Indonesian Law for Electronic Information & Transaction

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Departemen Kominfo

Reference

- UNCITRAL Model Law on Electronic Commerce (1996)
- UNCITRAL Model Law on Electronic Signatures (2001)
- United Nations Convention on the Use of Electronic Communications in International Contracts (Dec 2005)
- Convention on Cybercrime (Budapest treaty 2001).

Outline

- Ch I : General Provisions => Definition
- Ch II : Principles and Purposes
- Ch III : Electronic information, document & signature
- Ch IV : Electronic System Provider (including CA)
- Ch V : Electronic Transaction
- Ch VI : Domain Name, IPR & Privacy
- Ch VII : Prohibited Act (Crime)
- Ch VIII : Dispute Resolution
- Ch IX : Government Role & Public Participation
- Ch X : Investigation
- Ch XI : Criminal Sanction
- Ch XII : Transition
- Ch XIII : Closing

Ch VIII.
Prohibited Act

- Article 27, 28 & 29 => indecent material
  - Obscene/porn;
  - Gambling;
  - defamation;
  - False statement;
  - Hate-speech , racism or xenophobia;
  - *cyber stalking*

- Sanction/punishment: max 6-12 years and/or penalty max 1-2 Billion (Art. 45)

- Art 30
  - Illegal Access
  - Max 6-8 years and/or max 600-800 million (Art 46 section (1), (2) and (3))
- Art 31
  - Illegal Interception
  - Max 10 years and/or penalty max 800 million (Art 47)
- Art 32
  - Data Interference
  - Max 8-10 years and/or penalty max 2-5 Billion (Art 48 section (1), (2) and (3))
- Art 33
  - Interception
  - Max 10 years and/or penalty max 10 B (Art 49)

- Art 34
  - Misuse of Devices
  - max 10 years and/or penalty max 10 B (Art 45)
- Art 35
  - Computer Related Forgery
  - max 12 years and/or penalty max 12 B (Art 46)
- Art 36
  - Computer Related Fraud
  - max 12 years and/or penalty max 12 B (Art 46)

Added Punishment (Art 52)

- If the indecent materials [Art 27 section (1)] concerning children
  - Basic punishment + 1/3 of basic punishment

- If the activities destroying strategic data
  - Government data related with public services → + 1/3 of basic punishment
  - Strategic data related with financial, defense, etc → + 2/3 of basic punishment
  - Was done by corporation → + 2/3 of basic punishment

Ch IX
Gov. Role and Public Participation

- Gorvernment will establish or classify the strategic data which should be protected.

Ch X
Investigation

- Investigation process will refer to Indonesian Criminal Procedural Law (KUHAP/Art 42)
- Investigator: Police and/or special civil investigator (Art 43)
- Investigator should consider Privacy, Confidentiality, Public Service the integrity of data based on Law and Regulation
- Search & Seizure should have permission from Court (warrant) and should consider public interest or continuation of the services.
- Investigator can cooperate with the expatriate investigator

Evidence (Art 41)

- Conventional Evidence => based on existing Law & Regulation;
- New Complementary evidence => electronic information and/or electronic documentation.