

# Restricting Creativity: How Regulations Control Indonesian Advertisements

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**Abstract—** This study analyzes several advertising regulations in Indonesia. Policymakers cannot clearly explain some of the points in the regulation so that multi-perception appears in the interpretation. Ads that are supposed to be creative to persuade the audience are limited by their regulation. These regulations are then linked to one of the principles in communication policy, namely public interest. Where the public has the right to get information from advertisements, and these advertisements should not be reprimanded because the information contained therein may be important for the public interest.

**Keywords—**Advertising, Public Interest, Broadcast Regulation, Legal Uncertainty.

## I. INTRODUCTION

Advertising is one of the most vital things in the sustainability of marketing a product, goods, services, and public service socialization. In principle, advertising is a means of communication to present and promote ideas, goods or services carried out by the communicator in this case the company or producer to the communicant in this case the public, especially customers through non-personal media, namely mass media. Besides, all advertisements are made with the same purpose which is to provide information and persuade consumers to try or follow the messages contained in the advertisement, which can be in the form of consuming products and services offered.

What exactly is the definition of advertising? There are several definitions of advertising from a marketing standpoint. As in, they define advertising as; advertising as any form of impersonal paid communication in which the sponsor or company identified. Meanwhile, another definition is; advertising defined as any paid form of nonpersonal communication about an organization, product, service, or idea by an identified sponsor. [1]

Based on the definitions above, we can examine and conclude that the definition of advertising must at least meet the following criteria, including [2]:

### 1) *The communication is paid.*

This criterion is based on the fact that space and time to deliver advertising messages must be purchased or paid for, except for public service announcements (public service announcements) that usually use special space and time, and are free, or even if they have to pay a relatively small fee. In the language of advertising companies or organizations that pay for advertising are called a client or sponsor.

### 2) *Delivered through mass media.*

Advertising must involve the mass media (for example TV, radio, magazines, newspapers, internet) to deliver messages to many audiences at the same time. The use of this media which makes an advertisement is categorized as mass communication, where the use of mass media causes the occurrence of feedback between advertising messages delivered to the audience will not happen immediately. In contrast to personal communication (personal communication) that occurs without the use of mass media so that feedback (feedback) occurs immediately once the message is received.

### 3) *Try to persuade or influence the audience.*

The main purpose of most advertising is to persuade, influence, or persuade consumers to do something. Advertising is aimed at specific target audiences. The target audience (target audience) is a group of special consumers who are targeted by advertising campaigns. The target audience is usually a potential audience that is expected to be affected by a particular advertisement exposure. For advertising to reach the audience's response as desired, advertising must be done creatively.

Advertising is one of the best known and most widely discussed forms of promotion, this is likely because of its broad reach. Advertising is also a very important promotional instrument, especially for companies that produce goods or services aimed at the wider community.

In doing advertising creativity, advertisers must also pay attention to the structure of advertising and it is important to determine the purpose (response) of advertising by relying on communication models that explain the impact of communication on one's response. Several models explain the impact of communication on responses, as mentioned in Kotler & Susanto (2001) including the AIDA model (Attention, Interest, Desire, Action), Hierarchy of Effects Model (awareness, knowledge, liking, preference, conviction, purchase), Adoption Innovation Model (awareness, attitude, desire, trial, adoption), and communication model (reception, cognitive response, attitude, intention, behavior). [2]

The character and purpose of advertising differ from one company to another, between one type of industry and another, and between one agency and another. Likewise, consumers who are targeted by an ad also differ from one type of product to another. The first advertising function is informing or giving information. The second is persuading function. Effective advertising will be able to persuade

(persuade customers to try the advertised products and services). Third, advertising has a reminding function. Advertising keeps the company's brand fresh in consumers' memories. Fourth, is adding value. Advertising provides added value in the form of innovation, quality improvement or changing consumer perception. The fifth function is assisting. [3]

In Indonesia, television advertising has developed since the early 1990s, when many private television stations have sprung up. The most favorite time is the premium time with the most viewers. Starting from conventional advertisements with 30-second slots, sponsorship (blocking time), infomercials and in the form of quiz shows, compete with each other in attracting attention and influencing viewers' perceptions and attitudes. Advertising is believed to be an important part of integrated marketing efforts to boost sales and enhance the profit of a company or organization. [2] Quoted by Morissan, according to Nielsen Media Research, ad spending in Indonesia in 2005 was recorded around Rp. 23 trillion. Television dominates 70% (Rp. 16 Trillion) of the value of the ad spending, the newspaper Rp. 6 Trillion, magazines and tabloids around Rp. 1 trillion. Eight years later, in the middle of the first half of 2013, ad spending in Indonesia was recorded at Rp. 51.16 Trillion, up 25% from the same period in 2012 whose value is Rp. 40, 92 Trillion. Meanwhile, ad volume increased 6% from 3.3 million spots to 3.5 million spots on TV newspapers, tabloids, and magazines. Nielsen Audience Management obtained the data from the results of monitoring of 24 terrestrial/satellite TV stations, 95 newspapers and 163 tabloid magazines. [4]

The most effective channel for advertising is mass media. Be it the print media, electronic media, and outdoor media. Advertising in the mass media can be used to create a brand image and symbolic appeal for a company or brand. This becomes very important especially for products that are difficult to distinguish in terms of quality and function with competing products. Advertisers must be able to utilize advertisements in the mass media to promote their products in the eyes of consumers.

Another advantage of advertising through mass media is its ability to attract the attention of consumers, especially products whose advertisements are popular or very well known to the public. This, of course, will ultimately increase sales. For example, the battery company Eveready uses a rabbit doll mascot that always appears in every advertisement of the product in the mass media, especially television, as brand identification. Consumers who are very familiar with rabbit dolls through the mass media will immediately know the existence of the battery stone brand through displays or displays of rabbit dolls that are placed on shelves in the shop or supermarket where the product is sold. The existence of the rabbit doll mascot will continue the effect of advertising the relevant product in the location where the product is sold.

The breadth of the reach and target audience of the ad, plus the contribution of businesses that come to advertise their products, certainly encourage advertisers to produce creative advertisements to compete with other products and attract the attention of potential customers. Various attempts were made by advertisers to display attractive advertisements, create interesting and memorable narratives, use celebrities as brand ambassadors, create jargon and taglines that are easily

understood in the minds of the audience, to provide massive promotions and discounts.

Advertising in the mass media provides a significant influence on consumers, primarily as a decision-maker for purchasing a product. This is consistent with research conducted by Setyo Ferry Wibowo and Maya Puspita Karimah (Jakarta State University), that television advertising influences purchasing decisions with a significance value of 0.004 and  $R^2$  (R square) of 0.075 or 7.5%. This figure explains that television advertising explains the purchasing decision of 7.5%. While television advertising and prices influence purchasing decisions with a significance value of 0.000 and  $R^2$  (R square) of 0.145 or 14.5%. This figure explains that television advertising and prices explain the buying decision of 14.5%. [5]

Concerning advertising, they cannot be separated from ethical principles, because ethics is to keep advertisements circulating in newspapers by applicable norms and have been determined. Ethics itself has an important role in communication to the public. Through ethics, communication actions are directed towards actions that are carried out freely, but remain responsible. As stated by Snyder (in Nooh, 2012) divides the definition of advertising ethics into three components, namely honesty, fairness, and politeness. In this case, advertising is required to apply the principle of honesty in it. [6]

Freedom of creation in advertising must, of course, have to be regulated in such a way as to remain in compliance with the prevailing norms where the adverts are distributed. That is why there are regulations that govern advertising. In Indonesia, there are no laws that specifically regulate advertising. Advertising regulations are spread across several laws, such as the Consumer Protection Act, the Broadcasting Law, the Food Law, the Law on Labeling and Food Advertising, to the Minister of Health's Decree. Advertisers are required to comply with these regulations, on the other hand, must also remain creative in the diversity of content to attract the attention of potential customers.

This study aims to look at multi-interpretation regulations, which curb the creative space and diversity of advertising content in Indonesia. These problematic regulations will then be linked to the principle of Communication Policy put forward by Phillip M. Napoli, the principle of public interest.

## II. METHODOLOGY

This research is a qualitative literature study in which all data is obtained from books, journals, and other sources. As the main reference, the authors use the principles of communication policy as outlined in the book *Foundation Communications Policy: Principles and Process in the Regulation of Electronic Media* by Philip M. Napoli.

## III. RESULTS AND DISCUSSION

Since 1981, the Indonesian government, in this case, the Ministry of Information, has succeeded in developing a code of ethics in advertising. The code of ethics, named the Indonesian Advertising Code and Procedures, is a demand for an orderly, healthy and responsible advertising world. The code of ethics is also a foundation for society and functions to regulate the life of advertising carried out by the Indonesian advertising community.

One of the associations involved in the drafting of the Indonesian Advertising Code and Procedures is P3I or the Association of Indonesian Advertising Companies. The foundation of P3I's perspective is to closely observe all developments and trends that occur in the field of advertising, both those concerning internal and national aspects, as well as those concerning international aspects.

There are several regulations governing advertising serving in Indonesian mass media. Among them:

- Legislation of RI no 8 the year 1999 regarding Consumer Protection
- Legislation of RI no 40 the year 1999
- Legislation of RI no 24 the year 1997 regarding Broadcasting
- Legislation of RI no 7 the year 1996 regarding Food
- Legislation of RI no 69 the year 1999 regarding Food Label and Commercial
- Decree of Health Minister of RI no (draft) regarding Implementation Procedure of Government Regulation no 69 the year 1999 regarding Food Label and Commercial.
- Government Regulation no 81 the year 1999 regarding Safety Control of Cigarettes for Health
- Government Regulation no 38 the year 2000 regarding Amendments of Government Regulation no 81 the year 1999 regarding Safety Control of Cigarettes for Health
- Decree of Health Minister of RI no 368/Men.Kes/SK/IV/1994 regarding Guidance of Commercial of Free Medicines, Traditional Medicines, Medical Apparatus, Cosmetics, Medical Supplies, Households. Foods, and Beverages.
- Manners and Procedures of Improved Indonesia Commercials.

Besides all the laws above, another regulation which controls Indonesian advertising is Etika Pariwara Indonesia (Indonesian Advertisements Ethics). Indonesian Advertisements Ethics (EPI) 2014 is located under the 1945 Constitution and is carried out with the principles of self-rule. This is the third refinement of a similar document that was first pledged on September 17, 1981, called the Book of Procedures and Indonesian Advertising Procedures (TKTCPI). Completion of the first book was pledged on August 19, 1996. In the second Refinement which was pledged on August 26, 2005, the TKTCPI book was agreed to be called EPI. [7]

The function of the regulations governing advertising in Indonesia, one of which is to protect consumers. However, in reality, there are some rules which contain ambiguity and do not state the clarity of the editors. One example of a case that was published on the online news portal Tempo.co. In 2017, the Indonesian Broadcasting Commission (KPI) summoned five television stations, including TV One, MNC, O'Channel, JakTV, and Elshinta TV, which broadcast some traditional medical advertisements and products claiming health benefits that were deemed to mislead the public. The Head of the

Ministry of Health's Communication and Community Services Bureau, Oscar Primadi, gave his statement as follows:

"The Ministry of Health does not only make regulations. We immediately work real, establish communication and report advertising violations to KPI. This is solely to protect the community." [8]

Another example is the case of Shopee e-commerce advertising in 2018, where the advertisement featured Blackpink, a girl band from Korea. Written by Tirto.id, social media at that time was boisterous when a petition spread titled "Stop Shopee Blackpink Ads" made by Maimon Herawati some time ago. The petition demanded the Indonesian Broadcasting Commission (KPI) reduce the Shopee advertisement displaying the figure of a South Korean girl group, Blackpink. [9]

When the Blackpink version of the Shopee ad first appeared, there were several numbers of people who said that the advertisement contained things that were improperly displayed when children watched inappropriate things that had problems with pornography. Then the community moved to make a petition containing the Blackpink version of Shopee advertisement in children's watches to the broadcasting regulation center in Indonesia, KPI.

Blackpink version of Shopee advertisement is considered containing pornographic signs, where the advertisement shows a woman who was dancing with very minimal clothing. This ad is generally declared by the public to be inappropriate for airing because it is rated as not complying with existing rules. At the moment, Shopee's ad has been criticized, one of which is the petition for rejecting the Blackpink Shopee advertisement which is made with a pornographic display that is considered by the people who signed the rejection petition far from the reflection of the civilized value of creation and the Shopee Blackpink advertisement is considered provocative. This Blackpink Shopee ad version is considered inappropriate to be displayed because the dance they are performing as well as giving a seductive look glance that is displayed. This ad is considered to be a controversy because at the time the program airs the children which should be set at the hour of viewing for adults. Therefore, KPI, which is the parent of Indonesia's television regulations, issued a reprimand letter to Shopee to move the advertisement display time and was no longer playing on the children's program airtime. And some TV stations that claim Shoppee's Blackpink ads also get a warning ban on showing these Shopee ads. [10]

KPI responded to the protests by issuing strong warnings to the eleven television stations that broadcast the ad. KPI assesses that the advertising content has the potential to violate Article 9 Paragraph (1) of the 2012 Broadcasting Behavior Guidelines and Broadcast Program Standards (P3SPS) concerning Broadcast Program Obligations in observing the norms of decency and morality which are upheld by a diversity of audiences related to culture. KPI assessed that the Shopee ad is not suitable for airing on children's airtime, because the appearance of Blackpink personnel in the ad is inappropriate. The indecency referred to is the miniskirts and dances performed by the four women are deemed not under the prevailing norms in Indonesia.

In Indonesia, the concept of publicness refers to everything that smells of people, concerns the public interest and relates to the lives of many people. The concept of publicness was first sparked in the most basic constitution of the Republic of Indonesia, namely the Opening of the 1945 Constitution, which contained Pancasila. In the 4th precepts of the Pancasila, it reads, "Democracy is led by wisdom in representative deliberations." The democracy referred to here are daily life based on values based on togetherness and cooperation, because these two values are the social culture of the Indonesian nation inherited from ancestors. [11]

Quoted by Napoli, the concept of public interest is defined as "the heart of the democratic theory of government". The principle of public interest serves as the concept of a "broad umbrella" of all the foundations of other principles in communication policy. The notion of public interest is certainly no stranger to regulation in communication, although some communication policy arenas have examined it in a broader philosophical and political context. [12]

In organizing various problems and issues faced, there are three different levels in the concept of public interest, namely: the conceptual level, the operational level, and the application level. Any discussion or critique of public interest standards must be determined in advance what level is being studied. Needless to say, of course, questions of ambiguity or multi-interpretation can arise at any level among the three levels. However, debates, discussions, and investigations of the terminological sense of public interest will add to the usability only if all parties agree on the level at which a phenomenon is debated.

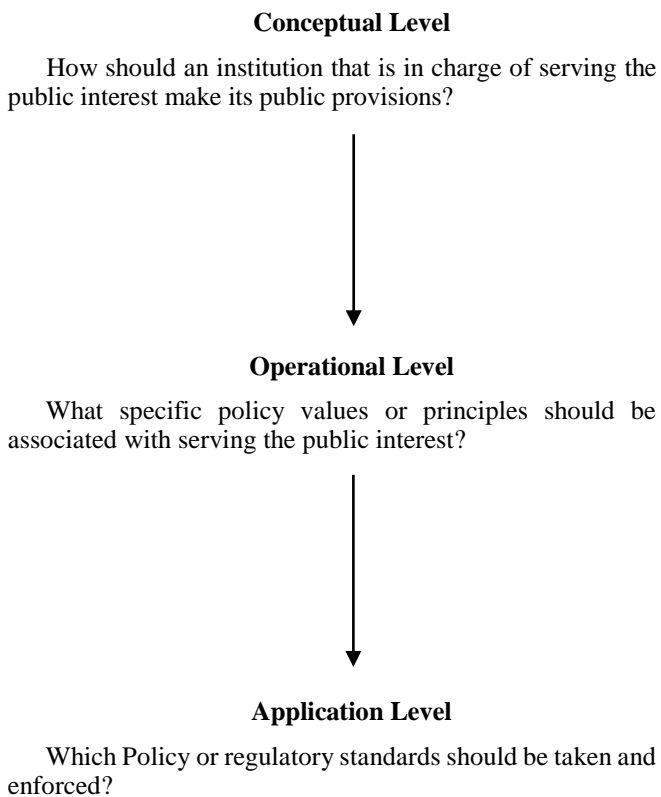


Fig. 1. Three levels of public interests

Figure 1 shows the three levels of public interests explained by Napoli [12]. Quoted by Napoli from the National

Telecommunications and Information Administration (1997), Public Interest Obligations in Commercial Broadcasting Licenses, one of which is the existence of television advertising obligations. According to the National Telecommunications and Information Administration, television advertising must air-identify any entity that has sponsored the presentation of broadcast content. It is not allowed to display more than 10.5 commercial minutes per hour during children's program shows on weekends, and no more than 12 minutes per hour during impressions on weekdays.

Advertising, besides being a source of income for broadcasters and mass media, is also a source of information for the community. The advertisements that appear in the mass media are still considered quite effective in attracting the attention of the audience. It is undeniable that there are still many people who make advertising as a reference for making decisions to buy or consume products and services. But in reality today, regulatory agencies often become very sensitive to advertising content. Based on a multi-interpreted law, they give a reprimand to the mass media that displays advertisements that are considered unlawful.

An example of the advertising regulation that implies ambiguity, is contained in the Broadcasting Law Number 24 of 1997 Article 42, which says "broadcast advertising is prohibited to contain: things that are contrary to the decency of the people". The meaning of morality here is not clearly explained how morality is. For some people, Blackpink is an art and entertainment worker, what Blackpink displayed did not violate immoral norms. Other odd regulations contained in the Decree of the Minister of Health of the Republic of Indonesia, No. 368/MEN.KES/SK/IV/1994, namely the point stating that "drug advertisements may not provide superlative, comparative statements about indications, usefulness/benefits of drugs" and "drug advertisements must not provide recommendations regarding the efficacy, safety, and quality of drugs carried out excessively". How are the concepts of "superlative" and "excessive" defined according to these regulations? While one of the criteria for advertising is persuasion, and the purpose of producers to advertise their products is to show the advantages so that the audience is distracted to do what the advertiser wants. Some editors in the regulation contain ambiguity and invite multi-perception in its interpretation. Words that are clearer and more specific are needed so that the creators of advertisements also understand the limits of what can and may not be included in an ad.

Ambiguity in interpreting regulations seems to have become commonplace. The same issue also occurs with online advertising in the European Union. Then what do they do to overcome the ambiguity of this interpretation of the law?

Given that there are multiple ambiguities in interpreting the laws, the firm and advertiser response has been mixed. Some firms have been conservative in their interpretation, and have limited their collection and use of data for targeting if they have not received prior approval. Some EU lawyers have even recommended that firms do not store IP addresses unless consent is obtained. Other firms have interpreted the regulations less strictly. For example, an attorney at a large provider of information society services and advertising contacted the authors anonymously to argue that opt-in consent was not required.

Given the controversies over how to interpret the EU Directives in the light of technological change, we emphasize that our estimates show the effects of firms' and advertisers' interpretations of the EU Directives, not the effects of the laws' actual texts unmediated by interpretation. [13]

Advertising is organized in such a way, while the audience needs that information. The supervisory bodies argue behind the foundation of the Broadcasting Law and the Consumer Protection Act, expressing their concern for ordinary people. In reality, the concern of the supervisory body has not been proven to be true.

#### IV. CONCLUSIONS

The existence of several regulations in advertising regulations in Indonesia, limiting the space and creativity of producers and advertisers to introduce their products to the public, as well as persuading the audience to use their goods or services. Some points in advertising regulations in Indonesia are written with a very broad and non-specific meaning so that many reprimands come to broadcasters because they display advertisements that are considered to be illegal.

The regulations governing advertising should be written with a clear choice of words, not containing ambiguity and multiple interpretations. KPI and other supervisory institutions should be wiser in giving a reprimand. Unreasonable concerns should be set aside, and focus more on other, more crucial broadcasting issues. So that there are no more cases of television stations getting a reprimand, advertisements are taken down, just because they display advertisements that are considered "causing unrest", and "cause public concern".

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