Urgence of E-Sport Regulation in Creative Economy in the National Industrial Sector

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Abstract

The goal of this study is to analyze Law Number 24 of 2019 concerning the Creative Economy and Law Number 3 of 2014 concerning Industry in accommodating e-sport as a creative industry in Indonesia, and to analyze the urgency of establishing regulations that specifically regulate e-sport in the creative industry in Indonesia. This research is normative legal research by conducting a literature study. This research was conducted by processing sources of legal material supported by concepts and theories to obtain solutions to the main problems studied. From the results of this study it can be concluded that e-sports in its implementation do not meet the elements contained in the definition of Industry in Law Number 3 of 2014 concerning Industry, e-sports are in line with Article 1 of Law Number 24 of 2019 concerning the Creative Economy which the embodiment of additional value in e-sports is a form of utilizing games which are an objects and humans as subjects in the form of competition which indirectly creates an environment for the parties involved in it. Therefore, there is an urgency to formalize a regulation that specifically regulate e-sport. Regulations are needed to clarify the position of e-sports, that e-sports should be categorized as a sport or as an industrial sector. Because at this time e-sport are currently subject to Law Number 3 of 2005 concerning the National Sports System, but there are some elements that are not suitable as a sport.

Keywords

creative economy; E-sport; national industry; urgency



I. Introduction

In 2015, Indonesia officially established the creative economy, often known as Ekraf. The creative economy can be broadly said to be an economic concept that uses ideas, thoughts, and creativity from human resources (HR) as the main pioneers in economic production. Furthermore, in 2015 Indonesia's creative economy segment contributed around 852 trillion rupiah or around 7,38 percent of Indonesia's total GDP. This is based on data from the 2016 Special Creative Economy Survey made by the Creative Economy Agency (BEKRAF) and the Central Statistics Agency (BPS) (Bekraf, 2019).

Indonesia's government uses a variety of policy methods to promote the creative economy and grow the country's economy. The creative industry development planning policy includes 16 sub-sectors, one of which is application and game developers. In line with the introduction of Industry 4.0, or the fourth industrial revolution (IR 4.0), where this era is often referred to as the transition era, technological progress develops very quickly and fosters technological network competition, which uses the role of manufacturing digitization in each of its supply networks. One of the industries that will be affected by IR 4.0 is the application and gaming industry. This corresponds to the current state of

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information technology. The evolution of the internet is inextricably linked to the advancement of information technology. The rapid growth of information technology resulted in a world of unlimited social transformation (Ramli, 2004).

At present, information technology has been carried out virtually in networks including converged telecommunications and data transmission (Budhijanto & Danrivanto, 2013). Information and communication technology has changed the civilization of society globally. E-sports in Indonesia began to develop rapidly since the creation of online games that use a PC as the main device, and developed again when IR 4.0 emerged and created many games that could be applied on mobile. Chilala and Kumar in Njoka et al (2020) observe that several countries around the world are deepening implementation of ICT policies in order to catalyze growth in a variety of sectors and help steer their economies towards attainment of various platforms as demonstrated in the Sustainable Development Goals (SDGs).

As a result, there are a lot of huge enthusiasts. The large number of enthusiasts from this industry then gave birth to a forum called "e-sports" to accommodate users who are considered quite competent. Not only Indonesia, even developed countries such as America and Russia have developed e-sports far ahead of time, the fact is that e-sports income for the country is quite large, so that e-sport is one of the pioneers in the creative industry which is quite important to be developed by developing countries such as Indonesia. The presence of online games also has a positive impact, namely by the growth of the creative industry from the game itself, which of course affects the nation's economy (Fajri, 2012).

This phenomenon inspired the author to conduct research on this creative sector; upon investigation, the author discovered that this industry is identical to other sports competitions, with the exception of physical use. Unlike mainstream sports, which rely on physical ability, e-sports rely on strategic intelligence and hand speed. Based on the background stated above, the following problems can be formulated: (1) Is Law Number 24 of 2019 concerning the Creative Economy and Law Number 3 of 2014 concerning Industry sufficient to accommodate e-sports as a creative industry in Indonesia? (2) What is the urgency of establishing regulations that specifically regulate e-sports in the creative industry in Indonesia?

II. Research Method

The type of research used in this research is normative legal research. Legal research is finding the truth of coherence, namely whether the rule of law is in accordance with legal norms, whether the norms in the form of orders or prohibitions are in accordance with legal principles, and whether someone's actions are in accordance with legal norms (not only according to legal rules) or legal principles (Marzuki, 2015). The statute approach, also known as the legislative approach, and the conceptual approach were used in this study. Researchers use legislation as a discussion of legal issues to investigate the legal shield of e-sports in the creative economy and national industry in this legal approach. Meanwhile, the conceptual approach is implemented by referring to legal concepts pertaining to the creative economy and industry.

The sources of legal materials in this study are primary legal materials, namely Law Number 20 of 2019 concerning the Creative Economy, Law Number 3 of 2014 concerning Industry, and Law Number 3 of 2005 concerning the National Sports System. Meanwhile, secondary legal materials were gathered from the study's books, journals, and the internet. The approach of gathering legal resources is to do a literature review followed by an examination of legal materials utilizing deductive methods ranging from general to specific.

III. Results and Discussion

3.1 History of E-Sports in Indonesia

Games are a type of game or complex activity in which players are involved in a problem or conflict that the system has generated (Pratama, 2014). There are two types of games, namely online games and offline games. The term "online games" refers to games that can be played by a large number of people, who are all linked to the same network, most commonly the Internet (Affandi, 2013). The heyday of e-sports game competition in Indonesia occurred in the early 2000s. At that time online games such as Counter-Strike, Dota, League of Legends (LoL), Mobile Legends, and StarCraft were growing rapidly. As a result, many large-scale e-sport competitions have begun to emerge. The Tokopedia Battle of Friday, coordinated by World Cyber Games (WCG) Indonesia, Mobile Legends Professional League (MPL), and Indonesia Esports Premiere League, is one of these competitions (IESPL). In addition, Dota 2, Mobile Legends, Counter-Strike: Global Offensive, and Point Blank are some of the online games that are played (Beritagar, 2019). Even in developed countries, gamers who play games professionally have been recognized as athletes who are equated with sports athletes (Borowy, 2012).

E-sports were eventually included among the sports competed in the 2018 Asian Games in Jakarta and Palembang, due to the popularity of large-scale e-sport events. The IESPL then held another e-sports event in Indonesia, the E-sports President Cup, in 2019. IESPL works with the Creative Economy Agency (*BEKRAF*), the Ministry of Youth and Sports, the Presidential Staff Office, and the Ministry of Communication and Information to organize this competition.

In Indonesia, there has been some progress in developing the e-sports sector, such as the formation of an association that supports the e-sports movement called the Indonesia e-sport Association (IeSPA). IeSPA is the official forum for the gamer community in Indonesia to develop skills and achievements in the world of competitive video games. IeSPA was formed from a combination of publishers, game forum communities and several Indonesian professional gaming athletes (Dailysocial, 2014). However, in terms of law and regulation, Indonesia is still lagging behind several other countries. Until now, Indonesia does not have any arrangements and regulations that support the activities in the e-sports sector.

3.2 Creative Economy, Creative Industry, and E-Sport

According to Article 1 of Law no. 24 of 2019 concerning the Creative Economy (hereinafter referred to as the Creative Economy Law), the definition of the Creative Economy is the embodiment of additional value from intellectual property originating from human creativity based on cultural heritage, science, and/or technology. The concept of the creative economy is usually supported by the creative industry as a form of its manifestation. The character of this creative economy is the high creative content of the input and output of economic activity (Simatupang, 2005). Therefore, it can be concluded that the creative economy in relation to the creative industry is an economic activity that includes industries with the creativity of human resources as the main asset to create economic added value (Bekraf, 2019). So it can be concluded that the characteristics of the creative economy are: (Prawiro, 2018)

- a. Intellectual creations in the form of creativity, expertise, and talents that have selling points through offering intellectual creations.
- b. Easily replaceable because the resulting products (goods and services) have a short life cycle, high margins, variety, high competition, and easy to imitate.

- c. It takes good cooperation between various parties, such as intellectuals, the business world, and the government.
- d. The creative economy is based on ideas or ideas from actors whose concepts are relative.
- e. Development in the creative economy is unlimited and can be applied to various business fields.

From the characteristics mentioned above, it can be said that e-sports is part of the creative economy as a manifestation of the creative industry which is included in the application and game developer sub-sector. E-sport is the result of creativity based on ideas and ideas created by business actors through a creative process, in the form of sports games that use games as the main competitive field played by a competitive professional (Restika, 2018).

3.3 Current E-Sport Regulations

Law No. 3 of 2014 on Industry governs all matters relating to industry (hereinafter referred to as the Industrial Law). For Indonesia's advanced industrial development, the Industrial Law aims to strengthen a self-sufficient, healthy, and high-competitive industrial structure while empowering resources to advance industry across the country, including the development of creative industries, which should be a concern for government.

If categorizing e-sports as an Industrial sector, it must refer to Article 1 of the General Provisions of the Industry Law which explicitly explains that Industry is all activities related to industrial activities and Industry itself in brief is all forms of economic activity that processes raw materials and/or utilize industrial resources to produce goods that have added value or higher benefits, including industrial services. By referring to the notion of Industry it is not appropriate to categorize e-sports as an Industrial sector because in its implementation e-sports does not fulfill the elements contained in the definition of Industry in the Industry Law. Simply put, the definition of e-sport according to the Olympic Council of Asia is an electronic sport, abbreviated as e-sport is used as a general term to describe video games as a professional sport. Other terms include competitive gaming, cybersports, cyber athletics and V-Sports Games that are considered electronic sports usually belong to the first-person shooter, real-time strategy, or sports game genres.

Meanwhile, if we look further, the Creative Economy Law does slightly touch the realm of e-sports itself, in Article 1 of the Creative Economy Law it says that the Creative Economy is the embodiment of additional value from intellectual property originating from human creativity based on cultural heritage, science and technology, and/or technology. In this case, the element of intellectual property from human creativity is quite in line with esports which in general is a form of increasing the added value of a product that comes from technology-based intellectual property, but what is meant by "embodiment of additional value" in the Creative Economy Law whether it is in line with the embodiment of e-sport in its implementation or not. This is actually quite explained in Article 1 point 3 (three) of the Creative Economy Law which states that the Creative Economy Ecosystem is a connected system that supports the Creative Economy value chain, namely creation, production, distribution, consumption, and conservation, which is carried out by economic actors. Creative to provide added value to its products so that they are highly competitive, easily accessible, and legally protected. Reviewing the contents of the article, it is quite clear that the actual embodiment of added value referred to in the Creative Economy Law is to create or increase the value of an Intellectual Property copyright through Industrial activities which include production and distribution as well as sales or consumption and protection thereof, while the realization of added value in e-sport is in the form of the use of Games or Games in general as an object and humans as subjects packaged in the form of competition that indirectly creates an economic environment for the parties involved in it without the element of production or activities to increase the value of a semi-finished item or raw material into an item of higher selling value as well as the notion of industry itself.

For this reason, e-sport itself should now be subject to Law No. 3 of 2005 on the National Sports System (hereinafter referred to as the National Sports System Law) simply because in its realization e-sport is widely realized in the form of a sports competition whose participants are Professional Game Players and e-sports themselves which on many occasions included in one of the Sports that are juxtaposed in international sports events such as the 2018 Asian Games, so for now e-sports is still a sport that is recognized in Indonesia and is subject to the System Law. National Sports. Professional Game Players as well as e-sports themselves, are generally joined in teams employed by employers, so there is a working relationship in them. As an employment relationship, of course, this creates further rights and obligations between the Worker and the employer. The Employment Relationship itself arises after an Employment Agreement is agreed between the two, the work is free depending on the agreement between the worker and the employer as long as it does not conflict with the laws and regulations, morality and public order (Rahayu, 2011).

3.4 The Urgency of Establishing Regulations that Regulate Specifically Regarding E-Sports in the Creative Industry in Indonesia

An explosion in the tech industry was caused by Industry 4.01's arrival, which in turn prompted businesses to develop new concepts and innovate on technology in order to raise significant amounts of fund. One of the most hit products in this technological era is online games which are realized in the form of e-sports. In addition to generating funds from the game application itself, entrepreneurs and the state also receive income through the network used to play the game, this double-funded income, of course, attracts many investors to invest in the gaming sector. In the midst of the rapid development of the game industry, Indonesia still seems unable to compete creatively. Because, Indonesia is said to be still a market, not a major player in the industry itself, due to the lack of business actors in the creative industry, especially in the game industry. However, although it is still a market by creation, Indonesia has started to crawl as a player, not a few of the Indonesian players have been involved in competitions both nationally and internationally. The game industry in Indonesia has strong potential to continue to advance, in 2017 Indonesia became the second largest mobile game market in the ASEAN region (Rinaldi & Krisnadi, 2019).

In this era, electronic sports or e-sports are no longer foreign in the national and international arena, the existence of this e-sport can be seen from the many events that hold e-sport competitions and even the Asian Games have included e-sports in their competitions, Seeing this phenomenon, it would not be wrong to say that e-sports has even surpassed conventional sports at this time, so it is necessary to make special arrangements that regulate electronic sports.

The government has formed a new development with the creation of the Creative Economy Agency led by Triawan Munaf as Head of the Creative Economy Agency. The Creative Economy Agency has the task of assisting the President in establishing and coordinating creative economy policies, one of which is in the fields of applications and games.

Some of the fields raised by the Creative Economy Agency are also included in the fields or sub-sectors which are creativity-based industries in Indonesia based on the

mapping of the creative industries that has been carried out by the Ministry of Trade of the Republic of Indonesia which includes interactive games, which briefly means creative activities. relating to the creation, production and distribution of computer and video games of an entertainment, agility, and educational nature. The interactive game sub-sector is not dominated as mere entertainment but also as a learning or educational aid. However, in our opinion, the above rules, which are the Creative Economy Agency and some subsectors of the creative industries according to the Ministry of Trade of the Republic of Indonesia, are more devoted to supporting developers of applications and games than to organizing an esport competition both in terms of implementation procedures and related areas in it that should be protected legally, if they are associated with e-sports.

E-sports currently subject to The National Sports System Law, however, is still a debate whether e-sports is included in sports or not.

The scope of sports includes activities:

- 1. Educational sports is a sport that is carried out as part of a regular educational process to acquire knowledge, personality, skills, health, and physical fitness.
- 2. Recreational sports is a sport that people do with hobbies and abilities that grow and can develop in accordance with the conditions and cultural values of the local community for joy, fitness and health.
- 3. Sports achievements is a sport that develops athletes through competition to achieve achievements with the support of sports science and technology.

Each of the three types of sports above can be divided into two, namely amateur sports and professional sports development. Amateur sports are carried out on the basis of love and passion for sports, which done just for fun. While professional sports, are sports that are commercialized in the sense that they are carried out in order to get an income from these sports skills.

E-sports can be classified as an achievement sport that is carried out professionally because it meets the following elements:

- 1. efforts to increase the ability and potential of athletes to increase the dignity of the nation:
- 2. carried out by everyone who has talent, ability, and potential to achieve achievement;
- 3. implemented through a process of coaching and development supported by sports science and technology;
- 4. earn income in the form of money or other forms based on sports skills.

3.5 Pioneer of E-Sports in Indonesia as Builder

The development of e-sports in Indonesia has been followed by the establishment of IeSPA (Indonesian e-Sports Association) as the pioneer of e-sports in Indonesia. The principle of making IESPA is also in accordance with Article 35 paragraph (1) of the National Sports System Law. IeSPA seeks support from the government in its establishment, namely the Ministry of Youth and Sports, (*Kemenpora*) as a protector through FORMI (Federation of Indonesian Community Recreational Sports) as a coach. IeSPA is most appropriate to be under FORMI because the field of e-sports is one of the recreational activities for the community.

However, if we look at the definition of recreational sports as explained above in Article 1 number 12 of the National Sports System Law:

"sports carried out by the community with hobbies and abilities that grow and develop in accordance with the conditions and cultural values of the local community for health, fitness, and fun."

There is an element of "health, fitness" which is not appropriate when it comes to esports because, as we all know, playing electronic games has nothing to do with health and fitness.

The progress of the creative industry in the application and game developer subsector itself cannot be separated from the development of e-sports which is quite influential in terms of money circulation and provides jobs on a large scale. Even though in terms of game development, Indonesia is still inferior to other countries, domestic game developers are starting to appear that have been able to penetrate the international market, thus it is necessary to establish regulations regarding e-sports itself which specifically regulates matters that have not been regulated in the Act. Law Number 3 concerning Industry, Law Number 24 of 2019 concerning the Creative Economy, Law Number 3 of 2005 concerning the National Sports System and other regulations under the Act.

Regulations regarding e-sports are needed to fill the legal void and to establish regulatory alignment between one field and another which either directly or indirectly intersects with the implementation of e-sports in Indonesia so that there is clarity about the enactment of the law as an instrument that specifically regulates e-sports and provides clarity on the position of e-sports in laws and regulations in other related fields. The regulations needed include standardization of games and players, so that players have the power in the eyes of the law and the clarity of a professional gamer as a profession recognized by the state (Detikinet, 2019). Even with clear regulations, the development of e-sports will be more organized and the ecosystem guaranteed. Until coaching athletes can continue (Setyawati, 2019). This regulation is expected to serve as an education and build understanding about e-sports which have the same principles and values as other sports (Tempo.co, 2019). In brief, the regulations established at least contain the following:

- a. Stipulations on what types and devices can be used in e-sport competitions. As with industrial products in general, in e-sports there must also be standardization of the devices used, from RAM (Random-access Memory), specifications, networks to other supporting devices to avoid unwanted things, such as blaming errors for technical errors to cover the user's ability, to produce competitive gamers and quality competition for industrial players in the field of technology equipment.
- b. Game qualifications that can be categorized as e-sports. In the world of gaming, there are two types of games, namely games that can be played offline and online. Games and e-sports are one unit but technically games and e-sports are two different things, meaning that not all games are included in e-sports, for that there must be an affirmation of games that can be competed, including the terms and standards of games that can be competed which categorized as e-sports.
- c. Player standardization. This standard may include contracts, player salaries and sponsorships. This is the difference between casual gamers and professional gamers. Currently, there is no patent salary standard, and generally every e-sports organization has its own calculations about this. From the information we have gathered, skill or ability is not the only indicator that determines the player's salary.
- d. E-sport certification and standardization. Of course not all games can qualify for e-sports, seeing from the very high potential of e-sports in the current industrial era 4.0, of course there are several standards that must be met to be able to foster a sense of competition both in terms of visual standards, characters and ways to level up in a game. It is undeniable that in this very warm era of e-sports, almost all games set a "price" in order to get weapons to become stronger, so we also think that regulation regarding that matter is quite important.

- e. Procedures to be able to participate or register yourself and/or a team to take part in esport competitions. Information about the procedures and procedures to be able to participate in the game competition, is more about general requirements.
- f. Prohibition not to do things that are not in accordance with procedures (cheating). Prohibition not to cheat to be able to win an unfair competition with or not to use technology and information, whether to get additional specifications, theft, or do something unfair or unhealthy with the intent to benefit oneself and/or the team.
- g. Prohibition for hacking. Prohibition of hacking, hacking, etc. that can steal, damage, take over, other people's devices, networks and/or accounts to obtain information illegally or stop, hinder other parties in the competition.
- h. Criminal provisions for violators. Criminal penalties for violators.

Although e-sport itself is included in the circle of the creative industry but it should be known that in the realization of an e-sport competition including in many countries, evidenced by the addition of e-sport sports in the 2018 Asian Games, it is the duty of the Ministry of Tourism to be able to propose the establishment of regulations or issue ministerial regulations that specifically regulate matters related to the implementation of e-sport in Indonesia, Meanwhile, in the industrial sector, it is required to pay attention to the protection of the creator games' copyright or intellectual property rights, the category of games and their designations, as well as the control of the circulation of online games that violate norms and culture. Due to different e-sport events that will enliven Indonesia, this strategy is predicted to increase the income from the economic value of e-sports in the next 3-4 years.

IV. Conclusion

Based on the discussion that has been described, e-sports in their current implementation do not match the characteristics contained in the definition of industry in the Industry Law (Article 1 of Law Number 3 of 2014). The definition of industry, according to the article, is "all activities related to industry," and "industry" includes "all types of economic activity that processes raw materials and/or uses industrial resources to make items with added value or higher benefits." Then, looking further into Law Number 24 of 2019 concerning the Creative Economy, e-sports is in line with Article 1, which in general is a method of boosting the added value of a product derived from technology-based intellectual property. Then in the embodiment of added value in e-sports is a form of utilizing games or games in general as an object and humans as subjects packaged in the form of competition which indirectly creates an economic environment for the parties involved in it without any elements of production or activities to increase value of a semi-finished goods or raw materials into an item of higher selling value as well as the understanding of the industry itself.

As a conclusion, there is an urgent need to develop legislation that explicitly control e-sports; nevertheless, the position of e-sports must first be established. Although e-sports is currently subject to Law Number 3 of 2005 concerning the National Sports System, there is still debate as to whether e-sports is included in sports or not, because the National Sports System Law contains an inappropriate element, namely "for health and fitness," because, as we all know, playing electronic games is not appropriate if it is associated with health and fitness.

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