Analysis of Regulatory Loopholes in The Broadcasting Law and PSE Regulations on The Distribution of RCTI+ OTT Content

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Abstract
Digital transformation has reshaped Indonesia's media industry through the rapid growth of Over-the-Top (OTT) services, shifting audiences from scheduled broadcasting to on-demand streaming while challenging existing regulatory frameworks. Regulatory overlap between the Broadcasting Law and the Electronic System Operator (PSE) regime has created ambiguity over the authority of the Indonesian Broadcasting Commission (KPI) and the Ministry of Communication and Information Technology. This study examines how RCTI+ exploits these regulatory gaps using Robert W. McChesney's Media Political Economy Theory. Employing a critical paradigm and qualitative case study of Indonesia's broadcasting and PSE regulations, the study finds that RCTI+ strategically shifts between legal regimes to circumvent broadcasting obligations, transforming audiences from citizens into data commodities without public accountability. Rather than representing isolated regulatory inconsistency, these practices reflect structural conditions that enable corporate media power to exploit fragmented digital governance. The findings demonstrate that regulatory classification determines the democratic accountability of digital media, making legal compliance inseparable from communication democracy. These findings also reaffirm the analytical value of McChesney's framework for explaining how regulatory fragmentation facilitates corporate regulatory arbitrage within hybrid media systems in developing countries.

Keywords: Digital Media Governance, Media Political Economy, Over The Top (OTT), RCTI+, Regulations

INTRODUCTION

Digital transformation has reshaped Indonesia's media industry most visibly through the rapid growth of Over-The-Top (OTT) services, which distribute content over the internet without depending on conventional service-provider infrastructure, and Video-on-Demand (VoD), which allows users to access content on demand. These developments have not only transformed patterns of media consumption but have also realigned media governance toward a model increasingly shaped by technology, user data, and economic policy.

Local platforms such as RCTI+ have responded to this shift by consolidating multiple services into a single offering: online television broadcasting, digital news streaming, VoD content, radio streaming, and interactive features. Such convergence reflects how traditional media actors are adapting to survive within an increasingly competitive infoscape. Yet this adaptive strategy has outpaced the existing regulatory framework. The Indonesian Broadcasting Commission (KPI), as the supervising authority for conventional media, clearly lacks the capacity to regulate OTT and VoD services (Budiman, 2020).

This regulatory gap carries direct legal consequences. Because OTT and VoD services fall largely outside existing oversight, critical areas such as censorship, copyright protection, taxation, and consumer protection remain inadequately addressed (Yasmin & Riwanto, 2024), producing a regulatory vacuum that deepens legal ambiguity and results in asymmetric treatment between digital service providers and traditional broadcasters. Conventional television, meanwhile, faces mounting revenue pressure as both global and local OTT services erode its advertising base. As Siregar & Sazali (2025) observe, OTT regulation offers the prospect of a clearer legal framework, but its absence has simultaneously accelerated the decline of conventional television revenue.

This regulatory ambiguity also raises important questions within the public sphere. The lack of content standardisation, combined with concentrated media ownership, creates dilemmas regarding the diversity of information made available to audiences. Similarly, the absence of clear censorship and content-classification standards for VoD services blurs the boundary between freedom of expression and the media's responsibility to protect its audience.

These pressures have driven conventional television toward a drastic business-model transformation, largely in pursuit of an equal playing field, a principle demanding equal regulatory standards for fair competition. Within this context, the issue of legal equality between global and national OTT providers has become increasingly important. Fiscal equality and the obligation for operators to cooperate with the state are considered vital to maintaining digital sovereignty, understood as the state's capacity to regulate digital activities and data, while also ensuring healthy business competition (Prathama & Rasji, 2022). The reliance of OTT companies on global digital infrastructure further expands their legal responsibilities regarding the protection of sensitive user data.

In response to this gap, one proposal suggests resolving the Broadcasting Law's lack of definitional clarity through the lex specialis principle, a legal doctrine stating that specific rules override general rules governing the same subject. Applying this principle would allow for specific regulations covering content, business, and taxation aspects, including the obligation to establish a Permanent Establishment (BUT) and to cooperate with national operators. However, no consensus has yet emerged on whether OTT services should fall under the Broadcasting Law as a specific rule, or under the Electronic System Operator (PSE) regime as a general rule (Confido & Komala, 2022).

Copyright protection presents a related challenge. Indonesia currently lacks a comprehensive mechanism comparable to the Digital Millennium Copyright Act (DMCA), which provides safe harbour, that is, legal protection for service providers against liability for user content, alongside anti-circumvention provisions prohibiting the bypassing of digital copyright protection. In the absence of such a mechanism, service providers continue to operate without a clear legal framework governing user content (Sihombing et al., 2021).

This regulatory complexity intensified when Media Nusantara Citra (MNC), the parent company of RCTI+, formally challenged the Broadcasting Law. According to Fauzi et al. (2021), MNC argued that the existing definition of broadcasting was no longer relevant to digital developments. The Constitutional Court rejected this challenge, confirming that internet-based broadcasting was not included within the national broadcasting system. This ruling suggests that Indonesia has yet to shift from a traditional conception of broadcasting toward one that accounts for how digital activities have moved beyond that framework.

Digital taxation policy adds a further layer of complexity, carrying both political and economic consequences. Sugeng et al. (2025) found that Indonesia has imposed an 11% digital tax on OTT providers through electronic trade. This policy, aimed at boosting state revenue, has nevertheless faced implementation challenges related to data gaps and the risk of double taxation, both indicating that digital economy policy requires further development. This finding resonates with earlier work by Safiranita et al. (2021), who identified competing regulatory regimes and wide compliance gaps that limit the state's systematic capacity to enforce fiscal obligations on digital platforms in the absence of an optimally designed legal framework for OTT.

Media ownership structure in Indonesia cannot be separated from broader problems in digital media governance. Concentrated media ownership weakens journalistic editorial independence (Firman & Rahmawati 2023) and may limit information plurality. Weak regulation of cross-ownership under the Press Law and Broadcasting Law entrenches this concentration, making it difficult to establish a foundation for managing new digital platforms and preserving information diversity in the future (Aulia & Raffles 2021).

Globally, OTT regulatory frameworks vary considerably. Singapore, for instance, applies the Content Code for Over-The-Top, Video on Demand and Niche Services in

Singapore (2024), administered by the Info-communications Media Development Authority, the statutory board of the Ministry of Communications and Information responsible for regulating Singapore's communications and media industry, to regulate online content classification and restrict young audiences from accessing inappropriate material. India offers a different model: the Digital India Act seeks to balance freedom of speech and platform aggregation against social responsibility in shaping its regulatory framework.

Australia presents another approach, using SVOD policy as a buffering tool to support the local broadcasting landscape and foster domestic content production, helping the local cultural industry remain competitive against the dominance of global platforms (Lobato et al., 2024). A comparable approach exists in Europe under the Audiovisual Media Services Directive (AVMSD), which requires digital providers to allocate six percent of revenue toward local content production (Idiz et al., 2021).

In Indonesia, this regulatory ambiguity is compounded by the overlap between the Broadcasting Law and the Electronic System Operator (PSE) regime, which obscures the respective authority of the Indonesian Broadcasting Commission (KPI) and the Ministry of Communication and Information Technology. Oversight through the Electronic Information and Transactions Law (ITE Law) is considered inadequate, suggesting that OTT requires its own legal umbrella to ensure legal certainty (Agatha & Hadjon, 2020). Research by Zhongyu & Hashim (2025) shows that the expansion of OTT has reshaped content distribution and challenged regulators' ability to adapt the legal framework. This finding is consistent with Tambini’s (2025) analysis of the "Netflix effect," namely the weakening of national broadcasting authority due to the absence of specific OTT regulation. This misalignment creates a regulatory grey area that domestic platforms such as RCTI+ are positioned to exploit.

Taken together, these dynamics indicate that Indonesia's digital media governance framework remains unprepared for the realities of OTT distribution, producing legal uncertainty, competitive inequality, and weak public protection. This study therefore aims to analyse how RCTI+ exploits regulatory gaps between the Broadcasting Law and the PSE regulations in distributing its OTT services, examined through the framework of media political economy in Indonesia.

LITERATURE REVIEW

Previous studies on Over-The-Top (OTT) services in Indonesia revolve around two problems that are difficult to separate: gaps in the legal framework, and the contest of economic and political interests behind efforts to fill those gaps. What is striking is not merely the absence of regulation, but how that absence has been actively exploited by various parties to their advantage.

Legal Issues and Regulatory Gaps in OTT

Several researchers have documented how unprepared Indonesian law is in dealing with OTT and Video on Demand (VoD) services. Diza (2022) traces the legal liability of OTT providers like Telegram in digital copyright infringement cases, and the findings are not encouraging: although OTT as an Electronic System Operator (PSE) is in principle responsible for illegal content, the anti-piracy mechanisms in place have proven ineffective in practice.

That weakness is compounded by the findings of by Sitabuana & Estevania (2022): internet-based OTT viewers have almost no meaningful legal protection. This is not accidental. OTT platforms are simply not bound by the Broadcasting Law or the Consumer Protection Law, a position that was cemented by Constitutional Court Decision No. 39/PUU XVIII/2020. As a result, regulatory bodies like KPI have no authority to enforce content standards against them.

The situation becomes more complicated when foreign OTT platforms enter the picture. Ulya (2021) shows that Netflix operates in Indonesia without a local legal entity and without going through any censorship process, a clear violation of broadcasting, film, and pornography regulations. Indeed the principle of Netflix being liable also abroad is not excluded by the extra-territorial jurisdiction clause in section 38 Electronic Information and Transactions Law although sanctions may apply to telecommunications operators that co-operate with Netflix. This distinction matters because what is legally possible in principle and what is practically enforceable in reality remain two markedly different things.

Political Economy Dynamics and Industry Response

The "OTT crisis" is not simply a case of tech changing quicker than law can keep up. Under the surface is a much deeper battle between power and profit. Mahriva & Wenats Wuryanata (2021) examine the Broadcasting Law and attempts from RCTI and iNews to sue over it, a struggle that was never really about equitable regulation so much as media owners trying to essentially capture ownership legally over the content which they control in a way that entrenches their vertical integration between their business empires. Regulation is merely the instrument here.

Fitzgerald (2019) contends that the concentration of power among a small number of global platforms, within a broader pattern of media imperialism, coincides with the rise of local conglomerates monopolising telecommunications infrastructure and content outlets. According to Fitzgerald, business models in the near to medium term, whether or not they involve complete end-to-end distribution, are likely to position local telecommunications companies as key industry players rather than mere data-pipe operators. Building on this argument, Valentine (2018) takes a more prescriptive position, arguing that foreign OTT providers should be required to establish mandatory Permanent Establishments (PEs) in Indonesia and to operate in partnership with local operators. The underlying rationale is to achieve competitive equality while also securing the state's taxation rights and data sovereignty.

Gorwa (2024) offers a broader framework for understanding these dynamics, identifying three strategies used by industry actors in responding to regulation: Contest, Collaborate, and Convince. Which strategy is adopted is not determined by business calculation alone; the balance of domestic and external power, the strength of political will, and the institutional capacity of government all shape which approach ultimately prevails. This framework is directly relevant to understanding how actors such as RCTI+ position themselves in relation to Indonesian regulators.

Media Political Economy

Based on McChesney Media Political Economy, this approach provides a solid theoretical basis to be used in analysing the structure of power ownership and corporate interests in the digital media system including OTT content distribution in Indonesia. McChesney's framework includes six interrelated components that are most relevant to this study. The first is the natural conflict between profit-oriented media systems and requirements of democratic discourse, which leads to a fundamental structural bias against the public interest (McChesney, 2015: xi). Second, there is the institutional logic: the notion that profit-oriented behaviour is not an individual moral issue but rather the most rational choice available to media owners and managers operating in a capitalist media system (McChesney, 2015: 30). Third is the principle that media systems are politically determined rather than products of natural market forces; because commercial media systems depend on government policy for their survival, regulatory gaps are outcomes of political choices rather than accidents (McChesney, 2015: 30-63). Fourth, while culturally central to finding ways towards a better future for democracy, media content as a public good that markets fail to deliver upon properly since market mechanisms routinely generate results detrimental to the democratic function of the media (McChesney, 2015: 144). Fifth, media ownership concentration and hypercommercialism as structurally antidemocratic forces that reduce the diversity of voices required in a functioning democracy. And sixth, the necessity of structural reform to restore the public interest orientation of communication systems, as all evidence points to the need for such fundamental changes(McChesney, 2015: 304).

McChesney asserts that modern media systems tend to conflict with democratic principles because the media exists within a market structure dominated by corporate ownership and a strong dependence on advertising. The tension that McChesney identifies, is the natural contradiction between a profit media system comprised of a small number of owners and immersed in advertising interests, versus the for communication public objects inherent to democratic societies (McChesney, 2015: xi). And on that score McChesney points out as he makes clear in his book, the title of which should be a clue that to even begin tackling global democratic crisis requires understanding how the media system itself undermines democracy itself corporate media is doing more to create favorable conditions for real and effective democratic governance (McChesney, 2015: xv).

This perspective is directly relevant to examining how RCTI+ positions itself as an economic actor that exploits regulatory inconsistencies to maximise profits: McChesney's core contradiction between profit orientation and democratic needs explains how loopholes in broadcasting regulations and PSE rules can be structurally exploited by OTT industry players to expand their control over content distribution without adequate public accountability.

The need for media regulation stems from the assumption that commercial media systems do not arise naturally from the principle of freedom, but are the result of a series of political decisions shaped by government policies that ultimately fail to meet public needs (McChesney, 2015: 63). McChesney asserts that this failure is not caused by the poor morals of individual media owners or managers, but by institutional logic that makes profit-oriented behaviour the most rational course of action within the system, a framework he describes as the "institutional" or "political economic" approach to understanding media (McChesney, 2015: 30). He explains this through his statement that media owners and managers act as they do because it is the most rational conduct to pursue in the market context they face (McChesney, 2015: 30). This premise provides a framework for understanding how regulatory uncertainty, delays, or inconsistencies can cause digital platforms to operate in a legal grey area. With institutional logic that encourages profit-based rational behaviour, as described by McChesney, OTT platforms will naturally seek loopholes that allow them to minimise regulatory obligations, expand their market reach, and avoid restrictions that apply to conventional broadcasters.

Furthermore, McChesney argues that audiovisual content serving public functions, including journalism and media content distributed at scale, should be considered a public good that cannot be fulfilled solely through market mechanisms, as markets often produce destructive and irrational outcomes (McChesney, 2015: 144). Therefore, media reform must be directed at systemic change, given that the root of the problem lies in ownership structures, the drive for profit, and dependence on advertising (McChesney, 2015: 304). This provides a basis for assessing the social impact of unregulated content distribution practices comparable to traditional broadcasting. In the context of the digital media system, regulatory negligence has the potential to cause access inequality, content bias, and weakened public accountability.

This way of thinking strengthens the critique that OTT platforms do not limit their malpractices to a self-regulatory process in balancing the rules and regulations, but it draws distinctions between media political economy and information governance of society. As McChesney argues, the ultimate goal of media regulation should be to establish a structural change that can transform the function of media from simply serving corporate profit to serving social purposes. For McChesney the democratisation of the system of communication belongs within a broader political programme, and not simply as a change in message content. He stresses public needs for policies to make press independence possible in order to fulfill this aim. The only conclusion McChesney reaches, therefore, given all the evidence presented, is that commitment to democracy can only be realised by urgently restructuring the media system (McChesney, 2015: xi). This argument provides a normative foundation for understanding how OTT content distribution models that exploit gaps in foundational policy can undermine democratic objectives within the communication ecosystem.

Consequently, the interplay between these six elements form a comprehensive analytical framework to guide this analysis: the core contradiction explains why RCTI+ prioritizes profits over public accountability; institutional logic dictates that exploiting regulatory grey areas is the most rational course of action among the limited choices MNC Group has; media systems filtered through policy shape explains how this overlap between Broadcasting Law and PSE regulations came about as an inevitable outcome; public good argument explains how unregulated OTT content can be seen as a democratic deficit; ownership concentration captures MNC Group's willingness to leverage multiple distribution channels at once simultaneously; and structural reform argument provides the normative ground for judging whether or not practices like these affect communication democracy in Indonesia.

METHODOLOGY

This study adopts a critical paradigm as its theoretical foundation. According to Tahir (2011) in Pahleviannur et al. (2022: 6) this paradigm holds that reality is both objective and subjective, with human beings continuously in a process of becoming; within this view, science occupies a position between positivism and interpretivism, aiming to uncover the actual social relations that shape everyday life. Sarantakos (1998) in Pahleviannur et al. (2022: 6) further describes the critical paradigm as one that emerges out of the ongoing interaction between individuals and the social worlds they inhabit. In line with this paradigmatic foundation, the study employs a qualitative approach, which Creswell & Creswell (2023: 22) define as a means of exploring and understanding the meaning that individuals or groups ascribe to a social or human problem.

These two foundations, the critical paradigm and the qualitative approach, are well suited to one another. The critical paradigm makes visible structural inequalities such as unequal access to media, the dominance of market-driven communication over public interest, and ownership concentration that erodes information pluralism and institutional accountability (Pahleviannur et al., 2022: 6). Within this study, the paradigm provides the analytical lens through which RCTI+'s strategy can be examined: namely, how the company navigates overlapping regulatory structures between the Broadcasting Law and PSE regulations in ways that monetise legal grey zones, transforming audiences, who are entitled to communication rights under the law, into data commodities within a commercial, plug-and-play ecosystem. The qualitative approach, in turn, enables the researcher to trace the processes, motives, and dynamics behind these practices with a depth that quantitative methods cannot achieve (Creswell & Creswell, 2023: 22).

Taken together, these foundations are well suited to understanding how RCTI+ draws on regulatory gaps in providing its OTT services within the political economy of Indonesian media. This study employs a case study approach, which Hadi et al. (2021: 29) define as a method of qualitative or quantitative exploration that examines specific events, programs, or activities in depth, focusing on their real-world context to produce an integrated description or interpretation of phenomena at the individual, group, or organisational level. This approach was selected because it allows the real nature of RCTI+'s distribution practices to be examined in close, fine-grained detail. It also enables the researcher to trace how the application moves back and forth between the Broadcasting Law and PSE regulations, gradually building an understanding of the strategies employed and what these strategies mean for media political economy in Indonesia.

Document analysis serves as the primary method of data collection. Arikunto (2011) in Hadi et al. (2021: 64) describes this method as one that operates by examining written materials, such as books, reports, and other texts, related to the object of investigation. The two most important documents for this study are the Broadcasting Law and the PSE regulations. Law No. 32 of 2002 concerning Broadcasting governs the distribution of broadcast content, the licensing of broadcasting institutions, content restrictions, and public service obligations. This law is significant for the present research because, although OTT services are not formally classified as broadcasting establishments, the nature of some of the content they disseminate falls within broadcast territory, and it is precisely this grey area where jurisdictional overlap forms. Minister of Communication and Information Regulation No. 5/2020 concerning Private Electronic System Operators (PSE regulations) constitutes the legal basis governing how digital platform operators, including OTT services, operate. It addresses registration, platform responsibilities, access termination, and service classification, providing the relevant context for how RCTI+ secures legitimacy in operating as an electronic system operator.

To analyse the data, the researcher applied the Miles and Huberman model, which Hadi et al. (2021: 74–75) describe as comprising three stages: data reduction, data presentation, and conclusion drawing and verification. Reduction involved selecting the documents most relevant to the research focus, followed by simplification and organisation. The reduced data were then presented as an overview narrative, intended to illuminate patterns, differences, and overlaps within the regulatory regimes under analysis. Conclusions were drawn by testing regularities inductively against the full body of document data. This study does not seek confirmation through informants, as it relies entirely on written sources.

RESULTS AND DISCUSSION

The emergence of media such as RCTI+ OTT applications by commercial media in Indonesia can be interpreted as entry strategies to reveal the fundamental contradiction between a profit-oriented mass media system and public communication needs based on social responsibility. It follows that in this context RCTI+ is not a form of merely technological adaptation, but a strategic innovation drawing upon spaces created by the asynchronous development of broadcasting and electronic system regulations as key mechanisms through which to change its corporate public accountability regime. Being legally designated as an Electronic System Operator (PSE), RCTI+ has efficiently distributed audiovisual material that closely resembles television broadcasting outside of tight public ethical control, and thus demonstrates the concrete manner in which the political economy of media functions within Indonesia's OTT ecosystem.

McChesney, arguing from a media political economy position, contends that the logic of institutionalised behaviour inherent in media corporations will lead them to pursue the most rational conduct possible (i.e. always finding regulatory loopholes and working every angle possible to lessen its burden while increasing its economic profits, required of it as part of an applied policy) embedded within traditional capitalist constructs (McChesney, 2015: 30). The continuous stalemate on the revision of Broadcasting Law is not just a technical failure in consideration of legislation, but rather a contestation of state policy between public interest and corporate lobby where no loophole that benefits the market should be left unchallenged. This is even more apparent in the strategic inconsistency of the MNC Group towards its own Judicial Review to the Constitutional Court as reflected in 39/PUU-XVIII/2020 (2021) the case for judicial review against Article 1 paragraph 2 of Law Number 32 of 2002 concerning Broadcasting (Broadcasting Law). At first, the corporation had encouraged OTT to be included in broadcast regime on equal treatment for avoiding global players, but when Constitutional Court was rejected, it is then presented as legal giving RCTI+ to work fully as Electronic System Operator (PSE) without interference of broadcasting ethics.

Therefore, practices of media corporations can't be understood as deviant individual moral choices, but should be understood as structural results of the profit-oriented (and by state policies created) commercial media system (McChesney, 2015: 63). This contradiction results in a space between Law Number 32 of 2002 on Broadcasting, radio frequency spectrum-oriented and Regulation of the Minister of Communication and Information Technology Number 5 Year 2020 on Private Electronic System Operators (PSE) in the private sector which is oriented towards internet services so that RCTI+ can shift its content accountability regime. The looseness of these provisions has arrayed an inconsistency that called for government responsibility transferred from strict public ethics-based supervision to relatively more loose digital administrative compliance in large scale, a big legal gap risk in Indonesia's audiovisual content distribution.

Analysis of Regulatory Loopholes in the Broadcasting Law and PSE Regulations on RCTI+ OTT Content Distribution

Within this regulatory misalignment, RCTI+'s primary strategy can be understood as a rational attempt to position itself entirely under the legal regime that imposes the most minimal substantive obligations. This shift marks a change in the status of the audience, from citizens whose information rights are protected by a state institution (KPI) under the principle of publicly owned spectrum, into mere consumers within a private digital contract defined by a transactional relationship. This underscores how the power of media conglomerates leverages technological convergence to expand market dominance while avoiding social responsibility. It is precisely legislation's failure to anticipate media convergence that has opened a space for media corporations to operate within a legal grey area. This is consistent with McChesney's premise that commercial media systems will always operate within a policy framework that fails to meet public needs democratically (McChesney, 2015: xi).

To explore this change from one regime to the other legally, we need first to compare the basic structure of two divergent law systems in Indonesia related to the distribution of audiovisual content. They are not merely technical, but they will dictate the object of regulation, the supervisory authority and the associated media service by social ethical obligations. The main weakness of the regulation is a formal and narrow definition and range of the Broadcasting Law. This can be seen in the table below which shows some of the differences between the two legal regimes:

Table 1. Regulatory Differences Regarding the Status of the RCTI+ Application

Aspect	UU No. 32/2002	Permenkominfo No. 5/2020 (PSE)	RCTI+ Status
Main Object	Broadcasting Institution	Electronic System Operator (PSE)	PSE in the Private Sector
Distribution Basis	Radio Frequency Spectrum and/or Cable	Internet Network (IP Protocol)	Internet Network (Non-Frequency)
Supervisory Jurisdiction	Indonesian Broadcasting Commision (KPI)	Ministry of Communication and Information Technology	Ministry of Communication and Information Technology
Regulatory Focus	Broadcast Content (Ethics, Morality, P3SPS, Safe Broadcasting Hours)	System Governance (Administration, Illegal Content Moderation, Data Security, Take Down)	System Governance
Content Obligations	Must comply with P3SPS; Content must be beneficial and may not contain elements of slander, obscenity, or violence.	Must moderate/remove content prohibited by law; does not regulate programme content standards	Avoid P3SPS

Source: Processed by Researchers, 2024

This draws out the fundamental problems of existing regulations. Based on Article 1 paragraph (2) of Law No. 32 of 2002, it is said that "Broadcasting is the activity of disseminating broadcasts using broadcasting and/or transmission facilities on land, at sea or in space using radio frequency spectrum through air, cable and/or other media so as to be captured simultaneously and concurrently by the public with broadcast receiving devices." In this article, we will broadly define broadcasting as the distribution of broadcasts that is necessarily tied to the radio frequency spectrum. This definition is supported by the provisions in Article 13 paragraph (2) of Law Number 32 of 2002, which mention types of broadcasting institutions consisting of Public Broadcasting Institutions, Private Broadcasting Institutions, Community Broadcasting Institutions and Subscription Broadcasting Institutions. As RCTI+ channels its content through an IP-based internet network whereas broadcasting institutions described in Article 1 paragraph (2) of Law Number 32 of 2002 are institutions which use the radio frequency spectrum. Consequently, audiovisual material that greatly mirrors television broadcasting falls outside the reach of P3SPS (the Indonesian Broadcasting Commission's content guidelines), including its standards for content ethics, audience classification, and watershed broadcast-time restrictions. This state of affairs results in a regulatory gap on the moral foundations of digital media content, one that is structurally exploited by corporations hoping to keep social accountability costs at an absolute low, what McChesney (2015: 30) describes as `the logic that all institutions must abide by and it operates with respect to commercial media systems where everything is subordinated to maximising profit, while using public goods.

The consequence of this legal construction is that RCTI+ is exempt from the jurisdiction of the Indonesian Broadcasting Commission (KPI). This is in line with Article 8 paragraph (2) of Law Number 32 of 2002, which states that KPI has the authority to: "a. set broadcasting programme standards; b. formulate regulations and set broadcasting code of conduct guidelines; c. supervise the implementation of broadcasting regulations and code of conduct guidelines as well as broadcasting programme standards; d. impose sanctions for violations of broadcasting regulations and codes of conduct as well as broadcast programme standards. e. coordinate and/or cooperate with the Government, broadcasting institutions, and the public." This article shows that P3SPS is the main regulatory instrument of the Indonesian Broadcasting Commission governing broadcast content, reinforced by Article 36 paragraph (1) of Law Number 32 of 2002, which states that "Broadcast content must contain information, education, entertainment, and benefits for the formation of intellectuality, character, morals, progress, national strength, maintaining unity and integrity, and practising the values of Indonesian religion and culture." Similarly, Article 36 paragraph (5) of Law Number 32 of 2002 states that "Broadcast content is prohibited from: a. being defamatory, inciting, misleading and/or false; b. highlighting elements of violence, obscenity, gambling, narcotics and illegal drug abuse; or c. pitting ethnic groups, religions, races, and inter-groups against each other," and Article 36 paragraph (6) of Law Number 32 of 2002, which states that "Broadcast content is prohibited from mocking, demeaning, harassing and/or disregarding religious values, the dignity of the Indonesian people, or damaging international relations".

Operating outside broadcasting, this content is in principle transferred to a non-broadcasting regime by continuing to be replicated through simulcast mechanisms (the simultaneous rebroadcasting of television programmes over the internet) and content presented as video-on-demand (VoD) on RCTI+. This enables corporations to take advantage of the same content across various platforms without strict limitations on advertising time and commercial ethics regulations, allowing for maximised wealth extraction from reliance on the digital advertisement ecosystem. Hence, content that is substantially similar to traditional television broadcasts is no longer covered by the ethical standards, audience classification and broadcasting time obligations intended to protect the public interest.

In fact, RCTI+ itself has registered as a Private Scope PSE with Permenkominfo No.5 of 2020 dated 17 May 2021 under the name MNC Digital Indonesia and domain rctiplus.com. Thus, MNC Digital Indonesia's stake confirms McChesney's premise of ownership concentration that one conglomerate can dominate multiple distribution channels simultaneously to reinforce its logic of profits. This regulation governs electronic information provision services as stated in Article 2 paragraph (2) letter b number 5 of Permenkominfo No. 5 of 2020, which includes the distribution of writing, sound, images, animation, music, video, films, and games or a combination of some and/or all of these. However, the provisions in Permenkominfo No. 5 of 2020 mostly regulate aspects of electronic system governance, such as registration obligations, content moderation that is explicitly prohibited by law, data security, and mechanisms for terminating access upon request from authorities, all of which are listed in Articles 9 to 46 of Permenkominfo No. 5 of 2020. There are no regulations regarding programme content standards, age classification, or broadcast time restrictions as are known in the broadcasting regime. This condition creates a regulatory vacuum regarding the ethics of digital media content, which can be structurally exploited by corporations.

Platform Hybridity and Regulatory Vacuum: The Architecture of the RCTI+ Application as a Corporate Deregulation Strategy

RCTI+ corporate strategy does not stop at choosing the most lenient legal regime, but is also realised through the development of an application architecture as a multisectoral digital service ecosystem, namely an integrated platform that combines media, information, entertainment, and digital economic services in one electronic system. This approach reinforces RCTI+'s position as a pure Electronic System Operator (PSE) while blurring the boundaries between media and non-media functions, thereby weakening the effectiveness of media content regulation oriented towards the public interest. From McChesney's political economy perspective, this multisectoral integration is an attempt by corporations to create an ecosystem monopoly that maximises control over audiences (McChesney, 2015: 304). This strategy is not solely about avoiding content regulation, but also about controlling a new resource: user data. Unlike terrestrial television, which operates anonymously, PSE status allows the corporation to extract detailed data on viewer behaviour, minimising market risk and maximising capital accumulation. This marks a fundamental shift: audiences are no longer regarded as citizens to be informed and educated, but as data commodities harvested for targeted advertising, a process McChesney (2015: 144) identifies as the structural consequence of a commercial media system that prioritises profit accumulation over democratic communication needs.

In an integrated electronic system, RCTI+ combines various features with different characteristics. The Video+ feature distributes live television broadcasts (simulcasts) and video-on-demand content such as soap operas, films, and entertainment programmes that are substantially similar to television broadcasts, but are distributed through non-broadcast, internet-based mechanisms. As a result, the restrictions on safe viewing hours and age classifications that apply in conventional broadcasting do not have binding force in the OTT context. Unlike terrestrial television, which is anonymous and free-to-air, RCTI+ has begun to privatise access through the "Microdramas" feature on Video+. With a freemium scheme, the corporation only makes the first episode free and locks the subsequent episodes as paid "Premium" content. This practice demonstrates the transition of the media from a public information provider to a capital extraction machine. The audience is forced to make financial transactions and log in, which gives corporations access to harvest personal data (data mining). This logic is in line with McChesney's criticism that in a commercial system, access to quality information will be sacrificed for the sake of discriminatory market mechanisms (McChesney, 2015: 144).

Meanwhile, News+ performs the function of internet-based digital journalism and Audio+ functions as digital audio media, showing how journalism and audio broadcasting practices now operate under a regulatory regime that does not strictly regulate content standards. On the Audio+ feature, content such as GRIM Radio, LOOKS Radio, and Radio Kampus are labelled "Exclusive." This nomenclature is not a marketing gimmick: rather it is a Platform Lock-in strategy that entices audiences to leave the monolith of tightly-definable public radio frequencies of the past and into the walls of their respective digital gardens. On the opposite end of the spectrum, Shop+, HOT+ and Games+ are non-media entities concentrating their development efforts on digital economy & high interactivity, which is wholly unrelated to conventional broadcasting systems. This concentration of audience dependence on a single capital owner reflects the structural effect of institutional logic that McChesney, (2015: 30) identifies, one that risks eroding the plurality of voices essential to the democratic health of commercial media systems.

Its features are integrated into one electrical system of the machine, which precludes a partial separation between regulatory regimes. But current rules do not respond to hybrid platforms, with laws like the Broadcasting Law only addressing frequency-based broadcasting institutions and new PSE regulation seeing platforms as merely electronic systems treating each of their media-distributed products in isolation without regard for the social and ethical impact. In this framework, the design strategy of such a platform can be considered an old-fashioned corporate governance tool to bring all RCTI + services under PSE regulation. By leaving this hybrid platform unregulated, the state essentially grants a "regulatory subsidy" to allow media conglomerates to operate without controls on ethics.

RCTI+ implements this profit-seeking strategy by ensuring that features that come within RCTI+ cannot be disentangled for separate legal regimes. Operating as a single, unified electronic system, RCTI+ is able to apply its own internal content-screening mechanism, based on P3SPS (the Indonesian Broadcasting Commission's content guidelines), selectively to protect socially sensitive material embedded within Video+, while leaving the same content otherwise free from formal broadcasting oversight. This allows content that is essentially the same as TV programming to bypass tight regulations on its content. For instance, soaps or shows that feature high romantic-intimate content (which are usually bound by airing time limits for children protection in traditional broadcasting), can be viewed anytime on the VOD mechanism found at RCTI+.

It results from a failure of regulation. KPI cannot impose its authority on content appearing in internet-based VOD, and Permenkominfo No. 5 of 2020 does not regulate broadcast hours or programme classification. This illustrates the structural exploitation of regulatory loopholes: RCTI+ has effectively insulated itself from compliance with content-ethics regulations, shifting its regulatory burden instead toward a regime of digital administrative compliance that possesses neither the intent nor the capacity to govern media substance. Administrative compliance (PSE registration, for example) is a legal protection against the ethical and social responsibility to answer publicly. That reflects what McChesney calls a global democratic crisis: the media system no longer serves to keep power in check, it has become a tool for market interests. It gives precedence to the profit orientation and operational efficiency over the social function of media, which leads the media system designed unbelievably with its failure in tackling communication needs justified by public responsibility and democracy principles, precisely McChesney (2015: xi) describes as "the irony of commercial media that makes a market logics structurally displace a democratic governance logic.”

This unresolved tension, persisting within McChesney's normative framework, highlights the structural failure of commercial media systems to function as public institutions within a democracy. The moment in which the demarcation of audiovisual content distribution mimicking television broadcasts is disassociated from ethical principles, audience classification, and systems for public accountability, is a time when the digital public sphere has ceased to be stewarded on behalf of citizens and been transformed into commercially-driven phenomena subject to corporate power. OTTs utilizing regulatory loophole such as RCTI+ must not only be seen from a legal compliance angle but also communication democracy and thus is the moment for more structural reform of media regulation to reclaim public interest as our communication system's main direction or purpose.

The exploitation of regulatory loopholes by RCTI+ is not merely a phenomenon of technological transition, but an alarm bell signalling the degradation of the quality of digital space in Indonesia. The state, through the Ministry of Communication and Information Technology, has positioned itself only as the gatekeeper of the state's administrative system (PSE), implicitly surrendering its information sovereignty entirely to market mechanisms. Without structural reform capable of redefining the scope of broadcasting in the context of convergence, Indonesian audiences will remain trapped in a digital ecosystem that treats them as data commodities rather than sovereign citizens. Regulatory synchronisation is therefore no longer merely a technical-legal necessity, but an absolute prerequisite for safeguarding the foundations of communication democracy against the increasingly uncontrolled dominance of corporate media profit logic.

CONCLUSION

RCTI+ exploits regulatory loopholes through a strategy of shifting the legal regime from the Broadcasting Law to the Electronic System Operator (PSE) regulations in order to maximise corporate profit. This strategy operates on two interlocking levels. Legally, the corporation exploits the narrow, frequency-spectrum-based definition of broadcasting under the Broadcasting Law, allowing its digital content to be exempted from broadcast programming standards and public ethical obligations. Technically, the company reinforces this legal positioning by designing its application architecture as a unified electronic system that merges broadcasting-like and digital-economy functions, thereby compelling the government to apply only the looser administrative oversight associated with PSE status rather than the stricter public-service obligations of broadcasting regulation.

Taken together, these legal and technical strategies reflect McChesney's institutional logic, in which corporations exploit gaps in state policy as a rational extension of profit-seeking behaviour. Within this logic, the audience's position shifts accordingly: viewers, previously regarded as citizens with rights to public-interest broadcasting, are increasingly treated as commodities of data and advertising whose engagement generates commercial value rather than democratic accountability. As a consequence, this regulatory loophole has enabled the distribution of audiovisual content without adequate public accountability, weakening the broader democratic function that media regulation in Indonesia is intended to serve.

Further research could broaden the scope of this study through a comparative analysis of OTT regulation between Indonesia and other countries, in order to identify more adaptive policy models for addressing legal loopholes on hybrid platforms. Future scholars could also examine comparative political economy strategies between domestic players and global competitors such as Netflix and Disney+ Hotstar operating in the Indonesian market, to understand how differences in financial capital among these platforms correspond to differing degrees of compliance with, or responsiveness to, legal and regulatory obligations, and how this in turn affects diversification within the public sphere of content. Mapping the dynamics of competition between domestic and global capital therefore remains an important task for assessing its implications for information sovereignty and audience rights within a converging media environment.

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