

REVIEW OF COPYRIGHT PROTECTION IN THE PRACTICE OF DISTRIBUTING ELECTRONIC BOOKS (E-BOOKS) ON SOCIAL MEDIA TELEGRAM PERSPECTIVE UU NO. 28 OF 2014. 28 YEAR 2014

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Abstract

Copyright is one part of intellectual property rights. Protection of copyright consists of exclusive rights, moral rights and economic rights. Every creator including the author of the book is entitled to the acquisition of material (money) from the work it produces, and this right is protected by copyright law, namely Law No.28 of 2014 concerning copyright. In the era with the development of digital technology in Indonesia, it makes it easier for people to be able to access and copy everything. One that is often accessed and sought after is electronic books in the form of Pdfs.

The practice of distributing electronic books in telegrams on the one hand can provide benefits because public access to books becomes easier and faster, but on the other hand the economic rights of book authors become an issue that is neglected by this practice, so that losses / harms can befall the author. This study aims to answer how the practice of distributing electronic books for free without permission in telegrams and how the review of copyright protection in the practice of distributing electronic books on telegram social media in perspective of Law No. 28 of 2014.

From the analysis of the research results, it is known that the practice of disseminating electronic books occurs through the act of sharing or sharing free pdfs in Telegram social media groups and *channels*. The practice of disseminating without permission is a form of violation of exclusive rights, moral rights, and economic rights of authors and publishers. protecting copyright is the same as protecting the property of the creator (book author) which is a basic need that must be met in order to realize *legal certainty*. Although the practice provides benefits for the community, but there are also losses / misfortunes that can befall the author so that it returns to the principle of legal certainty, so the practice is not recommended and should be stopped to eliminate the harm / misfortune that occurs. In addition, for the perpetrators of dissemination that can be punished because it is known to have violated copyright, this is because the author of the book will object to the act of dissemination, even though the dissemination is done for free or without any commercial motive. In the perspective of Law No. 28 of 2014 on Copyright, it is clear that some of the sanctions that can be imposed are lawsuits in the commercial court, or can be punished.

Keywords: *Copyright Protection, Electronic Book Dissemination, Copyright,*

1. INTRODUCTION

Intellectual property rights are rights that come from the creativity of human thinking in various forms that have benefits in supporting human life.¹ The results of this creativity not only provide benefits to the owner but also to society in general, because almost all objects or tools used by the community in their activities are the result of this intellectual creativity. One of the results of intellectual creativity in question is in the field of copyright.

Copyright since its inception is always associated with the development of technology. The term *copyright* known today is the equivalent of the term *copyright* whose history began with the invention of the printing press in Europe. This machine facilitates the reproduction of written works that existed at that time in large quantities. It is estimated that before the printing press was invented, the number of books circulating in Europe was only thousands, but in just 50 years, the number increased to 10 million books.² From this, it is understood that the development of technology at that time had a major influence on the availability of books in the community.

The impact of technological developments is also increasingly felt in the world of literacy, where in the current digital era reading books is not only limited to printed media in the form of paper but can also be done through technological media such as *smartphones* or computers. The emergence of electronic books as a new media in reading offers a convenience for the community, because in addition to being more practical, electronic books (*e-books*) are also easily accessible and have a relatively lower cost compared to buying printed books. There are positive and negative things about the development of electronic technology lately, especially on the Telegram social media platform. Inadequate supervision and unlimited use of social media platforms make the circulation of electronic books (*e-books*) uncontrollable. The duplication, dissemination of electronic books (*e-books*) either with commercial or non-commercial purposes makes the book authors nervous about copyright infringement.

Related to copyright is now regulated in Law number 28 of 2014 concerning Copyright. Based on the provisions of this law, the protection of copyright is divided into two, namely the protection of moral rights and the protection of economic rights. Moral rights are rights that are eternally attached to the creator while economic rights are the right to obtain economic benefits for the creation. The economic rights are in the form of profit in the amount of money obtained due to the use of their own intellectual property rights or due to the use by other parties under license.³ So that the economic benefits can be obtained from the sale of the work itself or through other parties who are given a license with the sharing of royalties between the two.

In addition to the acquisition of economic benefits in the form of material (money), the creator or copyright holder also has the economic right to perform an act as mentioned in Article 9 paragraph 1 such as copying and distribution of creation. The

¹Yulia, *Intellectual Property Rights Module*, (Aceh: Unimal Press, 2015), pp. 5.

² Sobirin, Ruhiat. 2017. "Legal Protection of the Economic Rights of *E-book* Creators on the *E-book* Distribution Process Based on Law No. 28 of 2014 concerning Copyright Associated with Law No. 11 of 2008 concerning Electronic Information and Transactions. Thesis. Postgraduate Program. Law Science. Nusantara Islamic University. Bandung

³Sujana Donandi, *Intellectual Property Law in Indonesia*, (Yogyakarta: deep publish, 2019), pp. 15.

provisions of paragraph 2 states that any person who exercises the economic rights referred to in paragraph 1 shall obtain the permission of the creator or copyright holder.⁴ This means that permission becomes important when associated with these economic rights.

From the results of observations made by researchers and conducted together with one of the authors of the book whose work was also spread in the telegram explained that his *e-book* work was sold through the *playstore* application which if you buy an *e-book* there, then the *e-book* can only be read through the *playbook* application that has been downloaded / downloaded on the buyer's cellphone / laptop. In addition, regarding his electronic books (*e-books*) that are spread for free in telegrams, the author states that he has never given permission or legalized the distribution.⁵

The occurrence of the practice of distributing electronic books (*e-books*) in telegrams has attracted the attention of researchers to make the telegram social media application a target in this study, because the distribution of electronic books on the telegram social media platform is quite widespread when compared to other social media.

The existence of telegram as a medium for distributing *e-books* on the one hand can provide benefits because public access to books becomes easier and faster, but on the other hand, the copyright of book authors has also become a new issue that has emerged after the practice of distributing electronic books (*e-books*).

Based on the description of the background above, the researchers are increasingly interested in conducting research with the title "Analysis of Copyright Protection in the Practice of Disseminating Electronic Books on telegram social media from the perspective of Law No. 28 of 2014".

2. RESEARCH METHOD

Researchers use Normative Empirical research methods where researchers examine the applicable regulations and laws together with observing phenomena in the field. In addition, Penliti manages data in the form of narratives or words that are descriptive in nature, namely describing and describing the practice of distributing electronic books (*e-books*) that occur in telegrams, then analyzing these practices using several relevant theories to obtain conclusions from the research results.

The approach used in this research is the sociology of law, which is an approach that departs from the branch of science that analytically and empirically studies the mutual relationship between law and social phenomena. In terms of legal aspects in this study that there have been rules regarding copyright that provide protection to moral rights and economic rights, while the social aspect in this study is the discovery of the practice of distributing *e-books* by the community in telegram.

Researchers in qualitative research try to understand the meaning of an event or event by trying to interact with people in the situation/phenomenon.⁶ One of the ways researchers build interactions in this study is by joining groups and channels for distributing *e-books* in telegrams as a form of researcher presence in observing the

⁴Article 9 paragraph 2 of Law Number 28 of 2014 concerning Copyright

⁵Yeni Ariani, *Interview*, Masbagik, December 20, 2020.

⁶Muri Yusuf, *Quantitative, Qualitative, and Combined Research Methods*, (Jakarta: Kencana, 2017), p. 328. 328.

practices that occur. The researcher's status in this case is known as a researcher who tries to explore information about *e-books* spread in telegrams.

The data collection method used is to observe the practice of distributing *e-books* in telegrams and interviews with several book authors, especially authors whose works are spread in telegrams. This interview was conducted in two ways, namely meeting directly with the author and online through social media intermediaries such as whatsapp, instagram, and telegram and using googleform as a means to collect interview data. In addition, researchers also conducted online interviews with several telegram users totaling five to six people consisting of group members and admins.

Online interviews can be organized in a synchronous form, which means that they are connected with participants in a *chatroom* where they can directly exchange questions and answers while both are online at the same time. But online interviews can also be set up in asynchronous form, which means send questions to the participants and they send their answers back after some time and are not necessarily online at the same time.⁷ So the researcher in this study used both ways, namely when online at the same time as the informant and at the same time.

3. DISCUSSION

E-book stands for electronic book or electronic book or in other words, a form of book that is opened or accessed using an electronic device such as a PC or desktop or *smartphone*. There are several types of *e-book* formats, including Epub, Mobi, Kindle, and Ibuk.⁸

The emergence of *e-books* originated from the idea of an *e-reader* that came from Bob Brown. After Bob Brown first watched a movie with sound in the 1930s called *The Talkies*. From the idea of the movie, he had the idea to write a book called *The Readies*. In his book, Brown says movies have been eclipsed by books by creating *The Talkies* as a result, he thinks reading should find a new medium. Despite Brown's idea in 1930, *e-readers* did not initially follow Brown's idea. However, Brown with his book predicted that there would be a new medium for reading and it wasn't just paper books.⁹

American author Michael Stern Hart is known as the inventor of the electronic book (*e-book*) and founder of the Gutenberg Project (PG), the first project to make *e-books* freely available over the internet. He published *e-books* before the internet existed through ARPANET, BBS networks and Gopher servers. The first *e-books* were typed in plain text format and published as text files. Hart typed most of his early *e-books* which were then distributed by volunteers.

Samuel F.B. Morse, an American was the first to invent the telegraph as a means of sending telegrams. Telegrams began to be popularized in the 1920s. At that time, telegram rates were cheaper than telephone rates. The reach of sending news through telegrams includes both local and international. The time it takes to send a telegram is

⁷Dedi Rianto Rahadi, *Qualitative Research Concepts Plus Nvivo Tutorial*, (Bogor: PT Filda Fikrindo, 2020), p. 161. 161.

⁸ Djoko Purnomo and Kristiandi, *Guide to Establishing a Digital Publishing Business*, (Jakarta: Creative Economy Agency, 2018), pp. 1.

⁹ Erlangga Publisher, "The Beginning of *E-books*", in <https://erlangga.co.id/pendidikan> , accessed on March 26, 2021, at 10.30.

less than one day. Telegram, which is popular in Indonesia, is under the auspices of the Telkom company.¹⁰

Group telegram is one of the features provided so that telegram users can connect and communicate with several people at once through the same place. By *default*, both admins and members can respond to each other through group chat. Meanwhile, telegram channel is a feature provided to broadcast to many people. Through the channel, customers can obtain information simultaneously in the same place.

In group chat, all members have the same rights to read and send messages. The group can receive or respond to a message in the group chat. Therefore, there is a two-way relationship. Unlike the telegram channel, customers cannot send messages on the channel. Only the admin can have the authority to write messages on the channel. Therefore, there is only a one-way relationship on the channel in telegram. In addition, in groups, the audience is referred to as members. Whereas on channels, the audience is referred to as subscribers. Then in group chat, information will appear on how many members are online. Group members can also see who are members in the group. However, on the channel, there is no information on who is a channel subscriber.

Based on the results of researchers' observations in the telegram application, a number of data findings were obtained regarding how to distribute *e-books* in the application. The distribution of *e-books* occurs through two means, namely through groups and telegram channels. The distribution is done through several ways or actions, as researchers will describe below.

1. Group members make a *request* or ask to be sent a pdf format *e-book*, then the file is shared or shared by other group members or by the group admin himself. For features in the form of channels, files are shared directly by the admin without any request from channel subscribers because only the admin can upload files on the channel. *E-books* that are shared are automatically stored in files in each group account and telegram channel.
2. Through forwarded messages, where pdf files (*e-books*) found in groups and telegram channels are on average the result of forwarded messages that are resent by forwarding messages from one group to another or from a channel then forwarded to several groups. So that it spreads from one sender to several recipients.
3. Through sharing links or websites that provide access to free *e-book* downloads. Through the shared link address, researchers found several types of *e-books* with their respective classifications. Making it easier to find the title of the book or *e-book* that is being searched.
4. One of the group members said that those who used to share the book initially bought it and then the *screenshot* ban feature was tricked so that it could be *screenshot*. The collection of *screenshot* images is made into a pdf. *E-books* in circulation mostly come from Ipusnas because of free access, if from digital gramedia and playstore paid.¹¹

¹⁰ Blue Sonic, "Telegram History", in <https://id.m.wikipedia.org/wiki/Telegram> , accessed on March 28, 2021, at 21.17.

¹¹ Hana, *Interview*, Telegram, March 28, 2021.



Figure 2.1
Screenshots of e-books stored in telegram channel files

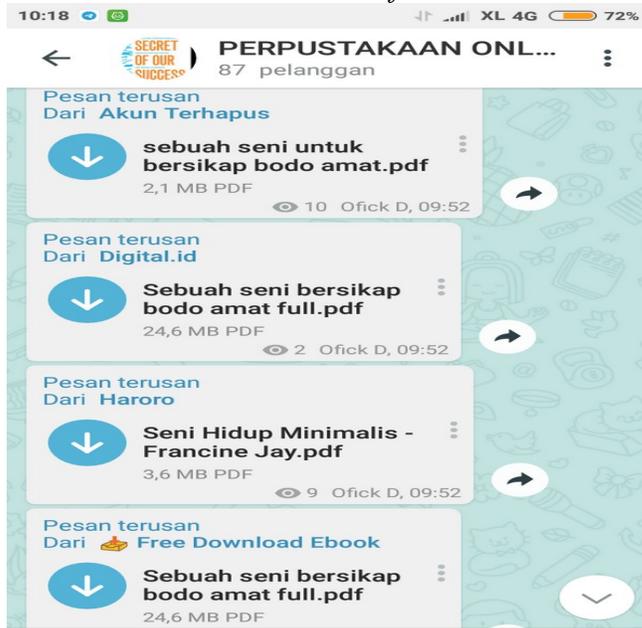


Figure 2.2
Screenshot of e-book distribution through a forwarded message



Figure 2.3
 Screenshot of e-book distribution through link address sharing

In addition, there are several sample images of group names and channels where electronic books (*e-books*) are distributed in telegrams that researchers found.

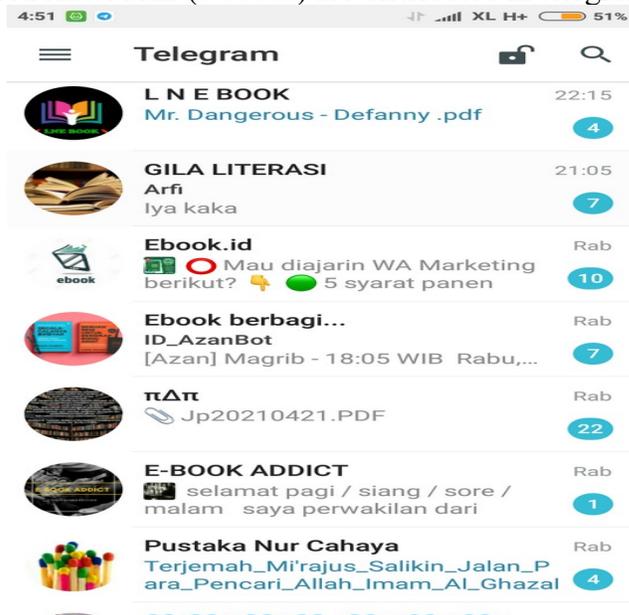


Figure 2.4
 Screenshots of group names and channels for distributing e-books in telegram

In addition to the information above, the results of interviews with Telegram users are also summarized in the following table:

Interview question	Answer
1. Have you ever <i>shared an e-book</i> ? If so, what was the reason?	1. Yes, because most people can't afford to buy books or have

<p>2. Do you know about the penalties in copyright law? 3. Do you agree with the act of distributing <i>e-books</i> for free even for personal purposes?</p>	<p>difficulty getting books, so <i>e-books</i> are one of the solutions. 2. Yes, in all <i>e-books</i> this is stated 3. No, unless authorized by the owner/publisher</p>
	<p>1. Yes, if the <i>e-book</i> is free and there is permission from the author or publisher 2. Yes 3. Disagree</p>
	<p>1. Never, for the same reason as giving a photocopy of a book to a friend. 2. Yes 3. Agree, if it's just sharing between friends, just don't share it in an open forum.</p>
	<p>1. Often, if there are friends who need reading references. 2. Illegal violations are those who share <i>e-books</i> or links and even sell them carelessly without official permission from authors and publishers. 3. No</p>
	<p>1. Never. <i>Sharing is caring</i>, looking for printed books is difficult, the price is expensive. Decent bookstores are only available in big cities. 2. Don't really know 3. Agree to some extent</p>

A. Analysis of the Practice of Disseminating Electronic Books on Telegram Social Media

From the results of the analysis of the practice of distributing electronic books (*e-books*) in telegrams, researchers understand that the distribution practice is actually caused by several actions or actions that have been carried out by telegram users, both by group members, group admins and channel admins. The actions that researchers mean are:

1. Request

The public demand, especially group members, for electronic books (*e-books*) in telegrams is one of the reasons for the distribution practice. This means that *e-books* are shared or *shared* because there is demand driven by people's need to

access and obtain *e-books* for free, one of the reasons being economic limitations to buy books.

The act of requesting or sharing *e-books* in pdf format for free without considering the permission of the author or publisher shows that the level of public respect for the copyright of book authors is still very low, especially in terms of economic rights, because *e-books* that were previously sold by authors in *playbooks* are actually distributed for free through groups and telegram channels. Even though the average telegram user who has spread *e-books* knows that there are penalties for copyright infringement.

Books as a source of reading are indeed needed by the community, so the act of requesting and downloading *e-books* seems to be a common thing. However, it should be noted that the needs of society alone (*as such*) will not justify the taking of someone's *property* without proper compensation.¹² Copyright as intellectual property is a form of wealth for the owner (book author), so taking *e-books* by *downloading* pdfs in groups or telegram channels is an act that should not be done, because there is no compensation given by telegram users to book authors for the use and utilization of these *e-books*.

2. Forwarded message

Most of the distribution of *e-books* in telegram occurs through forwarded messages, so that pdfs that have been sent or *shared* in one group and channel can also be found circulating in other groups and channels.

When observed, it turns out that the distribution carried out through forwarded messages can have an impact on the number of *e-books* spread. Because pdf files that are forwarded continuously from one person to several people in groups and telegram channels will cause the number of *e-books* in circulation to increase. So the practice of distributing *e-books* basically includes the act of duplicating the *e-books*.

The distribution and duplication of work is part of the economic rights owned by the creator or copyright holder, in this case the rights of the book author and publisher. Distribution itself is defined as the act of selling, circulating, and/or distributing the creation and/or related rights products.¹³ So it is understood that the practice of distributing electronic books by telegram users is related to economic rights (distribution rights) which should be done with the permission of the author or publisher.

As long as there is no permission from the author or publisher, then other people have no right to carry out the distribution or dissemination, including telegram users who have never been given a license before. This is a manifestation of the statement that copyright is an exclusive right reserved only for the creator or copyright holder.

3. *share* or share the link address

Observations show that the distribution of electronic books (*e-books*) in telegrams also occurs through the act of *sharing* link addresses or sites that provide free *e-book* access. Through several link addresses shared in groups and telegram channels, public access to free *e-books* becomes easier and faster, because the links

¹² Rahmi Jened, *Intellectual Property Rights Abuse of Exclusive Rights*, (Surabaya: Airlangga University Press, 2010), pp. 21.

¹³ Article 1 Number 17 of Law Number 28 Year 2014

are already available pdf files that can be downloaded by telegram users (group members and channel subscribers).

Even though the distribution of electronic books or *e-books* through the above method is not done for commercial purposes (not for sale) in other words, it is *shared* or distributed for free, but from the results of interviews, researchers found that all book authors whose works were distributed for free objected to the distribution, so the practice of distributing *e-books* for free without permission in telegrams can be said to be a form of violation of copyright, especially the economic rights of book authors and publishers.

It should be noted that works in cyber media are not free-to-use works. This work is a work protected by law, and in the case of Indonesia it is protected by at least two laws, namely the law on copyright and the law on information and electronic transactions.¹⁴ So that people who spread *e-books* by sharing pdfs in groups or telegram channels should understand and realize that such actions can violate the copyright of the author, including the economic rights of the publisher, especially when the *e-book* that is distributed is still protected by copyright or has not entered the *public domain* category (public property).

One of the reasons a copyrighted work is considered *public domain* is when its copyright protection period expires. This means that when the *e-book* found circulating in the telegram is still protected by copyright, the author of the book is still entitled to the economic rights of the *e-book* and any exercise of economic rights such as the distribution or dissemination of *e-books*, as well as its copy must obtain prior permission from the copyright holder, namely from the author of the book and or publisher.

B. Review Of Copyright Protection In The Practice Of Disseminating Electronic Books (E-Books) In Social Media Telegram

Copyright is an intangible movable object, as in an example, if you buy a book by someone, although in a simple sense physically the book is already controlled and owned, but in the sense of copyright, copyright ownership in the form of moral rights and economic rights do not necessarily belong to the buyer, unless otherwise agreed such as the sale and purchase of copyright.¹⁵ So that even though you have bought an *e-book* on a digital *platform* such as a *playbook*, it does not necessarily make the buyer able to distribute the *e-book*, because the right to distribution or dissemination of creation (*e-book*) remains an economic right of the author and publisher.

In copyright law, there are known restrictions and exceptions to copyright, and this is an effort to encourage a balance of interests between creators and users.¹⁶ The point is that in addition to the exclusive rights of authors and publishers, the rights of the public as users (consumers) are also considered, namely the right to

¹⁴ Rulli Nasrullah, *Cybermedia Theory and Research*, (Jakarta: Kencana Prenadamedia Group, 2014), p. 124. 124.

¹⁵ Khoirul Hidayah, *IPR Law (Intellectual Property Rights) in Indonesia Law Review and Islamic Integration*, (Malang: UIN Maliki Press, 2013), p. 59. 59.

¹⁶ Budi Agus Riswandi, *Doctrine of Copyright Protection in the Digital Age*, (Yogyakarta: FH UII Press, 2016), p. 125. 125.

copy the creation without being considered a violation of copyright. For example, in the case of educational purposes.

But keep in mind also that the copy on condition that it does not harm the reasonable interests of the creator or copyright holder. As for what is meant by a reasonable interest is an interest based on the balance in enjoying the economic benefits of a creation.¹⁷ So even though the copy of the book or *e-book* for educational purposes but still dangan pay attention so as not to harm the reasonable interests of the author as the copyright owner, especially in terms of economic rights.

The important point is that the community's right to the utilization of copyrighted works (books or *e-books*) is limited to duplication for educational purposes, meaning that telegram users do not have the right to disseminate *e-books* without prior permission from the copyright owner (book author).

Information from the book author that says *e-books* sold on digital *platforms* can only be read through applications, for example through *playbooks*, indicates that the *e-book* cannot actually be spread freely. . Researchers consider this as a form of protection (protection) of the author's copyright on *e-book* works that have been published (sold) in cyberspace via the internet so as not to be misused by irresponsible parties.

Duplication of data from the internet that is not protected is absolutely allowed, while for those that are protected it is further detailed, which is allowed if you have permission, and allowed even without permission if it is for personal use.¹⁸ If this is related to *e-books* sold on protected *platforms*, then the duplication is permissible provided that permission has been obtained, namely permission from the owner.

The results of the study show that the explanation of Article 40 Paragraph (1) letter n of the UUHC implicitly recognizes that electronic books (*E-books*) are one of the protected adaptation creations. Therefore, electronic books (*E-books*) are a form of adaptation or embodiment of printed books so that electronic books (*E-books*) must be protected. For others who want to convert printed books into electronic books (*E-books*) must obtain permission from the creator through a license agreement made by the parties and must meet the legal requirements of the agreement as stipulated in Article 1320 of the Criminal Code. If there is copyright infringement in the reproduction of electronic books without the permission of the creator, then under Article 95 Paragraph (1) UUHC the case can be resolved through the court and without going to court. Dispute resolution without going to court can be done by means of arbitration, mediation, negotiation, and conciliation. Especially for the court path, only the Commercial Court is authorized to resolve cases in the field of copyright.

According to Wiliam R Cornis, the occurrence of copyright infringement cases can not be separated from the existence of 2 (two) main factors, namely:

- a. Economic Factors, which is due to the high price of legal goods, thus encouraging people to look for cheaper goods.
- b. The factor of legal awareness of the realtif low society so that less respect for a copyrighted work.

¹⁷ Explanation of Article 44 Paragraph 1 Letter a of Law Number 28 Year 2014

¹⁸ KH Muhammad Ali Marzuqi, *Thematic Fiqh Book Series Fiqh Era Ciber*, (Tuban: LTN Langitan and LBM Book, 2015), pp. 67.

The Copyright Act (UUHC) has undergone several updates influenced by legal developments and the needs of society, so that the old regulations are no longer appropriate. In addition, based on the Joint Regulation of the Minister of Law and Human Rights and the Minister of Communication and Information Technology Number 14 of 2015 and Number 26 of 2015 concerning the implementation of the closure of Content and / or Access Rights of Users of Copyright Infringement and / or Related Rights in the Electronic system, copyright owners who feel their rights are violated can make a complaint report to the Directorate General of KomInfo. The report will be verified and then become the basis for recommendations for the Ministry of Communication and Information Technology to close internet sites or block or close content and / or user access rights that violate copyright and / or related rights for part or all of the content.

In addition, copyright criminal remedies are set out in Articles 95, 105, 110-120 of the UUHC. Creators and holders of copyright or related rights can still file criminal charges despite having filed a civil suit. But if the civil suit and criminal charges simultaneously, then the civil suit will take precedence. Before criminal charges are usually made, the creator or holder of copyright or related rights reprimands the party who committed the offense first (subpoena). In addition, as stipulated in Article 95 paragraph (4) of the UUHC must first conduct mediation between the parties to the dispute. This is why criminal proceedings are referred to as the last resort in resolving copyright disputes.¹⁹

4. CONCLUSIONS

From the discussion of the analysis in this study, the following conclusions can be drawn:

1. The practice of distributing *e-books* by telegram users, both by group members, group admins and channel admins through pdf *sharing* activities in telegram groups and channels can be said to be an act of copyright infringement, especially the economic rights of authors and publishers even though the purpose of its dissemination is not for commercial motives, but as long as the author of the book or *e-book* objects to the dissemination, it will still be considered copyright infringement. Because the right to distribute (disseminate) the work is also part of the economic rights of authors and publishers, so telegram users do not have the right to do the dissemination.
2. Under the Copyright Act (UUHC) the copyright owner can file an objection either in the form of a civil lawsuit, or a report with a complaint offense to law enforcement in this case the police. Before that, in Article 95 paragraph (4) the owner can make a reprimand or subpoena or by conducting mediation in resolving the dispute.

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¹⁹ Module, Book Copyright Protection in the Digital Age, Josefin Mareta, BALITBANGKUMHAM Press. Jakarta 2021, p. 75.

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