

Research Article

Reconstruction of Broadcasting Regulation Based on Pancasila Justice In The Digital Convergence Era

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ABSTRACT

Law Number 32 of 2002 concerning broadcasting was enacted from an analogue perspective, predicated on the frequency spectrum, broadcasting institutions and simultaneous reception. However, digital convergence has fundamentally transformed the audio-visual ecosystem, enabling digital platforms to distribute content to millions of users without being bound by broadcasting obligations. The regulatory asymmetry between free-to-air television and digital platforms raises fundamental questions of legal justice. This study aims to analyse how the values of Pancasila justice are constructed within the Broadcasting Law, examine the causes of the regulatory asymmetry between free-to-air television and digital platforms, and propose a reconstruction of the Broadcasting Law based on Pancasila justice principles. This normative-prescriptive legal research employs statutory, conceptual, philosophical, historical and comparative approaches. The findings reveal that regulatory asymmetry arises from misalignment in legal substance, structure and culture. The reconstruction is based on a three-pillar model (relaxation, protection and additional services), distinguishing between spectrum-based, electronic system-based and audio-visual public function-based obligations, in order to achieve proportional justice. Implementing social justice through the proportionate distribution of regulatory burdens and benefits, humanitarian protection for children, and safeguards for unity and information sovereignty actualises the reconstruction's embodiment of Pancasila values.

Keywords: Broadcasting Regulatory; Digital Convergence; Digital Platforms; Pancasila Justice.

A. INTRODUCTION

Digital convergence has shifted the audio-visual distribution ecosystem from conventional frequency-based broadcasting towards internet-based content distribution, platform applications, and user data. According to the Indonesian Internet Service Providers Association (APJII), Indonesia had 235,261,078 internet users in 2026, representing an internet penetration rate of 81.7% of the total population (APJII, 2026). The public now accesses audio-visual content not only through free-to-air television but also through

YouTube, TikTok, Netflix, Vidio, and various other digital platforms. This transformation carries significant legal consequences, as conventional broadcasting operates through the logic of transmitter-frequency-programme-schedule, whereas digital distribution operates through the logic of platform-data-algorithm-content-monetisation (Kajal & Sharma, 2024).

Law Number 32 of 2002 on Broadcasting was adopted under a substantially different paradigm. Article 1(2) defines broadcasting as the distribution of broadcast content through

transmission facilities using the radio frequency spectrum, to be received simultaneously by the public. This legal framing treats broadcasting institutions as the main legal subjects, requiring them to obtain broadcasting licences, comply with the Broadcasting Code of Conduct and Broadcast Programme Standards (P3SPS), adhere to advertising limitations, implement child protection provisions, and submit to oversight by the Indonesian Broadcasting Commission (Komisi Penyiaran Indonesia or KPI). Digital platforms, by contrast, are governed by a different legal framework namely the Electronic System Operator (PSE) framework regulated by Law Number 11 of 2008 concerning Electronic Information and Transactions, as amended by Law No. 19 of 2016 and Law No. 1 of 2024 as the second amendment, Government Regulation Number 71 of 2019, and Minister of Communication and Information Regulation Number 5 of 2020. The broadcasting framework highlights the social function of mass communication and audience protection, while the PSE framework prioritises system governance, registration, and the enforcement of prohibitions on content.

Differential treatment between FTA television and digital platforms is not, by itself, inherently unjust. The issue of justice becomes salient when two services that equally distribute audio-visual content, monetize public attention, and shape children's experiences and public opinion are handled in dramatically different ways

without proportional justification (Starke et al., 2025). The standard of justice in this context cannot be separated from Pancasila as the national legal ideal, which calls for proportional justice grounded in differences in function, risk, impact, and the public interest (Notonagoro, 1975). Pancasila also supplies the philosophical basis for assessing the substantive provisions of Law No. 32 of 2002 on Broadcasting amid digital convergence. In particular, the second and fifth principles of Pancasila highlighting just and civilized humanity and social justice for all Indonesians require broadcasting rules to safeguard the public interest while also ensuring a fair distribution of regulatory burdens across providers of audio-visual services. Viewed through the lens of proportional justice, equality does not necessarily mean that conventional broadcasters and digital platforms must bear identical legal duties. Instead, regulatory obligations should be calibrated to the characteristics of the services offered, the scale and reach of content distribution, the extent of reliance on public resources, and the potential societal impact. Accordingly, the substantive provisions of the Broadcasting Law should be examined with respect to whether their current regulatory architecture sufficiently captures the distinct features of conventional broadcasting and digital audio-visual services. Where differences in regulatory treatment lack an objective and reasonable basis, regulatory asymmetry can erode substantive fairness. Therefore, any

reconstruction of broadcasting law should incorporate Pancasila-based proportional justice by setting differentiated yet coherent regulatory obligations tied to spectrum use, operation of electronic systems, and the public functions performed by audio-visual services. This would maintain the legitimate distinctions across different technological and institutional arrangements while keeping public protection, accountability, and fair competition at the core of Indonesia's broadcasting regulatory framework.

This study uses a three-tier theoretical framework. The overarching theory is the Pancasila Justice Theory (Notonagoro, 1975), which treats Pancasila as a source of values and as an evaluative yardstick for determining whether the allocation of regulatory burdens between FTA television and digital platforms conforms to the principles of balance and proportionality (Notonagoro, 1975). The mid-range theory is Friedman's Legal System Theory, which conceptualises the legal system in terms of legal substance, legal structure, and legal culture, thereby enabling a systematic analysis of the causes of regulatory asymmetry (Friedman, 1975). The applied theories include Alexy's Proportionality Theory, which is used to examine the appropriateness, necessity, and balance of differential regulatory burdens (Alexy, 2002), and the legal reconstruction concept, which is employed to develop *ius constituendum* that is technology-neutral and anchored in public functions (Rahardjo, 2009).

The research gap is that the broadcasting legal regime has not been able to construct a proportional framework of obligations between FTA television and digital platforms. The discrepancy between *das Sollen* and *das Sein* is apparent across four dimensions. First, the normative gap: the definition of broadcasting in Law Number 32 of 2002 continues to be grounded in frequency spectrum and simultaneous reception, so it does not account for digital audio-visual services that have public impacts. Second, the institutional gap: KPI supervises broadcasting, whereas the relevant ministry supervises PSE, creating fragmentation and a supervisory void across platforms. Third, the justice gap: FTA television is subject to dense, multilayered obligations, while digital platforms have not faced comparable obligations regarding programme standards, child protection, and social responsibility. Fourth, the philosophical gap: Pancasila justice has not been operationally applied as a basis for evaluating and reconstructing digital broadcasting regulation.

This study seeks to examine how Pancasila justice is articulated within the Broadcasting Law, identify the sources of regulatory asymmetry between free-to-air television and digital platforms, and develop a reconstruction of the Broadcasting Law grounded in Pancasila justice. The study's originality lies in combining, within a single reconstruction framework, the research object (the regulatory relationship between free-to-air television and

digital platforms), the legal issue (asymmetry as regulatory injustice), and a value-based approach (Pancasila justice), while differentiating obligations based on spectrum, electronic systems, and the public function of audio-visual broadcasting.

Prior research indicates that academic discussion on digital broadcasting has moved from focusing on the legal status of digital platforms toward recognising the need for regulatory reform. Diza (2022) showed that the expansion of over-the-top (OTT) services has broadened the scope of digital content distribution and use while increasing the risk of copyright infringement, thus making it necessary to strengthen the accountability of platform operators within the digital ecosystem. However, that study was limited to the copyright dimension and did not address the imbalance in regulatory burdens between broadcasting media and digital platforms.

Later scholarship has examined the role of digital platforms within the legal system in a broader sense. Helberger (2020) contended that platforms no longer operate merely as intermediaries; instead, they have developed into actors that exercise opinion power to shape public discourse. Accordingly, platform regulation cannot rely only on the e-commerce regime, but must move toward a media law framework that can secure pluralism, restrict the concentration of opinion power, and ensure democratic accountability. Sihombing et al. (2021) stressed

the need for *sui generis* regulation to safeguard digital copyright on OTT services, whereas Oktaviandra et al. (2025) highlighted the importance of maintaining a balance among the liberalisation of streaming services, state regulatory authority, and constitutional rights to information.

Zulkarnain et al. (2025) investigated the differences between conventional media regulation and digital platform regulation more thoroughly by using the concept of regulatory asymmetry. Their study found disparities across legal and fiscal aspects, content standard regulation, and economic structure, while also proposing technology-neutral regulation and digital justice as foundational principles for creating a level playing field. Although it is the closest study to the present research in terms of subject matter, it adopted a descriptive-exploratory approach from the perspective of communication studies rather than a normative-prescriptive legal approach grounded in the Pancasila justice framework, which aims to develop a concrete normative reconstruction model.

Moreover, after a more detailed review, prior research (the state of the art) specifically concerning the most recent international articles is summarized as follows. The first earlier study is by Antonios Vlassis (2023). In the article titled "Platform Governance and the Politics of Media Regulation: The Review of the European Audiovisual Media Services Directive," the author

examines the political processes that underpin the formulation of European Union audiovisual media policies, with particular attention to revisions of the Audiovisual Media Services Directive (AVMSD). Drawing on an actor-centred constructivist approach, the study explores how different stakeholders shape regulation of digital platforms, especially through their financial contributions to audiovisual content production and through the visibility of European and national audiovisual works within online catalogues. The results show that audiovisual platform regulation is influenced not only by legal factors, but also by competing political and economic interests. The distinction between Vlassis's study and the present research is primarily methodological. Whereas Vlassis concentrates on the political dynamics of European platform governance, the current study investigates how Pancasila justice is constructed within Indonesia's Broadcasting Law and develops a normative reconstruction that addresses regulatory asymmetry between free-to-air (FTA) television and digital platforms. In addition, the present study proposes a differentiated regulatory model grounded in spectrum use, electronic system operation, and the public function of audiovisual services, which is not the main focus of Vlassis's analysis.

The second study, by Juan Jung and Ángel Melguizo (2023), is entitled "Is Your Netflix a Substitute for Your Telefunken? Evidence on the Dynamics of Traditional Pay TV and OTT in Latin America," the researchers investigate whether

over-the-top (OTT) services substitute for, complement, or operate independently of traditional pay television services. Using a theoretical demand model and empirical data from 17 Latin American countries, the researchers found that pay television and OTT services were generally independent when considering the entire 2011–2020 period. However, evidence of substitution emerges when the analysis focuses on the more recent period of 2015–2020. Their findings suggest that regulators should consider OTT services in their regulatory and market assessments to determine if current arrangements are still appropriate in light of evolving audiovisual consumption patterns. While this study provides important economic justification for reevaluating the regulatory relationship between conventional television and OTT services, the present research differs in its analytical approach and normative foundation. Jung and Melguizo primarily investigate the economic substitutability of audiovisual services, whereas the present study examines regulatory asymmetry as a potential problem of substantive justice under the principles of the Indonesian philosophy of state, or Pancasila. Rather than determining regulatory treatment principally through market substitution, the present study develops a differentiated framework that considers the characteristics of each service, use of public spectrum, electronic system operation, and public interest functions performed by audiovisual services.

The third preceding study is by Vincent Obia (2023). In an article titled “Regulatory Annexation: Extending Broadcast Media Regulation to Social Media and Internet Content,” it investigates how broadcasting regulatory standards, principles, and sanctions are extended to social media and internet content within Nigeria and in the broader African context. Drawing on critical political economy, securitization, and state–citizen distrust, the study develops the idea of regulatory annexation to show how regulatory approaches formed for one media environment can be carried over to another. The analysis emphasizes the political stakes involved in extending broadcasting-oriented regulatory frameworks to digital communication, especially regarding state control, online expression, and the governance of digital media. The main distinction between Obia’s work and the present study lies in the direction and normative grounds of regulatory reconstruction. Obia examines, in a critical manner, the extension of broadcasting regulation into the digital sphere, whereas the present study assesses how Indonesia’s Broadcasting Law should respond to the co-presence of FTA television and digital platforms, without automatically requiring the same obligations for services that are fundamentally different. This study also presents Pancasila justice as its normative basis and proposes a differentiated allocation of regulatory obligations according to spectrum use, electronic system operation, and audiovisual public functions.

The fourth preceding study is by Ramon Lobato, James Douglas, Alexa Scarlata, and Stuart Cunningham (2024). In their article “Cultural Policy between Television and Digital Platforms: The Case of SVOD Regulation in Australia,” they analyze how Australian policies concerning subscription video-on-demand (SVOD) services especially Netflix, Amazon Prime Video, and Disney+ were developed. Their study examines the policy debate over harmonising regulatory arrangements between established commercial broadcasters and global streaming platforms. The results show that the policy process was shaped by competing interests related to domestic content production, cultural diversity, and the standing of established broadcasting institutions. The resulting policy approach gave priority to production incentives over catalogue quotas, demonstrating how regulatory harmonisation can be driven by the interests of particular industry actors. While this study is closely related to the present research because both examine the regulatory relationship between traditional television and digital platforms, their core concerns differ. Lobato and co-authors focus on Australian cultural policy and the political economy of SVOD regulation, whereas the present study investigates regulatory asymmetry through the lens of Pancasila justice within Indonesia’s constitutional and statutory framework. In addition, this study aims to construct a reconstruction model that distinguishes obligations according to the legal

and functional characteristics of audiovisual services, rather than focusing primarily on cultural production incentives or content quotas.

The most recent prior study is by Rahayu, Thomas Bambang Pamungkas, Mira Ardhya Paramastri, and Winda Nurmali (2025). In their article titled "Content Diversity under a Digital Regime: A Case Study of the Television Broadcasting Industry in Indonesia," the authors investigate how digitalisation affects content diversity and the public sphere within Indonesia's television broadcasting industry. Using a qualitative assessment of television programmes in Yogyakarta and Jakarta, the study concludes that the shift to digital broadcasting does not necessarily increase content diversity. Concentrated ownership and control over digital broadcasting networks help produce similarities in programme offerings and restrict the range of available content. For that reason, the researchers stress the need for clearer regulation on content diversity, ownership, business networks, and programme production. The study is especially important because it examines Indonesia's broadcasting context and shows that technological change alone does not ensure the achievement of public-interest goals. Even so, its primary focus remains the relationship between digital broadcasting, market concentration, and content diversity in the television sector.

The present study builds on this discussion by analysing the regulatory relationship between free-to-air television and digital platforms that

operate under different legal frameworks. It also differs by grounding its normative assessment in Pancasila justice and by proposing a differentiated regulatory reconstruction based on spectrum-related obligations, electronic system governance, and the public function of audiovisual services. Prior studies indicate that regulatory challenges stemming from audiovisual convergence have been explored through multiple perspectives, including platform governance, economic substitutability, extending broadcasting regulation to online content, cultural policy, and content diversity. However, these studies address the issue from different analytical directions and do not establish the specific framework advanced in this research.

The novelty of this study lies in integrating three dimensions: the regulatory relationship between free-to-air television and digital platforms in Indonesia; the assessment of regulatory asymmetry using the normative principle of Pancasila justice; and the development of a differentiated model for reconstructing the Broadcasting Law. The model distinguishes between obligations arising from the use of public broadcasting spectrum, the operation of electronic systems, and the public-interest functions performed by audiovisual services. Rather than presuming that conventional broadcasters and digital platforms must be governed by identical regulatory obligations, the proposed framework aims to allocate responsibilities proportionately according to the characteristics, functions, and

public impacts of the relevant services. Accordingly, the study offers a value-based normative framework to evaluate regulatory asymmetry and to formulate a more coherent and substantively just approach to audiovisual regulation in Indonesia. The central concern is no longer whether digital platforms exist as regulatory objects, but rather the lack of a regulatory framework capable of distributing obligations proportionately between free-to-air television and digital platforms. This gap creates space for the present study to provide a novel perspective by integrating the Pancasila Justice Theory, Friedman's Legal System Theory, Alexy's Proportionality Theory, and the Legal Reconstruction Theory within a unified analytical framework, which proposes a reconstruction model that differentiates among spectrum-based, electronic system-based, and audiovisual public function-based obligations.

B. RESEARCH METHODS

This study is classified as normative-prescriptive legal research. The normative legal method is used because the study primarily focuses on legal norms, legal principles, and the drafting of legislation that governs broadcasting and digital platforms (Soekanto & Mamudji, 1995). The prescriptive orientation is adopted because the goal is to develop a legal model that should apply, not merely to describe existing law (Marzuki, 2017). The research employs several approaches: the statutory approach, to examine

Law Number 32 of 2002 concerning Broadcasting, Law Number 11 of 2008 concerning Electronic Information and Transactions, Government Regulation Number 71 of 2019, Minister of Communication and Information Regulation Number 5 of 2020, and other relevant legislation; the conceptual approach, to construct the concepts of regulatory asymmetry, functional equivalence, and proportionality; the philosophical approach, to derive Pancasila justice values as a normative evaluative instrument; the historical approach, to trace the context in which the Broadcasting Law was enacted; the socio-legal approach, to interpret regulatory practice, compliance burdens, and the effects of asymmetry; and the comparative approach, to analyze digital audiovisual regulation in the European Union (AVMSD), the United Kingdom (Ofcom), and Australia as reference points for reconstruction. The three models from the European Union, the United Kingdom, and Australia were selected because they illustrate a transition in modern audiovisual regulation from a linear television perspective toward technology-neutral regulation grounded in risk, impact, and public protection, thereby making them appropriate for comparative study with Indonesia.

The data sources consist of secondary data, including primary legal materials (legislation and Constitutional Court decisions), secondary legal materials (books, journal articles, dissertations, industry reports, and academic

manuscripts), and tertiary legal materials (legal dictionaries and glossaries), complemented by primary data in the form of in-depth semi-structured interviews with informants from regulators, the broadcasting industry, digital platforms, academics, and the public. The mechanism of legal interpretation is developed through an examination of legislation, carried out using both grammatical and historical approaches, and then legal reasoning is formulated to reconstruct the framework while incorporating Pancasila values as the basis for achieving proportional justice. Data collection is conducted through documentary study and interviews. Data analysis applies qualitative methods through data reduction, data presentation, and conclusion drawing.

C. RESULTS AND DISCUSSION

1. The Construction of Pancasila Justice Values in Broadcasting Regulation Under Law Number 32 of 2002 in the Digital Convergence Era

Pancasila is presented as the ultimate foundation for all sources of state law, as confirmed by Article 2 of Law Number 12 of 2011 on the Formation of Legislation. In the domain of broadcasting, Pancasila operates as the legal ideal (*rechtsidee*) that steers the goals, functions, and substance of regulation (Sidharta, 2000). Notonagoro (1975) argued that Pancasila reflects the principle of monopluralist justice, which seeks balance between individual and collective

interests, between rights and obligations, and between freedom and responsibility. Yulianti et al. (2022) further emphasized that the reconstruction of Indonesia's legal system must always be grounded in Pancasila as the highest philosophical source.

Article 2 of Law Number 32 of 2002 provides that broadcasting shall be carried out on the basis of Pancasila and the 1945 Constitution of the Republic of Indonesia, guided by the principles of benefit, fairness and equity, legal certainty, security, diversity, partnership, ethics, independence, freedom, and responsibility. Masduki (2007) explained that broadcasting regulation after reformation was developed in line with the spirit of democratisation, which requires a balance among the interests of the state, industry, and society. Its constitutional underpinnings are drawn from Article 28E(3) and Article 28F of the 1945 Constitution on freedom of expression and the right to information, Article 28J(2) on the restriction of rights for the public interest, and Article 33(3) on state control over the frequency spectrum as a public resource (Attamimi, 1990; Rohmat et al., 2025).

The construction of Pancasila justice is normatively reflected across multiple aspects of the Broadcasting Law. In terms of objectives and functions, broadcasting is oriented toward strengthening national integration, promoting the nation's intellectual life, and fostering a democratic and just society. Broadcasting serves as a medium for information, education,

wholesome entertainment, social control, and social cohesion, while also performing economic and cultural functions (Lasswell, 2006). All five Pancasila values are accommodated in an integrated manner: the value of Belief in God undergirds broadcasting ethics and morality, the value of Humanity underpins child protection and human dignity, and the value of Unity supports national integration and information sovereignty (Pranoto, 2020; Suteki et al., 2025). The value of Democracy grounds public participation through KPI, and the value of Social Justice supports the proportional allocation of regulatory burdens. The establishment of KPI as an independent institution, as affirmed by Constitutional Court Decision Number 005/PUU-I/2003, constitutes an expression of democratic values that ensure public participation in broadcasting supervision (Wahid & Pratomo, 2017). In the licensing dimension, the requirement to obtain a broadcasting license follows from the use of a limited frequency spectrum (Galperin, 2004). In the content regulation dimension, P3SPS operationalizes Pancasila values into standards for child protection, respect for religion, the prohibition of hate speech, and programme classification (Djamal & Fachruddin, 2022).

This normative strength is confronted by operational constraints in the era of digital convergence. Jenkins (2006) noted that convergence has blurred the boundaries among broadcasting, telecommunications, and the internet. Kristiyono (2022) further argued that

media transformation in the era of the networked society has fundamentally changed how content is produced, distributed, and consumed. Digital platforms that distribute audio-visual content to the public are outside the definition of broadcasting under Article 1(2) of the Law, which has become a constitutional matter in Constitutional Court Decision Number 39/PUU-XVIII/2020.

These limitations become evident across multiple dimensions. First, the frequency-based definition of broadcasting has not accounted for on-demand and non-linear services operating through a portal logic that is fundamentally different from linear broadcasting (Lotz, 2017). Second, legal subject matters confined to broadcasting institutions have not accommodated digital platforms that function within their own technological architecture, code, and social norms (Lessig, 1999). Third, P3SPS applies solely to broadcasting institutions, whereas content moderation on platforms is private and therefore not governed by comparable public standards (Helberger, 2018). Helberger (2020) further confirmed the need to move toward shared responsibility among the state, platforms, and society (Helberger, 2020). Fourth, child protection is not applied evenly across platforms, despite the personal and algorithmic character of digital content exposure (Specht-Riemenschneider et al., 2023). Fifth, advertising regulation has not covered data-driven monetisation and algorithms that have become the principal tools of platform

economics (Pasquale, 2015). Sixth, the protection of broadcasting rights in digital distribution remains insufficiently integrated, given that video-sharing platforms create risks of re-uploading and redistribution without authorisation (Burgess & Green, 2018).

Pancasila justice is proportional in nature rather than a mechanistic equalisation (Notonagoro, 1975). Rahardjo (2009) stressed that law must serve humanity and society; law that remains stagnant loses its relevance as an instrument of justice. While the Broadcasting Law normatively embodies Pancasila justice, its regulatory framework is still largely oriented toward conventional broadcasting institutions and their approaches to content distribution. Meanwhile, digital platforms have increasingly taken on comparable social functions by shaping public discourse, political participation, and information consumption within a connected society (van Dijck et al., 2018). As information is circulated more and more through privately operated digital infrastructures (Sebastião, 2013), differences in regulatory treatment between conventional broadcasters and digital platforms raise questions regarding the proportionality and substantive fairness of existing regulatory arrangements. The inability of regulation to extend to platforms performing comparable public functions results in weaker cross-platform public protection and an imbalance in regulatory burdens, which underpins the emergence of regulatory asymmetry between FTA television

and digital platforms. Therefore, the limitations of frequency-based regulation require a shift toward function-based and technology-neutral regulation, which transformation will be discussed more in the next discussion.

2. Causes of Regulatory Asymmetry Between FTA Television and Digital Platforms Under the Framework of Law Number 32 of 2002 in the Digital Convergence Era

Regulatory asymmetry between FTA television and digital platforms can be analysed through Lawrence M. Friedman's Legal System Theory, which conceptualises the legal system as comprising three interrelated components: legal substance, legal structure, and legal culture (Friedman, 1975). These components do not merely operate alongside one another; rather, their interaction determines whether legal norms can respond effectively to social, institutional, and technological developments. In the context of digital convergence, regulatory asymmetry emerges when the substantive rules governing audiovisual content, the institutional arrangements responsible for enforcement, and the compliance practices of regulated actors develop at different rates. FTA television remains predominantly governed by a broadcasting regime organised around spectrum allocation, broadcasting licences, the Indonesian Broadcasting Commission (Komisi Penyiaran Indonesia or KPI), and the Indonesian Broadcasting Programme Standards (Pedoman Perilaku Penyiaran dan Standar Program Siaran,

P3SPS). Digital platforms, by contrast, are primarily governed through electronic systems and digital governance frameworks, including electronic system operator registration and content moderation mechanisms (Flew et al., 2019). The resulting asymmetry is therefore not attributable solely to technological differences. It arises because the existing legal framework does not consistently translate comparable public-interest risks into comparable regulatory obligations across different modes of audiovisual distribution.

The key analytical distinction lies between regulatory asymmetry and regulatory injustice. Regulatory asymmetry denotes differences in the applicable rules, institutional oversight, compliance obligations, or the sanctions imposed on different categories of service providers. Such differences are not automatically unjustified, because FTA television and digital platforms vary in their transmission technologies, editorial arrangements, content distribution mechanisms, and relationships with users. Regulatory differentiation becomes problematic, however, when public-interest risks that are materially comparable are afforded substantially different levels of protection without an adequate and proportionate justification. Therefore, the mere existence of different regulatory regimes is not, on its own, sufficient to establish regulatory injustice. The evaluation must instead address whether the regulatory objective is legitimate, whether the distinction between the regulated services is

relevant to that objective, whether the selected regulatory measures are suitable and necessary, and whether the resulting burdens remain proportionate to the public interest being pursued (Möller, 2012). This distinction furnishes the analytical basis for investigating how weaknesses in legal substance, legal structure, and legal culture produce unjustified asymmetry under Law Number 32 of 2002 concerning Broadcasting.

Legal substance includes the norms, rights, obligations, procedures, and sanctions that provide the substantive basis of a regulatory regime (Purba, 2017). In the era of digital convergence, the main weakness of legal substance stems from the restricted alignment between the categories employed in broadcasting legislation and the functional characteristics of contemporary audiovisual services. This mismatch generates regulatory asymmetry across five interconnected dimensions: service definition and scope, content obligations, advertising and data governance, broadcasting rights and intellectual property protection, and sanctions and compliance burdens. The causal link is consequential: when legal categories are defined according to the technical features of an earlier broadcasting model, services that carry out comparable audiovisual functions may be governed by different regulatory regimes. As a result, the assignment of legal obligations depends on the regulatory classification of a service, rather than reliably reflecting the service's

function, influence, and ability to create risks that are in the public interest.

The first dimension concerns the definition and scope of regulated services. Law Number 32 of 2002 sets out a broadcasting framework historically tied to the transmission of programmes through broadcasting infrastructure and the frequency spectrum. Digital platforms, by contrast, distribute audiovisual content through internet-based systems that may include on-demand access, user selection, algorithmic recommendations, and user-generated content. These differences make it difficult to apply categories developed for traditional broadcasting to contemporary digital distribution models (Galperin, 2004). Constitutional Court Decision Number 39/PUU-XVIII/2020 demonstrates the constitutional importance of determining the scope of broadcasting regulation in relation to internet-based audiovisual services. Even so, the decision should not be read as automatically requiring that all digital platforms be regulated in the same way as FTA television. Rather, it shows the legal significance of the boundary between broadcasting and internet-based services. The substantive weakness emerges when statutory classification does not sufficiently differentiate between services with materially different functions, while at the same time failing to capture comparable public-interest risks across different technological settings.

The second dimension relates to content duties and editorial accountability. FTA television

is governed by P3SPS, which sets standards covering programme content, child protection, violence, hate speech, programme classification, and broadcasting conduct. Digital platforms typically draw on a combination of statutory obligations, platform-specific community guidelines, content moderation systems, and user reporting mechanisms. As a result, the distinction is not merely that one category of service is subject to more rules than the other. The more fundamental concern is that the relevant standards, accountability procedures, and enforcement mechanisms are not necessarily comparable in how they address similar content-related risks. Flew et al. (2019) point to content moderation as a key issue in debates about whether digital platforms should take on public-interest obligations comparable to those traditionally applied to media organisations. This distinction is important because a platform's dependence on private content policies does not automatically deliver the same level of transparency, procedural accountability, or public supervision as a statutory broadcasting framework. On the other hand, imposing every broadcasting obligation on every digital service, without regard to its role, could place unnecessary burdens on services that do not exercise editorial control on a comparable basis. Consequently, the substantive weakness lies in the lack of a sufficiently differentiated framework that assigns obligations in accordance with the type of service, the extent of control exercised

over content, and the risks created by its distribution.

The third dimension relates to advertising, monetisation, data collection, and algorithmic governance. FTA television operates within a broadcasting framework that restricts advertising and other commercial content. Digital platforms, by contrast, can generate revenue through targeted advertising, behavioural data collection, personalised recommendations, and other algorithmically mediated commercial arrangements (Starke et al., 2025). These differing business models pose regulatory problems that cannot be solved simply by extending conventional television advertising rules to all digital services. Instead, the legal framework must specify which commercial practices generate risks that are comparable and then decide which regulatory duties are suited to address them. Where broadcasting-related advertising restrictions apply to television, yet analogous consumer-protection or transparency concerns triggered by digital monetisation remain insufficiently addressed, regulatory burdens may be distributed unevenly. This raises the prospect that services competing for audiences and advertising spend could face different compliance requirements despite carrying out overlapping commercial functions. Work on audiovisual platform governance likewise shows that regulatory responses for online services may entail particular duties concerning investment in audiovisual production and the visibility of national

and regional works (Vlassis, 2023). Accordingly, the substantive weakness is not that different business models exist, but rather that there is no coherent approach for allocating commercial, transparency, and public-interest obligations in line with the risks and functions of those models.

The fourth dimension involves broadcasting rights and intellectual property protection. The broadcasting framework and the broader intellectual property regime cover related but separate legal interests, including the rights of broadcasting organisations, copyright in audiovisual works, and the unauthorised reproduction or redistribution of protected content. The growth of digital distribution has made it more important to distinguish these rights and to identify the parties responsible for infringements. Re-uploading and unauthorised monetisation may involve different actors, such as original rights holders, individual uploaders, intermediaries, and platform operators. If the applicable rules do not clearly separate their respective responsibilities, enforcement may become inconsistent and rights holders may struggle to obtain effective remedies. Even so, this issue should not be described as an absolute lack of legal protection merely because the Broadcasting Law does not comprehensively regulate every digital distribution practice. The more precise weakness lies in insufficient coordination between broadcasting regulation, intellectual property protection, and the rules governing digital intermediaries. This fragmentation can produce inconsistent

obligations and enforcement results when comparable infringements occur through different distribution channels (Wardana et al., 2024).

The fifth dimension relates to sanctions and compliance burdens. FTA television functions within a licensing-based framework under which breaches can lead to administrative measures and, where legally permitted, sanctions that affect the broadcaster's capacity to operate. Digital platforms, by contrast, are governed through a different mix of rules on electronic systems, duties regarding content moderation, and the applicable statutory liability provisions. Therefore, the legal repercussions of non-compliance depend on the regulatory regime in force and on the respective role of each actor. The presence of different sanctions is not inherently disproportionate, since broadcasting licences and digital platform services are legally and operationally distinct (Sulistiyawan & Ilham, 2026). Asymmetry becomes problematic, however, when the framework imposes materially different outcomes for comparable risks without clarifying why such differences are required to achieve a legitimate regulatory objective. This situation may generate unequal compliance costs, incentives to choose less demanding regulatory categories, or accountability gaps (Sulistianingsih et al., 2025). The underlying weakness in legal substance, accordingly, lies in the insufficient correspondence between the functions performed by regulated actors, the risks associated with their

activities, and the obligations and sanctions imposed on them.

Taken together, these five dimensions show that the weakness of legal substance is not merely a function of the age of Law Number 32 of 2002. Rather, it reflects the limited ability of the current regulatory framework to distribute obligations consistently across an audiovisual environment in which content creation, distribution, monetisation, and editorial control can be divided among multiple actors. The resulting asymmetry may distort competition and undermine public protection when materially comparable risks are treated differently without a relevant and proportionate justification. Nevertheless, differences that arise from genuine technological, operational, or institutional distinctions may amount to legitimate regulatory differentiation rather than injustice.

The legal structure includes the institutions, authorities, and mechanisms that carry responsibility for implementing and enforcing legal norms (Friedman, 1975). A structural weakness in the regulation of FTA television and digital platforms stems from the division of supervisory responsibilities across institutions that operate under different statutory mandates. FTA television supervision is carried out through a broadcasting framework that uses KPI and the standards set out under P3SPS. Digital platforms, in contrast, may come under the responsibilities of the Ministry of Communication and Digital Affairs (Komdigi), law enforcement authorities, and other

institutions empowered by relevant legislation, alongside their own internal governance systems. These arrangements are not necessarily incompatible, since different technologies may call for specialised expertise and enforcement tools. Structural asymmetry arises when the distribution of authority does not ensure clear coordination, consistent accountability, and effective remedies for comparable risks that emerge across different audiovisual distribution channels.

The causal mechanism can be traced in three stages. First, differing statutory mandates create distinct institutional entry points for regulating audiovisual services. Second, when those mandates are not adequately coordinated, oversight responsibility can become fragmented, especially when content begins on a digital platform but reaches audiences through multiple channels. Third, fragmentation can lead to inconsistent standards, duplicated administrative requirements, or enforcement gaps, depending on which institution holds jurisdiction over a given activity. Masduki (2007) examines the institutional and policy challenges associated with Indonesian broadcasting regulation, offering a relevant historical basis for assessing the limits of a broadcasting framework built around conventional media institutions. In the digital convergence era, the key structural question is whether these institutional arrangements can effectively handle services in which content distribution, commercial operations, and user interactions extend beyond

the conventional broadcasting model (Wijayanti et al., 2025).

The distinction between preventive and reactive enforcement further highlights this problem. Supervision of FTA television depends on established broadcasting standards, licensing arrangements, complaint procedures, and administrative enforcement mechanisms. Digital platform governance may rely more on content reporting, moderation, and removal procedures, although the specific mechanisms vary with the applicable legal obligations and platform policies. This difference can influence the timing, transparency, and consistency of regulatory intervention. When preventive safeguards are imposed on one service category while comparable risks in another are addressed only after content has circulated, the level of public protection can become uneven. Even so, reactive enforcement is not inherently inadequate, and preventive regulation is not always necessary for every digital service. The structural weakness is the lack of a sufficiently coordinated approach that determines which enforcement model is appropriate for each risk category.

Muhtar et al. (2022) analyze the legal and structural obstacles involved in expanding KPI's authority to oversee digital media. Their discussion is pertinent because institutional jurisdiction cannot be extended or reallocated solely on the premise that technological convergence renders all digital services equivalent to a traditional broadcaster.

Accordingly, clear statutory authority, institutional competence, accountability, and coordination are still required. As a result, the structural challenge should not be portrayed merely as a call to place all digital platforms under KPI. A more justifiable route is to define a transparent division of responsibilities, coordination mechanisms, and enforcement benchmarks capable of addressing cross-platform audiovisual risks without generating overlapping jurisdiction or expanding institutional powers beyond their lawful scope.

Weakness in the legal framework thus contributes to regulatory asymmetry by hindering the consistent application of substantive duties. Even when the legislature sets comparable standards for comparable risks, fragmented authority can lead to uneven enforcement of those standards. Conversely, enhancing institutional coordination without updating outdated substantive categories would leave regulators unable to respond to meaningful differences in platform functions and business models. Legal substance and legal structure must therefore be evaluated together: the former determines which obligations apply, whereas the latter determines whether those obligations can be implemented consistently and effectively.

Legal culture involves the values, attitudes, habits, and behavioural expectations held by legal actors and by the public regarding law (Friedman, 1975). The cultural weakness that underpins regulatory asymmetry stems from the fact that different expectations for compliance and different

accountability practices coexist across conventional broadcasting settings and digital platform environments. FTA television typically functions through formal licensing arrangements, scheduled programming, institutional supervision, and established editorial procedures. Digital platforms, by contrast, use more flexible distribution systems in which content can be produced, uploaded, recommended, shared, and monetised by different actors. Their governance may blend legal requirements with platform-specific rules and user reporting mechanisms. These differences shape how legal duties are interpreted and put into practice, yet they do not, on their own, indicate that one group of actors is more strongly committed to compliance than another.

The causal relevance of legal culture becomes more apparent when formal rules interact with established organisational practices. Broadcasters are generally used to operating within a structure defined by prior programming decisions, editorial responsibility, and broadcasting standards. Digital platforms and their users, however, may instead frame content governance through community guidelines, automated moderation, account restrictions, and the decentralised participation of content creators. When these practices are not sufficiently linked to public regulatory standards, the practical meaning of accountability may vary across services that distribute comparable audiovisual material. This divergence can strengthen substantive

asymmetry because actors facing different compliance expectations may react differently to similar risks. It can also strengthen structural asymmetry, since regulators must work with institutions and behavioural practices that follow different organisational logics.

Shifts in public participation further complicate the relationship between legal culture and accountability. The public no longer operates only as an audience that receives professionally produced broadcasts. Instead, users can act at the same time as creators, uploaders, distributors, commentators, and content monetisers (Wahid & Pratomo, 2017). Practices such as re-uploading, remixing, and redistribution can broaden participation in public communication while also prompting questions about copyright, content responsibility, and the safeguarding of vulnerable audiences (van Drunen, 2020). As a result, it becomes increasingly difficult to assign responsibility solely on the basis of the divide between a broadcaster and a passive viewer. Nevertheless, individual users, professional creators, and platform operators do not necessarily exercise the same level of control over content, nor do they have the same ability to prevent harm. An effective regulatory culture must therefore differentiate among these actors rather than imposing undifferentiated obligations on everyone engaged in digital communication (Shabrina & Putrijanti, 2022).

Wuryanta (2023) examines the tensions linked to the democratisation of broadcasting

media in Indonesia, especially the relationship between the liberalisation of digital platforms and the protection of the public interest. These tensions matter because cultural change can advance faster than the adaptation of regulatory institutions and legal norms. When users and platforms adopt practices that existing rules fail to adequately address, the law may become less able to guide behaviour and ensure accountability. Conversely, if regulation overlooks the participatory and decentralised characteristics of digital communication, it may introduce requirements that are hard to implement or that unnecessarily limit legitimate expression. Thus, the weakness of legal culture lies not in the presence of digital participation itself, but in the inadequate development of shared expectations regarding transparency, responsibility, procedural fairness, and protection of the public interest across the different modes of audiovisual communication.

The interplay between legal culture and the other two components accounts for why formal legal reform alone may fall short. New statutory duties may yield little practical effect if regulated parties do not have clear expectations regarding compliance or if enforcement institutions are unable to implement the obligations in a consistent manner. Likewise, voluntary platform policies cannot simply supplant public legal safeguards when the pertinent risks demand transparent standards and independent accountability. Legal culture therefore mediates

the practical effectiveness of both legal substance and legal structure. Reform of legal culture calls for clear compliance expectations, meaningful user participation, transparent moderation procedures, and proportionate accountability across the various actors involved in audiovisual distribution (Natalis & Purwanti, 2025).

Friedman's framework shows that regulatory asymmetry may emerge from the interaction between outdated substantive categories, fragmented institutional arrangements, and distinct compliance cultures (Friedman, 1975). However, these results do not mean that every discrepancy between the regulation of FTA television and digital platforms amounts to injustice. A separate proportionality assessment is necessary to distinguish unjustified regulatory inequality from permissible differentiation grounded in technological and operational characteristics. The proportionality principle offers a structured approach for determining whether regulatory distinctions pursue legitimate aims and whether the burdens generated are warranted by the interests they seek to protect (Möller, 2012; Natalis, 2026).

Four criteria are especially relevant for this evaluation. First, legitimate objective requires that the regulatory distinction pursue a legally defensible purpose, such as protecting children, shielding audiences from harmful content, securing fair competition, or safeguarding intellectual property. Second, suitability requires a rational link between the regulatory measure and

the stated objective. Third, necessity involves assessing whether a less burdensome measure could provide a comparable level of protection. Fourth, proportionality in the strict sense entails weighing the public benefits of the measure against the burdens on regulated actors and any adverse impacts on legitimate expression, innovation, and competition (Möller, 2012). These criteria do not require identical rules for all audiovisual services. Rather, they require a reasoned justification for differences in obligations, enforcement, and sanctions.

In the context of content protection, the example that free-to-air television is governed by P3SPS while a digital platform operates under a different content governance framework does not, by itself, demonstrate injustice. The key issue is whether comparable risks, such as children's exposure to harmful content, are afforded a sufficient level of protection through measures tailored to each service's technological features and its ability to control distribution. Studies on the regulation of video-sharing platforms show the value of assessing how different legal instruments address children's rights and the responsibilities of digital services (Verdoodt et al., 2023). A differentiated approach may be warranted when digital platforms need technical safeguards that differ from broadcasting standards. However, it is difficult to justify differentiation when comparable risks remain insufficiently protected solely because the content is delivered through a different technological channel.

The same line of reasoning applies to advertising and competition. Free-to-air television and digital platforms may follow different commercial models, so identical advertising rules would not necessarily yield equivalent regulatory outcomes. Even so, disparities in advertising restrictions, transparency requirements, and accountability may become problematic if they impose materially unequal burdens on services competing for audiences and advertising revenue. Safitri et al. (2024) is cited regarding competitive distortion in the audiovisual and advertising market; the exact bibliographic identification of this work and the degree to which the publication substantiates this claim must be confirmed against the original reference. A proportionality-based analysis should therefore determine whether the differing obligations track real differences in commercial practices or instead permit comparable risks and market effects to avoid equivalent scrutiny.

A comparable assessment is required with respect to information sovereignty and the national content industry. Differences in regulatory treatment may be warranted when services have distinct capabilities to support domestic audiovisual production or to disseminate national content. At the same time, public-interest goals must be articulated as clear, evidence-based, and suitably calibrated obligations, rather than being treated as assumptions that justify every type of regulatory intervention. Ismed et al. (2006) is invoked in relation to information

sovereignty and the national content industry, but its exact bibliographic identity and its relevance to this claim need to be confirmed. More recent work on audiovisual platform governance shows how investment obligations and the visibility of national and regional works may feature in debates about regulating online audiovisual services (Vlassis, 2023); (Mahfud et al., 2026). These cases indicate that differentiated duties can be justified, provided that their aims, their application, and the burdens they impose can be explained through a coherent regulatory justification.

The proportionality assessment therefore constrains the causal argument developed using Friedman's theory. Asymmetry arises from weaknesses in the substance of law when the assignment of obligations does not properly track comparable risks and relevant differences between services (Mayaka et al., 2024a; Arvante et al., 2025). Asymmetry also follows from weaknesses in legal structure when divided authority leads to inconsistent supervision or enforcement. Weaknesses in legal culture further reinforce asymmetry when differing compliance practices and expectations undermine effective implementation of public-interest safeguards. These three weaknesses amount to evidence of regulatory injustice only if the resulting disparities in treatment are insufficiently justified, do not safeguard comparable interests, or impose burdens that are disproportionate to the objectives being pursued (Nasution et al., 2025).

Potential effects include an imbalance in compliance burdens that raises the operating costs of FTA television, competitive distortion in markets for audiences and advertising (Safitri et al., 2024), reduced cross-platform protection of the public especially children and vulnerable groups (Verdoodt et al., 2023) and challenges to information sovereignty and the national content industry (Ismed et al., 2006). These consequences should not be presumed to occur in every instance of regulatory differentiation. Their real importance depends on the character of the obligation, the actors involved, the degree of regulatory protection achieved, and the evidence establishing how costs and benefits are distributed.

3. Reconstruction of Law Number 32 of 2002 Concerning Broadcasting Based on Pancasila Justice in the Digital Convergence Era

In legal research, legal reconstruction refers to an attempt to restore the legal order by reshaping, correcting, and refining legal components that are considered no longer adequate to address societal needs. Legal reconstruction involves more than simply revising or substituting statutory provisions; it requires a reappraisal of the philosophical premises, regulatory frameworks, and substantive norms that support the law under study. In the present research, however, the focus will be on reconstructing the substantive content of law. This is done by locating weaknesses or

inconsistencies in existing law and then developing a legal construct that is better aligned with social developments and with the intended legal objectives (Setyawan et al., 2025). The reconstruction of the Broadcasting Law rests on three foundations. The philosophical foundation is grounded in the necessity of Pancasila justice, under which broadcasting law must protect the public interest proportionately within the transformed audio-visual ecosystem. The juridical foundation concerns limitations in the definitions, legal subjects, licensing, supervision, and public protection in Law Number 32 of 2002, which remains premised on the frequency and linear broadcasting paradigm. The Constitutional Court Decision Number 39/PUU-XVIII/2020 states that expanding the definition of broadcasting to services based on the internet cannot be accomplished through constitutional interpretation alone, but must be carried out through legislative reform by the lawmaker. The sociological foundation is based on observable shifts in patterns of public consumption, industry structure, the advertising market, and public risk, all of which have moved into the multi-platform digital ecosystem (APJII, 2026).

Seven reconstruction principles are articulated as normative legal benchmarks derived from Pancasila justice and the theoretical framework applied in this study. Rather than functioning only as philosophical aspirations, these principles offer standards for identifying the rights, duties, oversight mechanisms, and

sanctions that apply to FTA television broadcasters and digital platforms. First, social justice calls for a proportionate sharing of regulatory burdens and benefits, including equitable audience access, fair competition, and protection of the public interest. Second, humanitarian protection requires both categories of services to implement safeguards for human dignity, children, vulnerable groups, and privacy, with obligations adjusted to their respective risks and operational capabilities. Third, popular sovereignty and due process entail transparent regulatory procedures, genuine public participation, enforcement decisions supported by reasons, and accessible objection or appeal pathways for affected parties. Fourth, unity and information sovereignty require safeguards for national content, media pluralism, and information diversity, while ensuring that digital platforms operating within Indonesia are subject to suitable accountability requirements. Fifth, technology neutrality means that regulatory obligations should be determined by a service's function, risk, impact, and public reach rather than only by the distribution medium (Flew et al., 2019). Sixth, functional equivalence requires services that perform comparable public functions to bear comparable substantive responsibilities, while allowing differences in the legal instruments and compliance mechanisms applicable to each service. Seventh, proportionality requires obligations and sanctions to align with the necessity, the seriousness of risk, actual or

potential harm, audience reach, monetisation model, and algorithmic capabilities of the regulated service (Alexy, 2002). Taken together, these principles provide a basis for assessing regulatory asymmetries between FTA television and digital platforms. They also supply a normative foundation for distinguishing licensing and registration requirements, content-related obligations, transparency and reporting duties, regulatory supervision, and enforcement measures according to the character and scale of each service. Any sanctions imposed should rest on a clear legal basis, pursue a legitimate regulatory objective, and remain proportionate to the infringement (Mayaka et al., 2024b). Accordingly, Pancasila justice operates as an implementation-oriented standard for evaluating whether the proposed regulatory framework allocates rights and obligations fairly, safeguards the public interest, and ensures accountable enforcement across convergent broadcasting services (Ismed, 2026).

Comparative analysis with other jurisdictions offers useful reference points. Under the European Union model, established by the Audiovisual Media Services Directive (AVMSD), linear television and on-demand services are distinguished, and tiered obligations are imposed according to the nature of the service, the degree of user control, and the level of social impact (Kerševan, 2026). The United Kingdom model, implemented through the Online Safety Act 2023, illustrates a move toward an online safety

regulatory framework in which Ofcom serves as the regulator and proportionality is applied based on risk, service size, and provider capacity (Nash & Felton, 2024). In the Australian model, shaped by the Online Safety Act 2021 and the eSafety Commissioner, emphasis is placed on transparency, accountability, child protection in service design, and mandatory local content investment obligations for major streaming services (Smith et al., 2024). Taken together, all three models show that contemporary audio-visual regulation is shifting away from the linear television paradigm toward technology-neutral regulation grounded in risk, impact, and public protection. These principles can be adopted selectively through the lens of Pancasila, the 1945 Constitution, the national legal system, and Indonesia's public protection requirements.

The reconstruction model is formulated through three pillars. The first pillar is relaxation, namely the proportional adjustment of FTA television regulatory burdens. FTA television currently faces dual pressures: shifting public consumption patterns towards digital platforms and the diversion of the advertising market to the digital ecosystem. Relaxation is directed at licensing simplification, digitalisation of compliance reporting, harmonisation of oversight to eliminate overlaps, and the evaluation of restrictions no longer relevant. Relaxation must not affect core public protection norms such as child protection, hate speech prohibition, and editorial responsibility (Scarlata & Lobato, 2025).

The second pillar is protection, namely state protection of broadcasting rights, intellectual property, content monetisation, national content, and FTA television sustainability. Protection is necessary because legitimately produced content can be clipped, re-uploaded, and monetised by third parties without authorisation on digital platforms. Protection is formulated through takedown obligations, prevention of repeated re-uploading, monetisation transparency, royalty mechanisms, and support for local content production (Ala-Fossi & Lax, 2016). The third pillar concerns additional services, which enable FTA television broadcasters to evolve into digital broadcasters distributing content simultaneously through terrestrial frequencies and internet-based platforms. This transformation requires legal certainty concerning digital distribution rights, cross-platform monetisation, and integrated broadcasting authorisations (Ismed et al., 2006). To make this pillar operational, the proposed regulatory framework should establish a clear institutional division of responsibilities between the Indonesian Broadcasting Commission (Komisi Penyiaran Indonesia or KPI) and the Ministry of Communication and Digital Affairs (Komdigi). KPI should retain its role in broadcasting content oversight, the protection of public interests, and the enforcement of applicable broadcasting standards, while Komdigi should be responsible for technical and administrative matters relating to broadcasting infrastructure, spectrum management, and digital distribution

authorisations within its statutory mandate. Given the convergence of terrestrial and internet-based broadcasting, a formal coordination mechanism should be established through a joint regulatory framework, including information-sharing procedures, coordinated supervision, and a referral mechanism for matters involving overlapping jurisdiction. Where necessary, the framework should also provide for periodic joint evaluations and stakeholder consultation to ensure regulatory consistency without undermining each institution's statutory independence and authority. Accordingly, the proposed *ius constituendum* should provide an explicit legal basis for cross-platform broadcasting, clarify the respective powers of KPI and Komdigi, and establish interoperable licensing and accountability mechanisms. These reforms would enable FTA broadcasters to expand their digital services while ensuring legal certainty, fair competition, and continued protection of the public interest.

The reconstruction is grounded in a three-part categorisation of obligations. Spectrum-based obligations remain imposed on FTA television because it uses frequency as a constrained public resource, covering broadcasting licences, frequency use, broadcasting standards, and KPI oversight (Zulkarnain et al., 2025). Electronic system-based obligations remain imposed on digital platforms because they handle applications, data, user accounts, and digital infrastructure, covering PSE

registration, system governance, and content processing. Audio-visual public function-based obligations apply to all services with significant public effects, covering child protection, content classification, advertising transparency, algorithmic risk mitigation, protection of broadcasting rights, and complaint mechanisms (González-Neira et al., 2021). This distinction ensures that FTA television does not continue to carry obligations unilaterally, while digital platforms that perform overlapping functions assume proportionate public responsibilities.

Table 1. *Ius Constituendum* Formulation for Broadcasting Law Reconstruction

Reconstruction Aspect	Direction of New Norms
Definition of broadcasting	Expanded into a national audio-visual regime distinguishing spectrum-based linear broadcasting and public-impact digital audio-visual services
Legal subjects	Classified into: linear broadcasting institutions, professional OTT services, video-sharing platforms, social media video, professional creators
Licensing and governance	Broadcasting licences for spectrum-based services; PSE registration for digital platforms; notification for public-impact audio-visual services
Content obligations	Cross-platform public protection standards applied proportionally based on function, risk, and impact
Supervision	KPI and Komdigi coordination through cross-platform oversight mechanisms; moderation transparency for digital platforms
Advertising and monetisation	Digital advertising transparency, child protection from targeted advertising, recommendation system accountability
IPR and broadcasting rights protection	Takedown obligations, re-upload prevention, monetisation transparency, cross-platform royalty mechanisms
Sanctions	Proportional graduated sanctions

	based on service type, scale, and severity of violation
FTA television relaxation	Licensing simplification, reporting digitalisation, oversight harmonisation, evaluation of irrelevant burdens
Digital transformation	Legal certainty for multi-channel distribution (frequency and internet), cross-channel monetisation protection

Source: Author compilation from Secondary and Primary Data, 2026

Reconstructing the Broadcasting Law based on Pancasila justice is fundamentally not a complete leveling of FTA television and digital platforms. This reconstruction aims to establish a national audio-visual regulatory framework that is technology-neutral, proportionate, anchored in public function, and just. A progressive broadcasting law must be able to track societal change without weakening its grounding in Pancasila values (Rahardjo, 2009). The three-pillar reconstruction model, with a tripartite distinction of spectrum-based, electronic system-based, and audio-visual public function-based obligations, provides the solution to the regulatory asymmetry identified while also delivering proportional justice as required by Pancasila.

D. CONCLUSION

The reconstruction of Law Number 32 of 2002 on Broadcasting should address regulatory asymmetry between free-to-air (FTA) television broadcasters and digital platforms by extending public-interest obligations to audiovisual services that perform comparable functions and have significant public impact. While the existing Broadcasting Law reflects Pancasila justice in its

objectives, institutional framework, broadcasting standards, and public-protection mechanisms, its spectrum-centred orientation does not sufficiently account for digital convergence. This shortcoming produces an imbalance between the extensive duties required of FTA television and the comparatively fragmented accountability of digital platforms. Accordingly, the proposed reconstruction applies a differentiated regulatory approach grounded in three criteria: the use of the broadcasting spectrum, the operation of electronic systems, and the performance of audiovisual functions with substantial public impact. This framework maintains legitimate differences among service providers while ensuring that comparable public functions entail proportionate public responsibilities.

The primary legal implication is the need to put in place an integrated institutional and regulatory framework. First, the Broadcasting Law should delineate the respective statutory authorities of the Indonesian Broadcasting Commission (Komisi Penyiaran Indonesia or KPI) and the Ministry of Communication and Digital Affairs (Komdigi). The Commission's powers should include oversight focused on content-related public interest within its legally defined mandate, whereas the Ministry should regulate spectrum, technical infrastructure, and electronic-system matters within its statutory competence. A formal coordination mechanism should then govern information sharing, coordinated supervision, referrals for complaints that cut

across jurisdictions, and the handling of conflicts arising from overlapping regulatory responsibilities. Second, the licensing regime should separate spectrum-based broadcasting authorisations from electronic-system registration or other applicable requirements for digital services, while also introducing a proportionate authorisation or notification mechanism for audiovisual services that satisfy clearly defined thresholds of public reach and impact. Third, the revised framework should create tiered obligations for digital platforms regarding transparency, accountability for content, protection of children and vulnerable groups, intellectual property, and compliance with applicable Indonesian law. Fourth, the supervisory and enforcement provisions should set out investigative and corrective powers, procedural safeguards, complaint-handling mechanisms, and proportionate sanctions, with each institution exercising only the authority expressly granted to it by law.

The proposed *ius constituendum* is therefore an amendment to the Broadcasting Law that explicitly recognises convergent audiovisual distribution, sets out differentiated yet coordinated regulatory jurisdiction, and introduces a cross-channel accountability framework. Under this framework, FTA broadcasters distributing content simultaneously via terrestrial frequencies and internet-based platforms should continue to meet their spectrum-related obligations, while also complying with clear rules governing digital

distribution rights, cross-channel monetisation, and the protection of broadcasting content and intellectual property. Digital platforms should be bound by obligations that are proportionate to their functions, reach, risks, and public impact, rather than being automatically treated as equivalent to licensed broadcasters in every regulatory respect. The amended law should also require implementing regulations that define jurisdictional boundaries, licensing and notification procedures, information-sharing arrangements, compliance requirements, and enforcement mechanisms. This statutory basis would convert the proposed reconstruction from a conceptual model into an operational regulatory regime that realises Pancasila justice through legal certainty, institutional accountability, proportionality, and equitable protection of the public interest across convergent audiovisual services.

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