcast areas, is limited. Article 32 paragraph (1) PPLPS states that private television ownership by business actors or legal entities is regulated at a maximum of one hundred percent share ownership in the first legal entity, forty-nine percent in the second legal entity and thirty percent in the third legal entity.

Cross-ownership in Article 32 PPLPS also relates to shares. The share limit is a benchmark for allowing cross ownership. Cross share ownership is also regulated in Law No. 40 of 2007 concerning Limited Liability Companies (UUPT). Article 36 of the Company Law explains that it is not without regulations that a Limited Liability Company can issue its shares. Limited Liability Companies are bound by a prohibition on issuing shares to themselves. According to Article 36 of the Company Law, companies are prohibited from issuing shares for themselves unless otherwise regulated in different statutory regulations.

Basically, issuing shares is an effort to seek capital and the obligation to deposit should be borne by external parties. The prohibition on owning one's own company is also not permitted, even if there is a relationship between a subsidiary and a parent company. This reason arises because the relationship between the subsidiary and the parent company is considered to have more influence on the policies that will be issued regarding share ownership. The subsidiary in question has a special relationship with the parent company because:

- 1) More than 50% (fifty percent) of the shares are owned by the parent company.
- 2) 50% (fifty percent) of the votes in the RUP are controlled by the parent company
- 3) Control over the running of the Company is greatly influenced by its parent company.

The explanation of Article 36 paragraph (1) of the Company Law states that the prohibition of cross ownership (cross holding) occurs if the Company owns shares issued by another Company that owns the Company's shares, either directly or indirectly. Owning shares in a second company without having ownership in one or more "intermediate companies" and vice versa, the second company owns shares in the first company. The meaning of indirect cross ownership is the first Company's ownership of shares in the second Company through ownership in one or more "intermediate companies" and vice versa, the second Company owns shares in the first Company. Then the explanation in Article 36 paragraph (2) of the PT UUPT is that ownership of shares results in Ownership of shares by the Company itself or ownership of shares by cross-ownership is not prohibited

if the ownership of the shares is obtained based on a transfer by law, gift or bequest because in this case there is no issuance of shares that requires a deposit of funds from another party so that it does not violate the prohibition provisions as intended in paragraph (1).

Cross share ownership in a private industry is also regulated in Law no. 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition (UUAM). Article 27 UUAM explains that business actors are prohibited from owning majority shares in several similar companies carrying out business activities in the same field in the same relevant market, or establishing several companies that have the same business activities in the same relevant market, if such ownership results in:

- 1) Business actors control fifty percent of the same market share.
- 2) Two or more business actors have the same seventy-five percent market share.

Then please note that cross share ownership can occur from merger, consolidation and acquisition processes. Mergers, acquisitions and consolidation are prohibited if they can lead to monopolistic practices. Merger or consolidation behavior is prohibited because it allows market concentration for certain businesses.

In order to enforce anti-monopoly conditions and fair competition, a Commission was formed whose task was to monitor market conditions and was then called the Business Competition Supervisory Commission (KPPU). KPPU was formed to supervise the implementation of UUAM. The KPPU has the task of assessing the actions of business actors, whether there is a dominant position which results in monopolistic practices. The authority of the KPPU is to conduct investigations into allegations of monopolistic practices, conclude them and decide whether there are monopolistic practices. Apart from that, the KPPU also has the authority to conduct research into whether there are monopolistic practices or unfair business competition.

The KPPU once declared it guilty in a case of cross-share control of one of the telecommunications industries in Indonesia. Based on the decision of the Business Competition Supervisory Commission (KPPU) Case Number 7/KPPU-L/2007 which decided Temasek and stated that Temasek Holdings, Pte. Ltd. together with Singapore Technologies Telemedia Pte. Ltd., STT Communications Ltd., Asia Mobile Holding Company Pte. Ltd, Asia Mobile Holdings Pte. Ltd., Indonesia Communication Limited, Indonesia Communication Pte. Ltd., Singapore Telecommunications Ltd., and Singapore Telecom Mobile Pte. Ltd. was legally and convincingly proven to have violated Article 27 letter a of Law No. 5 of 1999.

Temasek and STT are companies operating in the telecommunications sector. Temasek as the parent company indirectly owns shares in PT. Indosat. Tbk at 41.9% (forty-one-point nine percent) and Telkomsel at 35% (thirty-five percent). In this case, the KPPU argued that the majority understanding of the Law Prohibiting Monopolistic Practices and Unfair Business Competition is the control that one business actor has over another business actor.

Based on the quantity, there is no absolute value that can be determined to conclude the existence of control. Ownership of shares with voting rights above 50% (fifty percent) almost certainly provides control to the owner (positive control). Share ownership below 50% (fifty percent) but above 25% (twenty five percent) almost certainly gives the owner the ability to block strategic decisions that require special majority approval (negative control). So that share ownership of 25% (twenty five percent) or more in one company also provides significant control over that company. Meanwhile, share ownership below 25% (twenty five percent) does not necessarily indicate that the owner has no control over the company, certain factors must be considered to see whether the share owner has decisive influence (in EU terms) or material influence (in UK terms) to the direction of company policy. The existence of influence on company policy indicates that the share

owner, even though he is not a controlling shareholder, has the ability to control the company.

In 1997 MNC was founded as a media holding company. Then in 2001 MNC acquired shares in Global TV. MNC's journey didn't just stop there because in 2002 MNC also acquired RCTI. In 2005 MNC increased its power by increasing its share ownership of Global TV to 100% (one hundred percent). Apart from that, Harry Tanoe Soedibyo as CEO of MNC also succeeded in taking over 75% (seventy five percent) of TPI shares in 2010 as a result of debt loan compensation to Siti Hardiyati Sukmana. In 2010 TPI changed its name to MNC TV.

Currently, MNC as the holding company operating in the private television industry oversees RCTI, MNC TV and Global TV. Even though Article 18 of the UUP states that private television ownership is limited. MNC's share ownership of RCTI, MNC TV and Global TV is also through takeover of companies through acquisitions. Acquisition itself means taking ownership of a company. In fact, Article 34 paragraph (4) of the UUP states that the broadcast operation license is prohibited from being transferred to another party. The broadcast operation license is owned by the old party and with the acquisition, the broadcast operation license will likely be transferred to the new owner.

MNC's share ownership in Global TV amounted to 100% (one hundred percent) in 2005, indicating that it could be said that there was a special relationship that could influence the entry and exit of shares by MNC in Global TV. According to Article 36 of the Company Law, companies are prohibited from issuing shares for their own ownership. However, the latest data shows that MNC share ownership in 2012 was controlled by PT Global Mediacom.Tbk at 69.47% (sixty-nine-point forty-seven percent).

The MNC which acts as the parent company also seems to have sufficient bargaining power regarding the business policies of its subsidiaries. Regarding ownership regulations, UUAM prohibits market concentration by business actors. MNC operates as a business actor overseeing RCTI, Global TV and MNC TV in the private television industry. If you refer to Article 27 UUAM which states that it is prohibited for business actors to own shares in several companies operating in the same field.

Apart from the limitations on share ownership percentage above, it is also necessary to refer to the KPPU's interpretation of Case Number 7/KPPU-L/2007 regarding Temasek. The KPPU postulates that cross-share ownership in several companies is sufficient to control the running of the company. Then the KPPU in its decision stated that Temasek and its partners mentioned in the decision were deemed to have violated Article 27 letter a UUAM. Based on the descriptions above, the author is interested in researching "Monopoly Practices in the Private Television Industry in Indonesia."

2. RESEARCH METHOD

Research is a basic means in the development of science and technology, this is because research aims to reveal the truth systematically, methodologically and consistently. Research is a basic means of developing science and technology, this is because research aims to reveal the truth systematically, methodologically and consistently. The type of research that will be used in this thesis research is normative legal research, namely research carried out by examining primary and secondary legal materials.

3. RESEARCH RESULTS AND DISCUSSION

PT. MNC is one of the largest media conglomerates in Indonesia. This media company has businesses in the fields of program production, program distribution, terrestrial television channels, television program channels, newspapers, tabloids and radio networks. This company can be said to be a giant integrated media company. MNC's television

network is the largest in Indonesia with the company/station names: RCTI, MNC TV and Global TV.

RCTI (PT Rajawali Citra Televisi Indonesia) is the first private television station in Indonesia. Founded on August 21, 1987, this television began broadcasting in August 1989. RCTI quickly became the largest private television and to date, RCTI is still the number one television in Indonesia in terms of advertising acquisition and number of audiences.

On August 24, 1989, an important note was written in the history of Indonesian television, the first private television station in Indonesia, RCTI, began broadcasting terrestrially in Jakarta. Airing various entertainment programs, information and news that are packaged in an interesting way. RCTI grew quickly to become an agent of change and reformer in the social dynamics of society in Indonesia.

Currently RCTI is a television station that has the widest reach in Indonesia, through its 48 relay stations, RCTI programs are watched by more than 190.4 million viewers spread across 478 cities throughout the archipelago, or approximately 80.1% (eighty-point one percent) of the total population of Indonesia. This demographic condition is accompanied by attractive program designs followed by good ratings, attracting advertisers to broadcast their promos on RCTI.

From the start, RCTI's goal was to create a series of superior programs on one channel, which would enable advertisers to choose RCTI as a medium for their advertisements. This dream has become a reality because since its founding until now RCTI has always been the market leader. At the age of 22, in 2011 (January - December 2011 period) RCTI still maintained its market leader position with an audience share reaching 17.5% (seventeen point five percent) (ABC, 5+) and 17.8% (All Demography) . RCTI also managed to maintain the highest television advertising share of 15.7% (January - November 2011 period), as reported by Nielsen Audience Measurement.

The second television is Global TV. This television was founded in 1999 but only went on air in October 2001. With a target audience of young people, Global TV is a local television with music program content from MTV Asia (Music Television), a cable television company from Viacom. This program began broadcasting in 2006. Apart from MTV, Global TV also collaborates with Nickelodeon. Global TV has exclusive licenses for programs from MTV, VH1 and Nickelodeon.

Television third namely MNCTV. MNCTV. Initially it used the name TPI, where TPI itself was founded in 1990 in Jakarta, as a company engaged in television broadcasting services in Indonesia. TPI was the third private company to obtain a television broadcasting license on August 1 1990, and the first television station to obtain a national broadcasting license. TPI began operating commercially on January 23 1991. And in July 2006, Media Nusantara Citra (MNC) acquired 75% of TPI's shares. Since then, TPI has officially joined as one of the television stations managed by MNC which is also the parent company of RCTI and Global TV.

MNCTV is one of the pioneers of private television stations in Indonesia which began broadcasting under a new name on October 20 2010 (formerly TPI) with permission from the Minister of Information No.127/E/RTF/K/VIII/1990, and reaches 158 (one hundred and fifty-eight) million viewers throughout Indonesia. Based on Nielsen research, in the midst of increasingly fierce competition in the television industry, MNCTV succeeded in reaching position 1 with 16.6% audience share in April 2005.

Regarding the status of the MNC group which oversees 3 (three) companies operating in the private television industry, this is a business activity by business actors in the private television sector. Business activities by private television business actors are permitted to carry out capital investment. According to Article 12 paragraph (1) of Law No. 25 of 2007 concerning Capital Investment (UUPM), all business fields or types of business are open to

investment activities, except for business fields or types of business which are declared closed and open with conditions. MNC share ownership group against RCTI, Global TV, and MNC if seen UUPM is allowed to become a field for investors to invest capital. According to the attachment to Government Regulation No. 36 of 2010 concerning List of Closed Business Fields and Open Business Fields with Requirements in the Field of Capital Investment (PPBTBT), private television is a business field that is open to investment.

Regarding private television share ownership, the attachment (PPBTBT) explains that the private television sector must be 100% (one hundred percent) owned by domestic capital. Additions and developments in order to fulfill capital requirements originating from foreign capital, the amount may not exceed 20% (twenty percent) of the total capital and must be owned by a minimum of two shareholders.

According to Law No. 32 of 2002 concerning Broadcasting Articles 16, 17, 18, 19 and 20 contain matters regarding private broadcasting institutions. Private broadcasting institutions are commercial broadcasting institutions, in the form of Indonesian legal entities that provide radio and television broadcasting services. Regarding cross-ownership, it is actually stated that it is limited by this Law, but more detailed regulations will be regulated through Government Regulations.

A. Private Television as Part of Private Broadcasting Institutions

Private broadcasting institutions according to Law no. 32 of 2002 concerning Broadcasting (UUP) as intended in Article 13 paragraph (2) letter b is a commercial broadcasting institution in the form of an Indonesian legal entity, whose business field is only providing radio or television broadcasting services (Article 16 paragraph (1) UUP). Furthermore, it can be concluded that television is one of the services of private broadcasting. This means that there is an open opportunity for business actors to enter the private television industry by referring to the applicable laws and regulations in the broadcasting sector.

Regarding the management structure, Article 16 paragraph (2) of the UUP states that foreign citizens are prohibited from becoming administrators of Private Broadcasting Institutions, except in the financial and technical fields.

The establishment of private broadcasting institutions is determined in Article 17 paragraph (1) of the UUP, namely, Private Broadcasting Institutions as intended in Article 16 paragraph (1) of the UUP are established with initial capital which is wholly owned by Indonesian citizens and/or Indonesian legal entities.

Article 17 paragraph (2) of the UUP states that Private Broadcasting Institutions can carry out additions and developments in order to fulfill capital originating from foreign capital, the amount of which is not more than 20% (twenty percent) of the total capital and is owned by a minimum of 2 (two) shareholders.

Article 17 paragraph (3) of the UUP determines that Private Broadcasting Institutions are obliged to provide employees with the opportunity to own company shares and share in company profits. Article 18 of the UUP determines that cross-ownership of private broadcasting institutions is limited, namely:

- a) The concentration of ownership and control of Private Broadcasting Institutions by one person or one legal entity, either in one broadcast area or in several broadcast areas, is limited.
- b) Cross-ownership between Private Broadcasting Institutions providing radio broadcasting services and Private Broadcasting Institutions providing television broadcasting services, between Private Broadcasting Institutions and print media companies, as well as between Private Broadcasting Institutions and private broadcasting institutions providing other broadcasting services, either directly or indirectly, is limited.

- c) Regulations on the number and coverage of local, regional and national broadcast areas, both for radio broadcasting services and television broadcasting services, are prepared by the KPI together with the Government.
- d) Further provisions regarding restrictions on ownership and control as intended in paragraph (1) and restrictions on cross-ownership as intended in paragraph (2) are prepared by KPI together with the Government.

In Government Regulation No. 50 of 2005 concerning the Implementation of Broadcasting for Private Broadcasting Institutions, Article 32 paragraph (1) states that the centralization of ownership and control of Private Broadcasting Institutions for television broadcasting services by 1 (one) person or 1 (one) legal entity, both in one region broadcasts as well as in several broadcast areas, throughout Indonesia are limited as follows:

- a. 1 (one) legal entity has a maximum of 2 (two) licenses to operate television broadcasting services, located in 2 (two) different provinces;
- b. owning a maximum of 100% (one hundred percent) shares in the 1st (1st) legal entity;
- c. owning a maximum of 49% (forty-nine percent) shares in the 2nd (second) legal entity;
- d. owning a maximum of 20% (twenty percent) shares in the 3rd (third) legal entity;
- e. owning a maximum of 5% (five percent) shares in the 4th (fourth) legal entity and so on;
- f. legal entities as referred to in letters b, c, d, and e, are located in several provinces spread throughout Indonesia.

B. The Occurrence of Cross Share Ownership in the Private Television Industry in Indonesia

An MNC group is a company that is initially founded and functions as a holding company. A holding company like an MNC certainly has reasons for being established. company. The parent company serves as a central leader to direct group company members to support the company's economic interests as an economic unit.

If compared with company law, the group company form has special behavior regarding the independent relationship between subsidiaries and parent companies as regulated in the Company Law. This special behavior can be seen from an economic point of view because group companies are under central leadership. Based on this understanding, it can be said that a group company is an economic unit consisting of independent companies with subsidiary and parent company status.

The explanation above explains that group companies must also comply with company regulations because there is a permanent pattern of subsidiary independence which is regulated according to company regulations. Juridical recognition of the independence of subsidiaries and parent companies is a problem. The reality is that the parent company will have quite an influence on subsidiary policies such as the placement of directors, business contracts and so on. The parent company has a position as the central leader to achieve economic harmony. The concept of a holding company is carried out to control subsidiaries, this is what conflicts with the juridical aspect of company independence.

The MNC group as a business actor in the private television industry has control over three private television stations, namely RCTI, Global TV, MNC TV, of course reducing competition between the private television industry. As the business actor in charge of the television company, the MNC group has quite an influence on the private television market.

The MNC Group's business journey is also interesting to mention because in running its business in the private television sector, the MNC Group did not start from scratch. The MNC Group succeeded in becoming the holding company for a fairly large private television company by acquiring private television such as RCTI and Global TV. Apart from that, in 2010 the MNC group also succeeded in making Indonesian Educational Television, which was previously controlled by Siti Hardiyati Rukmana, change its name to MNC TV.

The background to the change of TPI's name to MNC TV was due to the transfer of 75% (seventy five percent) of TPI's shares to PT. Berkah Karya because of Siti Hardiyati Rukmana's debt agreement. Transfer of shares from TPI to PT. Berkah Karya is an action called acquisition.

According to IG Rai Widjaya, acquisition is the act of becoming the owner of a particular property. Acquisitions can also take the form of taking over another company by purchasing voting rights or shares from the company. Article 125 paragraph (3) of the Company Law explains that the process of purchasing or taking over or what is known as acquisition is with the intention of taking over control of the company.

Some of these are descriptions of the objectives of the acquisition, namely:

1. Obtaining markets or customers that were not previously owned, then getting these customers after the acquisition.
2. Obtain marketing rights that were not previously owned.
3. Reducing or inhibiting competition.

The acquisition process can be carried out by purchasing cash or transferring shares from the company selling shares to the buying company.

Through acquisitions, the MNC group purchased shares in RCTI, Global TV and MNC TV. Acquisitions can be carried out internally and externally. Internal acquisitions are carried out on companies from one's own group, while external acquisitions are carried out on companies outside the group or from other groups.

MNC's acquisition of RCTI, Global TV and MNC TV was initially included in the form of external acquisition. After RCTI, Global TV and MNC TV joined the MNC group, the acquisition of shares was interpreted as an internal acquisition.

Based on the description of the acquisition above, it can be concluded that through the acquisition the MNC group can own shares in several companies such as RCTI, Global TV and MNC TV. The acquisition method is quite easy to be able to implement share ownership in several companies because you only need to purchase shares and In the end control can be carried out.

The KPPU in its cross-ownership guidelines tries to interpret the limitations of cross-share ownership as regulated in Article 27 UUAM. KPPU Regulation No. 7 of 2011 concerning Guidelines for Article 27 (Share Ownership) of Law No. 5 of 1999 concerning Prohibition of Monopoly Practices and Unfair Competition, one of the actions that results in unhealthy business competition is the action of majority share ownership in several companies who have the same business activities in the relevant market which results in the creation of a dominant position as stated in the UUAM.

Acquisition regulated in KPPU regulation no. 7 of 2011 concerning the explanation of Article 27 UUAM explains that takeovers or acquisitions may not be carried out if they lead to monopolistic practices. The situation of majority cross ownership of companies operating in the same field is thought to be able to carry out activities such as placing company structures which result in company control. Control is carried out with a subsidiary structure with the parent company. The parent company, which will later become the shareholder of the subsidiary company, will place directors or leaders of the subsidiary company so that it is synergistic with the economic unity plan.

Based on KPPU Regulation no. 1 of 2009 concerning Pre-Notification of Mergers and Acquisitions, it is stated that if there is a certain nominal value of the acquisition, pre-notification is required. Pre-notification itself in Article 1 of KPPU Regulation No.1 of 2009 is notification of takeover activities by business actors to the KPPU so that they can provide input regarding the consequences of the takeover. Business actors can pre-notify the takeover if the takeover of shares with voting rights is at least twenty-five percent and less than twenty-five percent but there is a possibility of control.

Cross share ownership by the MNC group of RCTI, Global TV and MNC TV occurred because the door opened to purchase shares in several companies operating in the same field even though there were restrictions on cross ownership. The UUPT does not specifically regulate the prohibition on cross-ownership. The UUPT only regulates the prohibition on selling shares to oneself. This provision is also excluded if the transfer is due to law, gift or will.

Cross share ownership occurs in the UUAM because this law allows cross share ownership with certain limitations. Business actors, in the sense of legal entities and non-legal entities, are welcome to own cross-shares in several companies operating in the same field as long as they do not exceed the limits specified in this law.

4. CONCLUSION

Based on the discussion in the previous chapter, the conclusions that can be drawn are:

1. The occurrence of share ownership in the private television industry in Indonesia is due to the opening of business actors to develop their business in the private television sector for several companies under the auspices of holding companies or group companies as regulated in Article 32 PPLPS. The UUP has limited cross-ownership of private television, however, by following existing procedures and provisions, business actors are allowed to own cross-shares in the private television industry.

Based on Article 27 UUAM and in business competition law, cross-ownership is permitted as long as it is limited. Limitations are set for owning shares in an industry operating in the same field as long as it does not result in controlling majority share ownership. Business actors in this case are prohibited from controlling other companies.

The cross-share ownership that occurs in the private television industry such as the MNC group towards RCTI, Global TV and MNC TV is the result of a form of acquisition. Acquisition according to the PT UUPT aims to exercise control. The form of control carried out in the private television industry uses a group company pattern. Even though there are no definite rules relating to group companies economically, they are still binding on the rules of company independence regulated in the UUPT.

2. Cross share ownership in the private television industry in Indonesia can be seen from at least three laws, namely:
 - a) According to the Company Law, companies or companies can only issue their shares to parties outside the company. In the case of the MNC group, the MNC group as the parent company of RCTI, Global TV and MNC TV has carried out expenditure activities and purchased controlling shares for itself. Based on the Company Law, the activity of issuing shares for oneself is prohibited.
 - b) According to the UUP, cross ownership of shares is prohibited if it exceeds the limits that have been determined based on the regulations that have been established. PPLPS regulates in Article 32 that private television which is included in the private broadcasting sector must follow the limits that have been set. The limit specified is a maximum share ownership of up to 100 percent in the first legal entity and 49 percent in the second legal entity. In relation to these provisions, it turns out that the MNC group owned 100 percent shares in Global TV in 2005 and

in 2006 acquired TPI with a share ownership of 75 percent. If you refer to the rules of Article 32 of the PPLPS, the MNC group has bypassed the provisions of the PPLPS.

- c) According to the UUAM, cross-ownership is violated if you have a controlling majority of shares. It should be noted that the MNC group's ownership activities of RCTI, Global TV and MNC TV are through acquisition. Meanwhile, at the beginning it was said that the acquisition had the intention of exercising control. Based on Article 27 UUAM, prohibited share ownership is majority ownership with a certain percentage. However, in KPPU Regulation no. 7 of 2011 says that the majority here intend to control companies operating in the same field. MNC Group is the parent company of three subsidiaries operating in the private television sector. MNC Group's share ownership in companies operating in the private television sector was obtained through acquisition. TV and MNC TV are suspected with the intention of controlling. Meanwhile, controlling two or more companies operating in the same field is prohibited.

5. SUGGESTION

1. The Indonesian Broadcasting Commission should address cross-share ownership in the television industry in Indonesia firmly so that there is no misuse of private television by groups of people.
2. The Business Competition Supervisory Commission must be able to become an independent and progressive institution in interpreting cross-shareholding monopolies in the same industry so that indications of monopoly and unhealthy business competition in Indonesia disappear.

6. REFERENCES

- Abdul R.Saliman, 2010, *Hukum Bisnis Untuk Perusahaan*, Prenada Media Group, Edisi Kedua, Cetakan ke-5, Jakarta
- Budhijanto Danrivanto, 2010, *Hukum Telekomunikasi, Penyiaran dan Teknologi Informasi Regulasi dan Konvergensi*, Refika Aditama, Bandung
- C.S.T. Kansil dan Cristine S.T Kansil, 2005, *Hukum Perusahaan Indonesia (Aspek Hukum Dalam Ekonomi)*, Pradnya Paramita, Jakarta
- I.G.Rai Widjaya, 2006, *Hukum Perusahaan Perseroan Terbatas*, Megapoin, Bekasi
- Krishna Sen, 1997, *Broadcasting In Asia*, AJI-ISAI, Jakarta
- Soerjono Soekanto dan Sri Mamudji, 2001, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, PT. Grafindo Persada, Jakarta
- Soerjono Soekanto, 2013, *Penelitian Hukum Normatif (Suatu Tinjauan Singkat)*, Cetakan 3, PT. Raja Grafindo Persada, Jakarta
- Sulistiwati, 2010, *Perusahaan Grup Di Indonesia*, Penerbit Erlangga, Jakarta
- Suyud Margono, 2009, *Hukum Anti Monopoli*, Sinar Grafika, Jakarta

Internet

- <http://mnc.co.id/corporate-history-milestones/id#content>, 8 November 2013
- <http://www.rcti.tv/pages/view/company-profile>, 8 November 2013.
- <http://www.globaltv.co.id/en/>
- http://www.mnctv.com/index.php?option=com_content&task=view&id=5&Itemid=26, 23 Desember 2013.
- <http://mnc.co.id/ir/shareholder-information/id> diambil pada tanggal 8 November 2013
- <http://mnc.co.id/corporate-history-milestones/id#content> diambil pada tanggal 8 November 2013.

