



Case study of default in commercial advertising broadcasting agreement on CJDW FM radio Boyolali

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Abstract

The agreement for broadcasting commercial advertisements on the radio is proof of an agreement for the smooth broadcasting of products by the radio party in accepting work from the advertiser/advertising agency, but in practice there is still a default from one of the parties even though the agreement made has fulfilled the legal requirements according to Article 1320 of the Civil Code. This article aims to determine the process of forming the agreement and to see the causes of default in the implementation of the commercial advertisement broadcasting agreement carried out on CJDW FM radio, in order to avoid similar problems in the future. The research method used is qualitative with a descriptive case study approach that describes the legislation in Indonesia, namely the Civil Code and Law Number 32 of 2002 concerning Broadcasting, which is then linked to legal theory and its implementation. Based on the results of the research that the contents of the commercial advertisement broadcasting agreement on CJDW FM radio are in accordance with Article 1320 of the Civil Code, although the implementation of some of its contents does not go according to the agreement of the parties, this is known as default, so that after knowing the cause of the problem, efforts can be made to avoid the problem. Similar.

Keywords: agreement, broadcasting, commercial advertising, radio

Introduction

Radio is the first medium of one-way broadcasting with a broad reach that aims to provide messages in the form of information, entertainment and news aimed at the general public^[1]. The existence of radio to date has provided an opportunity for the public to open up their views that business opportunities through mass media can increase sales of their business products. The mass media that until now still have many listeners and enthusiasts are television and radio^[2]. The choice of radio from many mass media provides its own advantages for advertisers, namely coverage to small areas that have difficulty receiving other mass media signals, so that until now radio is still recognized, effective and in demand.^[3] Radio is one of the media to introduce a product to the general public through advertising^[4], which is an important part of marketing a product so that listeners are interested and then buy the product^[5]. The advertisement itself comes from the advertiser (second party/client) or advertising agent (third party) who wants their business products to be broadcast by the radio party (first party). This advertising activity must provide mutual benefits so that the advertising broadcasting process runs smoothly, therefore radio advertising can develop and survive until now^[6]. One of the radios in Boyolali City is Radio CJDW FM which is located at Jalan Pandanaran 139, Boyolali, Central Java 57311. As described above, radio requires advertising activities to survive, in this case the radio party makes an agreement, one of which is with PT. Media Network Wahana to broadcast commercial advertisements for Djraum 76 products. In commercial advertising broadcasting activities which are a business, of course, both parties make an agreement^[7] in the hope of making a profit and avoiding losses. In order to maintain a good bond between the advertiser/advertising agency and

the radio party, a commercial advertisement broadcasting agreement is made. The agreement must be made with the fulfillment of the terms of the agreement to be legally valid. However, in practice the implementation of commercial advertising broadcasting agreements does not always run smoothly because one party does not fulfill what he should have fulfilled which is called a default. Default can be caused by an error or by coercive circumstances^[8].

The default that will be discussed in this study is a default by PT. Media Network Wahana by not paying after the advertisement is broadcast. In this study there are differences with previous research^[9] which lies in the method where previous research used empirical methods while this study used descriptive case studies. Then the fundamental difference regarding the final discussion where previous research focused on elaborating the problem of default by radio parties, while this study focused on defaults committed by the client, namely the advertising agency PT. Media Network Wahana. An agreement is a legal event that binds a promise between one person to another for something that he wants to fulfill or not to fulfill.^[10] The Civil Code often mentions an agreement even though it is not given a clear meaning in its definition. The arrangement of agreements in the Civil Code is regulated in Book III Article 1313 which provides the definition, "An agreement is an act by which one or more people bind themselves to another person or more"^[11]. Subekti gives the meaning that the agreement is the issuer of a bond that is carried out by more than one person who makes a promise to each other for something^[12]. The engagement gives rise to rights and obligations, one person is entitled to achievements while the other is obliged to fulfill achievements^[13]. Thus, the agreement has a relationship with the engagement because it is issued by both parties^[14].

There are four conditions for a valid agreement that must be met and are in the agreement made, namely

- a. The agreement of the parties that bind themselves, namely the radio party and the advertiser, enters into an agreement and provides a signature on the agreement as proof of agreement.
- b. The ability to make bonds is an agreement made by CJDW radio with PT. Media Network Wahana has fulfilled its skills with representatives of each party who are of sufficient age and physically and mentally healthy from the time of manufacture to signing.
- c. A certain problem is in the commercial advertisement broadcasting agreement between CJDW radio and PT. Media Network Wahana is the job of broadcasting commercial advertisements for a product by the advertising agency which is given to the radio in accordance with the agreement.
- d. The reason is that the agreement is made by both parties for the benefit of each party. Where the radio party benefits from broadcasting commercial advertisements in the form of payments, while the benefits of the advertisers/advertising agents in the form of advertised products are known to the general public.

Default is regulated in Article 1238 of the Civil Code, namely, "The debtor is negligent, if he is declared negligent, or for the sake of his own engagement, if this stipulates, that the debtor must be considered negligent with the passage of the specified time". This research was made with the aim of knowing the process of forming the agreement and looking at the problems to find out the causes of default in the implementation of the commercial advertising broadcasting agreement carried out on CJDW FM radio, in order to avoid similar problems in the future.

Method

The research method used is qualitative with a descriptive case study approach that describes the legislation in Indonesia and then relates it to legal theory and its implementation. The primary legal materials used are the Civil Code and Law Number 32 of 2002 concerning Broadcasting. Secondary legal materials are books, legal journals and other writings related to default. Research materials are processed in a qualitative way to draw conclusions in answering the problem ^[15] and presented descriptively.

Research Result

The object of the research is a case of default on the Agreement called Media Placement Order Product Djarum 76 with an advertising value of Rp.1.180.000,00 (including VAT). The Identity of the Parties, namely the First Party is Radio CJDW FM and the second party is PT. Media Network Wahana. The period of implementation of the agreement is the agent as the second party took two forms of advertising, namely ad libs and live reports for Djarum 76 products with a bonus in the form of Facebook ads. The duration of the first form of advertising is 60 seconds with 4x servings a day, Tuesday to Saturday, the second form of advertising is 3 to 5 minutes long, 1x broadcast on Saturday, and 1x bonus ad serving on Tuesday, Wednesday, Thursday, Saturday and Sunday, while 2x airs on Friday. Starting from December 10, 2019 to December 14, 2019. In the agreement made only in a short form regarding these matters and does

not contain a settlement clause if problems occur in the future.

The process of forming a commercial advertisement broadcasting agreement on CJDW FM radio

On CJDW radio, the agreement is always in written form with the agreement made by the radio and the advertising agency, "There are two kinds of agreements with CJDW radio, either directly from the advertiser or from the advertising agency. If the advertiser meets directly or by telephone, the advertiser provides material for the store name, store address, contact person who can be contacted, whether there is a promo or not, after that we will make a written concept. We send it there, when it's okay, we continue to produce the finished form, send it back to the client whether it's suitable or not because we usually ask for back sound, after the MoU is made by us, then the advertisement goes up. But if it's from the advertising agency, the agency has already had a conversation with the client and then made an agreement and the agent just needs to negotiate with us."

Based on the statement, the agreement on CJDW radio is not always made by the radio party, but also the advertising agency that makes the agreement. The making of the agreement by the advertising agency does not conflict with the laws and regulations because it fulfills the principle of freedom of contract, but also must not conflict with Article 1320 of the Civil Code ^[16].

Causes of default in the implementation of commercial advertising broadcasting agreements carried out on CJDW FM radio

On December 10, 2019, CJDW radio entered into an agreement with an advertising agency from PT. Media Network Wahana regarding broadcasting of commercial advertisements for Djarum 76 products. The radio party has broadcast commercial advertisements regarding Djarum 76 products according to the agreed time table in December 2019 and has sent proof of broadcasting to the advertising agency. Payment of Rp.1.180.000,00 which should have been made 3 months after sending proof of broadcast to the advertising agency, but no payment has been made for the advertisement that has been broadcast. The radio party tried to contact and give a verbal warning but there was no change regarding the certainty of payment.

The problem regarding the non-payment of advertisements that have been broadcast by the advertising agency PT. Media Network Wahana made the radio party go to a company in Jakarta to ask for their rights. However, the targeted company has closed operations. The radio party has also contacted representatives of the advertising agency who signed the agreement, "So, we have been hit by cases like this several times, the total is probably Rp. 30,000,000.00 (thirty million rupiah). Already contacted the agency that signed the agreement but if he was asked to ask the company he couldn't because he was no longer working with the company because it was closed. Wanting to show the MoU also can't because it was made in the name of his agency, while he is only a representative who works according to his duties."

This was stated by Rudy Kristiantana as Operational Director of PT. The Light of Jaya Dunia Warta. The background of the problem between CJDW and the agent based on this statement is that the company closed its

operations without paying the advertising costs that had been broadcast. "Regarding the payment, local advertisements around Soloraya usually pay up front. But if it's the second to third month they continue, they can negotiate the payment in the middle or at the end because we know the location of the store. Usually the substandard is through the agent.

National advertising is mostly through agencies, the payment is three months after serving. For example, airing in November, at the end of December we report to the agent, it will only take three months to get paid, if paid." This was stated by Rudy Kristiantana, where the background of another problem was the lack of detailed regulations regarding the payment procedure agreement for advertising agencies. Another cause that comes from the agreement is that the settlement of the problem is not written if one of the parties does not fulfill its obligations.

Research Findings

From the results of the interviews that have been conducted, it can be concluded that the process of forming a commercial advertisement broadcasting agreement on CJDW FM radio and the causes of default in the implementation of the commercial advertisement broadcasting agreement carried out on CJDW FM radio.

1. The process of forming a commercial advertisement broadcasting agreement on CJDW FM radio The process of forming a commercial advertisement

broadcasting agreement is carried out in two ways, namely: First, the advertiser can contact the radio directly. Second, through advertising agencies because advertisers want to be practical in managing their product advertisements, so advertisers use advertising agents to take care of all their needs in broadcasting their product advertisements.

2. Causes of default in the implementation of commercial advertising broadcasting agreements carried out on CJDW FM radio The cause of default in this implementation was carried out by advertising agents who did not pay the costs of advertisements that had been broadcast because the company had closed operations. The absence of a form of settlement prior to the signing of the agreement by both parties is also said to be the beginning of the cause of default.

Discussion

The agreement in CJDW FM is made based on the agreement of the parties when the radio party accepts work from the advertiser/advertising agency which is always in written form. The written form of the contents of the commercial advertisement broadcasting agreement consists of the client's identity, product name, advertisement form, advertising period, broadcasting frequency, broadcasting time, advertising costs, and the signature of each party. Before the agreement is signed, if the advertiser uses the services of an advertising agency, the advertising agent must meet the following requirements:

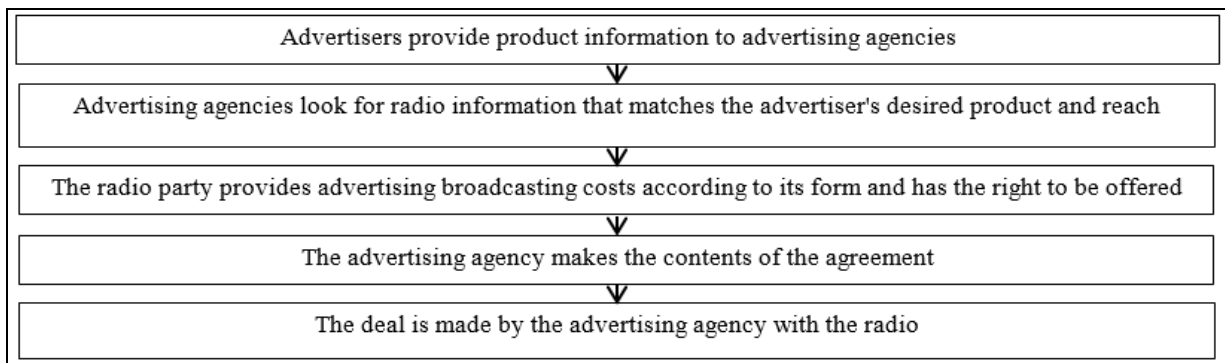


Fig 1: The process of forming an agreement through an advertising agency

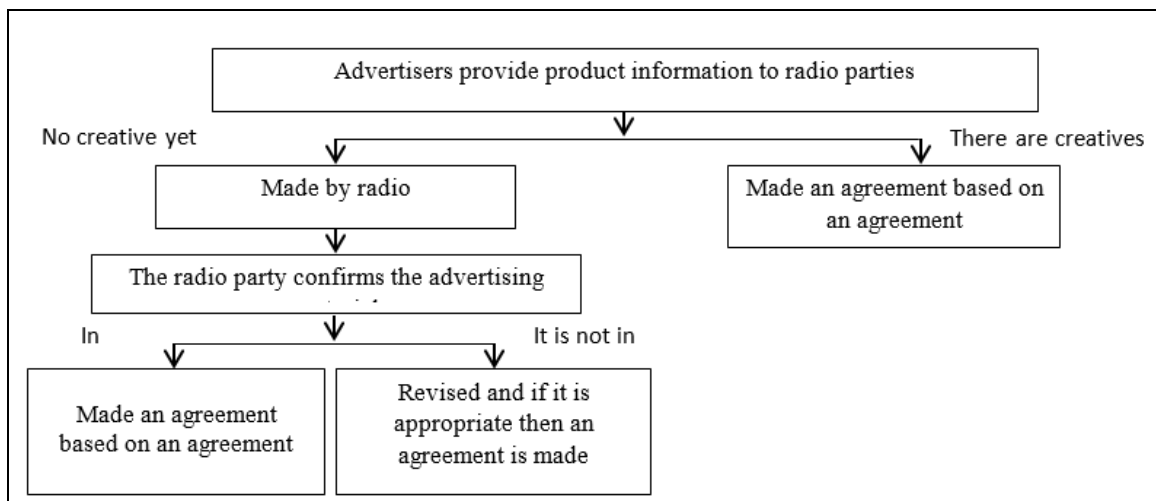


Fig 2: The process of forming an agreement from the advertiser himself

Before broadcasting an advertisement, the CJDW FM radio party first asked what the advertiser needed, then made an agreement as stated in the agreement. The agreement that

has been made and agreed upon is then signed and reproduced in duplicate for the radio party and the advertiser/advertising agency. Prior to broadcasting of

advertisements that are ready to be broadcast, the agreement will be confirmed with the advertiser/advertising agency in order to minimize advertising material errors.

Judging from the contents of the agreement that has been made, the parties are already based on Article 1320 of the Civil Code which contains 4 conditions that must exist so that the agreement made becomes valid, namely the first and second conditions are included in subjective conditions, which means that it can be canceled if one or both of the conditions are not met., while the third and fourth conditions are included in the objective conditions, which means the agreement can be null and void if these conditions do not exist ^[17]. In addition to being in accordance with Article 1320 of the Civil Code, commercial advertising materials must also comply with Article 46 of the Broadcasting Law ^[18].

The fulfillment of these legal requirements is described as follows: The CJDW FM radio party has agreed to carry out the work that has been submitted by the advertiser to promote its products with the signing of both parties without coercion, mistake or fraud, so this is in accordance with Article 1320 paragraph (1) Civil Code. If one of these actions is found, the agreement becomes invalid and the agreement is invalid ^[19]. Regarding the ability to make an agreement, it is in accordance with Article 1320 paragraph (2) of the Civil Code, the proof of which is in the form of each party with his position at the time of signing this agreement. The advertising material contained in the agreement in the form of the form, duration, and day for the advertisement, as well as commercial products that can be broadcast in this agreement are also in accordance with Article 1320 paragraph (3) of the Civil Code. The agreement was entered into in order to make a profit without intending to harm either CJDW FM radio or the advertiser. Therefore, an agreement emerged with the details of the duration, total frequency, fees, and VAT taxes,

The implementation of the advertising broadcasting agreement at CJDW FM after the signing is a series of activities that must be carried out by the radio party in accordance with what has been agreed with the advertiser, and vice versa. That is what publishes the legal relationship of the parties. The agreement applies as law for the parties in accordance with Article 1338 of the Civil Code, so it must be carried out in good faith which is related to the principle of consensualism and the principle of good faith. ^[20, 21]. That is, if the radio party has raised a commercial advertisement for a product, the agreement is complete and the advertiser/advertising agent is obliged to pay the broadcasting fee. If the payment obligations are not immediately fulfilled, the radio party can give a warning letter to the advertiser/advertising agent.

Broadcasting of commercial advertisements is carried out based on the rules and contents of the agreement after the agreement. If the advertiser does not make a complaint, it means that the advertisement is broadcast in accordance with the wishes of the advertiser. However, if the advertiser makes a complaint, the radio will fix it and raise it again without asking for more payment. There are two parts to the advertising broadcasting agreement at CJDW FM, namely: First, the local advertising broadcasting agreement where the advertiser comes directly or by telephone to the radio party to advertise. Second,

The conclusion of the provisions contained in the agreement are: the advertiser through the advertising agency decides to

take two forms of advertising, namely ad libs and live report for Djarum 76 products with a bonus form of facebook ads. The duration of the first form of advertising is 60 seconds with 4x servings a day, Tuesday to Saturday, the second form of advertising is 3 to 5 minutes long, 1x broadcast on Saturday, and 1x bonus ad serving on Tuesday, Wednesday, Thursday, Saturday and Sunday, while 2x airs on Friday. The total value of this agreement is for 21 broadcasts in the amount of Rp.1.180.000,00 (including 10% VAT) to be paid after broadcasting advertisements.

Payment rules approved by PT. Cahya Jaya Dunia Warta as the radio party in the amount of Rp.1.180.000,00 which will be paid after the advertisement is raised by PT.Media Network Wahana without an initial DP (Down Payment) can be said to be the beginning of the source of the problem here. Then from the data obtained, it shows that PT Media Network Wahana is located at Jl. Thamrin No. 11 G.D. Sarinah, Lt. 11, Gondangdia-Menteng, Central Jakarta, this means that the commercial advertisements carried out are categorized as national advertisements and the level of knowledge of CJDW radio regarding the location is very low, so it is possible to easily make defaults, even though knowing the location in sufficient detail will greatly determine the level of vigilance on the part of the public. the radio. Because good relations will affect the implementation of commercial advertising broadcasting agreements.

To resolve this issue, the radio party held consultations with representatives of the advertising agency who signed the agreement. As a result, the radio only apologized because the company had closed its operations and could no longer be asked for payment obligations. The radio did not take legal action because they did not want to add other costs.

This research is interesting to study because the implementation of agreements on radio in previous studies had different results where the research said that defaults were often carried out by radio parties and advertisers were very rare. Meanwhile, in this study, defaults are often carried out by advertisers/advertising agents. Therefore, the researcher is interested in studying more about the default in the implementation of the agreement on CJDW FM radio.

Conclusion

The analysis shows that the agreement on CJDW radio can be made by coming or contacting the radio directly or using an advertising agency. Regarding the payment for commercial advertisement broadcasting after the advertisement has been broadcast, it generally raises the possibility of a default for not paying the agreed amount of money, with the exception of CJDW radio providing the initial price or DP (Down Payment) which is submitted after signing. This upfront payment or down payment is likely to have the real effect of reducing the same problem later on, especially for national advertising by advertising agencies. In addition to the problem of payments that are not paid by advertising agencies, another problem is the lack of detailed location knowledge.

This research has advantages and disadvantages in its discussion. The advantage is that it is more flexible because it is intended to explore a problem, namely the default of the agreement due to non-payment of advertisements that have been broadcast and this research can be useful for further researchers in testing in more detail to produce their opinions, for example in the urgency of the agreement in fulfilling obligations if the advertising agency experiences

operational closure. Meanwhile, the weakness of this research is in the form of generalization because the target party in the case study of default of commercial advertisement broadcasting agreement is very small.

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