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PERSONAL DATA CONTROLLER REQUIRES A SAFE ELECTRONIC SYSTEM IN MANAGING PERSONAL DATA

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JAKARTA: The Indonesian government is currently in the midst of drafting a Law for Personal Data Protection. This law is purposed to provide legal certainty, guarantee the principle of confidentiality, and uphold the dignity and reputation of an individual personal data. The Personal Data Protection Law, which is an initiative from the Ministry of Communication and Informatics, is currently being discussion and expected to be completed this year.

One of the several important provisions in the draft of Personal Data Protection Law is the obligation of a Personal Data Controller to prevent a Personal Data from being illegally accessible. The precautionary measures required by the draft law to be met by Data Controllers is having an electronic system that is safe for personal data management. The previously-mentioned precautionary measure is regulated in one of the articles.

This obligation is applicable to personal data controllers that according to the provisions of the Personal Data Protection draft law, consists of: individuals; Public Agency; Businessmen; or Community Organization.

Personal Data Controller is obliged to protect and ensure the security of the personal data through its operated electronic system by forming or prepare appropriate operational technical guidelines to protect Personal Data. The protection is conducted to avoid any damages, changes, disclosure and the processing of the managed personal data which are in contrary with the conditions under PDP Law soon to be authorized.

The provision on the obligation of a reliable and safe electronic system in the management of Personal Data in the PDP draft law has various purposes. Among others are to guarantee basic rights of citizens in managing Personal data and grow public awareness of the importance of protecting Personal Data. Furthermore, the regulation of personal data protection is also believed to be able to encourage consumer protection aspect so that it will increase the

growth of the technology, information and communication industry. This is since the provisions on transfer of Personal Data that managed by Personal Data Controllers is being limited and must be in accordance with applicable regulations. Thus it is expected that the regulation can guarantee the security and services provided by Data controller to the owner of personal data.

Danny Kobrata, an advocate in K&K Advocates provided his insight stating that Indonesia needs to have the PDP Law issued immediately. Given that many countries in the European Union have stated that they will no longer transfer EU citizen personal data to countries without an adequate level of personal data protection as regulated by the EU GDPR.

As such, the issuance of PDP law may no longer be delayed given the urgency of the issue over many national interests. The demand towards existence of protection over Personal Data is significant to Indonesia's reputation over international community, since the certainty over personal data protection may expedite trade activities, industrial and transnational investment.

Danny expressed that the rapid development of information and communication technology raises many chances and challenges. Information technology makes it possible for human beings to be interconnected without state boundaries and therefore it is one of the pushing factors of globalization.

Many sectors of life has been making use of the utilization of personal data based information technology system, such as the industries of electronic commerce (e-commerce) in trade/business sector, electronic education (e-education) in education sector, electronic health (e-health) in health sector, electronic government (e-government) in government sector and other information technology that is used in other sectors.

According to him, the utilization of information technology resulted to an easy way to collect and transfer personal data from one party to another which made without the knowledge of the data subject is threatening the right to someone's privacy.

Danny pointed out that the issue of protection of personal data arises because of concerns about violations of privacy that can be experienced by people and / or legal entities. Given the violation of privacy can lead to losses that are not only material but also moral, namely in the form of the destruction of the reputation of a person or institution. (su)