

Obligation to Pay Telecommunications Operation Rights Fees and Contribution of Universal Service Obligations for The Palapa Ring Project by The Palapa Ring Project Implementing Business Entity

Darién Aldiano¹, Dian Puji Nugraha Simatupang²
^{1,2} Master Of Law, Faculty Of Law, University Of Indonesia

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ABSTRACT

Cooperation between the Government and Business Entities on Infrastructure Provision (PPP) in this case of the Palapa Ring is a project of greater concern to the Government of Indonesia, because its not only has benefits for internet distribution that reaches all areas in Indonesia, but it has a large income impact on the state budget and eases the burden of state budget funds, this is because of the payment scheme in the PPP. Therefore, the obligation to pay the Telecommunications Operation Rights Fee (BHP TEL) and the Universal Service Obligation Contribution (USO) by the Business Entity is very important. The methodology in this article is descriptive normative, with the purpose of writing to focus on knowing the payment obligations of BHP and USO with the type of business activity, and to find out the procedures for calculating BHP and USO based on regulations. The conclusion of this paper First, based on the Minister ICT Regulation, Business Entities that have obtained a license to operate a telecommunications network have an obligation to pay BHP and USO, this is because as a form of compensation for the licenses obtained in network operation by ministry. Second, minister ICT Regulation stipulates that in calculating BHP and USO, it is inseparable from AP payments, this is because the source of AP funds is from USO payments. The authors recommend to separate for the portion of Capital Expenditure (capex) and AP for Operating Expenditure (opex), to calculate BHP Tel and USO contributions.

ABSTRAK

Kerja Sama antara Pemerintah dengan Badan Usaha (KPBU) atas Penyediaan Infrastruktur dalam Penyelenggaraan Palapa Ring merupakan proyek yang menjadi perhatian lebih bagi Pemerintah Indonesia, karena tidak hanya memiliki manfaat bagi pemerataan internet yang menjangkau seluruh wilayah hingga pelosok di Indonesia, tetapi memberikan dampak pendapatan yang besar bagi APBN serta mendukung penghematan pengeluaran APBN, melalui skema pembayaran *availability payment* (AP) dalam KPBU. Oleh karena itu kewajiban Pembayaran Biaya Hak Penyelenggaraan Telekomunikasi (BHP) dan Kontribusi Kewajiban Pelayanan Universal (USO) oleh Badan Usaha Pelaksana sangat penting bagi Pemerintah sebagai penyelenggara. Metodologi dalam penulisan ini bersifat deskriptif normatif, dengan tujuan penulisan berfokus untuk mengetahui skema dalam kewajiban pembayaran BHP dan USO dikaitkan dengan jenis kegiatan usaha serta untuk mengetahui tata cara dalam perhitungan BHP dan USO berdasarkan Peraturan Perundang-Undangan. Artikel tulisan menyimpulkan *Pertama*, berdasarkan Permenkominfo, Badan Usaha yang telah memperoleh izin penyelenggaraan jaringan telekomunikasi memiliki kewajiban untuk membayar BHP dan USO, sebagai bentuk kompensasi atas perizinan yang diperolehnya dalam penyelenggaraan jaringan oleh Kementerian Kominfo. *Kedua*, Permenkominfo mengatur dalam perhitungan BHP dan USO tidak terlepas dari pembayaran AP, mengingat sumber dana AP yang tidak lain berasal dari pembayaran Kontribusi USO. Berdasarkan sistem AP yang berpacu pada Standar Akuntansi Keuangan (ISAK 16), disarankan pencatatan penerimaan AP oleh BUP perlu dipisahkan antara penerimaan AP untuk porsi Capital Expenditure (capex) dan AP untuk *Operating Expenditure* (opex).

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Corresponding Author:

Dian Puji Nugraha Simatupang,
Master Of Law, Faculty of Law,
University Of Indonesia,
Pondok Cina Beji Depok, Indonesia
Email: diansimatupang21@gmail.com

I. INTRODUCTION

Development of state financial performance in order to achieve state goals can not only be done by relying on the state budget mechanism (APBN), but can be done with other mechanisms such as government cooperation with business entities (PPP). This mechanism is believed to have an impact on economy and benefit for the achievement of state goals in state financial management in Indonesia.

Government Cooperation with Business Entities (PPP) is cooperation between the Government and Business Entities in providing infrastructure for the public interest by referring to specifications that have been previously set by the Minister / Head of Institutions / Regional Heads / BUMN / BUMD, which partially or completely uses the resources of Business Entities by taking into account the risk sharing between the parties.(Peraturan Lembaga Kebijakan Pengadaan Barang/Jasa Pemerintah Nomor 29 Tahun 2018 Tentang Tata Cara Pengadaan Badan Usaha Pelaksana Penyediaan Infrastruktur Melalui Kerjasama Pemerintah Dengan Badan Usaha Atas Prakarsa Menteri/Kepala Lembaga/Kepala Daerah, n.d.)

PPP in the international world is known as Public Private Partnerships (PPPs), PPPs are quite popular in several governments around the world, including recently in the United States, China and several countries that are members of the *Organisation for Economic Cooperation and Developments*.(Graeme A. Hodge dan Carsten Greve, 2016) However, its implementation is not easy, considering the public interest which is very broad in scope and requires large costs, and the government has budget restrictions. On the other hand, the private sector will not incur costs if it is not profitable.(Istianto, 2011) PPPs can provide innovative solutions, reduce costs and time, transfer risk to the private sector, access to expertise, experience and technologistsi.(Ismowati, n.d.) In this regard, PPPs are defined as follows:

... an agreement between the government and one or more private partners (which may include the operators and the nancers) according to which the private partners deliver the service in such a manner that the service delivery objectives of the government are aligned with the pro objectives of the private partners and where the effectiveness of the alignment depends on a sufficient transfer of risk to the private partners.(Philippe Burger dan Ian Hawkesworth, 2011)

In addition, the Asian Development Bank provides views on PPPs as follows:(Asian Development Bank, n.d.)

Effective PPPs recognize that the public and the private sectors each have certain advantages, relative to the other, in performing specific tasks. The government's contribution to a PPP may take the form of capital for investment (available through tax revenue), a transfer of assets, or other commitments or in-kind contributions that support the partnership. The government also provides social responsibility, environmental awareness, local knowledge, and an ability to mobilize political support. The private sector's role in the partnership is to make use of its expertise in commerce, management, operations, and innovation to run the business efficiently. The private partner may also contribute investment capital depending on the form of contract.

PPPs are described as long-term collaborations by and between one or more government agencies and private parties, based on the purpose of providing public services through specific institutions and a contract.(Andrecka, 2014) The implementation of PPPs can be viewed as a form of government

responsibility to provide public services, especially when the government places public services as an inherent authority. (Caesar A. Guimares Pereira, 2014) There are three reasons behind the use of PPP for infrastructure development: (Caesar A. Guimares Pereira, 2014) To attract private capital investment; To improve efficiency and use available resources more effectively; and Carry out sector reforms through role reallocation, incentives, and accountability.

Furthermore, the fulfillment of the right to communicate and obtain information is in principle one of the important aspects of national development implemented within the framework of Indonesia's digital transformation. Therefore, for the sake of creating national development in the digital field, the writing in this article raises the theme of Government Cooperation with Business Entities (PPP) in the field of communication and informatics. In this case, the Indonesian state that has the task of organizing government affairs in the field of communication and informatics to assist the President in organizing state government is the Ministry of Communication and Informatics. (Peraturan Menteri Komunikasi Dan Informatika Nomor 6 Tahun 2018 Tentang Organisasi Dan Tata Kerja Kementerian Komunikasi Dan Informatika, n.d.) As for the implementation and management, the Ministry of Communication and Informatics is assisted by the Telecommunications and Information Accessibility Agency (BAKTI), (Peraturan Menteri Komunikasi Informatika Nomor 3 Tahun 2018 Tentang Organisasi Dan Tata Kerja Badan Aksesibilitas Telekomunikasi Dan Informasi, n.d.) namely as a noneselon organizational unit within the Ministry of Communication and Informatics that implements the pattern of Financial Management of the Public Service Agency under and responsible to the Minister of Communication and Informatics. (Peraturan Menteri Komunikasi Informatika Nomor 3 Tahun 2018 Tentang Organisasi Dan Tata Kerja Badan Aksesibilitas Telekomunikasi Dan Informasi, n.d.) In implementing PPP, the Minister of Communication and Informatics acts as the Person in Charge of the Cooperation Project (PJKP) as an infrastructure operator based on laws and regulations. (Peraturan Presiden Nomor 38 Tahun 2015 Tentang Kerjasama Pemerintah Dengan Badan Usaha Dalam Penyediaan Infrastruktur, n.d.)

Regarding the Palapa Ring project itself is one of the work programs owned by the Telecommunications and Information Accessibility Agency (BAKTI), (Kementerian Komunikasi dan Informatika Republik Indonesia, n.d.-a) Where is a telecommunications infrastructure project that functions to integrate all existing networks owned by telecommunications operators and other agencies with new networks. This network will be the foundation of all telecommunications providers and telecommunications service users in Indonesia and integrated with existing networks owned by telecommunications providers. (Kementerian Komunikasi dan Informatika Republik Indonesia, n.d.-b) The Palapa Ring project is carried out through the PPP scheme in Infrastructure Provision which is divided into three regions, namely west, central, and east. (*Mengenal PRB*, n.d.)

Service provision activities at the Palapa Ring PPP Project are carried out through the construction of fiber optic networks and devices to be leased or used by telecommunications users/operators. (*Proyek KPBU Palapa Ring*, n.d.) Kegiatan usaha dalam Proyek KPBU Palapa Ring dikategorikan sebagai penyelenggaraan jaringan tetap tertutup. (*Proyek KPBU Palapa Ring*, n.d.)

Through a competitive PPP procurement process, three Implementing Business Entities (**BUP**) of the Palapa Ring project have been formed, namely PT. Palapa Ring Barat ("**PT PRB**") for the western region, PT. Len Telekomunikasi Indonesia ("**PT LTI**") for the central region, and PT. Palapa Timur Telematics ("**PT PTT**") for the eastern region, each of which is stated in a Cooperation Agreement ("**PKS**"). (*Proyek KPBU Palapa Ring*, n.d.) In this regard, the Minister of Communication and Informatics has signed:

- a. Cooperation Agreement for the procurement of the Palapa Ring Barat PPP Project Number 284 / M.KOMINFO / HK.03.02 / 2016 and Number 002 / PRB / PD-DIR / II / 2016 dated February 29, 2016;
- b. Cooperation Agreement for the Procurement of the Palapa Ring Tengah PPP Project between the Ministry of Communication and Informatics of the Republic of Indonesia and PT. Len

Telekomunikasi Indonesia Number 286/M.KOMINFO/HK.03.02/03/2016 and Number: 001/PKS/DU/II/216 dated March 4, 2016;

- c. Cooperation Agreement for the Procurement of the East Palapa Ring PPP Project between the Ministry of Communication and Informatics of the Republic of Indonesia and PT Palapa Ring Timur Number: 1425/M.KOMINFO/HK.03.02/09/2016 and Number: 2901/PTT/PD-DIR/IX/2016 dated September 29, 2016.

Where the three agreements mentioned above are one of the basis for the Palapa Ring PPP agreement which contains the rights and obligations of the Minister of Communication and Informatics as PJPK and PT PRB, PT LTI and PT PTT as BUP.

Over time, there were problems in the implementation of the Palapa Ring Project, where there was a disagreement regarding the basis for the imposition of BHP and USO payment obligations related to the recording of AP in the BUP books in accordance with applicable accounting standards. BUP is of the view that AP is a return on investment recorded as construction and infrastructure development income so that it falls into the category of types of receipts that are excluded in the calculation of BHP and USO. (Peraturan Menteri Komunikasi Dan Informatika Nomor 17 Tahun 2016 Tentang Peyunjuk Pelaksanaan Tarif Atas Penerimaan Negara Bukan Pajak Dari Pungutan BHP Dan USO, n.d.)

Previously, it was necessary to know that *availability payment* ("**AP**") is a return on investment scheme used in Palapa Ring, which is paid monthly for a period of 15 (fifteen) years by PJPK c.q. BAKTI to the Implementing Business Entity ("**BUP**") for the services provided by BUP in the form of:

- a) Provision of telecommunications capacity services through Facilities at Point of Presence by the terms and conditions of this Agreement; and
- b) Any other services agreed from time to time by the Parties to be provided by the Business Entity under this Agreement other than the Work.

Furthermore, based on the Regulation of the Minister of Communication and Informatics (Permenkominfo) Number 5 of 2021 concerning the Implementation of Telecommunications, the Telecommunications Implementation Rights Fee (BHP) is an obligation that must be paid by every Telecommunications Operator and is a Non-Tax State Revenue, (Peraturan Menteri Komunikasi Dan Informatika Nomor 5 Tahun 2021 Tentang Penyelenggaraan Telekomunikasi, n.d.) while regarding *Universal Service Obligation* (USO) is an obligation contribution that must be given by each Telecommunication Operator in the form of funds based on a certain percentage of the gross income of Telecommunications Implementation which is Non-Tax State Revenue and/or other contributions. (Peraturan Menteri Komunikasi Dan Informatika Nomor 5 Tahun 2021 Tentang Penyelenggaraan Telekomunikasi, n.d.) Therefore, both BHP and USO are two components of non-tax fees that must be paid by telecommunications service providers to the government.

As for the Palapa Ring project BUP as a private entity, in the preparation of its financial statements using Financial Accounting Standards (SAK) issued by the Financial Accounting Standards Board of the Indonesian Institute of Accountants (DSAK IAI). The standard used in Palapa Ring PPP reporting is ISAK 16 on Service Concession Agreements. Furthermore, ISAK 16 states BUP must recognize and measure revenue in accordance with PSAK 34 on Construction Contract Accounting and PSAK 23 (2010 revision) on Revenue for Services.

Based on the description above, this article will answer two problems is How the regulation of BUP obligations regarding BHP and USO payments is related to the type of BUP business activities based on laws and regulations and cooperation agreements for palapa ring projects and How to regulate the procedures for calculating BHP and USO in the existing Minister of Communication and Informatics regulations and recommendations that can be given in order to improve the Minister of Communication and Informatics Regulation related to the guidelines for implementing tariffs on PNBPN obtained from the implementation of telecommunication.

II. RESEARCH METHOD

The research method that will be used by the author in this study is to use normative juridical research, then the approach used is a statutory approach (*statue approach*), namely reviewing laws and regulations related to the central theme of research. (Jonaedi Efendi dan Johnny Ibrahim, 2018) Normative juridical research discusses doctrines or principles in legal science. (Ali, 2013) Normative legal research serves to provide juridical arguments when there is a vacuum, blurring and conflict of norms. Normative legal research plays a role in interpreting the ktrits aspect of its legal science as a *sui generis* normative science. The theoretical foundation is the foundation contained in the normative/contemplative legal theory level. (I Made Pasek Diantha, 2017) The type of data used in this study is secondary data obtained from literature searches. Then coupled with secondary data obtained from literature research where the data consists of Primary Legal Materials, Secondary Legal Materials and Tertiary Legal Materials.

III. RESULT AND DISCUSSION

1. BHP and USO Payments

a. BUP's obligations in paying BHP and USO in accordance with the Type of Business Activity and PPP Agreement

Every business actor who has obtained a license to operate a telecommunications network that has been effective has an obligation to pay BHP and USO in accordance with laws and regulations. (Peraturan Menteri Komunikasi Dan Informatika Nomor 17 Tahun 2016 Tentang Peyunjuk Pelaksanaan Tarif Atas Penerimaan Negara Bukan Pajak Dari Pungutan BHP Dan USO, n.d.; Peraturan Menteri Komunikasi Dan Informatika Nomor 7 Tahun 2018 Tentang Pelayanan Perizinan Berusaha Terintegrasi Secara Elektronik Bidang Komunikasi Dan Informatika, n.d.) In addition to being regulated in the Minister of Communication and Informatics Number 7 of 2018, the obligation to pay BHP and USO is also regulated in other laws and regulations, namely in Law Number 36 of 1999, Government Regulation Number 52 of 2000, Government Regulation Number 80 of 2015, Government Regulation Number 46 of 2021, and Minister of Communication and Informatics Number 5 of 2021.

BHP is an obligation imposed on telecommunications network and/or service operators as compensation for the permits they obtain in the implementation of telecommunications networks and/or services, the amount of which is determined based on a percentage of revenue and is Non-Tax State Revenue (PNBP) deposited into the state treasury. Meanwhile, the USO, which is an obligation that must be paid through BAKTI by BUP in the Palapa Ring USO project, is in the form of: (Undang - Undang Nomor 36 Tahun 1999 Tentang Telekomunikasi, n.d.) Provision of telecommunications networks and/or services; Contribution in the form of components of interconnection costs; or Other contributions, namely in the form of exemptions from access fees and tariff subsidies.

Telecommunications implementation is a telecommunications provision and service activity that allows the implementation of telecommunications. (Undang - Undang Nomor 36 Tahun 1999 Tentang Telekomunikasi, n.d.) Article 7 of Law No. 36/1999 states that the implementation of telecommunications includes 3 (three) activities, namely:

- a. Telecommunications network implementation, namely the provision and/or service of telecommunications networks that allow the implementation of telecommunications;
- b. Implementation of telecommunications services, namely the provision of and/or telecommunications services that allow the implementation of telecommunications;
- c. Implementation of special telecommunications, namely the implementation of telecommunications whose nature, designation, and operation are special.

The implementation of telecommunications networks or services can be carried out by legal entities established for this purpose in the form of State-Owned Enterprises (BUMN), Regionally

Owned Enterprises (BUMD), private business entities, or cooperatives. In addition, the implementation of special telecommunications can be carried out by individuals, government agencies, or legal entities other than telecommunications network operators and/or telecommunications service providers.(Undang - Undang Nomor 36 Tahun 1999 Tentang Telekomunikasi, n.d.) Meanwhile, the implementation of telecommunications is carried out by paying attention to the following matters:(Undang - Undang Nomor 36 Tahun 1999 Tentang Telekomunikasi, n.d.) Protecting the interests and security of the country; Anticipate technological developments and global demands; Conducted in a professional and accountable manner; Community participation.

Any telecommunications operation can be carried out after fulfilling the business license of the Minister.(Undang - Undang Nomor 36 Tahun 1999 Tentang Telekomunikasi, n.d.) Licensing provisions for telecommunications operations are regulated in the Minister of Communication and Informatics Regulation No. 7/2018. Based on the Minister of Communication and Informatics Regulation No. 7/2018, the telecommunications operation permit consists of:(Peraturan Menteri Komunikasi Dan Informatika Nomor 7 Tahun 2018 Tentang Pelayanan Perizinan Berusaha Terintegrasi Secara Elektronik Bidang Komunikasi Dan Informatika, n.d.) License to operate telecommunications networks; License to operate telecommunications services; and Special telecommunications operating permits for the purposes of legal entities.

The telecommunications operation permit is not limited by time as long as it meets the provisions of the laws and regulations and applies with the following provisions:(Peraturan Menteri Komunikasi Dan Informatika Nomor 7 Tahun 2018 Tentang Pelayanan Perizinan Berusaha Terintegrasi Secara Elektronik Bidang Komunikasi Dan Informatika, n.d.)

- a. The period of the first year of operation is from the effective validity of the permit until the end of the financial year;
- b. In the event that the permit is effective after October 31, the period of the first year of operation from the date of the permit is effective until the end of the next financial year; and
- c. The period of the second year onwards is calculated according to the financial year (January 1 to December 31).

The implementation of telecommunications in the Palapa Ring PPP Project is categorized as the implementation of a closed fixed network. The operation of a closed network requires a permit to operate a telecommunications network, where the permit is granted through an evaluation mechanism.(Peraturan Menteri Komunikasi Dan Informatika Nomor 7 Tahun 2018 Tentang Pelayanan Perizinan Berusaha Terintegrasi Secara Elektronik Bidang Komunikasi Dan Informatika, n.d.) The application for a telecommunications network operating permit can only be done by a legal entity established for a specific purpose, which can be in the form of a State-Owned Enterprise (BUMN), Regionally Owned Enterprise (BUMD), private business entity, or cooperative.(Peraturan Menteri Komunikasi Dan Informatika Nomor 7 Tahun 2018 Tentang Pelayanan Perizinan Berusaha Terintegrasi Secara Elektronik Bidang Komunikasi Dan Informatika, n.d.) The three BUPs of the Palapa Ring PPP Project have obtained permits to operate a closed network and must be subject to the obligations that accompany the permits.

As for the arrangements regarding BHP and USO payment obligations, regulated in Article 12 of the Palapa Ring PPP Agreement for the West Package, the Middle Package and the Eastern Package regulate as follows:

- a) *Taxes and Non-Tax State Revenues*
- b) *Unless otherwise provided in this Agreement, each Party is responsible for the obligation to pay taxes in accordance with the provisions of the applicable laws and regulations.*
- c) *Business Entities are obliged to pay telecommunications service rights fees, contributions to universal service obligations and other non-tax state revenues (if any) in accordance with applicable laws and regulations.*

In the event that the telecommunications network operator does not perform the payment obligations of BHP and USO, under Article 222 letters (c) and (d) jo. Article 225 paragraph (3) letter (g) of the Minister of Communication and Informatics Regulation No. 5/2021, it may be subject to administrative sanctions in the form of revocation of business licenses, which in this case is a business license for the implementation of telecommunications networks to remain closed. If the license owned by BUP is revoked, then BUP does not meet the criteria as a telecommunications network operator, namely BUMN, BUMD, private business entities, or cooperatives that obtain permits to operate telecommunications networks.

It is necessary to consider the imposition of the obligation to pay Non-Tax State Revenue (PNBP) in the form of BHP and USO to each BUP because it will affect the calculation of AP payments. This is because under the AP scheme, the source of AP funds also comes from the Universal Service Obligation / USO Contribution Fund. (*Prospek KPBU AP Dalam Menjaga Kesehatan APBN*, n.d.)

In the return on investment scheme, namely Availability Payment / AP, based on Presidential Regulation 38/2015 there are several return on investment schemes that can be applied in PPP, namely user payments in the form of tariffs, payment of service availability, and other forms that do not conflict with laws and regulations. (Peraturan Presiden Nomor 38 Tahun 2015 Tentang Kerjasama Pemerintah Dengan Badan Usaha Dalam Penyediaan Infrastruktur, n.d.)

Under this scheme, the initial rate on infrastructure provision is set by the PJKP (Peraturan Presiden Nomor 38 Tahun 2015 Tentang Kerjasama Pemerintah Dengan Badan Usaha Dalam Penyediaan Infrastruktur, n.d.). The initial tariff is set to ensure the return on investment of the business entity which includes the closing of capital costs, operating costs, and profits within a certain period of time. (Peraturan Presiden Nomor 38 Tahun 2015 Tentang Kerjasama Pemerintah Dengan Badan Usaha Dalam Penyediaan Infrastruktur, n.d.) Meanwhile, the return on investment scheme for payment of service availability/AP is a form of return on investment sourced from periodic payments by the Minister/Head of Institution/Regional Head to the Implementing Business Entity for the availability of Infrastructure services in accordance with the quality and/or criteria as specified in the PPP agreement. The return on investment payment will be budgeted by the CA during the PPP agreement period. (Peraturan Presiden Nomor 38 Tahun 2015 Tentang Kerjasama Pemerintah Dengan Badan Usaha Dalam Penyediaan Infrastruktur, n.d.) PJKP makes payment for service availability after the fulfillment of certain conditions, including when the cooperated infrastructure has been built and declared ready to operate and the infrastructure has met the categories or indicators set out in the cooperation agreement.

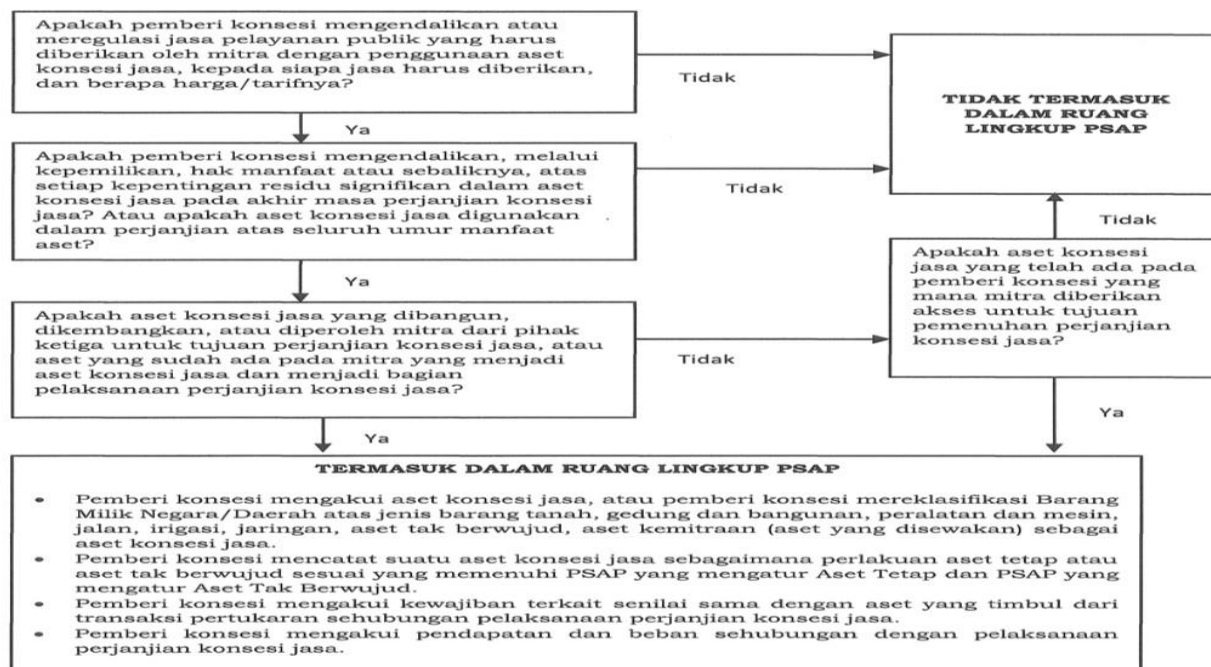
In this case, the Government will pay the Implementing Business Entity for investment, operational costs and decent profits based on careful calculations according to the results of the feasibility study and negotiations with the Implementing Business Entity. For Implementing Business Entities (BUP) by the PJKP will be given concessions to carry out these services within a certain period of time. After the period of cooperation between PJKP and BUP is completed, all assets will belong to the Government. (Peraturan Presiden Nomor 38 Tahun 2015 Tentang Kerjasama Pemerintah Dengan Badan Usaha Dalam Penyediaan Infrastruktur, n.d.)

b. Statement of Accrual-Based Government Accounting Standards Number 16 (Service Concession Agreement – Concession Provider

Regarding the granting of concessions in AP, it is none other than because the Palapa Ring PKS is a service concession agreement where the service concession agreement is regulated by the Government through the Minister of Finance Regulation Number 84 / PMK.05 / 2021 concerning Statement of Government Accounting Standards (PSAP) Based on Accrual Number 16 – Service Concession Agreement – Concession Giver ("**PSAP 16**").

As for knowing whether a service agreement is within the scope of the service concession agreement as stipulated in Statement of Government Accounting Standards (PSAP) 16, an *assessment* must be carried out in accordance with the following chart:

Figure 1: Assessment of Palapa Ring PKS based on PSAP 16



From the results of the assessment carried out based on the chart above, it is known that the Palapa Ring PKS West Package, the Palapa Ring PKS Central Package, and the Palapa Ring PKS East Package are included in the scope of the PSAP service concession agreement 16. As for the components contained in the concession agreement, they are as follows:

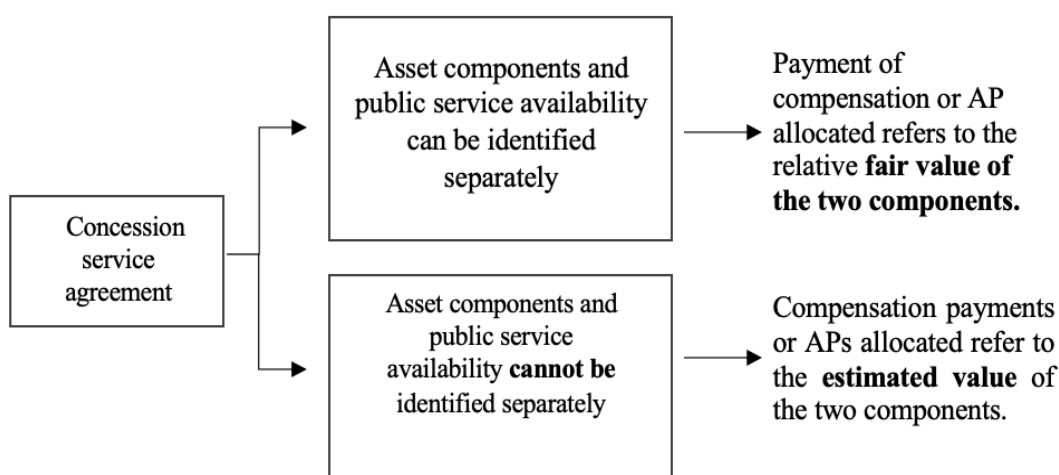


Chart 1: Components of the concession services agreement

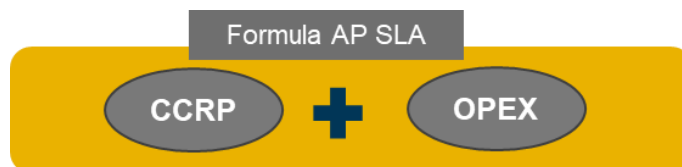
The concessionaire (PJPK) in this case provides the AP, recognizes the assets provided by the partner, namely (BUP) and increases the assets of the concession that are articulated as service concession assets if:

- a. The concessionaire controls or regulates the types of public services that the partner must provide, to whom such public services are rendered, as well as the setting of their rates; and
- b. The concessionaire controls (i.e. through ownership, benefit rights or other forms) any significant interest in the remaining assets at the end of the concession term.

The concessionaire takes an initial measurement of the acquisition of recognized service concession assets at fair value. If the components of asset payment and the availability of public service services by the concessionaire to the partner are inseparable, then the fair value is determined using estimation techniques. The fair value of a service concession asset only covers the amount associated with the components of the asset and does not include the amount for other components in the service concession agreement (e.g. maintenance and operation services

In the Palapa Ring Project scheme, construction assets are provided/constructed by partners so that concessionaires must record the value of the assets at fair value. After initial recognition, the accounting treatment of service concession assets follows the provisions of the PSAP governing Fixed Assets or the PSAP regulating Intangible Assets. As for the calculation formula for payment for service availability/AP, it is regulated in the cooperation agreement. (Peraturan Menteri Keuangan Nomor 260 Tahun 2016 Tentang Tata Cara Pembayaran Ketersediaan Layanan Pada Proyek Kerja Sama Pemerintah Dengan Badan Usaha Dalam Rangka Penyediaan Infrastruktur, n.d.)

The formula for calculating AP is as follows:



1. AP SLA = Availability Payment yang sesuai dengan tingkat yang diperjanjikan pada PKS
2. CCRP (*Capital Cost Recovery Payment*) = Debt and Interest Payment + Equity Repayment
3. Opex = Operation & Maintenance Cost (termasuk biaya jika terjadinya *cable cut*)

Figure 2: AP Calculation Formula

Regarding the Service Level Agreement (SLA) itself is a method that describes in detail the expectations in the cooperative relationship and documents the commitments between related parties to facilitate the smooth running of debt payments. SLA is very helpful in monitoring maintained performance during the repayment process because it is closely related to performance failure fines that affect the AP every month. (*Apa Itu Service Level Agreement (SLA) Dan Mengapa Itu Penting?*, n.d.; Peraturan Menteri Keuangan Nomor 260 Tahun 2016 Tentang Tata Cara Pembayaran Ketersediaan Layanan Pada Proyek Kerja Sama Pemerintah Dengan Badan Usaha Dalam Rangka Penyediaan Infrastruktur, n.d.)

The AP payment itself is made by the grantor in this case the CA to the operator in this case the BUP is made monthly. According to Permenkeu No. 84/2021, it is explained that concessionaires (PJPK) allocate payments to partners (BUP) based on the substance of the payment, which can be described as follows: (Peraturan Menteri Keuangan Nomor 84 Tahun 2021 Tentang Pernyataan Standar Akuntansi Pemerintahan Berbasis Akrua Nomor 16 Perjanjian Konsesi Jasa – Pemberi Konsesi, n.d.)

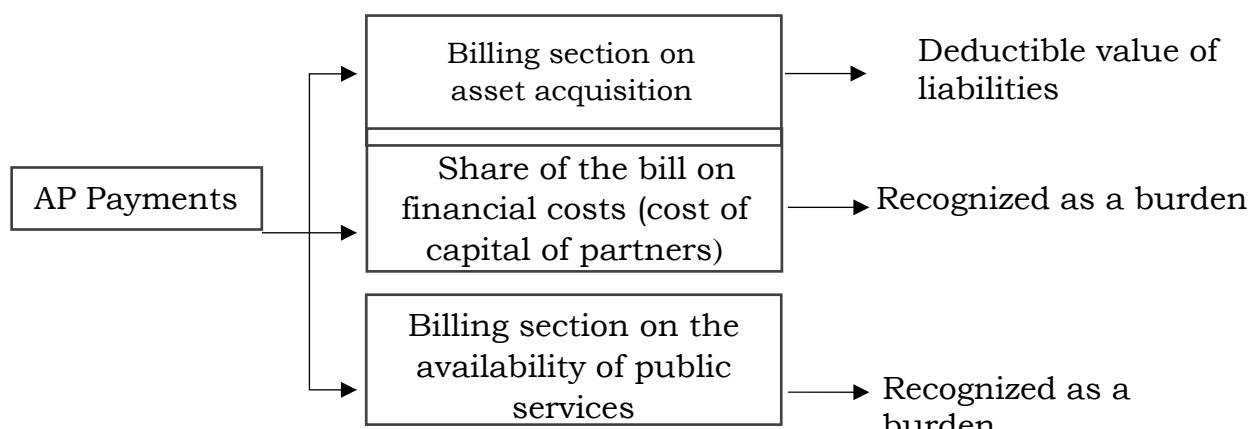
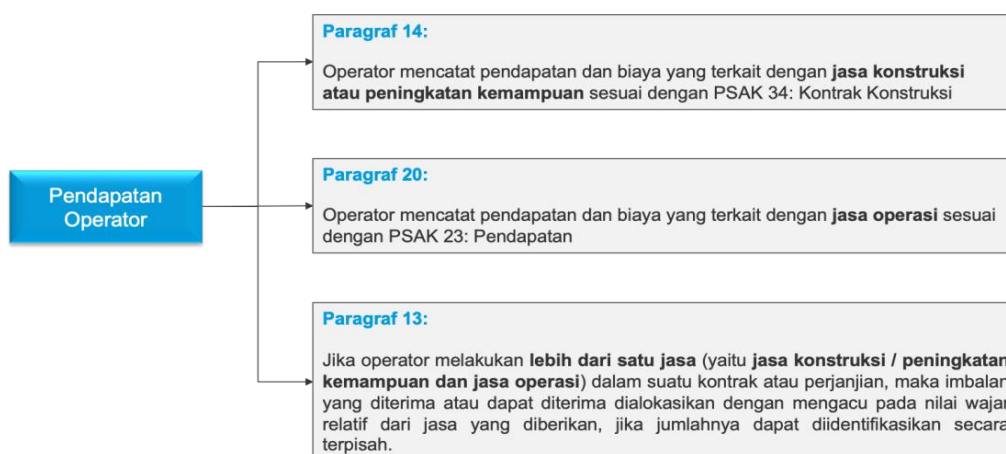


Chart 2: Financial liability scheme

In this case, because the concession provider (CA) has an unconditional obligation to pay cash or other financial assets to partners (BUP) in connection with the development, development, acquisition, or improvement of service concession assets, the concessionaire recognizes the obligation as a financial obligation.

Based on ISAK 16 paragraph 14 that BUP records income from AP payments as construction services income under PSAK 34. Then based on ISAK 16 paragraph 20 BUP records the income from AP payments as operating services income in accordance with PSAK 23. However, on ISAK 16 paragraph 13 it is explained that if the operator does more than one service (i.e. construction/capacity building services and operating services) in a contract or agreement, then the received or acceptable reward is allocated with reference to the relative fair value of the services rendered, if the amount can be identified separately. Here is an explanatory chart of operator revenue:



It is known that in the case studied at the Palapa Ring PKS, it is also stated that the AP consists of two components, namely *Capital Expense (capex)* and *Operating Expenses (opex)*. Capital Expense (capex) itself is the cost of construction, use of materials / tools, land acquisition, / rent and cost of price and contingency expansion, while Operating Expenses (opex) is maintenance costs, HR costs, equipment replacement costs or risk of loss, and does not include promotional costs and service tariff revenue management costs. (Peraturan Menteri Keuangan Nomor 84 Tahun 2021 Tentang Pernyataan Standar Akuntansi Pemerintahan Berbasis Akrual Nomor 16 Perjanjian Konsesi Jasa – Pemberi Konsesi, n.d.)

However, it was later discovered that in the 2020 financial statements, BUP recorded income on AP entirely using PSAK 34 where BUP should have recorded income on AP into two, namely income for construction services / capacity improvement recorded using PSAK 34. Meanwhile, income on operational/maintenance services is recorded using PSAK 23.

Thus, it is better to separate the AP components paid to BUP into AP for capital expenditure (capex) and AP for *operating expenditure (opex)* both in the current Palapa Ring Project and for future telecommunications projects that use the same scheme. So that the recording of AP on the financial statements of telecommunications project operators will also be separated. Therefore, in connection with the obligation to make BHP and USO payments, it must be carried out in accordance with accounting standards, where the separation of AP records into AP for *capital expenditure (capex)* and AP for operating expenditure (opex) from the financial model / financial model on the Palapa Ring PKS in order to clarify the details for gross income that is the object of BHP and USO calculations.

Based on the aforementioned provisions, based on the cooperation agreement, each business entity in the three Palapa Ring Project packages, is obliged to pay BHP and USO in accordance with the provisions of applicable laws and regulations, in this case including Permenkominfo No. 5/2021.

c. PPP Agreement as a Public Dimension Agreement

Regarding government agreements with business entities, in this case, PPP is not essentially a civil agreement in general, but as a public dimension agreement or known as a public contract. In some literature of state administrative law as stated by A.B. Belifanthe and Soetan Batoeah in *Pokok-pokok Hukum Tata Usaha Negara*, Government legal acts carried out with authority even though in the format of civil law for example contracts, but formed and the procedure is regulated in a public way, are an act of state administrative law, and not a civil law action. Thus, in the event that the government forms a contract with other parties in the context of exercising public legal authority, procedure, and substance, it is essentially an act and act of public law, even if it is made in contract format.

This is none other than the definition of a public contract itself, which is an agreement that is partially or completely controlled by public law due to one of the parties acting as a government, for example a service bond agreement and/or a procurement agreement for goods and services in the government.(Ilyas Anshori; et. al, 2021) Although in general the contract is only attached to private law, if the government makes a contract with a civil legal entity and the contract is carried out for the performance of government functions, namely the public interest, then the contract can be said to be a public contract.(Sujatmoko, 2012) But this does not mean that the public contract does not comply with the principles in the private contract, but the public contract still complies with it by applying Article 1320 BW regarding the terms of validity of the agreement, namely that the parties have agreed, the ability of the parties, certain objects, and lawful causes.(Sujatmoko, 2012).

The difference in this public contract is that it does not adhere to the principle of freedom of contract as it is in private contracts,(Sujatmoko, 2012) This is because the government does not have full freedom in contracting so that negotiations are very difficult, for example in terms of formulating contracts for the procurement of goods and services must be subject to and bound by laws and regulations.(Sujatmoko, 2012) Therefore, the government does not use freedom of action in a contract but uses its acting skills as an act authority, where every action must be based on authority, meaning that in this public contract, the government must pay attention to what is the object of the contract, who is contracting, when will the contract be carried out on the condition that it is in accordance with the authority and laws and regulations.(Sujatmoko, 2012)

2. Calculation of BHP and USO in the Implementation of the Palapa Ring Project

a. BHP and USO Are Non-Tax State Revenues

The definition in Non-Tax State Revenue (PNBP) according to Article 1 number 1 of Law Number 9 of 2018 is a levy paid by an individual or entity for the benefits it obtains either directly or indirectly for the services or utilization of resources and rights obtained from the state, which become central government revenues outside of tax revenues and grants, and managed in the state budget mechanism.(Undang-Undang Nomor 9 Tahun 2018 Tentang Penerimaan Negara Bukan Pajak, n.d.) The objects included in the PNBP are:(Undang-Undang Nomor 9 Tahun 2018 Tentang Penerimaan Negara Bukan Pajak, n.d.) utilization of natural resources; Service; State Wealth Management Segregated; Management of State Property; Fund Management; and Other State Rights.

Arifin P. Soeria Atmadja argued about PNBP, that PNBP is categorized in Article 23 A of the 1945 Constitution which is categorized as another coercive levy.(Arifin P Soeria Atmadja, 2013; Sutedi, 2012) This is strengthened by Article 5 paragraph (2) of Law No. 9 of 2018, that every person and/or entity that uses, obtains, and/or has a relationship with the object of PNBP is required of him to pay PNBP.(Undang-Undang Nomor 9 Tahun 2018 Tentang Penerimaan Negara Bukan Pajak, n.d.) In the case of PNBP deposits, it must be paid directly to the state treasury, and later the PNBP is managed in the State Budget system (APBN).(Undang-Undang Nomor 9 Tahun 2018 Tentang Penerimaan Negara Bukan Pajak, n.d.) Non-Tax State Revenue (PNBP) has principles in its receipt, namely as follows:(Haris, 2011)

- a. The Principle of Similarity, meaning that in its acceptance must be adjusted to the applicable legislation;
- b. The Principle of Certainty, meaning that the collection of PNBP is carried out firmly, clearly, and definitely for every person who is obliged to be paid;
- c. The Principle of Comatch or Feasibility, meaning the amount of the rate that must be deposited in accordance with the legislation;
- d. Economic Principle, meaning that the cost of collection becomes minimal than the receipts obtained.

Basically, PNBP has a purpose, this is based on Article 2 of Law Number 9 of 2018, which is as follows:(Haris, 2011)

- a. Realizing in the independence of a nation, strengthening fiscal resilience, and supporting in terms of sustainable and equitable national development;
- b. Supporting Government policies in order to prosper the people, increase in quality economic growth, improve distribution in income, and preserve the environment;
- c. Realizing clean services in government, professional, transparent, and accountable, to support governance in order to improve services to the community.

In addition to having principles, objectives and benefits as outlined above, PNBP over BHP and USO also has a broader concept, which is nothing but one of the concrete efforts of the government to realize state goals (staatdoel). As for the purpose of statehood, the 1945 Constitution of the Republic of Indonesia states that the purpose of statehood is not the last goal, but as a bridge to lead to the goals of the Unitary State of the Republic of Indonesia, namely realizing happiness, welfare, peace and independence in society and the state of law.(R. Soenarko, 1950) The purpose of statehood in the 1945 Constitution of the Republic of Indonesia, according to Mohammad Yamin, has the privilege of "the only state that writes international objectives in its constitution." The purpose of this international goal is that which the Government is based on in political policy.(H. Muhammad Yamin, n.d.)

Regarding the essence of the goal of one's own state is a goal or the ultimate ideal of a country for the achievement of the glory of the country.(H. Muhammad Yamin, n.d.) The purpose of statehood itself has a relationship with state finances, where according to Soemitro Djojohadikusumo lies in the will of the state in finding, managing, and accounting for money

obtained from taxes and investments in order to realize the progress of a country. (Djojohadikusumo, 1957)

b. Procedures for Calculating BHP and USO Based on the Regulation of the Minister of Communication and Informatics

Regarding the calculation of BHP, it is known that the amount of BHP is collected at 0.50% (zero point fifty percent) of the gross revenue of telecommunications operations, while the amount of USO is collected at 1.25% (one point twenty-five percent) of the gross revenue of telecommunications operations. (Peraturan Pemerintah Nomor 80 Tahun 2015 Tentang Jenis Dan Tarif Atas Jenis Penerimaan Negara Bukan Pajak Yang Berlaku Pada Kementerian Komunikasi Dan Informatika, n.d.) Furthermore, in the Minister of Communication and Informatics No. 5/2021, it is regulated that gross income is all telecommunications implementation income obtained from every business activity related to the Telecommunications Implementation Business License owned by it.

The following is revenue that is not taken into account as gross income from telecommunications operations: Sale and rental of property and vehicles; Sale and rental of non-telecommunications goods and services; Sales of telecommunications equipment and devices; Rental of telecommunications equipment that is not part of telecommunications services based on the permits obtained by it and in the absence of such devices telecommunications services can still be provided; Sale and rental of tower and ducting space; Consulting and mentoring services; Construction and infrastructure development services; Integration and application services; Device installation services outside the activation of telecommunications service provided by telecommunications operators; Revenue from digital advertising channeled through the telecommunications provider's website (website); Revenue from the value of remittance transactions and e-money ventures organized by telecommunications operators; and/or Other income outside the operation of telecommunications other than letters a to (k) which are not part of telecommunications services based on the permits obtained by them.

As further regulated in the Minister of Communication and Informatics Regulation No. 5/2021, the gross income on which the BHP and USO amount is calculated can be reduced by the following elements: (Peraturan Menteri Komunikasi Dan Informatika Nomor 5 Tahun 2021 Tentang Penyelenggaraan Telekomunikasi, n.d.) namely *receivables* that are manifestly uncollectible from the operation of telecommunications, namely in the form of receivables that have been written off and determined by the General Meeting of Shareholders ("GMS") or which are equated in accordance with the provisions of the legislation; (Peraturan Menteri Komunikasi Dan Informatika Nomor 5 Tahun 2021 Tentang Penyelenggaraan Telekomunikasi, n.d.) dan/atau *Pembayaran* Obligation of Interconnection and/or Connection Fees Received by Telecommunication Network Operators and/or Telecommunication Service Providers which are the rights of other parties.

Revenues that are not taken into account as gross income for telecommunications operations must be evidenced by the separation of income in recording on a separate account, which if necessary can be supplemented by documents of cooperation contracts, other documents with related parties, invoice documents, or receipts of receipts from related parties. (Peraturan Menteri Komunikasi Dan Informatika Nomor 5 Tahun 2021 Tentang Penyelenggaraan Telekomunikasi, n.d.)

However, in the event that it is inseparable and proved that the income is not taken into account as gross income, then the income is part of the income that is taken into account as income affected by **BHP and USO**. In addition to needing to be proven by the documents previously mentioned, income that is not taken into account as gross income must also be attached with a statement of guarantee stating that it does not record income that should be included in telecommunications revenue into non-telecommunications income signed by the president director or authorized company official. (Peraturan Menteri Komunikasi Dan Informatika Nomor 5 Tahun 2021 Tentang Penyelenggaraan Telekomunikasi, n.d.)

Then, the determination of the amount of BHP and USO is determined by the telecommunications operator based on its own calculations by referring to the financial statements that have been audited by the public accounting firm. (Peraturan Menteri Komunikasi Dan Informatika Nomor 5 Tahun 2021 Tentang Penyelenggaraan Telekomunikasi, n.d.) In the event that the financial statements are not audited by a public accounting firm, the calculation of the amount of BHP and USO refers to the financial statements signed by the president director or authorized company officials. (Peraturan Menteri Komunikasi Dan Informatika Nomor 5 Tahun 2021 Tentang Penyelenggaraan Telekomunikasi, n.d.)

In order to determine the amount of BHP and USO, and there is a discrepancy in the amount of **BHP** and **USO**, the Director General and/or President Director may ask the inspection agency to conduct an examination of telecommunications network operators and/or telecommunications service providers. The determination of the amount of BHP and USO can be carried out by the examining agency and the results of the examination and determination are issued through a payment notification letter signed by the Director and / or President Director. (Peraturan Menteri Komunikasi Dan Informatika Nomor 5 Tahun 2021 Tentang Penyelenggaraan Telekomunikasi, n.d.) If based on the results of verification and / or the results of the examination and determination that there is no overpayment and underpayment of BHP and USO obligations, a letter of PNPB determination is issued nil. (Peraturan Menteri Komunikasi Dan Informatika Nomor 5 Tahun 2021 Tentang Penyelenggaraan Telekomunikasi, n.d.)

The implementation of the BHP levy is carried out by the Directorate General based on operational standards and procedures set by the Director General. Meanwhile, the implementation of the USO levy is carried out by BAKTI based on operational standards and procedures set by the President Director. Regarding the results of the determination of the amount of BHP and USO, telecommunications network operators and / or telecommunications service providers can submit objections no later than 3 (three) months from the date of determination with terms and procedures in accordance with the provisions of laws and regulations. (Peraturan Menteri Komunikasi Dan Informatika Nomor 5 Tahun 2021 Tentang Penyelenggaraan Telekomunikasi, n.d.) Meanwhile, here are the BHP and USO payment mechanism schemes as described above:

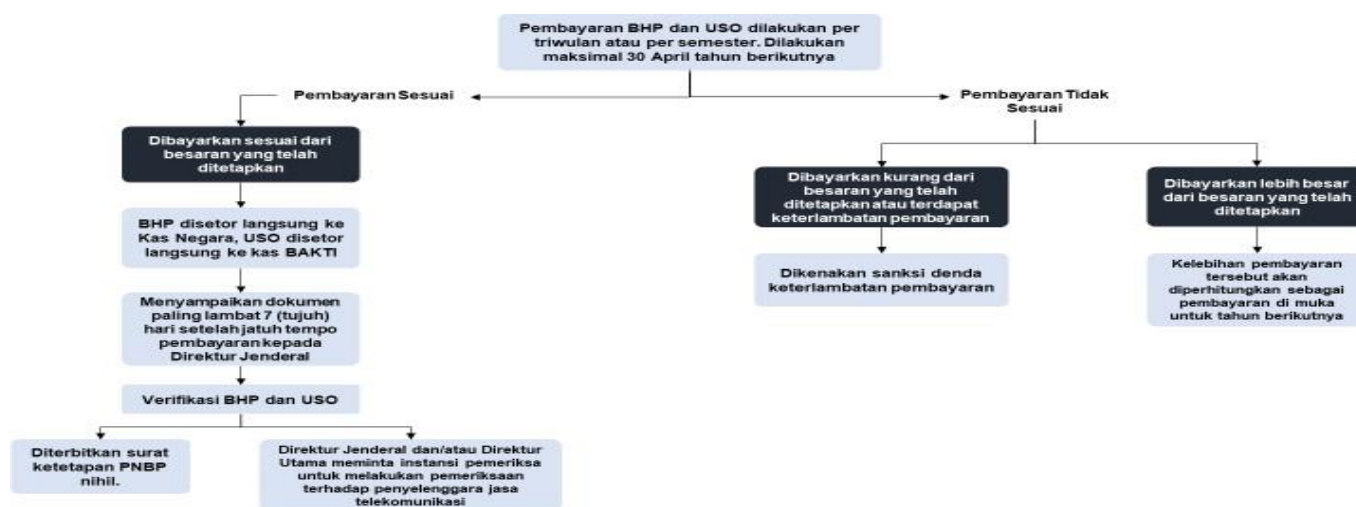


Figure 4: BHP and USO Payment Mechanism Scheme.

The amount of BHP and USO is collected from the gross revenue of telecommunications operations which refers to the financial statements for each BUP. However, there are several types of income that are not taken into account as gross income as stipulated in Article 192 of the Minister of Communication and Informatics No. 5/2021.

Revenues that are not taken into account as gross income must be evidenced by the separation of revenues in recording on separate accounts and telecommunications operators are required to attach a statement of guarantee stating that they do not record revenues that should be included in telecommunications revenues into non-telecommunications income signed by the president director or authorized company officials. Then, if the BHP and USO payment obligations are violated, they will be subject to administrative sanctions in the form of written reprimands until the revocation of the relevant permit.

Furthermore, based on the Palapa Ring Commercial PKS, there are incomes that will be received by BUP, where there is income that is not taken into account as gross income from the calculation of BHP and USO for the implementation of telecommunications:(Peraturan Menteri Komunikasi Dan Informatika Nomor 5 Tahun 2021 Tentang Penyelenggaraan Telekomunikasi, n.d.): Sale and rental of property and vehicles; Sale and rental of non-telecommunications goods and services; Sales of telecommunications equipment and devices; Rental of telecommunications equipment that is not part of telecommunications services based on the permits obtained by it and in the absence of such devices telecommunications services can still be provided; Sale and rental of tower and ducting space; Consulting and mentoring services; Construction and infrastructure development services; Integration and application services; Device installation services outside the activation of telecommunications service provided by telecommunications operators; Revenue from digital advertising channeled through the telecommunications provider's website (website); Revenue from the value of remittance transactions and e-money ventures organized by telecommunications operators; and/or Other income outside the operation of telecommunications other than letters a to (k) which are not part of telecommunications services based on the permits obtained by them.

c. Recommendations for the Improvement of the Minister of Communication and Informatics Regulation related to Guidelines for the Implementation of Tariffs on PNBPN obtained from the Implementation of Telecommunication

Based on the recommendation to separate the recording of AP components paid to BUP into AP for *capital expenditure (capex)* and AP for *operating expenditure (opex)* both in the current Palapa Ring Project and for future telecommunications projects, it is considered necessary to make changes to the Regulation of the Minister of Communication and Informatics Number 5 of 2021 concerning Telecommunications Implementation by adding provisions related to obligations to telecommunications operating entities that carry out telecommunications projects and are subject to Financial Accounting Standards (ISAK) 16 on Service Concession Agreements to separate the recording of receipts obtained in the form of payments from grantors (in this case AP) to AP recipients for the portion of capital expenditure (capex) and AP receipts for operating expenditure (opex) prosi on the books.

Therefore it was deemed necessary to amend the provisions of (i) Article 11 jo. Appendix 11 MCC: Payment of Service Availability; and (ii) Appendix 19: Financial Model of each MCC between Kominfo and BUP. Such changes must be made by taking into account the provisions of the changes in each MCC as follows:

a) PKS Palapa Ring West Package

Referring to Article 28.4 of the Palapa Ring West Package PKS, changes or modifications to the West Package Palapa Ring PKS are only valid with a written agreement expressly signed by (i) the Minister of Communication and Information as a representative of the PJKP; and (ii) Director of PT PRB as a representative of PT PRB. The changes to the Palapa Ring West Package PKS are an inseparable part of the West Package Palapa Ring PKS. It should be noted that the minutes of the meeting and other informal documents, even if signed, do not include a written agreement to make changes or modifications to the PKS Palapa Ring West Package.

The provisions regarding the amendment of the agreement also apply to changes to the attachments of the PKS Palapa Ring West Package. This is because the attachments of the PKS

Palapa Ring West Package are a complete agreement between the parties as a whole agreement governing the terms of the Project. (*Palapa Ring Paket Barat*, n.d.)

b) PKS Palapa Ring Middle Package

Referring to Article 28.4 of the Palapa Ring Central Package PKS, changes or modifications to the Palapa Ring Middle Package PKS are only valid with a written agreement expressly signed by (i) the Minister of Communication and Information as a representative of the PJKP; and (ii) Director of PT LTI as a representative of PT LTI. The changes to the Palapa Ring Middle Package PKS are an integral part of the Palapa Ring Central Package PKS. It should be noted that the minutes of the meeting and other informal documents, even if signed, do not include a written agreement to make changes or modifications to the PKS Palapa Ring Middle Package.

The provisions regarding the amendment of the agreement also apply to changes to the attachments of the PKS Palapa Ring Middle Package. This is because the attachments of the PKS Palapa Ring Middle Package are a complete agreement between the parties as a whole agreement governing the terms of the Project. (*Palapa Ring Paket Tengah*, n.d.)

c) PKS Palapa Ring East Package

Referring to Article 28.4 of the East Package Palapa Ring PKS, changes or modifications to the East Package Palapa Ring PKS are only valid with a written agreement expressly signed by (i) the Minister of Communication and Information as a representative of the PJKP; and (ii) Director of PT. PTT as a representative of PT. PTT. The change to the Palapa Ring East Package PKS is an inseparable part of the East Package Palapa Ring PKS. It should be noted that the minutes of the meeting and other informal documents, even if signed, do not include a written agreement to make changes or modifications to the PKS Palapa Ring East Package.

The provisions regarding the amendment of the agreement also apply to changes to the attachments of the PKS Palapa Ring East Package. This is because the annexes of the PKS Palapa Ring East Package are a complete agreement between the parties as a whole agreement governing the terms of the Project. (*Proyek KPBU Palapa Ring*, n.d.)

Thus to make changes to the provisions of (i) Article 11 jo. Appendix 11 MCC: Payment of Service Availability; and (ii) Appendix 19: The Financial Model of each MCC between Kominfo and BUP must first be reached an agreement between the parties stated in a written agreement. Because changes or modifications to the MCC must be agreed upon in a written agreement, Kominfo and BUP must comply with the provisions in Article 1320 of the Civil Code regarding the legal terms of the agreement as follows: Agreement from Kominfo and BUP; The proficiency of the parties agreeing to the amendment of the MCC; A particular subject matter. In this case, to make changes to (i) AP payments; and (ii) the financial model within the MCC; and A reason that is not prohibited, where changes to the MCC are made in order to make adjustments to applicable financial accounting standards, which is a good faith.

IV. CONCLUSION

Based on the descriptions that have been described above, here are the conclusions, as well as suggestions that can be given by the author as follows:

1. The state's goal in achieving state finances in this development can not only rely on the ability of state financial resources from the state budget, but can maximize all resources of state capabilities and authorities through instruments of cooperation with other parties to obtain benefits for state finances in government activities and public services.
2. To carry out the operational obligations stated in the PPP agreement, BUP Palapa Ring must have a telecommunications network operating permit based on the Minister of Communication and Informatics Regulation Number 7 of 2018 concerning Electronically Integrated Business Licensing Services in the Field of Communication and Informatics, and must pay BHP and USO based on the Regulation of the Minister of Communication and Informatics Number 5 of 2021 concerning Telecommunications Implementation.

3. Based on Financial Accounting Standard (ISAK) 16 concerning Service Concession Agreements, the recording of AP payment receipts by BUP needs to be separated between AP receipts for the *capital expenditure (capex)* portion and AP for operating expenditure (opex). AP receipts for the *capital expenditure (capex)* portion are 'Construction and infrastructure development services' receipts and therefore are not taken into account as gross income in calculating BHP and USO payments. In this case, what is included in the calculation of gross income in the calculation is the 'Service Expense'. Based on the AP payment system which refers to the Financial Accounting Standard (ISAK 16), so that the recording of AP receipts by BUP needs to be separated between AP receipts for the Capital Expenditure (capex) portion and AP for Operating Expenditure (opex).

V. ADVICE

It can be suggested to create a reliable mechanism in the management of state finances through a mechanism that is transparent and accountable, but also flexible so that the interest in cooperation between the private sector and the government increases in line with the need for development funding. In addition, it made changes to the Regulation of the Minister of Communication and Informatics Number 5 of 2021 concerning Telecommunications Implementation by adding provisions related to the obligation to separate income from CA (in this case AP) into AP for the portion of capital expenditure (capex) and AP for the portion of operating expenditure (opex) on BUP books for telecommunications projects using Financial Accounting Standards (ISAK) 16 concerning Service Concession Agreements. So that between Article 194 and Article 195 of the Regulation of the Minister of Communication and Informatics Number 5 of 2021 concerning the Implementation of Telecommunications, a new article is added, namely Article 194A which reads as follows:

- a. Telecommunication Operators who *apply Financial Accounting Standard (ISAK) 16* on Service Concession Agreements are required to separate the portion of income for the return of capital expenditure and the portion of income for the return of *operational expenditure*.
- b. The portion of income for the return of capital expenditure as referred to in paragraph (1) is the income for construction services and infrastructure development as referred to in Article 192 paragraph (1) letter g.
- c. The calculation of BHP Telecommunications and KPU/USO Contribution to Telecommunication Operators as referred to in paragraph (1) is subject to income for the portion of (*operational expenditure returns*).

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