

## The New Regulation on Electronic System and Transactions

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The Government has issued [Regulation No. 82 of 2012](#) on Organizing Electronic System and Transactions ("Regulation"), which implements [Law No. 11 of 2008](#) on Electronic Information and Transactions ("ITE Law").

The ITE Law mandates the issuance of a government regulation to stipulate the provisions on electronic signatures (Art. 11, ITE Law), electronic certification (Art. 13, ITE Law), electronic system (*sistem elektronik*) (Art. 16, ITE Law), electronic transactions (Art. 17, ITE Law), electronic agents (Art. 22, ITE Law), and domain names (Art. 24, ITE Law).

It should be noted, since the ITE Law enactment back in 2008, no implementing regulation (Government Regulation - PP) has been issued. The Regulation is the first regulation to derive from the ITE Law.

The Regulation applies to electronic system providers (*penyelenggara sistem elektronik*), which provides services to any party (Art. 1 (4)). It means that companies such as Research In Motion (RIM, BlackBerry producer), Google (search engine provider), and other providers must comply with the Regulation.

Pursuant to Article 3, providers can dedicate its services for public or non-public use. Unfortunately, the Regulation and the ITE Law does not elaborate what activities can be categorized as public service and non-public service. It is likely that this issue will be stipulated under an implementing regulation (Minister of Communication and Information Technology regulation).

### Versi Bahasa Indonesia

#### ❖ Document(s)

- [Government Regulation No. 82 of 2012](#) (PP\_NO\_82\_2012.pdf – 175 Kb)

#### ❖ Recently Published ILBs

- [Government Raises the Figure of Income Not Subject to Tax \(Issue 2032 - 11/8/2012\)](#)
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The Regulation stipulates that the electronic system provider must hire competent human resources to ensure quality sustainability of the provided electronic system and information technology services (Art. 10). It should be noted that the provider must employ Indonesian citizens to operate its strategic electronic system (Art. 11), e.g., electronic system for defense and national security (Elucidation, Art. 11).

Furthermore, the Regulation obliges electronic system providers that provides public service to place their data centers in Indonesia (Art. 17). This Article will have an impact on information technology companies, most notably RIM, because they now must place their data centers in Indonesia. RIM was reluctant to



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relocate one of their data center in Indonesia, because they felt that RIM's global network is sufficient to maintain their service quality. This obligation will be regulated further by the [Indonesian Telecommunication Regulatory Authority](#) ("BRTI") after coordinating with the Ministry of Communication and Information Technology (Art. 17 (3)).

The Regulation also obliges providers to keep the records of the electronic system, which will be used for the purpose of oversight, law enforcement, dispute settlement, verification, tests, examination, and so forth (Art. 18).

Providers are allowed to use their own electronic system or the service of an electronic agent. If the provider is serviced by an electronic agent, then it must provide the agent's identity, object of the transaction, agent's ability to provide secure or feasible service, service manuals, and a complaint center (Art. 35 (1)).

The Regulation also stipulates provisions on domain names. Pursuant to Article 73 (2), domain names must consist of generic top-level domain (.com, .net, .org, etc)<sup>1</sup>, Indonesia top-level domain (.id), second level Indonesian domain, and lower level Indonesian domain<sup>2</sup>.

Domain names can be managed by the government or private (Art. 74 (1)). A private person/entity that wishes to manage domain names in Indonesia must form a legal entity which must be validated by the Minister of Communication and Information Technology (Art. 74 (3)).

Domain name registration is carried out based on the "first come first served" basis (Art. 77 (1)). The registered domain name must comply with the prevailing laws and regulations (usually intellectual property rights regulations), and must be appropriate

with society's norms, and registered in good faith (Art. 77 (2)).

The Regulation violators will be subject to written warnings, fines, and temporary suspension (Art. 84 (2)). These sanctions will be imposed by either Minister of Communication and Information Technology or BRTI (Art. 84 (3)).

The Regulation has been in force since 15 October 2012.

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<sup>1</sup> [http://en.wikipedia.org/wiki/Top-level\\_domain](http://en.wikipedia.org/wiki/Top-level_domain)

<sup>2</sup> [http://en.wikipedia.org/wiki/Domain\\_name](http://en.wikipedia.org/wiki/Domain_name)



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