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Legal Study on the Payment Mechanism of Copyright Royalties and Its Implications in the Indonesian Creative Industry

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Abstract: The rapid development of the creative industry in Indonesia has prompted the emergence of various debates regarding the mechanism for payment of copyright royalties, especially related to direct and indirect payments to the owners of works. This problem is further complicated by various interpretations of applicable legal provisions, such as those stipulated in Law Number 28 of 2014 Article 2 and Article 3, as well as other implementing regulations that regulate the royalty distributive mechanism. This research aims to criticize and analyze in depth the differences in the royalty payment mechanism, identify existing legal loopholes, and provide recommendations for regulatory adjustments to create a fairer and more transparent system between creators and users of works. This study method uses a normative approach with juridical and comparative analysis, which is complemented by literature review, legal document studies, and case analysis related to the implementation of royalty payments in the creative industry sector. The results show that direct royalty payment mechanisms offer higher revenue transparency and accuracy in financial distribution, while indirect payment systems often lead to less effective administrative complexity and supervision. The analysis also revealed that there are shortcomings in the synchronization of implementation between laws and regulations and industry practices, thus causing potential legal disputes. Overall, this study concludes that regulatory harmonization through revision and sharpening of legal provisions, as well as improving supervisory mechanisms, is a strategic step to overcome copyright royalty polemics, encourage distributive justice, and support the sustainable growth of the creative industry in Indonesia.

Keyword: Copyright, Creative Industry, Royalties

Abstrak: Pesatnya perkembangan industri kreatif di Indonesia telah mendorong munculnya berbagai perdebatan mengenai mekanisme pembayaran royalti hak cipta, khususnya terkait pembayaran langsung dan tidak langsung kepada pemilik ciptaan. Permasalahan ini semakin rumit dengan berbagai penafsiran terhadap ketentuan hukum yang berlaku, seperti yang diatur dalam Undang-Undang Nomor 28 Tahun 2014 Pasal 2 dan Pasal 3, serta peraturan pelaksanaan lainnya yang mengatur mekanisme penyaluran royalti. Penelitian ini bertujuan untuk mengkritisi dan menganalisis secara mendalam perbedaan mekanisme pembayaran

royalti, mengidentifikasi celah hukum yang ada, dan memberikan rekomendasi penyesuaian regulasi guna menciptakan sistem yang lebih adil dan transparan antara pencipta dan pengguna ciptaan. Metode penelitian ini menggunakan pendekatan normatif dengan analisis yuridis dan komparatif, yang dilengkapi dengan telaah pustaka, studi dokumen hukum, dan analisis kasus terkait pelaksanaan pembayaran royalti di sektor industri kreatif. Hasil penelitian menunjukkan bahwa mekanisme pembayaran royalti secara langsung menawarkan transparansi pendapatan yang lebih tinggi dan ketepatan dalam penyaluran keuangan, sedangkan sistem pembayaran secara tidak langsung sering menimbulkan kompleksitas administrasi dan pengawasan yang kurang efektif. Hasil analisis juga menunjukkan bahwa masih terdapat kekurangan dalam sinkronisasi implementasi antara peraturan perundang-undangan dengan praktik industri, sehingga berpotensi menimbulkan sengketa hukum. Secara keseluruhan, penelitian ini menyimpulkan bahwa harmonisasi regulasi melalui penyempurnaan dan penajaman ketentuan hukum, serta penyempurnaan mekanisme pengawasan, merupakan langkah strategis untuk mengatasi polemik royalti hak cipta, mendorong keadilan distributif, dan mendukung pertumbuhan industri kreatif Indonesia yang berkelanjutan.

Kata Kunci: Hak Cipta, Industri Kreatif, Royalti

INTRODUCTION

Indonesia's music industry has experienced significant growth in recent decades, along with the increasing consumption of digital music and live performances. However, behind this growth, there are fundamental problems related to the mechanism for paying copyright royalties that have not been adequately resolved. The polemic over royalty payments, either directly or through the Collective Management Institution (LMK), has been a major highlight in legal discussions and the national music industry.

Law Number 28 of 2014 concerning Copyright stipulates that royalties are rewards for the use of the economic rights of a work or related product received by the creator or owner of related rights. However, the implementation of this provision gives rise to a variety of different interpretations and practices in the field. Some musicians and songwriters feel that the royalty payment system through LMK does not provide the expected transparency and fairness. This triggered a lawsuit against the Copyright Law by 29 Indonesian musicians in March 2025, who judged that several articles in the law created legal uncertainty and did not optimally protect their rights.

Direct royalty payment system, or Direct Licensing, considered by some to be a solution to increase transparency and efficiency in royalty distribution. However, this system also poses its own challenges, especially in terms of supervision and law enforcement. In contrast, the collective system through LMK has an advantage in terms of mass collection and distribution of royalties, but it is often criticized for its lack of transparency and accountability. The debate between these two systems reflects the urgent need to evaluate and reform the royalty payment mechanism in Indonesia.

This study aims to analyze in depth the mechanism of payment of copyright royalties in Indonesia, focusing on the comparison between direct and indirect payment systems. Through normative juridical approaches and case studies, this study will evaluate the effectiveness, fairness, and transparency of both systems. In addition, this research will also examine the legal implications of existing practices, as well as provide recommendations for regulatory and policy improvements that can support the sustainable and equitable growth of the music industry for all parties involved.

This study is important because it can contribute to the development of copyright law in Indonesia, especially in the context of royalty payments. By understanding the advantages and disadvantages of each system, policymakers can formulate regulations that are more effective and responsive to the needs of the music industry and creators. In addition, this research can also serve as a reference for other countries that face similar challenges in managing copyright royalty payments. Based on the above background description, the formulation of the problem in this study is as follows: How is the difference between the mechanism of direct and indirect royalty payments according to the provisions of Law Number 28 of 2014 and its implementing regulations? What is the injustice caused by the implementation of the royalty payment mechanism directly and indirectly?

METHOD

This research uses a normative juridical approach, which is a legal approach that relies on the analysis of written norms in laws and regulations, legal doctrines, and relevant court decisions. This method was chosen because the research aims to analyze the differences in legal treatment of direct and indirect royalty payments, as well as to examine the effectiveness of the royalty management system based on Indonesia's positive laws. The population of this study covers all applicable legal regulations in Indonesia related to copyright and royalty management, including Law Number 28 of 2014 concerning Copyright and Government Regulation Number 56 of 2021 concerning the Management of Song and/or Music Copyright Royalties. The sampling technique is carried out purposively, by selecting legal materials that are directly relevant to the object of study. Other secondary data sources include national and international law journals, Constitutional Court rulings, and current legal news articles to obtain in-depth contextual information on practice on the ground.

Data collection was carried out between January and April 2025 through literature studies, official documentation, and tracing of scientific articles from Database such as Google Scholar, SINTA, and DOAJ. The data obtained were analyzed by grammatical, systematic, and teleological interpretation methods to understand the context and purpose of the formation of legal norms. This study also uses a comparative approach to direct and indirect royalty systems implemented in other countries, such as the United States and Australia, to assess the relevance of the implementation of a similar system in Indonesia. Validity is maintained by using source triangulation and citing academic references from reputable journals, such as an article by Frick and Rodríguez that discusses the global royalty distribution system. The limitations of the research are in the lack of access to primary data on royalty distribution from LMK because it is closed, but this is overcome by jurisprudence analysis and academic publications as a triangulative reference.

RESULT AND DISCUSSION

Differences in Direct and Indirect Royalty Payment Mechanism According to the Provisions of Law Number 28 of 2014 and Implementing Regulations

Direct royalty payment mechanism, or Direct Licensing, and the indirect mechanism through the National Collective Management Institute (LMKN) actually reflects two very different paradigms of creative economic rights management in Indonesia, both in terms of procedural details, the parties involved in each stage, and the level of transparency and accountability offered to creators. In the system Direct Licensing, creators are given full freedom to independently enter into licensing agreements with the users of the work, from independent musicians to advertising companies or platforms Streaming which in turn allows them to negotiate and set the amount of royalties according to the specific characteristics of each transaction, including the distribution territory, the duration of the use rights, and the payment mechanism, so that ideally this process provides maximum flexibility and higher

earning potential for the creator as the party who best understands the commercial value of his own work. However, these schemes leave serious challenges related to oversight, where individual creators, especially those who do not yet have a legal team or extensive industry network, often encounter difficulties in monitoring whether the use of their work has been properly reported and paid appropriately; This limited administrative capacity opens a loophole for potential copyright infringement that is not easily detected or acted upon at the legal level. On the other hand, the collective mechanism through LMKN requires creators to first register themselves as official members, then fully hand over the process of withdrawing and distributing royalties to the institution, which uses tariffs that have been set and ratified by the government, so that in practice it allows for more centralized supervision, standard procedures, and legal certainty for all parties involved. However, this collective mechanism is often criticized because the distribution of funds takes a relatively long time, often exceeding the promised quarterly deadline and the report published by LMKN is only an aggregate summary without details per work or amount of utilization, thus creating the perception of the non-transparency of the royalty distribution.

1. Direct Licensing Mechanism

On the mechanism Direct Licensing, the creator or copyright holder enters into a license agreement directly with the user of the work for any use of economic rights, such as the use of songs in advertisements, platforms, etc. Streaming, or a commercial show. This process begins with the registration of works at the Directorate General of Intellectual Property (DJKI) to obtain a copyright certificate as proof of legal ownership. Furthermore, the creator and the beneficiary determine the license conditions, including the duration, region, and amount of royalties, using the legal basis of Article 9 paragraph (2) of Law Number 28 of 2014. The amount of royalties in this agreement is usually determined based on an agreement with reference to the "prevalence of practice" as stipulated in Article 1 paragraph 21 of the Copyright Law, without the attachment of a standard minimum or maximum tariff.

Key advantages of the system Direct Licensing lies in the flexibility given to creators to design their own license terms according to the characteristics and commercial value of each work. With this mechanism, the negotiation of royalty rate, license duration, distribution area coverage, and payment are carried out in a tailor-made between creators and users, thus allowing creators to get higher compensation than the collective standard tariff scheme. In addition, creators have direct access to data on the use of works, such as the number of plays on streaming media or the frequency of playback on commercial platforms as well as royalty payment reports submitted by users without intermediaries, so in theory this system promises an optimal level of transparency. However, research shows that many independent creators have difficulty monitoring the use of their work due to limited resources, both financial and technical, and inadequate networks to reach various platforms and event organizers. These limitations pose a high risk of copyright infringement where works are used without permission or inaccurate usage reports because there is no centralized oversight mechanism that can conduct independent audits of individual license agreements. This situation is exacerbated by the lack of role of the government or independent oversight agencies in conducting verification and audits, so creators often do not have effective means to hold accountable beneficiaries who neglect to pay royalties or violate contract terms.

Direct licensing It actually offers the potential for a fairer distribution of royalties by allowing creators to self-regulate negotiations and tariffs according to the commercial value of their work. However, in practice, the adoption of this model is still very limited among small and medium-scale music industry players. The main obstacle lies in the high costs required to draft a professional licensing contract, including the attorney's honorarium as well as the administrative costs of processing the registration. Many creators do not have an

adequate technical understanding of key aspects of license negotiation such as exclusivity clauses, territorial scope, and audit mechanisms, making the process cumbersome and risky when carried out independently without adequate legal assistance. As a result, even in theory Direct Licensing can provide clarity on revenue streams and improve distributive fairness, the reality on the ground shows that many creators prefer the collective path through LMKN because it is considered more practical and efficient, where the entire process from collection to royalty distribution is handled by a single centralized institution.

2. Indirect Royalty Payment Mechanism (Through LMKN)

The indirect or collective system is further regulated in Article 87 paragraph (1) of Law Number 28 of 2014 and Government Regulation Number 56 of 2021 concerning the Management of Song and/or Music Copyright Royalties. Creators are required to be members of LMKN so that their works are recorded and can be managed collectively. After joining, LMKN collects royalties from various beneficiaries ranging from radio stations, television, entertainment venues, to digital platforms using tariffs set through the Decree of the Minister of Law and Human Rights Number HKI.2.OT.03.01-02 of 2016.

This process begins with the identification of the beneficiaries of the work, followed by a usage audit to determine the amount of royalties owed. The results of the audit are then submitted to the beneficiaries to be paid to LMKN. After the funds are collected, LMKN allocates funds to creators based on a pro-rata distribution system calculated based on the number of uses of each member's work. In practice, royalty distribution from LMKN is generally carried out on a quarterly basis.

The advantages of the collective system lie in the economic scale and institutional ability of LMKN to conduct comprehensive monitoring and collection of royalties, so that the potential "Free Riding" can be reduced. In addition, the administrative burden of creators becomes lighter because the entire licensing and distribution process is handled by a single institution. However, the main obstacle lies in the lack of transparency in the calculation of fund distribution, so creators often receive reports that are minimally detailed and impossible to independently verify. Widayati noted that the average royalty distribution time reaches six months after the billing period, which is considered too slow by many creators.

3. Legal Comparisons and Implications

Direct licensing offers advantages in the form of a relatively fast negotiation process and efficiency in the implementation of royalty payments, because the creator and user of the work can set the terms of the transaction directly and agree on the amount of royalties without intermediaries. Thus, once an agreement is reached, payments can be made immediately in accordance with mutually agreed terms, either through bank transfers, digital payment systems, or other approved payment methods without having to wait for a long reporting or evaluation period for the use of works. However, this practice has a fairly high degree of variation, as the complexity of the contract will greatly affect the length of the negotiation process; Contracts that concern only one-time use, for example in advertising, can be completed in a matter of days, while contracts with a broader scope, such as exclusive licenses for albums or touring performances, can take weeks or even months to detail territorial clauses, duration, and audit mechanisms.

On the other hand, the collective mechanism run by LMKN adheres to the standard procedures that have been regulated by the Copyright Law and its implementing regulations, where the entire process from recording works, collecting royalties to users, to distributing funds to members is carried out according to the quarterly schedule. Ideally, every three months LMKN will close the billing period, conduct an internal audit of the data on the use of works, and then allocate royalties based on the calculation of the number of plays or uses recorded. Although this time frame is standard, in reality the implementation often experiences delays either due to administrative constraints, delays in data from users, and

verification processes that require additional time so that creators sometimes wait longer than expected.

In terms of transparency, direct licensing schemes stand out when both parties are willing to openly share usage reports and proof of payment, allowing creators to monitor the royalty stream of each platform or event in detail. However, the absence of a systematic external monitoring mechanism makes potential license violations difficult to detect and act upon, especially if users are reluctant to provide complete or accurate reports. Meanwhile, LMKN has the advantage of a structured internal audit mechanism with a dedicated team that verifies the use of works based on data from beneficiaries, but the disadvantage lies in the lack of openness in presenting details of the calculation of royalty distribution to members. Published reports generally only contain the total amount of revenue and the estimated average payment per member, without breaking down in detail the contributions of each work, making it difficult for members to audit or compare the results of the distribution with their independent records.

Direct licensing requires both parties, namely the creator and the user of the work, to truly understand and formulate the agreement in accordance with the provisions of Article 1320 of the Civil Code, namely the agreement of the parties, the skills concerned, certain objects, and halal causes so that if one of the formal elements is not fulfilled, there is a risk that the contract will be declared null and void or cannot be enforced in court (18, Pasal 1320). Thus, failure to meet requirements such as the legal capacity of the creator who is a minor or the unclear object of the license can lead to the invalidity of the agreement and negate the economic rights that should have been received.

The collective system through LMKN guarantees procedural certainty because each creator only needs to register as a member, fully submit the administrative process to the institution, and be automatically covered by the collection and royalty distribution mechanism according to the applicable tariff. While this simplifies legal steps and reduces the technical burden on creators, it also limits creators' freedom to freely determine the value, term, or type of use of a license that may be more appropriate for the specific needs of their work. Individually, direct licensing holds the potential to generate higher revenue because rates can be negotiated individually, but the reality is that only creators with an extensive network and a solid contractual understanding are able to maximize their profits. Meanwhile, collective mechanisms tend to distribute royalties evenly based on the amount of usage each work provides security for novice creators or those who do not have large market access, but for creators whose works are niche or uncommon, the portion received is often relatively small compared to those whose works and networks are more popular.

Implementation of Direct and Indirect Royalty Payment Mechanism

Direct royalty payment mechanism (Direct Licensing) and indirectly (through the National Collective Management Institution, LMKN) both cause a form of injustice for the creators of works. On the system Direct Licensing, injustice mainly arises from the imbalance of bargaining power between creators and users, the low administrative capabilities of individual creators, as well as the lack of oversight that allows copyright infringement without effective sanctions. On the other hand, the collective mechanism through LMKN also creates injustice due to the lack of transparency in the calculation and distribution of royalties, long distribution times, and membership and administrative costs that are disproportionate to the benefits members receive. Overall, both systems create income gaps, legal uncertainty, and potentially marginalize minority creators and high value but niche works. These findings underscore the need for regulatory reform and the implementation of hybrid mechanisms that incorporate flexibility Direct Licensing with the assurance of supervision and the collective scale of LMKN.

1. Injustice in the Direct Licensing Mechanism

Creator on Direct Licensing, acting as an independent party that negotiates, collects, and reports royalties directly with the beneficiaries of the work. In practice, many independent creators have difficulty in determining fair rates, formulating contract clauses, and monitoring the use of works. Case studies show that less than 20% of license contracts drafted by individual creators meet the formal requirements under the Civil Code due to the lack of legal assistance. This information imbalance puts creators in a weak position when dealing with large businesses, so that there are often rates that are set below the market price and late royalty payments.

System Direct Licensing has not been explicitly recognized under Law No. 28/2014 on Copyright, so stakeholders still have doubts about the validity of agreements made without LMKN's supervision. This is exacerbated by the Constitutional Court's decision Number 33/PUU-XVI/2018 which emphasizes the need to register a license agreement with the Directorate General of IP to obtain executive power. As a result, many creators are reluctant to take risks Direct Licensing Because they were worried that their agreement would not be recognized when a dispute occurred. These findings are consistent with research that legal uncertainty triggers creators to rely on collective mechanisms despite feeling inequities in royalty distribution.

Administratively, Direct Licensing Burdening creators with the task of collecting usage data, negotiating, and billing to a variety of dispersed beneficiaries, such as radio stations, streaming platforms, and concert organizers. Many creators report that it takes significant resources of time and cost to manage these contracts, while the potential for unauthorized violations is increasing due to the lack of a centralized audit mechanism. Phenomena"Free RidingThis leads to a low level of compliance of small beneficiaries, who refuse to pay royalties citing difficulties in accessing creator contacts or lack of tariff information. Sum Direct Licensing Bring greater distribution and access inequity to low-income creators and independent works.

2. Injustice in Collective Mechanisms through LMKN

The collective mechanism through LMKN is regulated in Article 87 of Law No. 28/2014 and Government Regulation No. 56/2021, which requires creators to be members to obtain collective royalty payments (7, pasal 2). This system promises economies of scale in the collection and distribution of royalties but raises the issue of injustice in practice. Official data shows that only about 35% of royalty income was successfully channeled to members in the first quarter due to various cuts in LMKN's administrative and operational costs.

The main criticism lies in the lack of transparency in the calculation of the amount of royalties received. The quarterly report issued by LMKN generally only contains the total incoming funds and the number of recipient members, without details of the calculation of the use of each work. This makes it difficult for creators to verify the amount of royalties they should receive, so there is a suspicion of distribution differences. Empirical studies have found that the average difference between reported royalties and estimated use of works can be as high as 15–20% per reporting period.

The long distribution time is also a source of injustice. The process of auditing the use of works, billing, and distribution takes up to six months, whereas most creators need quick cash flow for living expenses and subsequent production of their work. This delay creates financial pressure, especially for budding and non-mainstream creators who don't have diversified income. In addition, the annual membership and administrative fees at LMKN are often considered too high compared to the benefits received by groups with low work usage. This has led some creators to opt out of LMKN, although they have lost access to more official collective channels.

3. The Social and Economic Dimensions of Royalty Injustice

The unfairness of royalty distribution has a direct impact on the socio-economic aspects of creators. Independent creators and traditional artists, who often have limited capacity for negotiation or access to LMKNs, are the most vulnerable groups. They are forced to sell copyrights or provide exclusive licenses at low rates to meet their economic needs. This phenomenon not only reduces the incentive to work but also threatens the preservation of local music and culture that is of low commercial value.

Macroeconomically, the injustice in the royalty payment mechanism has direct implications for the growth rate and competitiveness of the national creative industry. Although the music sector is recorded to contribute around 2.5 percent to Indonesia's total gross domestic product (GDP), it is far from the maximum potential that can be achieved if the royalty system is optimized in a fair and transparent manner. By improving the procedures for collection, distribution, and supervision of royalties, estimates show that the added value that enters the economy from this sector can increase up to twofold, not only in terms of creators' income, but also from employment growth and Multiplier effect in derivative industries such as event production, publishing, and artist management services.

Royalty injustice, on the other hand, also strengthens the income disparity between celebrities or "superstar" artists and creators of works at the Grassroots. Top artists with broad access to distribution and negotiation networks earn a much larger share of royalties, while independent artists, traditional musicians, and budding creators often earn only a marginal share. This creates an extreme income hierarchy, where a handful of parties enjoy significant profits while the majority of creators struggle to simply cover the cost of production. As a result, market dynamics become uneven: high-cost commercial works dominate circulation, while a variety of artistic expressions that are potentially considered "unprofitable" are marginalized, thus hindering the diversification of creative products that are actually the strength of cultural innovation and long-term competitiveness.

The findings of injustice in both royalty payment mechanisms confirm that holistic policy reform is inevitable. First of all, the legality and procedure for Direct Licensing should be regulated more explicitly through amendments to the Copyright Act, so that creators have a clear legal basis to draft and sign licensing agreements independently without having to rely on the National Collective Management Agency as an intermediary. The government needs to provide Template Standard contracts that are easily accessible to all creators and develop the latest technology-based platforms, such as the use of technology Blockchain to monitor the use of each work in Real-time; This is expected to increase the transparency of royalty flows and accountability of all parties involved in the copyright ecosystem.

Reforms in LMKN should be focused on increasing transparency and efficiency in the royalty distribution process. In practice, LMKN needs to regularly publish distribution reports with an adequate level of detail, including information per work and the amount of utilization, so that members can know exactly the basis for calculating their royalties. The audit process for the use of works must also be accelerated through data digitization starting from the stage of recording rights to royalty withdrawal so that the waiting time for the distribution of funds is no longer a burden on creators. In addition, a review of the administrative cost structure and reduction of operational deductions need to be carried out, while the distribution period can be adjusted to two months per quarter to further ease the financial burden of creators.

It is necessary to build a mechanism Hybrid that is flexible so that creators have the freedom to choose the royalty distribution channel that best suits the characteristics of their work and their negotiability Direct Licensing, a collective system through LMKN, or a combination of both. This kind of approach also adopts the practice of Extended Collective Licensing that has been implemented in several European countries, where the Hybrid This allows minority works or independent creators to retain collective protection while enjoying

individual freedom of negotiation, striking a balance between flexibility and guaranteed copyright protection.

CONCLUSION

Based on the results of the analysis of the direct licensing and indirect (collective) royalty payment mechanisms through LMKN, it can be concluded that the two current systems do not fully guarantee fairness and transparency for creators. Direct licensing offers negotiation flexibility that can increase revenue potential, but the practice is hampered by high legal costs, limited creator administrative capacity, and a lack of oversight mechanisms that allow license violations to occur without effective sanctions. In contrast, the collective mechanism through LMKN provides procedural certainty and economies of scale in royalty collection, but is still constrained by less detailed distribution reports, long distribution times, and disproportionate administrative cost cuts. Both systems, if implemented under current conditions, cause a significant income disparity between large and independent creators, as well as reduce the growth potential of the national creative industry which should be more inclusive and dynamic.

As a step for improvement, it is recommended that the government and stakeholders carry out comprehensive policy reforms. First, copyright law needs to explicitly accommodate the legality of direct licensing, along with the provision of standard contract templates and digital monitoring platforms to make it easier for creators to manage licensing agreements independently. Second, LMKN must increase transparency by publishing detailed distribution reports per work and accelerating the audit process through digitalization, while reviewing the administrative cost structure to be more proportionate. Third, the implementation of a hybrid mechanism combining direct licensing and a collective system can provide flexibility of choice for creators according to the characteristics of the work and negotiation capacity, as is the practice of Extended Collective Licensing in Europe. With these steps, it is hoped that a royalty ecosystem will be created that is fairer, more transparent, and able to support the sustainable development of Indonesia's creative industry.

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