

## Client Alert

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### Draft Omnibus Law: Sharing Among Telecommunications Players

The government of the Republic of Indonesia is preparing a new law containing several provisions on various industry sectors. The new law has the title job creation law, but is also known as the omnibus law ("**Draft**"). You may find our general discussion on the issuance of the omnibus law [here](#), and our client alerts on various sectors below:

- [Education sector](#)
- [Investment](#)
- [Healthcare/trade/retail](#)

This client alert specifically covers key changes and implications in the telecommunications sector, including postal and broadcasting areas, set out in the Draft.

#### Implications for telecommunications sectors

The Draft proposes to amend several laws in the telecommunications sector, as follows:

- a) Law No. 36 of 1999 on Telecommunications
- b) Law No. 32 of 2002 on Broadcasting
- c) Law No. 38 of 2009 on Postal

#### What the Draft says

Some notable provisions under the Draft are as follows:

- **Sharing of spectrum:** The Draft allows telecommunications operators to share and transfer spectrum with prior approval from the central government. This flexibility could pave the way for mobile virtual network operators (MVNO) to enter the Indonesian market (subject to the upcoming foreign investment restrictions). The transfer of spectrum would also provide certainty for M&A exercises between telecommunications operators, particularly on the status of spectrum after the M&A exercise is completed. Although spectrum sharing is facilitated, it is interesting that the Draft still only requires the operator holding the spectrum right to pay right to convene fees (*biaya hak penyediaan*). When the spectrum is shared between multiple



parties, this practice would eliminate potential income for the government.

- **Infrastructure sharing:** The Draft encourages telecommunications operators to share passive infrastructure with other telecommunications operators. This may bring efficiency for smaller telecommunications operators, as the infrastructure sharing would be less costly than expansion of their own networks. Passive infrastructure includes towers, ducting and poles for telecommunications networks. The Draft also provides that the central government and regional governments may participate in the development of passive infrastructure for common use by telecommunications operators.
- **Upper and lower limit pricing:** Under the current law, pricing for the operation of telecommunications networks and services is based on a formula determined by the government. The Draft provides that the central government may determine upper limits and lower limits of pricing for telecommunications networks and services. It is expected that the formula for upper limits and lower limits of pricing will be regulated in a future implementing regulation. This limitation of pricing could prevent tariff wars between telecommunications operators, and boost healthy competition in the industry.
- **Telecommunications equipment certification removed:** Under the current law, any telecommunications equipment/device that is made in, imported into, or used in Indonesia must go through a certification process. The Draft omits the certification requirement and only requires the fulfillment of technical standards set out by the government.
- **Non-exclusive business line for private broadcasting company:** Under the current broadcasting law, private broadcasting companies must specifically engage in the business activity of radio or television broadcasting. This exclusivity is eliminated in the Draft. It remains to be seen whether the exclusivity will be restored in future implementing regulations.
- **Migration to digital technology broadcasting:** The Draft mandates migration of terrestrial television broadcasting from analog technology to digital technology within two years after the Draft becomes effective. Through this migration, the government expects efficiency of spectrum to enhance broadband internet access. The allocation of spectrum currently used for analog technology could also create new opportunities for telecommunications operators.
- **Centralization for postal services:** There are no significant changes to the Postal Law. The Draft amends provisions in the Postal Law to be in line with the vision of the omnibus law (e.g., centrally issued licenses).

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