

Review of Legal Certainty of Royalty Collection on Music and/or Songs: A Comparative Study of Indonesia and Russia

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Abstract

Copyright protection for music and/or songs is an essential part of intellectual property rights, aiming to provide legal certainty and guarantee creators' economic rights through a royalty mechanism. In Indonesia, the implementation of royalty collection still faces legal uncertainty due to the lack of clarity in the definition of "commercial user" within the Copyright Law and Government Regulation on royalties. This has led to a shift in the responsibility for royalty payments between performers and event organizers. This study adopts a normative juridical approach using statutory, conceptual, and case-based analyses, and compares the royalty collection systems in Indonesia and Russia. The findings indicate the need for regulatory reform in Indonesia, including clearer identification of the royalty-paying parties and institutional strengthening of LMKN to be more proactive. This research provides regulatory reform recommendations to ensure legal certainty and optimal protection for songwriters.

Keywords: *Intellectual Property Rights, Royalty, Song/Music, Legal Certainty, LMKN, Indonesia, Russia.*

A. INTRODUCTION

The music industry is a creative economy sector that plays a major role in supporting a country's economy (Gea & Nugroho, 2022), and Indonesia is no exception. Based on data from the Ministry of Tourism and Creative Economy, in 2020 the music subsector managed to contribute 6 (six) trillion rupiah in the

National Gross Domestic Product (GDP) (Adnan, 2025). The music industry subsector is expected to continue to grow every year, along with the development of various new music *platforms* that become a forum for musicians to publish their work (Kemenparekraf/Baparekraf RI, 2024). As a work that has economic value, copyright on music and songs becomes an object protected by the state. With this awareness, the state issued Law Number 28 of 2014 concerning Copyright (hereinafter referred to as the Copyright Law) in order to protect the interests of copyright owners, including in a song and/or music work.

Copyright is an exclusive right that is automatically owned by the creator of the work that is realized in a tangible form. This right is included in intellectual property in the fields of science, art, and literature, and has a strategic role in nation building and public welfare, as mandated by the constitution. Conceptually, copyright comes from *natural rights* that recognize works as the result of individual creativity, provide fair rewards, and guarantee financial benefits for creators (Purwandoko & Imanullah, 2017). This is in line with the provisions of Article 4 of the Copyright Law which states that copyright contains moral rights and economic rights. With this basis, any form of copyright infringement can be subject to criminal sanctions, as well as filed a lawsuit in the Commercial Court.

Historically, the initiation of copyright protection arose during the implementation of the *Bern Convention* in 1908 with the aim to protect the interests of creators (Yanto, 2016). The *Bern Convention* was then the forerunner of the enactment of the *Auteurswet* in the Netherlands in 1912 which regulates the protection of rights to music and its derivatives, until later adopted by Indonesia

in the form of the Copyright Act (Daminsky & Priyanto, 2023). With the conceptual basis of protection for the creator of a work, therefore the Copyright Law recognizes various mechanisms that protect the rights of creators, including through royalties.

Article 1 Point 21 of the Copyright Law regulates royalties by defining royalties as: "...compensation for the utilization of Economic Rights of a Creation or Related Rights Product received by the creator or owner of related rights". This economic right is needed as a form of appreciation or value for the creativity of his creation in the form of a song that can be enjoyed by the public or people when listening to it (Kusno, 2016). With the economic value contained in it, the benefits should be felt by all parties, especially the creator. Especially when considering that many singers are not the creators of the songs they perform. The Copyright Law is made as a signpost for the fulfillment and protection of intellectual property rights, including copyright on songs and or music which is one of the protected creations under Article 40 of the Copyright Law.

In fact, song copyright issues, especially those related to royalties, are still a problem for the music industry in Indonesia. Some music royalty cases that occurred in 2024 include: Fanny Soegi who questioned *Asmalibrasi's* royalty sharing with Soegi Bornean, Agnez Mo who was sued by Ari Bias for singing songs without permission, Ndhank Surahman Hartono who demanded royalties from Stinky & Andre Taulany, and Ahmad Dhani who prohibited Once Mekel from performing Dewa 19 songs without written permission (Ardian, 2024). With the many royalty cases that have led to conflicts between singers and songwriters, it is questionable regarding the legal provisions of royalty collection in Indonesia.

Normatively, the Copyright Law is followed up with implementing regulations in Government Regulation Number 56 of 2021 concerning Royalty Management for Copyright of Songs and/or Music (hereinafter referred to as PP Royalty). Article 3 Paragraph (1) of PP Royalty states that: "Any Person may make Commercial Use of songs and/or music in the form of commercial public services by paying Royalties to the Creator, Copyright Holder, and/or Related Rights owner through LMKN". With this basis, it can be understood that royalty payments should be made to the National Collective Management Agency (LMKN). But on the other hand, the article still creates ambiguity regarding who is the "commercial user" who should pay royalties to LMKN regarding the use of songs and/or music. This ambiguity ultimately makes songwriters often question royalty payments to singers, even though commercial users may refer to event organizers who do utilize the creation and/or rights products with the aim of obtaining economic benefits from the event.

One of these problems can be seen based on the Central Jakarta Commercial Court Decision Number 92/PDT.SUS-HKI/CIPTA/2024/PN Niaga JKT.PST. In the case, the songwriter, Ari Bias, sued the singer of the song "Bilang Saja", Agnes Monica Muljoto, which was performed at three concerts in Jakarta, Bandung, and Surabaya organized by PT Aneka Bintang Gading as the event organizer. In the lawsuit, the Plaintiff considered that the use of her song in concerts without permission and without payment of royalties was a form of copyright infringement. The Panel of Judges of the case ruled that the Defendant, Agnes Monica Muljoto, had committed copyright infringement for commercially using the Plaintiff's song "Bilang Saja" in three concerts without the permission of the

Plaintiff as the creator. On this basis, the Defendant must pay a fine of Rp.1,500,000,000, - (One Billion Five Hundred Million Rupiah) to the Plaintiff (Central Jakarta Commercial Court, 2024).

The case between Ari Bias and Agnes Monica Muljoto shows a lack of clarity in the application of the rules regarding the party actually responsible for paying royalties-whether the event organizer as the party that directly benefits from the concert, or the singer who performed the song on stage. In the case's exception, the Defendant is guided by Article 10 paragraph (1) of the Royalty Regulation which stipulates that every person who makes Commercial Use of songs and/or music in the form of commercial public services based on a License agreement must pay royalties through the LMKN. This provision leads the defendant to the understanding that in the case *a quo* PT Aneka Bintang Gading as the organizer of the performance and/or the user of the Copyright who pays the Royalty through LMKN (Central Jakarta Commercial Court, 2024). Because in this case the 'public service' as intended in the provisions of is organized by PT Aneka Bintang Gading, not by the singer concerned.

Differences in interpretation regarding the collection of royalties for music and/or songs in Indonesia lead to legal uncertainty. In fact, legal certainty is the main basis of the rule of law, which is reflected in the existence of rules that are clear, certain, and do not cause doubts (multiple interpretations). Legal certainty ensures consistent application of the law and is not influenced by subjective factors, making it a characteristic of law that is factual, not just moral (Kansil, Palandeng, & Mamahit, 2009). Through the case in Decision Number 92/PDT.SUS-HKI/CIPTA/2024/PN Niaga JKT.PST shows that the provisions

regarding the party obliged to pay royalties to copyright holders are still multi-interpreted, which causes legal uncertainty. Based on this background, this research will examine the conceptual aspects of royalty collection on copyrighted songs and/or music. This research will discuss the concept of royalty collection in copyright law in Indonesia and Russia, including the role of LMKN as a royalty manager, as well as examine the unclear regulations regarding the party responsible for the payment of royalties.

This research uses normative legal research methods (Wignyosubroto, 2002, Hezron Sabar Rotua Tinambunan, et.al, 2021, Zhein Fajar Rheina, et.al, 2024). This research focuses on the discovery and analysis of rules, principles, and legal doctrines to answer legal issues related to the collection of copyright royalties on songs and/or music (Wiratraman, 2005). This approach refers to the views of Soerjono Soekanto and Sri Mamudji which include research on legal principles, legal systematics, legal synchronization, legal comparison, and legal history (Muhaimin, 2020). So that it becomes a scientific means to find legal truth based on normative logic (Ibrahim, 2006).

In this context, the research will examine Law Number 28 of 2014 on Copyright and Government Regulation Number 56 of 2021 to understand the implementation of the principle of legal certainty in royalty collection. This research also combines three approaches, namely a *statute approach* to analyze normative provisions related to royalties, a *conceptual approach* to examine the concept of intellectual property law and the principle of legal certainty, and a *case approach* to compare the implementation of royalty collection in concrete practice with applicable regulations. The combination of these approaches is expected to

provide a comprehensive understanding and academic recommendations in the renewal of royalty collection regulations in Indonesia and Russia (Marzuki, 2009).

B. RESULT AND DISCUSSION

Concept of Copyright Protection of Music and/or Songs in Indonesia

Before going further into the analysis of copyright, it can be started from an understanding of Intellectual Property Rights (IPR). Intellectual Property Rights can be defined as a right arising from human intellectual abilities (Yulia, 2021). It can be said that IPR is a right that comes from human thought, so that in its main principle IPR is a work produced through an intellectual process so that it can provide ownership in the form of *natural rights* to the individual (Yulia, 2021).

Intellectual property rights are part of human rights recognized in the Universal Declaration of Human Rights in Article 27 paragraph (2) which states if everyone has the right to protection of moral and material benefits obtained as a result of scientific, literary or artistic works created by him." It is also contained in the International Covenant on Economic, Social and Cultural Rights in Article 15 paragraph (1c) which states that ratifying countries recognize the right of everyone to benefit from the protection of moral and material interests arising from scientific, literary or artistic works that they have created.

Similarly, copyright is one part of IPR whose existence is also constitutionally protected as a manifestation of the protection of human rights. In Indonesia, copyright music and / or songs are regulated in Law Number 28 of

2014 concerning Copyright. Referring to Article 40 letter d of the Copyright Law expressly recognizes that music and/or songs are creations protected under the Copyright Law. Furthermore, Article 9 Paragraph (1) explains that the Creator or Copyright Holder has the economic right to: publishing the work; duplicating the work in all its forms; translating the work; adapting, arranging, transforming the work; or distributing the work or copies of it; performing the work; announcing the work; communicating the work; and leasing the work.

The article shows that in a creation, the exclusive right is attached to the creator. In other words, this exclusive right is the right of the creator to control his creation so that it is not utilized by others without the permission of the creator (Nurdahniar, 2016). However, this does not mean that anyone who is not included as a creator or copyright holder is not allowed to exercise economic rights over a creation. Article 9 Paragraph (2) of the Copyright Law states that any person may exercise economic rights by obtaining the permission of the Creator or Copyright Holder. This is in line with the existence of copyright included in intangible movable objects (Abdullah, Sugianta, & Anwar, 2021).

On this basis, the Copyright Law recognizes royalties on a copyrighted work as a reward for the utilization of economic rights. Article 1 Point 21 states that "Royalties are compensation for the utilization of Economic Rights of a Creation or Related Rights Product received by the creator or owner of the related rights". In the Copyright Law, Article 87 states that: "To obtain economic rights, every Creator, Copyright Holder, owner of Related Rights becomes a member of the Collective Management Institution in order to be able to collect reasonable

compensation from users who utilize Copyright and Related Rights in the form of commercial public services."

In relation to music and/or songs, provisions related to royalties are specifically regulated in Government Regulation Number 56 of 2021 concerning Royalty Management for Copyright of Songs and/or Music (hereinafter referred to as PP Royalty). Article 3 Paragraph (1) of PP Royalty has determined as follows: "Any Person may make Commercial Use of songs and/or music in the form of commercial public services by paying Royalties to the Creator, Copyright Holder, and/or Related Rights owner through LMKN".

Legal Uncertainty of Royalty Collection on Music and/or Songs in Indonesia

As described in the previous section, music and/or song creators have moral and economic rights over their creations, including the right to receive royalties as a form of fulfillment of economic rights. However, in practice, the provisions related to royalty collection are still subject to multiple interpretations. Multi-interpretation in this context can be seen from differences in royalty collection practices, for example: some make direct payments from event organizers or singers to songwriters, and some pay directly to LMKN. Then the question is related to who is meant as the subject of royalties? If we refer to Article 10 Paragraph (1) of PP Royalty, it is found as follows: "**Every person who makes Commercial Use of songs and/or music in the form of commercial public services** based on the License agreement as referred to in Article 9 paragraph (2) pays Royalties through LMKN". In simple terms, it can be understood that the

organizer of commercial public services is the party that is obliged to pay royalties to LMKN.

In the context of music performances, royalties for the use of music and/or songs are levied on the event organizer, as it acts as the party making public use of the copyrighted work for commercial purposes. This includes through ticket sales, sponsorship, and other indirect profit generation. The main reason is that the event organizer has an active role in organizing the entire event, including selecting and contracting the performers. Therefore, the use of copyrighted works of music and/or songs in the performance is the responsibility of the organizer as the "Commercial User." This arrangement is in accordance with the Decree of the Minister of Law and Human Rights Number HKI.2.OT.03.01-02 of 2016, which sets royalty rates based on gross ticket box and complimentary ticket, or music production cost for free concerts. Thus, royalties are charged based on who organizes and benefits economically from the performance, not based on who performs the song.

In fact, differences in interpretation of royalty collection, especially regarding the subject of royalties, continue to occur even at the court level. In providing an illustration of the emergence of legal uncertainty in royalty collection, especially related to *performing rights*, it can refer to Decision Number 92/Pdt.Sus-HKI/Hak Cipta/2024/PN Niaga Jkt.Pst. This decision does not yet have permanent legal force and is being filed for further legal remedies in the form of cassation at the Supreme Court, but this case will provide an illustration

of ambiguity based on the judge's consideration regarding the royalty collection mechanism in Indonesia.

This case began when in 2003 the Plaintiff (Arie Sapta Hermawan/Ari Bias) created a song entitled "Bilang Saja" and included it as one of the songs in the Defendant's (Agnes Monica Muljoto/Agnez Mo) And The Stories Goes. Ari Bias argued that Agnez Mo unauthorizedly performed the song at a performance (concert) on May 25, 2023 at W Superclub Surabaya, on May 26, 2023 at The H Club Jakarta, on May 27 at W Superclub Bandung, organized by the Co-Defendant (PT. Aneka Bintang Gading). On this basis, the Plaintiff filed a lawsuit for compensation in the amount of 1.5 billion Rupiah on the basis of Article 9 Paragraphs (2) and (3) of the Copyright Law.

In his decision, the judge granted the plaintiff's claim and stated that the Defendant had committed copyright infringement because it had commercially used the Plaintiff's song "Bilang Saja" at three concerts without the permission of the Plaintiff as the creator. In addition, the Defendant, the performer in the event, was required to pay compensation of 1.5 billion rupiah. One of the considerations used by the panel of judges in deciding the case is to refer to the provisions in Article 9 paragraph 2 of the Copyright Law which states "every person who exercises the economic rights referred to in paragraph (1) must obtain the permission of the Creator or Copyright Holder" and Article 9 paragraph 3 of the Copyright Law states "every person who without the permission of the Creator or Copyright Holder is prohibited from copying and / or Commercial Use of Creation". By granting the Plaintiff's claim, it can simply be concluded that the

panel of judges in the case had the same understanding that the singer is a party who is obliged to pay royalties at a commercial event.

When referring to Article 87 Paragraph (1) of the Copyright Law, the article shows that in a commercial public service, the creator is indeed allowed to collect a reasonable fee, which in paragraphs (2) and (3) further emphasizes that the fee in the form of royalties is paid through the LMKN. This is in line with the substance in Article 3 Paragraph (1) of PP Royalty. Furthermore, when referring to Article 9 Paragraph (1) of PP Royalty which determines that the commercial use of songs requires a license from the copyright holder through LMKN. However, Paragraph (2) states that use for performances is still allowed without a license, provided that royalties are still paid through LMKN. In line with Article 23 Paragraph (5) of the Copyright Law which states that: "Any Person may make Commercial Use of a Creation in a performance without seeking prior permission from the Creator by paying a fee to the Creator through the Collective Management Institution".

The problem that causes multiple interpretations is when discussing who is the subject who should pay royalties. Article-by-article explanations in the Copyright Law and Royalty Government Regulation do not provide further explanation regarding "Commercial Users". The multiple interpretations in regulations related to royalty collection are what ultimately lead to uncertainty legal fulfillment of royalty rights for music and/or song creators. Whereas legal certainty is one of the main elements of a country that can be called a state of law (Sidharta, 2004). In Gustav Radbruch's view, the principle of legal certainty is

one of the 3 main pillars in a law besides justice (*Gerechtigkeit*) and expediency (*Zweckmassigkeit*) (Julyano & Sulistyawan, 2019). Thus it can be said that legal certainty is a fundamental aspect in a state of law and must exist so that a country can be said to be a state of law. In addition, legal certainty is an important aspect because it relates to the clarity and consistency of regulations, so that in its application it can be applied in various situations (Hapsari, 2024). In other words, legal certainty is also related to the effectiveness of the law itself, because when a legal rule is clear and fulfills the elements of legal certainty, it is expected that law enforcement officials and the public can apply the law properly, thus leading to an increase in the effectiveness of the law.

Legal effectiveness consists of 2 (two) words, namely effectiveness and law. Effectiveness comes from the word effective, in *Black's law dictionary* effective is defined as "*Effective, adj. (14c) 1. (Of a statute, order, contract, etc.) in operation at a given time (effective June 1). A statute, order, or contract is often said to be effective beginning (and perhaps ending) at a designated time. 2. Performing within the range of normal and expected standards (effective counsel). 3. Productive; achieving a result (effective cause).*" Meanwhile, law defined as a collection of rules that contain commands and prohibitions and manage the order of a society and therefore must be obeyed by the community (Tobing, 2007). Based on these two definitions, it can be concluded that when talking about legal effectiveness, it is talking about how the law can carry out and fulfill its objectives and functions in accordance with the expected standards, and produce the desired impact and results. So that effective law not only exists

formally but must also be able to achieve its functions and objectives. In other words, legal effectiveness can also be defined as an activity that shows the formulation of a problem in general between the comparison of legal reality (*law in action*) and *law in theory* (*law in theory*) (Djaenab, 2018). A red thread can be drawn if legal effectiveness talks about how a law can have an impact on achieving the objectives of the law both in legal reality and in legal theory. Based on Soerjono Soekanto's view, there are 5 factors that influence the effectiveness of the law, namely: 1) The legal factor itself, 2) Law enforcement factors, in this case are those who make and / or enforce the law itself, 3) Facilities or facilities that can support the law, 4) Community factors that become the environment where the law is applied, 5) Cultural factors which include work and copyright based on karsa (Soekanto, 2008).

Based on the description in the paragraph above, it can be concluded that legal effectiveness and legal certainty are two aspects that are interrelated and complementary, because a law can be said to be effective if fulfills legal functions, one of which is legal certainty (Orlando, 2022). So it can be said that legal effectiveness essentially strengthens legal certainty because effective legal implementation can provide confidence to the public that the stipulated law has predictability and stability, giving rise to legal certainty (Orlando, 2022). Vice versa, the existence of legal certainty can support the creation of legal effectiveness, because with legal certainty, law enforcement officials and the public can refer to clear and consistent legal regulations. This helps to reduce the potential for multiple interpretations, thus achieving effective law (Orlando,

2022). In the context of this research, there is confusion in the collection of royalties caused by multiple interpretations in the provisions of the Copyright Law and Royalty Regulations, specifically related to performing rights, licensing mechanisms, and royalty payments. This legal uncertainty has an impact on the non-fulfillment of the human rights of songwriters, especially the moral and economic rights stipulated in the Copyright Law. In fact, legal certainty in copyright should provide guarantees for music and/or song creators to obtain legal recognition and protection of their copyrighted works, both morally and economically, which is their human right.

Legal uncertainty in the collection of royalties on copyrighted songs and/or music arises from multiple interpretations in the Copyright Law and Royalty Regulation, especially related to the definition of commercial use, the application of performing rights, licensing mechanisms, and royalty payments. This ambiguity has led to inappropriate royalty collection, as reflected in court decisions. As a result, the purpose of royalty collection to provide economic rights to song and/or music creators is not achieved. This legal uncertainty is not only detrimental to the creator as the legal owner of the work, but also indicates the weakness of the copyright regulatory system in Indonesia. Therefore, it is necessary to establish a model of royalty collection regulation that can fulfill the principle of legal certainty in the collection of royalties on copyright songs and/or music in Indonesia.

Model Regulation of Royalty Collection on Copyright of Songs and/or Music in Indonesia

Through the previous explanation, it can be concluded that there is legal uncertainty regarding the imposition of royalties on music and/or song copyrights in Indonesia. This is based on the absence of explanations and restrictions regarding who is meant as a "Commercial User" in a commercial public service provider. In other words, the question arises whether the "singer" in a performance carried out by a commercial public service provider is part of the "Commercial User" referred to in the Copyright Law? Especially by looking at the subject of royalties as stipulated in Article 10 Paragraph (1) of the Royalty Regulation, namely "Every person who makes Commercial Use ... in the form of commercial public services ...". With such a foundation, this sub-chapter will provide proposals for legal reform (*ius constituendum*) in order to create legal certainty for royalty collection in Indonesia.

Law is a system of norms based on a necessity (*das sollen*). Hans Kelsen views norms as a product of deliberative human thought (Samekto, 2019). In the *stufenbau theory* put forward by Hans Kelsen, it creates a paradigm that the legal system is a ladder system with tiered rules where the lowest legal norms must rely on higher legal norms, and the highest legal rules must rely on the most basic legal norms (*grundnorm*) (Kelsen, 1995).

The concept is also reflected in the hierarchy of laws and regulations in Indonesia, as stipulated in Law Number 12/2011 on the Establishment of Laws and Regulations, which was last amended by Law Number 13/2022. Article 10 of

the law explains that one of the contents of the law is further regulation of the provisions of the Constitution of the Republic of Indonesia and the fulfillment of legal needs in society.

In implementation, there may be a provision in a law that does not provide details about the terms or words used. This can certainly create uncertainty, although it can cause uncertainty, uncertainty over the terms or words referred to by the Law, but this can be overcome by issuing lower legislation to detail it while still in the spirit of protection of various interests (Wijayanti, 2013). In other words, the lower regulations must be able to answer the vagueness as part of creating legal certainty.

Similarly, when reviewing the provisions related to royalties on copyrighted music and/or songs, the mechanism is specifically regulated in the Royalty Regulation. The existence of PP Royalty is an implementing regulation of the Copyright Law which has provisions related to copyright in general. Thus, PP Royalty has content material that serves to run the Copyright Law as it should (this function is generally in line with the provisions in Article 12 of Law 12/2011). Including in the issues raised in the topic of this thesis, the PP Royalty must clearly answer who is a "commercial user" in the collection of royalties for music and/or songs in Indonesia.

In fact, PP Royalty also does not provide a definitive explanation of who is categorized as a "commercial user" in a commercial performance or public service. In order to answer the legal uncertainty arising from the Copyright Law and PP Royalty as *existing* regulations, it is necessary to add a definition of

"commercial user" that can be contained in the legal framework in the form of a law. The definition can include parties such as owners or managers of entertainment businesses that play music openly, music event organizers, digital platform providers that provide access to songs, to other parties who use music to increase the selling value of their products or services.

As is known, the Decree of the Minister of Law and Human Rights Number: HKI.2.OT.03.01-02 of 2016 stipulates that the use of creations in the form of songs and/or music is still subject to royalty payment obligations even though the performance is held for free. This provision shows that the commercial aspect is not solely determined by the existence of direct transactions in the form of ticket sales, but also considers the potential indirect benefits for the organizer.

In connection with this, to strengthen the proposed definition of "commercial user" as described earlier, it is also necessary to formulate a complementary norm that regulates the criteria for the use of works categorized as commercial. This norm should ideally be set out in a government regulation, with the provision that a performance can be considered a form of commercial use if it meets one of the following two conditions:

1. There is an element of income, either in the form of ticket sales, sponsorship, donations, or other forms of returns that provide direct or indirect economic benefits to the organizer or related parties; or

2. Performances are free of charge, but are held in the context of promotion marketing, or supporting certain business activities that have the potential to provide added value or economic benefits to the organizer.

With this regulation, it is expected that there will be legal certainty in the implementation of royalty payment obligations for the use of creations in musical performances.

Then, in order to optimize the implementation of royalty collection, LMKN, as an institution tasked with attracting, collecting, and distributing royalties, can expand the scope of its duties and authority. If we refer for a moment to the opinion of Anthony Allot, the law can be said to be effective if it can successfully realize the objectives of the law formation. Allot's view is as follows (Cahyaningsih, 2020):

"A general test of the effectiveness of a law (a particular provision of a legal system) is therefore to see how far it realizes its objectives, ie. fulfills its purposes. There are two difficulties here. The first is that, even in a society with express law-making (through legislation or otherwise), the purpose of a particular law may not be clearly stated by its maker or emitter. What is more, as the law acquires a history, those who apply it, follow it, or disregard it re-shape both the law and its purposes to correspond to their power and their influence. A law lives and develops. Most normative statements are not originated by those who propound them; but to the recipient of the legal message, what counts is not what the originator of the norm may have intended, but what the current emitter of it intends."

Of course, the achievement of legal objectives can be achieved if supported by institutions that function optimally. In the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 9 of 2022 concerning the Implementation of Government Regulation Number 56 of 2021 concerning

Royalty Management for Copyright of Songs and/or Music (hereinafter referred to as Royalty Regulation), expressly regulates that it has the task of organizing Royalty Management. Article 6 Paragraph (2) of the Royalty Regulation states that the management is carried out through granting authority in the form of attracting, collecting, and distributing royalties from commercial users, which is also in line with the provisions in Article 89 Paragraph (2) of the Copyright Law.

In practice, LMKN's authority in collecting royalties is currently more "passive", only waiting for reports and payments from commercial users. Therefore, proactive action is needed from LMKN, one of which is by establishing synergies with police agencies. Performance organizers must report events to LMKN as a condition of obtaining a performance permit from the local government or police. This report will be part of the requirements for the issuance of a crowd permit. To make things easier, LMKN can establish an online verification system that allows real-time reporting, ensuring royalties are paid on time and transparently. This system could include reporting the list of songs used, the number of viewers, as well as the amount of royalties that must be paid according to the provisions. Thus, LMKN can ensure transparency and accountability in royalty collection.

The Royalty System in Russia

The royalty system in Russia is an essential part of copyright and intellectual property protection, particularly in the music sector. Since transitioning from the Soviet era to a market economy, Russia has made efforts to establish a legal framework and institutions that ensure the economic rights of creators. This

transformation was embodied in the enactment of Part IV of the Russian Civil Code in 2008, which provides protection for original works, including music and lyrics (Russian Federation Civil Code, 2008). Although the legal framework appears progressive on paper, its implementation still faces significant challenges.

The collection and distribution of royalties in Russia are managed by several Collective Management Organizations (CMOs). The most prominent among them are the Russian Authors' Society (RAO) and the All-Russian Organization for Intellectual Property (VOIS). RAO manages copyrights related to public performance and communication of works to the public, while VOIS is responsible for neighboring rights owned by performers and phonogram producers (WIPO, 2021). These organizations collect royalties from users such as TV stations, radio, restaurants, and digital platforms.

However, the system struggles with transparency and efficiency. Several studies have highlighted ambiguities in reporting the use of works and distributing royalty payments. The lack of a comprehensive digital tracking system has made it difficult for creators to receive fair compensation (Ivanov, 2019). As a result, many authors feel disadvantaged by the current system.

Trust in the system deteriorated further after a major scandal in 2015, when RAO Director Sergei Fedotov was arrested on charges of embezzling more than 500 million rubles in royalties (RIA Novosti, 2015). The case severely tarnished the organization's reputation and led to public pressure for structural reform of collective management organizations.

In response, the Russian Ministry of Culture and Rospatent (Federal Service for Intellectual Property) increased oversight of CMOs. The government reviewed licensing procedures, including requirements for financial transparency and accountability (Ministry of Culture of the Russian Federation, 2018). Although these reforms were significant, their effects have yet to be fully felt by creators, particularly those outside industrial hubs like Moscow and St. Petersburg.

Russia is also a signatory to the Berne Convention and an active member of the World Intellectual Property Organization (WIPO), which obliges it to provide equal protection for foreign works. However, in practice, many foreign creators face difficulties in collecting royalties for the use of their works in Russia due to weak cross-jurisdiction reporting systems (WIPO, 2021).

Technological developments present opportunities for improving the system. Innovations such as blockchain and digital tracking systems are being introduced by some Russian music-tech startups. A few platforms are developing metadata-based and AI-powered systems that allow for automatic and real-time music tracking (Popov, 2021). Although not yet officially adopted by RAO or VOIS, these approaches show promising directions for reform.

The issue of royalty distribution to independent creators is also a notable concern. Many local musicians in non-metropolitan areas face difficulties registering their works and accessing information about their royalty rights. A

lack of legal awareness and limited access to technology are structural barriers that restrict economic rights for creators in these regions (Kovalenko, 2020).

One of the most critical issues is the management of 'unidentified royalties'—funds collected but not attributable to any specific author. These funds are often poorly reported, sparking speculation about potential misuse (Gorodetsky, 2019). Transparent management of such royalties is essential to maintain the integrity of the system.

In terms of legal enforcement, Russia has a litigation system that allows authors to file copyright infringement claims. However, the high costs and lengthy court processes are significant barriers for smaller creators (Litman, 2001). Alternative dispute resolution methods such as arbitration are rarely used due to institutional limitations and a lack of public trust.

Adaptation to digital platforms also remains limited. Licensing agreements between collective management bodies and streaming services such as YouTube, VKontakte, and Yandex Music are not yet fully favorable to creators. Many users of these platforms are unaware of their legal obligations, while the platforms themselves do not consistently report music usage (Efimova, 2022).

Despite these challenges, Russia holds great potential for transforming its royalty governance. The country has a large pool of creators and a growing music industry, especially in the digital segment. However, to realize this potential, strategic steps are needed to build a reliable and accurate data-driven system and increase the participation of creative communities in policy-making.

The Russian government also needs to reassess its institutional structure and allow for competition among collective management organizations. The monopolistic model currently in place hampers innovation and service efficiency. The U.S. royalty system, which operates under a competitive model among PROs, could serve as a relevant example for Russia (Gervais, 2005).

Looking forward, royalty system reform in Russia must focus on equitable distribution, technological innovation, and creator participation. Legal education for users and institutional capacity building are crucial steps to ensure the sustainability of the system in the face of global music industry dynamics.

In conclusion, Russia's royalty system reflects the classic challenges of a transitioning state: possessing a strong legal framework but struggling with institutional implementation. A comprehensive reform effort involving all stakeholders is essential to ensure that the economic rights of music creators are respected and empowered.

C. CONCLUSION

The collection of royalties for songs and/or music in Indonesia continues to face legal uncertainty due to the vague definition of "commercial user" in existing regulations, which creates ambiguity regarding the responsibilities between performers and event organizers. Emerging cases reveal a lack of consistency in law enforcement. Compared to Russia, similar challenges persist despite an established legal framework. Therefore, the government must reformulate regulations, strengthen the institutional capacity of LMKKN, integrate digital technologies, and enhance legal awareness. Indonesia can also adopt international

best practices, such as a competitive model among collective management organizations, to establish a fair, transparent, and effective royalty system.

The government needs to update its regulations on royalty collection, particularly in defining "commercial users" and establishing the party responsible for royalty payments in performances. LMKN also needs to expand its authority to proactively collect royalties and develop a technology-based monitoring system. Cooperation between LMKN, the police, and local governments in monitoring event licenses can make it easier to identify the use of songs in commercial events, ensuring more accurate, efficient, and transparent royalty collection.

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