

Form and Principle of Responsibility in Broadcasting Agency: An Indonesian Experience

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Abstract

Broadcasting is organized to strengthen and to build national integrity, as well as to improve public welfare in order to create society independent, democracy, just and civilized humanity. It is also to grow broadcasting industry in Indonesia. Basically, the purpose of broadcasting is to build national identity as the goal objective for broadcasting agency. The Law No. 32 of 2002 concerning Broadcasting gives a mandate to all broadcasting's stakeholders to embody broadcasting industry in order to create national integrity and national identity...Competency Standard National Working Indonesia (hereinafter referred to SKKNI) is needed in broadcasting area for producer, director, and writer. However, SKKNI does not apply optimally because there is no regulation to govern that the broadcasting agency shall have their own workers in accordance with its competency standards as stipulated in SKKNI. The form of responsibility in Press and Journalism is stated by Ethic of Press and Ethic Code of Journalism and the Guideline of Broadcasting Code and Standard of Broadcasting Program (P3 and SPS). The principle of responsibility is conducted "based on fault principle", according to international, law, administrative law, and criminal law.

Keywords: Form and Principle of responsibility, Broadcasting Agency, Indonesia Experience

1. Introduction

Broadcasting is organized to strengthen and to build national integrity, as well as to improve public welfare in order to create society independent, democracy, just and civilized humanity. It is also to grow broadcasting industry in Indonesia. Basically, the purpose of broadcasting is to build national identity as the goal objective for broadcasting agency. The Law No. 32 of 2002 concerning Broadcasting gives a mandate to all broadcasting's stakeholders to embody broadcasting industry in order to create national integrity and national identity. If the content of the broadcasting has negative sides, it will construct also negative impact to national integrity and national identity. To fulfill the mandate of the Law No. 32 of 2002, the Indonesia, therefore, the Indonesian Broadcasting Commission (hereinafter referred to KPI) based on its tasks and obligation pushes all broadcasting agencies in Indonesia to create or form healthy broadcasting program. One of KPI's reward to keep the healthy broadcasting program in Indonesian broadcasting experience is organizing "KPI's reward – called **Anugerah KPI**".

To create health, qualified, and educated broadcasting programs, KPI tries to control all Indonesian broadcasting programs particular television program version. It tends to see that the programs does not only concern to entertainment programs and getting the rank of the program, but they must also concern to impact of the program to the society. Factually, most entertainment programs on TV have unhealth, unqualified, and uneducated contents. If the orientation of the programs is just to have the number of the spectators, most of the programs then violate the number of broadcasting regulation as stipulated in the Code of Conduct of Broadcasting and the Standardization of the Broadcast Program (hereinafter referred to P3&SPS).

Radio Frequency Spectrum, pursuant to article 1 (8) the Law No. 32 of 2002 concerning Broadcasting, is electromagnetic wave that is used to broadcast and spread in the air and outer space without artificial conductor facilities. It is actually public space and limited natural resources. For those reasons then, the broadcasting agency in its activities uses the public space to create such qualified programs that bring some advantages to the public itself.

Related to some reasons as mentioned above, KPI as mandated to the Law No. 32 of 2002 is able to arrange development planning of human resources in order to guarantee professionalism in the area of broadcasting in Indonesia. It is clear for this condition that it is needed a regulation to order those human resources who work in the broadcasting agency to act professionalism and has a good competency. The competency is actually unification of skill, knowledge, and attitude. It is expected that they will have a good competency with fulfill a standard competency of broadcasting profession in order to improve quality programs in the broadcasting agencies.

The formula of the broadcasting regulation, therefore, is needed to protect the public interests for getting an appropriate information and healthy entertainment from the broadcasting agency workers who have a good competency and integrity. For this reason, it is needed Competency Standard National Working Indonesia

(hereinafter referred to SKKNI) in broadcasting area for producer, director, and writer. However, SKKNI does not apply optimally because there is no regulation to govern that the broadcasting agency shall have their own workers in accordance with its competency standards as stipulated in SKKNI.

2. The Concept of Responsibility

Etimology, “the word of liability” is resulted from the word “responsibility”. According to W.J.S. Purwadarminta, the word “responsibility” is means as a compulsory condition to bear all things (if there is something to be sued, to be blamed, to be litigated, and so on). “Responsibility” is connected to a must coupled with sanctions, if there is something wrong in compulsory situation to bear those things.¹

Lexically, “the word of liability” comes from the basic form of compound words of “responsibility” that means a compulsory situation to bear all things such as suing, litigation, and blaming as an effect of their own attitudes or others.² In addition, the word “responsibility” is an abstract word in order to be understood through attitudes and actions. If the word “responsibility” as the basic word gets prefix (“per” in Bahasa) and suffix (“an” in Bahasa), it will be “liability” (Pertanggungjawaban in Bahasa) that has meant as a responsible actions or something to be responsible.³

In Law Dictionary of Fockema Andreae, Algra states that “responsibility” is translated from Verantwoording that means “to make calculations and accountability”.⁴ In English, the word liability means as accountability that comes from the word of account. According to Dawn Oliver and Gavin Drewry, accountability is means as something to be responsible and accountable itself is means as “be responsible”.⁵ Kohler’s Dictionary of Accountant furthermore states that accountability is meant as:⁶

- a. The obligation of an employe, agent, or other person to supply satisfactory report, often periodic, of action or of failure to act following delegated authority;
- b. Hence (governmental accounting) the designation of the account or amount of a disbursing officers liability;
- c. The measure of responsibility or liability to another, expressed in term of money, units of property, or other predetermined basis;
- d. The obligation of evidencing good management, control or other performance imposed by law, regulation, agreement, or custom.

“Responsibility” itself in Kohler’s Dictionary of Accountant is meant as⁷ “the acceptance of assigned authority and the obligation prudently to exercise assigned or imputed authority attaching to the role of an individual or group participating in organizational activities or decisions.

There is 2 terms to show “liability” in Law Dictionary, called liability and responsibility. Liability is broadly legal term to show almost risky character or responsibility that depends on all character of rights and duties actually and potentially, such as lost, threatening, crime, cost or condition to create tasks to conduct laws. Responsibility is meant as something that can be responsible to one obligation including court’s decision, skill and competency. It includes also a duty toward those applied laws.

In practical definition, the term “liability” refers to legal liability, including responsibility based on fault conducted by legal subjects. The term of responsibility itself refers to political liability.⁸ Related to officer’s liability, according to Kranenburg dan Vegtig, there is 2 basic theories, as followings:⁹

- a. Fautes personnelles Theory.

It states that “lost” to third party is imposed to the official because of his/her actions that creates lost. In this theory, the responsibility is imposed to human beings individually.

- b. Fautes de services Theory.

It states that “lost” to third party is imposed to the institution of the official. According to this theory, the responsibility is imposed to its position of the official. In its implementation, the appeared lost is agreed with mistakes whether they are qualified “heavy” or “light” mistakes. Indeed, the mistakes will bring implication to responsibility of the institution.

Peter Cane in his book “Responsibility in Law and Morality” states that “responsibility in law is a relational concept and practice in the sense that is concern the three-way relationship between agents, victims, and the wider community. He states, furthermore, that responsibility in moral domain is also relational in the sense;

¹ W.J.S. Purwadarminta, 2002, *The Indonesia Dictionary*, 3rd Ed., Balai Pustaka, Jakarta, p. 1139.

² Hasan Alwi, *The Indonesia Dictionary*, 3rd Ed., Balai Pustaka, Jakarta, p. 1139.

³ *Ibid.*

⁴ N.E. Algra, et, al, 1983, *The Law Dictionary of Fockema Andreae*, Netherland-Indonesia, translated by Saleh Adiwinata, A. Teloeiki, Boerhanuddin St. Batoeah, Bina Cipta, Jakarta, p. 608.

⁵ Dawn Oliver and Gavin Drewry, 1996, *Public Service Reform, Issu of Accountability and Public Law, Reader in Public Law*, King's College University of London, London, p. 3.

⁶ Cooper, W.W. and Yuji, 1984, *Kohler Dictionary For Accountant*, 6th Ed., Prentice Hall of India, New Delhi, p. 7.

⁷ *Ibid.*, p. 435.

⁸ <http://sonny-tobelo.blogspot.com/2010/12/teori-pertanggungjawaban.html>, accessed September 2013.

⁹ Ridwan. HR., 2006, *Administrative Law*, Raja Grafindo Persada, Jakarta, pp. 336-337.

and that for this reason a study of responsibility in law, where the relational aspect of responsibility is manifest and extensively documented can add significantly to our understanding of responsibility more generally”.¹

3. Form of Responsibility in Press and Broadcasting

3.1 Responsibility According to Ethic of Press and Ethic Code of Jurnalisme

According to Bagir Manan, press as an institution does not immune to the law. The press is not above the law. Anyone can sue the press. Related to law enforcement on the press, the law enforcement does not shackle the press, but it has to maintain and raise the responsibility and discipline of the press. In the context of the law enforcement, Bagir Manan prioritizes mediation or conciliation to deal with it due to legal action against the press in terms of sentencing will deal with the issue of the lack of press freedom in the freedom of expression. The press should take caution in order not to enter the legal entanglement with how to obey with the law.²

Articles of Journalistic Code of Ethics created by the Press Council and Journalists Organization in 2006, quited a lot and included broadly spacious. In case of violation of press ethics, there are some issues in the journalistic code of ethics that is often violated by the reporter, as follows:³ (1) Receive Envelopes; (2) Violating the agreement off the record; (3) Violating the provisions cover both sides or the principle of a balance; (4) News without Interview; (5) The title problems; (6) Visual fault; (7) defamation and language, Streotype, Plagiarism.

Based on the KPI’s observation to broadcasting programs from some broadcasting agency, the result of the observation is:

Table 1.

**SANKSI KPI PUSAT
 BERDASARKAN BENTUK PELANGGARAN**

NO.	BENTUK PELANGGARAN	JUMLAH	PROSENTASE
1	Perlindungan Anak dan Remaja	91	36.25
2	Kesopanan & Kesusilaan	82	32.67
3	Prinsip Jurnalistik	44	17.53
4	Kekerasan	12	4.78
5	Privasi	6	2.39
6	Perlindungan kepentingan publik	4	1.59
7	Nilai-Nilai Agama	4	1.59
8	Hedonistik	3	1.20
9	Peliputan Musibah	3	1.20
10	Nilai-Nilai Kesukuan	2	0.80
JUMLAH		251	100

Data Resource is KPI (Edition of “Penyiaran Kita” – Our Broadcasting, Novermber-December 2015)⁴

The observation results illustrated some violation to broadcast programs in the category of children and adolescents. Those violations are more dominant than the other offense categories of programs. The violation of child program does not meet the elements of protection of the rights of children to get healthy entertainment. The protection of the interests of children in the Law No. 32 Year 2002 on Broadcasting of course states that broadcasters should be able to establish the character and identity of the nation by attempting to fortify the morality of the nation's children through qualified programs and good entertainment. Another purpose of the protection children’s interests is to avoid violation of the principles of journalism. Albert Bandura claims that most people learn through observation and considering the behavior of others. The surrounding environment should be an encouragement and will do imitated-learning. Bandura states furthermore that the process of observing and imitating the behavior and attitudes of others as a model is the act of learning.⁵

Regarding to the imitating process, children tend to imitate the model (artits) who behave in the TV programs. If the artists behave positively or negatively, they will act as the artists behaviour. For example, the artists act as a good person or thebad person, the children will act a good or a bad person as they see in the TV programs. For teenagers perspectives, imitating the models/the artists is part of a search for identity. They will mimic the exhibited behavior of actresses, actors, and their idols. Romantic scenes, fights, taunts, and ridicule will be replicated as part of search for identity. As for adults, the information is absorbed through the media will affect the mindset and actions of everyday life, which many also trigger negative behavior.⁶

3.2 Responsibility According to the Guideline of Broadcasting Code and Standard of Broadcasting Program (P3 and SPS)

KPI as mandate of the broadcast law has the authority to create a code of conduct of broadcasting as a basis for

¹ Peter Cane, 2002, *Responsibility in Law and Morality*, Oxford Portland , Oregon, p. 56.

² Bagir Manan, 2010, *To Keep Independent of Press in Legal Rotation*, Dewan Pers, Jakarta, pp. 4-6.

³ Sirikit Syah, *Loc.Cit.*, pp. 5-6.

⁴ Edition of “Penyiaran Kita” – Our Broadcasting, Novermber-December 2015, p.14.

⁵ *Ibid.* p. 22.

⁶ Edition of “Penyiaran Kita” – Our Broadcasting, Maret – April 2016, p. 23.

consideration in the framework of regulating of the behavior of broadcasters and other institutions involved in Indonesian broadcasting. It is as the guidelines required to be followed to prevent the use of radio frequencies as limited public sphere. The purpose of it is to the benefit of society as much as possible. The code of conduct of broadcasting contains some provisions that limit what is allowed and not allowed in Indonesian broadcasting system. In terms of it, the broadcasting code of conduct (hereinafter referred with P3) is set by KPI based on Indonesian regulation, religious values, norms that apply and be accepted in society, a code of ethics, professional standards and guidelines for the profession developed broadcasting community based on the principle of legal certainty, the principle of freedom, the principle of responsibility, principle of benefits, fair and equitable, the principle of diversity, the principle of independence, the principle of partnership, the principle of security and professional ethics.

According to KPI, the broadcasting Code of Conduct aims in order to broadcasters:¹

1. Upholding and increasing the sense of unity and integrity of the Unitary State of the Republic of Indonesia;
2. Increasing awareness and complying with all laws and regulations applicable in Indonesia;
3. Respecting and upholding the norms and values of religion and culture of multicultural;
4. Respecting and upholding the principles of democracy;
5. Respecting and upholding human rights;
6. Respecting and upholding the rights and interests of the public;
7. Respecting and upholding the rights of children, adolescents and women;
8. Respecting and upholding the rights of minorities and marginalized groups; and
9. Upholding the principles of journalism.

SPS is defined by KPI in order to provide opportunity for broadcasters to perform its function as a medium of information, education, entertainment, social control and social cohesion, and unifying of the nation. According to Judhariksawan, the substance of SPS is similar to the Code of Conduct of Broadcasters. It sometimes creates confusion for stakeholders who are not involved in its manufacture. KPI interprets P3 as a sort of broadcasters Code of Conduct, while SPS is the Code of Conduct. The fundamental difference of P3 and SPS only occurs on the substance of supervision and accountability mechanisms as well as the clause about the witnesses.²

Determination witness to the violation of SPS under the provisions set forth, KPI has the authority to grant or impose administrative witnesses include:

1. Written warning;
2. Break temporary of the trouble program after a certain stage;
3. Restrictions on the duration and the time of broadcast;
4. The administrative penalties;
5. Freezing certain time broadcast activities;
6. Not renewal of broadcasting license; and
7. Revocation of broadcasting license.³

Based on survey results quoted from the magazine of our broadcasting, June-August edition were conducted by KPI and several universities in Indonesia. This survey is 2nd period Survey Quality Index Programs on Television Broadcasting (May-June 2015) held by KPI, Association of Indonesian Communication (hereinafter referred to ISKI), and 9 (nine) universities in nine (9) cities in Indonesia. The survey indicates the low quality of variety shows and infotainment on television. In the survey conducted by the State Islamic University of Syarif Hidayatullah Jakarta, State Islamic University of Sunan Kalijaga Yogyakarta, Diponegoro University, Airlangga University, Hasanuddin University, Makassar, University of North Sumatera Medan, the State Islamic Institute Ambon, University of Lambung Mangkurat Banjarmasin, and the University of Udayana Denpasar, is indeed a slight increase in the index of quality television programs. If in the first survey (March-April 2015), the index gained 3.25 then, the second survey (May-June 2015) the index of the quality of television programs was 3,27.

In this survey, KPI has set indicators as stipulated in Law No. 32 Year 2002. The indicator is formed to build character and identity of Indonesia, respect to diversity, and respect for people and groups. In addition, they refer to the law that has the same indicators set by KPI. The indicator is a display program that does not contain violence, sexually charged and uncharged mysticism, horror, and the supernatural. Based on the indicators referred to the regulation of broadcasting, the survey period from May to June 2015 still showed the poor quality of infotainment programs, variety shows and soap operas, which was the range of the index number of 2.37 to 2.71. The index was far from well qualified standard stated by KPI, which the index number was 4. Nevertheless, these three categories have shown an increase in the quality index by a small amount. In general, there are 9 (nine) categories of broadcasting programs that has been surveyed, called the children's programs,

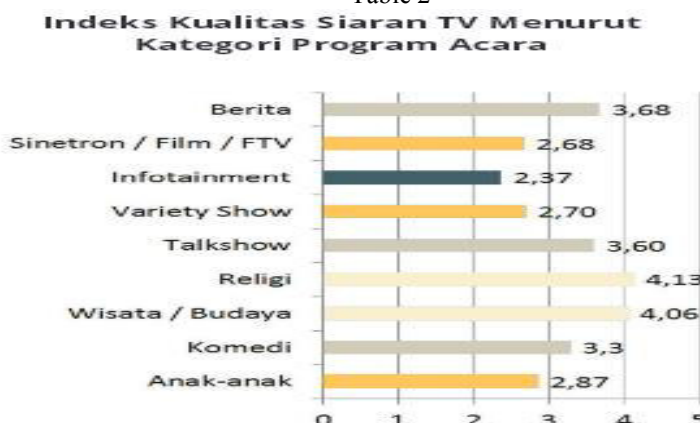
¹ Judhariksawan, 2010, *Broadcasting Law*, 1st ed, PT. Rajagrafindo Persada, Jakarta, pp. 97-98.

² *Ibid*, p. 104.

³ *Ibid*, p. 105.

comedy, travel / cultural, religious, talk shows, variety show.¹

Table 2



Data Resource is KPI (Edition of “Penyiaran Kita” – Our Broadcasting, July-August 2015)²

Based on data from KPI, it can be said that KPI has issued 266 sanctions throughout 2015 for the period from January to November. The dominance of sanctions is due to violations of child protection, decency and morality, as well as a violation of journalism. The distribution of sanctions imposed by KPI to broadcasters, Such as Trans TV (49 sanctions), RCTI (25 sanctions), ANTV (25 sanctions), Global TV (21 sanctions), Metro TV (21 sanctions), Trans7 (17 sanctions), Indosiar (16 sanctions), MNC (16 sanctions), SCTV (15 sanctions), TV One (15 sanctions), TV (13 sanctions), Kompas TV (9 sanctions), TVRI (7 sanctions), and I News TV (6 sanctions). While public complaints that go to the KPI in January-November 2015, there were 8137 complaints submitted via email, sms, twitter, facebook, phone, and mail. The most complained broadcasting program is soap-operas and variety shows.

KPI has started the process of evaluation of an expanded license to 10 private television broadcasting network nationally. Assessment conducted by KPI is based on aspects of the broadcasting program, the implementation of a network station system, and human resource management of broadcasting. The broadcasting Law requires the National Private Broadcasting Institutions to undertake and implement a system for the networked stations. For the purpose, the task of KPI is to assess or evaluate whether existing broadcasters has implemented the system of networked stations (hereinafter referred to SSJ) to the broadcasting network nationally.

KPI’s assessment of the implementation of SSJ is based on 5 (five) things, namely: the duration of the broadcast, showtimes, content of broadcast in line with local issues, the involvement of local human resources, and relay on network. On these criteria, 10 (ten) TV broadcasting network are not fulfilled the requirements of local content as mandated by P3 & SPS. The ratings obtained from KPI’s assessment related to compliance of the implementation of SSJ made 10 television stations, as followings: (1). PT Media Televisi Indonesia; (2). PT Cipta Televisi Pendidikan Indonesia; (3). PT Surya Citra Televisi; (4). PT Duta Visual Nusantara Tivi Tujuh; (5). PT Global Informasi Quality; (6). PT Horizon Andalas Televisi; (7). PT Indosiar Visual Mandiri; (8). PT Televisi transformasi Indonesia; (9). PT Lativi Mediakarya; and (10). PT Rajawali Citra Televisi Indonesia.

Table 3.

PERINGKAT HASIL EVALUASI IMPLEMENTASI SSJ

NO.	LEMBAGA PENYIARAN
1.	PT Media Televisi Indonesia
2.	PT Cipta Televisi Pendidikan Indonesia
3.	PT Surya Citra Televisi,
4.	PT Duta Visual Nusantara Tivi Tujuh
5.	PT Global Informasi Bermutu
6.	PT Cakrawala Andalas Televisi,
7.	PT Indosiar Visual Mandiri
8.	PT Televisi Transformasi Indonesia
9.	PT Lativi Mediakarya
10.	PT Rajawali Citra Televisi Indonesia.

Source : KPI

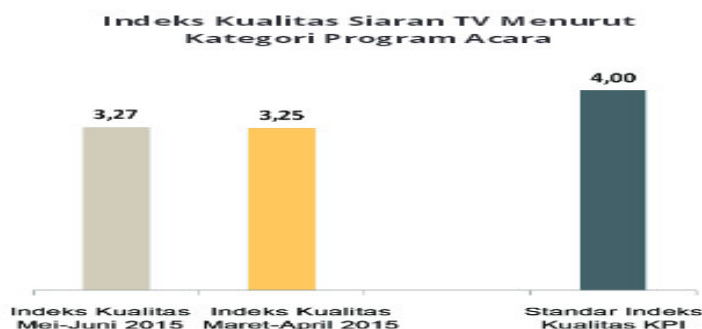
The index picture survey of TV programs’s quality in 2015 was conducted by KPI, ISKI, and 9

¹ Edition of “Penyiaran Kita” – Our Broadcasting, July – August, 2015, p. 20.

² *Ibid*, p.12.

universities in Indonesia. The survey was conducted every two months to produce quality index value of the broadcast program. It took 810 respondents in 9 major cities in Indonesia. In the 5th survey, the quality index was still below the standard of KPI. The lowest results from the public was obtained in soap-operas broadcast program with a stable value over 5 times the survey in the range of 2.51 to 3.02. In this survey, the soap-operas got the lowest index value, which is 2.58. Of the indicators set in this survey, the soap-operas scored low on some indicators such as strengthening the unity and cohesion of the nation; building an independent mental; educational; wholesome entertainment; social cohesion; and protection of private interests. Against to the soap-opera program, KPI asked broadcasters to do a total correction of programs and drama series in the community.

Table 4.



Data Resource is KPI (Edition of “Penyiaran Kita” – Our Broadcasting, July-August 2015)¹

In doing its duties and authorities, KPI gives an appreciation of the Broadcasting Agencies to their broadcasting program. For the reason then, KPI provides “KPI Award”. We hope that “the Award” can encourage the Broadcasting Agencies to compete producing quality broadcasting programs. The parameters used by KPI itself in assessing the broadcasting program is based on the Law No. 32 Year 2002, P3, and SPS.

The legal consideration of giving “KPI Award” is motivated by the LawNo. 32 of 2002 on Broadcasting. The Law has mandated KPI to realize a healthy and quality broadcasting. In addition to providing guidance, reprimands, and sanctions against problematic broadcasting program, KPI also has a duty and responsibility to give an appreciation of quality broadcasting programs.

Seeing the development of broadcasting in Indonesia at this time based on the survey conducted by KPI, it can be said that some broadcasters try to provide a healthy and quality broadcasting program. Several broadcasting programs often get compliments and recommendations from various community groups. It has encouraged KPI to participate in providing broadcasters appreciation to both television and radio that have attempted to broadcast something useful for the people of Indonesia.

KPI Award basically is an annual program organized by KPI as a competition for the best broadcast programs that exist in Indonesia. In 2014, KPI organized Award as a part of appreciation for the works of the best television personality. This activity is expected to encourage the television industry to continue to work to produce the best programs. It is not only the program that a lot of the audience, but it is also a healthy and quality programs. For the Award’s purpose, KPI decides some criteria to win “the Award” such as:

1. The programs are not only entertain, but also has the values inspiring;
2. The program must develop an awareness of broadcasters to deliver broadcast programs pursuant to age level and also the noble values of the nation;
3. The programs create fair competition among broadcasters to always deliver quality broadcast programs; and
4. The programs encourage broadcasters to produce and broadcast programs broadcast sound, quality, and educating.

4. The Principle of Responsibility in the Broadcasting Agency

4.1. The Principle of Responsibility Based on Fault

Principle of responsibility based on fault is general principle applied both in criminal and civil law. In the article 1365,1366, and 1367 of the Civil Code, it is applied as a fundamental principle. It states that one person can be asked his/her responsibility legally if there is “omission” of “fault” conducted by the person.

Article 1365 of the Civil Code – generally called as “the article of unlawful act” – must fullfil 4 (four) elements, as followings:

1. There is “an act”;
2. There is “a fault”;
3. There is “a damage”; and

¹ *Ibid*

4. There is relation between “a fault” and “a damage”.

Eventhough in regulation of the broadcasting agency is stated about “fine” to the violation conducted by it, the principle of responsibility in civil law has not taken place and has not familiar in the Broadcasting Law. However, it does mean that the agency cannot be sued civilly by the community to the violation of the broadcasting the agency does as long as the violation elements are fulfilled and covered according to the Civil Code.

4.2 The Principle of Responsibility with International Law Instruments

There is a ban to use of broadcasting to propoganda that is dangerous to other states security, particular if it will create a war. For this reason, it is governed by International Convention Concerning the Use of Broadcasting in the Cause of Peace enacted in Geneva, 23 September 1935. This convention basically is known as international treaty that govern:¹

Article 1

The high Contracting Parties mutually undertake to prohibit and, if occasion aries, to stop without delay the broadcasting within their respective territories of any transmission which to the dectrimenof good interntional understanding is of such a character as to incite the population of any territory to acs incompatible with the internal order or the security of a terirtoryof a High Contracting party

Article

The High Contracting Parties mutually undertake to ensue that transmissions from station within their respective teriritories shall not constitute an incitement either to war against another High Contraacting Party or to Acts likely to lead thereto.

Article 3

The High Contracting Parties mutually undertake to prohibit and, if occasion aries to stop without delay within their respective territories any transmission likelyto harm goodinternational understanding by statements the incorrectness of which is or ought to be known to persons responsible for the broadcast.

The further mutually undertake to ensure that any transmission likely to harm good international understanding by incorrect statement shall be restified at he earliest possible moment by the most effective means, even if the incorestness has become apparent only after the broadcast.

The futher mutually undertake to ensure that any transmission likely to harm good international understanding by incorrect statement shall be rectified at the earliest possible moment by the most effective means, even if the incorrectness has become apparent only after the broadcast has taken place

Article 4

The High Contracting parties mutually undertake to ensure, especially in time of crisis, that station within respective territories shall broadcast information concerning international relations the accuracy of which shall have been verified and that by all means within their power by the persons responsible for broadcasting the information.

The International Convention enacted peacefully is an international treaty registered by Secretary of League of Nations, then adopted and continued by the United Nations to create the Principles Governing the Use by States of Artificial Earth Satellites for International Direct Television Broadcasting. One of the principle is not only to keep peace, security, and human rights; but it is also to promote the free dissemination an mutual exchange of information and knowledge in culture and scientific fields, assist educational, social and economic development particularly in the developing countries, enhance the qualities of life of all peoples and provides recreation with due respect to the political and cultural integrity of states².

4.3 The Principle of Responsibility with Administrative Law Instruments

Sanction in the Broadcasting Law is differed into 2 categories – administrative and criminal sanctions. Sanction is also governed in other laws to be enacted for the broadcasting violation. Those laws are connected to the establishment of the broadcasting administrative sanction as governed in Chapter VIII, article 55 of the Broadcasting Law. The article states that the administrative sanctions will be enacted to every one who violates that are connected with:³

1. An obligation of the broadcasting agency in financial annually to make financial report audited by public accountant and its results announced to mass media {article 15 (2)};
2. Private broadcasting agency of radio and TV broadcasting services has only one times to organize broadcasting channel to one broadcasting area (article 20);
3. Prohibition to fund commercial advertisement from foreign funding for community of broadcasting agency (article 23);

¹ *Ibid*, p.109.

² *Ibid*, p. 111.

³ *Ibid*, p. 141.

4. An obligation to create ethic codes for community of broadcasting agency (article 24);
5. An obligation of subscription of broadcasting agency to do internal censorship toward all broadcasting contents; to provide at least 10 % of capacity of broadcasting channel to distribute programs both from public and private broadcasting programs; to provide only one broadcasting channel to national broadcasting production compared 10 of foreign broadcasting production at least one broadcasting channel of national broadcasting production {article 26 (2)};
6. Some provisions to use satellite for subscription of broadcasting agency covered its area, controller and transmitter station, landing rights, and receiver guarantee only for the customer (article 28);
7. Some provision on broadcasting range covered one service area in agree with its licence provided by cable and territorial LPB (article 28);
8. An obligation of the broadcasting agency to pay through National Treasury Fund for establishing broadcasting licence ({article 33(7)});
9. Failing to do trial broadcasting that has been enacted, or do not broadcasting activities for more than 3 months without notification to KPI, or violation some provision on standard of broadcasting program after getting decision court - *in-kracht*, the licence will be transferred to other party {article 34 (5a, %c, 5d, and 5f)};
10. The broadcast's contents from TV broadcasting services done by public and private broadcasting agencies shall make at least 60% of the programs come from domestic. The broadcast's contents then shall give protection and empowerment to special spectators – called children and teenagers – for the suitable programs. The broadcast's contents shall also provide classification of the program; shall keep its neutrality; and do not prioritize interests particular groups {article 36 (2,3,4)};
11. Some provisions on providing bahasa (Indonesia language) and dubbing (voice over) selectively for foreign programs {article 39 (1)};
12. Some provisions to put broadcast rights for every broadcast events {article 43 (2)};
13. Some provisions on fixed broadcast if there is misprint or mistake or complaint to the contents of broadcast or news {article 44 (1)};
14. Some provisions to save the broadcast's contents including audio record, video record, photo and documents at least one year after broadcasted {article 45 (1)}; and
15. Some provisions on advertisement broadcast including commercial advertisement broadcasted to broadcast's events special for children. The provision provide the schedule of broadcast for the public advertisement broadcast. It also provides the schedule of advertisement broadcast for private broadcasting agency at least 20 % and 30 % for its broadcasts, as well as its substances of the programs must use domestically human resources {article 46 (6,7,8,9, and 11)}.

For all violation as mentioned above can be sanctioned with administrative witness, as followings:

1. Written warning;
2. Break temporary of the trouble program after a certain stage;
3. Restrictions on the duration and the time of broadcast;
4. The administrative penalties;
5. Freezing certain time broadcast activities;
6. Not renewal of broadcasting license; and
7. Revocation of broadcasting license.

Implementation of sanctions against violations committed by broadcasters on the reality could not be applied optimally. It is because the issue of the application of administration sanction which revolves around the factors the authority of the KPI themselves either as a regulator or an executor. For example, given a written warning by KPI to the broadcasters do not have a deterrent effect as what is described by the Chairman of the KPI itself.

Many warnings are carried out by KPI on existing broadcast program. Data shows every year presentation of conducted violation increase. The inoptimal of administrative sanctions become the reason why the violations are increasing every year. Therefore, it would be better to do not apply the administrative sanctions only the contents of the program, but also the broadcasters of the program. Any sanction can be given as to an explanation of corporation's liability where the broadcasters as Indonesian legal entity which conducts broadcasting.

The weakness of executorial of KPI is also weakened by the licensing that should have resulted in a wide range with the government. The broadcasters in this situation do not feel bindly to the authority of KPI due to they assume that KPI is part of the role of government that is issuing licenses and permits for Operator Stations Radio broadcasting. So, it is natural that until now the threat of the administrative sanction is revocation of broadcast licenses. Another weakness is no-clear boundaries about when and how the form of administrative sanctions imposed. So that no legal certainty on how the form of misconduct that may be imposed sanctions in administrative fines, the amount of administrative fines that are imposed, the type and stage of offenses such as what can be fined. These provisions has not spanned and has never been done by KPI.

The severe sanctions is given based on feelings and concerns of KPI itself or if the government deems to ban on freedom of the press, or the persistence of the phenomenon of reform of government administration to be labeled as a stifle press freedom. Those reasons are exactly what led to the imposition of sanctions by KPI to broadcasters related to administrative sanction has ever done.

4.4 The Principle of Responsibility with Criminal Law Instruments

Criminal sanction in the In Indonesia Broadcasting Law can be seen in article 57,58, and 59. Those articles are:

Article 57

The sanction of maximum imprisonment of 5 (five) years and/or a fine of maximum Rp1.000.000.000,00 (one billion Rupiah) for radio broadcasting and the sanction of maximum imprisonment of 5 (five) years and/or a fine of maximum Rp10.000.000.000,00 (ten billion Rupiah) for television broadcasting, for every person who:

- a. Violates the provision as referred to in Article 17 clause (3);
- b. Violates the provision as referred to in Article 18 clause (2);
- c. Violates the provision as referred to in Article 30 clause (1);
- d. Violates the provision as referred to in Article 36 clause (5);
- e. Violates the provision as referred to in Article 36 clause (6).

Article 58

The sanction of maximum imprisonment of 2 (two) years and/or a fine of maximum Rp500.000.000,00 (five hundred million Rupiah) for radio broadcasting and the sanction of maximum imprisonment of 2 (two) years and/or a fine of maximum Rp5.000.000.000,00 (five billion Rupiah) for television broadcasting, for every person who:

- a. Violates the provision as referred to in Article 18 clause (1);
- b. Violates the provision as referred to in Article 33 clause (1);
- c. Violates the provision as referred to in Article 34 clause (4);
- d. Violates the provision as referred to in Article 46 clause (3).

Article 59

Any person who violates provisions as referred to in Article 46 clause (10) shall be sanctioned with a fine of maximum Rp200.000.000,00 (two hundred million Rupiah) for radio broadcasting and the sanction of maximum Rp2.000.000.000,00 (two billion rupiahs) for television broadcasting.

Sanctions and criminal liability clearly stated by the Broadcasting Law and other laws such the Company Limited Law and the Cyber Law. The Company Limited Law, for example, stipulates the holdings matters which do not promote the principles of Diversity of Ownership in order to prevent monopolistic practices. plus other laws such as the Law on the Law of Siber.

The broadcasting agency as a legal entity in terms of the system of liability in the context of corporations in the field of broadcasting is commenced with criminal liability as stipulated in the Law Number 32 of 2002 on broadcasting. Indeed, the concept of criminal responsibility can not be separated from the criminal system adopted by the conception of punishment in Indonesia, namely of the Criminal Code. The principle of criminal responsibility in Indonesia is based on an error (*shuld*) and wrongful act (*wederechterlijk*) as a condition for the imposition of crime. In term of the broadcasting matters, it is difficult to ask corporate responsibility if put in the practice of criminal law enforcement against corporations in the field of broadcasting. In the fact until now, the violations or crimes on broadcasting has not been up to the criminal area. In the system of corporate responsibility in its development, there are several theories regarding the corporate responsibility, as followings:¹

1. Direct Liability Doctrine or Identification Theory or commonly called as Theory of “alter ego” or Theory Organ. The error of senior officers is identified as corporate’s error;
2. Vicarious Liability Theory. It is started from “Respondent Superior Doctrine” that is based on Employment Principle that shows employer as primary responsibility; and
3. Strict Liability. The corporate responsibility is solely based on the existed law.

According to Muladi, with regarding to the corporate responsibility and considering to the basic experience and positive legal arrangements, as well as evolvment thinking and the international trend, the corporate responsibility for a criminal offense should have regard to the following matters:²

1. A corporate consists of legal and non-legal entity such as organization and etc;
2. A corporate can be private and public juridical entity;
3. If it is identified in environmental crime as an organization, managers, agents, employees, and corporation can be sentenced either individual or together with other;

¹ I.S. Susanto, 1993, *Corporate Crime*, Paper on Tutorial for Lecturer Criminology and Criminal Law Department, Diponegoro University, Semarang, p. 5.

² Muladi, 1998, *The Basic Principles of Environmental Criminal Law and Its Connection with The Law No. 23 of 1997*, Paper, Seminar on Discussion and Sosialisization of the Law No.23 of 1997, Kajian dan Sosialisasi W No. 23 Tahun 1997, Diponegoro University, Semarang, pp. 17-18.

4. If there is a mistake on corporate management, it is called as breach of a statutory or regulatory provision;
5. Liability of Legal Entity is conducted whether the people must be responsible in the legal entity that has been identified, sued, and sentenced;
6. Criminal sanction basically may be subjected as a corporation except to death penalty and trial sentence. It must be noted that in U.S is known corporate death penalty and corporate imprisonment that has definition of prohibition related to some businesses area;
7. Implementation of criminal sanction to corporate erasing personally error; and
8. Sentencing to corporate must be considered to the corporate position for controlling the company through corporate executive officers that has power of decision to be accepted by the corporation.

Corporation in the development of society has been accepted as a subject of criminal law. The result of recognition as a subject, it can perform a legal relationship and may suffer the consequences in the form of criminal liability. Corporate crime or a crime of organization also called a "corporate crime" and should be distinguished by organized crime or "organized crime". The difference can be seen in the definition of both. The organized crime is a syndicate organized crime, as practiced by the mafia. While the corporate crime is a crime in the form of "white collar crime". The act violates the criminal law, which is done by a company or legal entity engaged in the business, through or authorized by its officers. Even though the company never have mens rea, the company should be held responsible legally and therefore the company is exactly should be punished even though limited to fines, probation, or additional penalties such as revocation of licenses and so on.¹

Considering the broadcasting agency as a legal entity, it is engaged that the broadcasting agency can be taken its responsibility for material and non-material losses. Based on the theory of corporate responsibility or theory organ, the violation/error is conducted by senior officials of the corporation can be responsible. The problem is the definition of the senior officials should be clear in what situation he/she acts as a representative of the corporation. Other problem is the need for clear rules to related errors that may be imposed and does not violate the principle of legality. It can be said that there is no reason for the inability of KPI as representing the interests of the community to give strict sanctions and complain for inability of executorial on KPI's decision on violation of the Broadcasting Law and the P3-SPS.

5. Conclusion

It can be concluded that the form of responsibility in Press and Journalism is stated by Ethic of Press and Ethic Code of Journalism and the Guideline of Broadcasting Code and Standard of Broadcasting Program (P3 and SPS). The principle of responsibility furthermore is conducted "based on fault principle", and with some instruments such as instruments of international, law, administrative law, and criminal law.

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¹Munir Fuady, 2004, *Dirty Business to Anatomy of White Collar Crime*, Citra Aditya Bakti, Bandung, p. 26.