

# The Legal Certainty of Copyright Royalties Management for Songs and Music in Commercial Venues from the Perspective of Legal Fiction Theory

Moh. Ali, Galuh Puspaningrum, Qurrotul Umniyah

Master of Law, Faculty of Law, University of Jember, Jember University of Jember

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## ABSTRACT

Nowadays, technological advancement has many benefits and has given rapid changes to society. Regulations regarding the management of copyright royalties for songs in commercial places are an important aspect in the protection of intellectual property rights, especially for creators and copyright holders. Constitution number 28 of 2014 concerning Copyright regulates its implementation including the mechanism for collecting and distributing royalties by the National Collective Management Institution (LMKN). The Indonesian government has set regulations that require commercial places such as cafes, restaurants, hotels, etc. to pay royalties for the use of songs that are public. This article examines the legal aspects of the obligation to pay royalties by commercial business actors, an analysis of the effectiveness of the implementation and low legal regulations, related to legal problems that arise in practice such as weak supervision and low legal awareness. The purpose of this paper is to analyze the legal basis, especially the context of the use of songs by business actors in commercial places, to identify legal problems that exist in practice such as copyright infringement due to non-compliance with royalty payments.

The research method used is normative juridical, such as laws, regulations and literature that are theoretically conceptual. The conclusion is although it has been regulated in Law No. 28 of 2014 and PP No. 56 of 2021, the implementation of royalty management in commercial places has not been running optimally. Many business actors do not know or are not yet aware of the obligation to pay royalties, so that legal certainty for creators has not been fully achieved.

**Keyword:** Copyright of Song and/or Music, Royalties, Commercial Premises

## INTRODUCTION

Indonesia is an archipelagic country that has a diversity of arts and cultures. Art and cultural wealth is intellectual property protected by law. Intellectual property rights in English Intellectual Property Rights (IPR) are rights that arise from human thinking ability. IPR is a creation or work made by humans. Intellectual work is an inspiration built by human reason but in an abstract form. Human creativity is born as the intellectual property of people who have a significant impact on human cultural culture. The results of this creative work receive awards and respect for their work. The scope of IPR regulated in international trade regulations in TRIPs (Agreement on Trade Related Aspects of Intellectual Property Rights). Includes: copyright and related rights, trademarks, geographical Indications, Industrial Design, Patents, Integrated Circuit Layout Design, Trade Secret Protection, and Control of Monopolistic Practice in License Agreements Copyright is a set of rights, namely intellectual property rights or intellectual property law has the widest protected object section because it covers science, art and literature. In this world, humans are endowed with creativity by God so that they can produce works of art, science and technology.

Copyrights that are shared with creators are aimed at their economic right over the work or product of that right. Economic rights are prerogatives to generate economic profits on related intellectual property. In Government Regulation number 56 of 2021 concerning Management of Copyright Royalties for Songs and/or Music, hereinafter referred to as PP No.56/2021, royalties are compensation for the use of economic rights of a creation

or related rights product received by the creator or owner of related rights. Law Number 28 of 2014 concerning Copyright, hereinafter referred to as UUHC, is a regulation regarding music royalties which is fortified with the economic rights of copyright owners written in Article 9 paragraph (1) of UUHC. Business actors who often listen to songs created by someone and played in commercial places such as cafes, hotels, discos, radio or television are required to pay royalties to the copyright holder of the song in question.

The honorarium provisions that must be completed by every commercial business actor who plays songs result in conflict. Looking at the actions of commercial business actors who broadcast songs for individual matters in order to gain profit from the song, it is clear that this economic right has been violated. Royalty payments, not just listening to music, users who download or download songs and/or music on the web, site, server or application because of the many illegal download service provider sites on the internet make sites that are very easy to access, even the telegram application has many songs and films that can be downloaded freely. Like in the current digital trend era, everything is becoming more modern and sophisticated.<sup>16</sup> Among the applications that are currently trending are the capcut application, tiktok, etc.

According to PP No. 56/2021 concerning Management of Copyright Royalties for Songs and/or Music, this government regulation regulates the use of songs in public commercial places, although the government has regulated or issued regulations regarding royalties for songs broadcast in commercial places, it is not effective, resulting in a lack of law enforcement on these regulations. Currently, there are still many business actors who perform music for personal gain in their commercial places such as restaurants, cafes, studios, etc. without paying royalties to related parties for the music they play in their places of business because it results in songwriters being harmed by their work being used without permission or paying royalties.

The formulation of the problem of this research is first related to the legal certainty of the regulation of music royalty management in commercial places, second the procedure for managing song copyright royalties in commercial places and third the future concept of regulating music royalty management in commercial places. This is what attracted the author to study this issue for the advancement of current legal science, so it is necessary for the author to understand, research and test the implementation of PP No. 56/2021, regarding the management procedure for Song Copyright Royalties as well as regarding the legal certainty of managing Song Copyright royalties in commercial places from the perspective of legal fiction theory.

## LITERATURE REVIEW

### Legal Certainty Regarding the Management of Music Royalties

Talking about songs, of course there is copyright which is protected by law. The process of creating a song requires stages that must be passed, starting from finding an idea, creating lyrics, and a melody in the lyrics. Finding an idea in creating music requires contemplation and appreciation. This process comes from human thought processes until they can create a creation in the form of a song. Some need weeks or even months to create a song, but there are also creators who only need a few days to find an idea and then pour it into a song. Copyright protection is granted automatically when a work is manifested in a form that can be seen, heard and enjoyed by people without requiring a registration of the creation. This certainly does not reduce the importance of registering a creation with the Directorate General of Intellectual Property (DJKI) in order to obtain proof of a creation registration letter.

All copyrights namely songs, have an impact on economic rights obligations when used for commercial purposes. Economic rights in copyright are the exclusive rights of the creator or copyright holder to obtain economic benefits from the results of his work. Economic rights are also interpreted as the right to own, the right to buy, sell or the right to utilize something. The definition of commercial use according to Article 1 number 24 of the Copyright Law is the use of creations or related rights products with the aim of obtaining economic benefits from various sources. As long as the copyright is commercialized, the user who publishes it is obliged to pay royalties to the creator or copyright holder. Along with the advancement and development of technology almost everything in this world has been digitized, including songs or music that can be downloaded via the web, sites, telegram applications, etc. freely and easily. Songs are a work of art that is liked by many people. In the digital era, technological advances make it easy for us to listen to songs anytime and anywhere. Music and songs are

entertainment for the community, not just entertainment but songs are already attached to everyday life. Music has beautiful tones that can be heard and has a genre that can be chosen according to each person's preferences.

Every song played in a public place has an obligation to support the music world by paying public performance royalties adjusted to the type of business. Royalties are compensation for the use of economic rights of a creation or related rights product received by the creator or owner of related rights. Including every music performance (live) in a commercial place, business actors or businesses are also required to pay royalties. Every song played from various sources for commercial purposes played from flash drives, joox, sportify, youtube and others.

The development of the digital world increasingly provides space for a song to be heard easily. The birth of streaming music applications such as Spotify makes it easy for someone to listen to their favorite songs. However, it should be emphasized that if the playback of songs and/or music for commercial purposes or to gain profit for the public service sector according to PP Number 56/2021 must pay royalties to the creator, copyright holder and owner of related rights through LMKN. The public place in question is especially in cafes. Cafes play songs via YouTube or Spotify or show song streaming (live).

In Indonesia, royalty management is carried out by the LMKN which then collects royalties from people who make commercial use of creations in the form of public services for creators, copyright holders and owners of related rights who are members of an LMK as regulated in Article 12 paragraph (1) of PP No. 56 of 2021 and Article 89 paragraph (3) UUHC states that in order to collect royalties, the creator's LMKN and the related rights LMKN are required to coordinate and determine the amount of royalties in accordance with applicable regulations.

### **Copyright Law Number 28 of 2014**

In practice, the implementation of the previous UUHC, namely Law Number 19 of 2002, which caused a problem, namely the economic results or income that could be achieved by songwriters and related rights owners in Indonesia were very low compared to several other countries, even though many parties acknowledged that Indonesia's potential was very large to develop copyright-based products, especially in the field of songs, greater than countries with advanced music industries such as Japan, South Korea and Europe. Currently, the development of musical arts in Indonesia is very rapid along with the development of electronic media.

This development should be able to provide high income for songwriters who have economic rights, namely royalties for every screening or performance of their song creations. Article 8 of the Copyright Law states that economic rights are the exclusive rights of creators or copyright holders to obtain economic benefits from their creations. Article 9 further explains that creators or copyright holders as referred to in Article 8 have economic rights to publish creations; reproduce creations in all forms; translate creations; adapt, arrange, or transform creations; distribute creations or copies thereof; perform creations; announce creations; communicate creations; and rent creations.

Article 112 states that any person who illegally or without permission carries out actions as described in Article 7 paragraph (3) and Article 52 for commercial purposes, may be subject to criminal sanctions. The sanctions that can be imposed are a maximum prison sentence of two years and/or a maximum fine of Rp. 300,000,000.00 (three hundred million rupiah). Article 113 regulates violations of the economic rights of the creator, rights related to the economic use of a work. In paragraph (2) if a person without permission from the creator or copyright holder violates the economic rights of the creator related to distributing the creation, displaying the creation, renting the creation or communicating the creation to the public. The act is carried out for commercial purposes, if violated, the person may be subject to a maximum prison sentence of three years and a maximum fine of Rp. 500,000,000.00 (five hundred million rupiah). Article (3) states that if a person without permission commits an economic rights violation by duplicating a creation, publishing a creation, translating a creation, or changing the form of a creation with the aim of gaining profit, then the violator can be subject to a maximum prison sentence of four years and a maximum fine of Rp. 1,000,000,000 (one billion rupiah).

The important point of the UUHC content is the regulation related to copyright holders who have exclusive rights to regulate the use of the creator's work. Musical works that are performed or shown commercially are

required to pay royalties to related parties, which are generally managed by LMK. The use of music in commercial places must be legally licensed between the copyright holder or LMK and the party using the work. The obligation of this royalty has been regulated according to the provisions set by the authorities based on the type of use and type of business location. LMK here plays a role in supervising the use of the music, collecting royalties and distributing it.

### **Comparison of copyright management arrangements for songs and/or music in Indonesia and Malaysia**

The regulation of copyright royalties for songs and/or music according to PP No. 56/2021 is contained in Article 2, which explains that the use of copyrighted works in commercial public services must provide economic rewards in the form of royalties to parties who have rights to the work. As for creators or copyright holders, the use of public services in question includes public performances of copyrighted works, announcements of copyrighted works and communication of creations through various media. Paragraph (2) explains that regarding performers, commercial use is when they broadcast live, communicate to the public both directly and indirectly. Paragraph (3) regarding phonogram producers regarding commercial use includes providing access to sound recordings to the public, both via cable and wireless networks.

The development of the 21st century, internet technology has brought a significant impact on the music industry. Record companies can now use social media for promotion, accelerating the distribution of work without having to go to the field. However, this also poses challenges such as the number of individuals who cover songs after the work is popular and upload them on digital platforms such as YouTube, Spotify, and so on, which can harm the original creator of the work.

All forms of commercial public services its use by creators, performers and producers' phonograms can be done in analog form (playing directly at business premises) and digital form (playing on online platforms or social media). The commercial public services listed above in digital form are also the object of royalty collection, whether it is a digital platform that uses the User Generate Content method. The urgency of royalties in the music industry is intended to fulfill the economic rights of creators and copyright owners of works that are expanded in various ways as long as they make a profit. If every work created gets appreciation, it is possible that in the future more innovative works will be created and creativity will increase because they feel appreciated for the ideas or concepts expressed in a work.

Every person or business entity that uses songs commercially for public purposes is required to pay royalties to the party that has the rights to the work, namely the creator, copyright holder and owner of related rights. And the payment is made through LMKN. Forms of public services that are categorized as commercial and subject to royalties

include various places or activities, where the music used is for the purpose of public service. If the user chooses to use the song in his/her place of business, then the legal obligation to pay royalties automatically arises to be fulfilled. When the legal obligation arises and the user does not carry out his/her legal obligation to pay royalties, it means that the user has violated the legal limits that have been clearly determined. Especially in cafes that the author wants to examine and study further. However, from the existing literature, many cafe businesses still do not pay their royalty obligations to LMKN because they do not know about the regulations.

For example, an article that conducted research in several cafes in the Summersari area, Jember Regency. The fact is that not a single cafe pays royalties for streaming songs. So, the public does not yet know the obligations for the use of copyrighted works. Cafe owners or employees assume that playing songs commercially using streaming applications is commonplace without paying royalties. The manager of one of the cafes also said that they were aware of the regulation, but they argued that the regulation was still gray and there was no firm action from the relevant government. This indicates that the regulation regarding the commercial playing of songs by cafes still creates a gray area so that the implementation and enforcement of the provisions of the UUHC and Government Regulations are not yet effective among the public. Although there are institutions that manage royalties for their practices, there are still some commercial places that do not comply with the regulations, either due to lack of understanding or non-compliance. This is due to the lack of law enforcement which often clashes with the awareness of business actors. In addition, the ambiguity in the contract or inequality in the distribution

of royalties can also trigger disputes. Delays in royalty payments and ambiguity in their distribution are problems that reduce trust in the management institution, thus affecting the certainty of the law.

Based on the description above, the regulation on the management of copyright royalties for songs and/or music in commercial places in Indonesia, although it has a fairly clear legal basis, still often faces challenges related to legal certainty so that it is said to be unable to provide legal certainty because until now there are still many business actors who do not know about the implementation of PP No. 56/2021 concerning the management of copyright royalties for songs, even those who claim to know but do not want to pay royalties for the songs they have used. The challenge in supervising its enforcement must be carried out externally because commercial places do not report the songs played correctly so that the monitoring that must be carried out works extra hard to verify what songs are played, but there are still many places that are difficult to monitor. The provisions of PP No. 56/2021 concerning the Management of Copyright Royalties for Songs and/or Music have not been able to provide legal certainty because these provisions are not yet effective so that there is a lack of law enforcement and its implementation is inefficient.

### **Music and Song Copyright Royalty Management Arrangements in Malaysia**

Copyright in Malaysia is known as the Copyright Act 1987, the act is the first law that regulates copyright protection in Malaysia. The contents of the act explain the rights and obligations of creators and copyright holders including violations. In the context of copyright, economic rights discuss the commercial exploitation of protected works and the Act also regulates the economic rights of creators to profit from their works. The types of works protected by the Act are literary works, musical works, works of art, published works, films, sound recordings, and broadcasts.

Copyright regulations in Malaysia are copyright protection provided under the Copyright Act 1987. However, there is no formal registration process like in Indonesia, copyright protection in Malaysia is given automatically and the regulations also allow them to sue for damages in the event of infringement.

### **Equitable Remuneration**

1. If a sound recording is released for commercial use, or if a copy of that recording is played in public, broadcasted, or otherwise communicated to the public, the person or organization using the recording must pay a fair amount to the performer for their contribution.
2. A payment to the performer is not considered unfair just because it was made in a single lump sum.
3. This section does not limit the performer's right to enter into a contract that offers better or more favorable terms for their performance.
  - (3A). In cases where there is no agreement regarding the equitable remuneration owed under subsection (1), the performer has the right to request the Tribunal to decide the appropriate amount of remuneration.
  - (3B). The performer may also submit an application to the Tribunal:
    - a. To modify the terms of any contract concerning the amount of equitable remuneration; or
    - b. To alter any prior decision made by the Tribunal regarding equitable remuneration.
  - (3C). of the Tribunal's prior determination, unless the Tribunal grants special permission to file it later.
  - (3D) When such an application is made under this section, the Tribunal shall assess the matter and issue an order on how equitable remuneration should be calculated and paid, as it considers fair under the circumstances—particularly considering the significance of the performer's contribution to the sound recording.
  - (3E) Any contract clause that seeks to prevent a performer from challenging the amount of equitable remuneration, or that attempts to limit the Tribunal's authority under this section, shall be deemed invalid.
4. For the purposes of this section, "published for commercial purpose" refers to the situation in which a sound recording is made available to the public—either through wired or wireless communication—in a manner that allows individuals to access it at a time and place of their own choosing.

In the 1987 Copyright Act, moral rights are divided into two categories, namely the right of attribution, related rights, and integrity rights. The purpose of moral rights that need to be protected is to protect the reputation and personal needs of the creator, to protect the integrity and dignity of the creative work, and to protect professional

status that can open up future opportunities.

There are four (4) moral rights for copyright holders, namely:

1. The right to be recognized as the creator
2. The right to object to misappropriation, defects, fraud in changing the work or its lyrics so that the creator's reputation becomes bad
3. The right to object to the work produced, namely the original work
4. The right to prevent the work from being used by changing the creator's reputation.

It can be concluded from the comparison of copyright royalty management regulations for songs in commercial places in Indonesia and Malaysia, namely in Indonesia it is regulated in UUHC Number 28 of 2014 and Government Regulation Number 56 of 2021, in Malaysia it is regulated by the Copyright Act 1987 where royalty management is carried out by Music Rights Malaysia Berhad (MRM,) and collective management institutions such as MACP, PPM and PRISM. The licensing arrangements are supervised by MyIPO (Intellectual Property Corporation of Malaysia). The concept of royalty management in Malaysia is well-systematized which is centralized through MRM as a combination of CMO, this institution is more integrated because it has been established since the early 2000s. MRM also offers a centralized and practical licensing system including online licensing and its law enforcement is quite effective with clear sanctions and active supervision from MyIPO.

### **Procedures for Managing Copyright Royalties for Songs and/or Music in Commercial Venues**

According to Article 1 paragraph 3 of PP No. 56/2021, the management of copyright royalties for songs and/or music, hereinafter referred to as royalty management, includes the process of withdrawing, collecting, and distributing copyright royalties for songs and/or music. Management of economic rights to copyrighted works such as songs can be carried out directly by users to creators or copyright holders, but this is difficult considering the complexity that creators and copyright holders need to face in monitoring and calculating the number of uses of songs by users.

Songs or music are usually used on various occasions to be heard, played, broadcasted, performed, or distributed. Song listeners are always accompanied by economic activities such as subscribing to a Spotify/Joox premium account so they can listen to songs as much as they want without ads. This also applies when the song is performed at a concert, music lovers are willing to pay ticket money to be able to enjoy the concert. While the singer of the music performs a song that is the work of someone else, it can be seen that they use the song commercially. Referring to the provisions of Article 3 paragraph (2), it is stated that commercial public services include forms of activities or business actors who utilize creative works, especially songs, in their operational activities. These forms of services include: cafes, seminars, conferences, restaurants, pubs, bars, bistros and discos, as well as music performances.

In addition, the use of copyrighted works is also found in public transportation modes such as airplanes, buses, trains, and ships. Furthermore, copyrighted works are also often used in exhibitions and bazaars, cinema screenings, and telephone waiting tones. The use of copyright also occurs in banking environments such as offices, shopping centers, recreation centers, and broadcast media such as television and radio. In the hospitality sector, it includes hotel rooms and all supporting facilities. Karaoke businesses are also included in the list of commercial public services that must pay attention to licensing provisions related to the use of song and/or music copyrights.

Collective Management Institutions, hereinafter referred to as Collective Management Institutions, are non-profit legal entities that are authorized by creators, copyright holders and related rights owners to manage their economic rights, which include the activities of collecting and distributing royalties. Optimization of Collective Management Institutions (LMK) is carried out to ensure legal certainty in royalty management. Because LMK functions to help creators to earn income from the use of copyrighted works by collecting, distributing, and managing economic rights to take care of collecting royalties to users such as in cafes or restaurants, etc. However, in order to receive royalties collected by LMK, creators or copyright holders are required to first register as members of the institution. The transfer of economic rights management to LMK is done through a

power of attorney, then LMK representing their interests deals with users to collect royalties, then distributes them to creators/copyright holders/owners of related rights.

The establishment of LMK is regulated by UUHC Article 1 number 22 (twenty-two) LMK is defined as a nonprofit legal entity institution that obtains power from creators, copyright holders and owners of related rights to manage their economic rights, especially in the form of collecting and distributing royalties. The amount of royalties that will be received by the creator already has a mechanism in each LMK. The existence of LMK has been mandated by UUHC Article 87 which states "to obtain economic rights to the works of creation that they own, every creator, copyright holder, owner of related rights is required to become a member of LMK. This membership is a requirement so that they can collect reasonable compensation from users who utilize the work in the form of commercial public services".

Currently, there are 9 (nine) LMKs that have received operating permits from the Ministry of Law and Human Rights to carry out their duties and functions. Namely:

1. RAI (Royalty Award Indonesia);
2. KCI (Karya Cipta Indonesia);
3. WAMI (Indonesian Music Forum);
4. SELMI (Indonesian Music Licensing Center);
5. PAPPRI (Association of Singers, Songwriters and Musicians of the Republic of Indonesia);
6. ARDI (Anugerah Royalti Dangdut Indonesia);
7. Armondo;
8. Star Music Indonesia; and
9. PRCI (Indonesian Copyright Reproduction Association).

Furthermore, the National Collective Management Institution, which can be called LMKN, is a non-APBN government support institution and is formed by the Minister based on the provisions of the Law. LMKN is authorized to collect, collect and distribute royalties, as well as manage the economic interests of creators and owners of related rights in the field of songs and/or music. However, the existence of LMKN often causes confusion regarding the division of tasks and authorities with LMK. LMKN was formed with the aim of improving the quality of service to the community, especially for creators and owners of related rights in the field of songs, in order to improve their welfare. The formation of LMKN is a response to the inefficiency of the royalty collection and distribution system that has been in effect so far.

The main problem in managing royalties in the field of songs lies in the relationship between LMK and users. In accordance with the definition of Article 1 number 22 "Collective Management Institutions are non-profit legal entities that are authorized by creators, copyright holders and owners of related rights to manage their economic rights through the collection and distribution of royalties". Furthermore, Article 89 paragraph (3) of the UUHC stipulates that in the process of collecting royalties, the creator's LMKN and the related rights LMKN are required to communicate and make joint arrangements and determine a fair amount of royalties and refer to common practices.

The authority of the LMKN is further emphasized by Article 3 paragraph 1 of PP No. 56/2021 which emphasizes that every individual who uses songs and/or music for commercial purposes in public spaces is required to pay royalties. The payment of royalties is made to creators, copyright holders, and owners of related rights through the LMKN.

The duties and functions of the LMKN creators and related rights are further regulated in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 29 of 2014 concerning Procedures for Application and Issuance of Operational Permits and Evaluation of Collective Management Institutions, namely:

- a. Designing LMK ethical guidelines in the field of songs;
- b. Carrying out the supervisory function of LMK activities in the field of songs;
- c. Submitting proposals to the Minister for the imposition of sanctions if LMK administrators violate the applicable ethical guidelines;

- d. Provide considerations to the Minister regarding the granting of operational permits for LMKs under its supervision in the field of songs;
- e. Determine the mechanism and method for calculating royalties that must be paid by users to LMK;
- f. Determine the procedure for distributing royalties and the amount of royalties to be received by creators, copyright holders and owners of related rights;
- g. Play a role as a mediator in resolving related disputes; and
- h. Submit performance reports and financial reports periodically to the Minister as a form of accountability.

### **Royalty Management Procedures**

Music and songs are exclusive rights for creators, copyright holders and related rights holders when they are used by users to obtain economic benefits or commercial interests, which means that users are required to pay a contribution in the form of an honorarium for the economic benefits from the use of the musical creation to the creator, copyright holder and related rights owner. Legal uncertainty related to collection and distribution procedures in the music sector was answered after the enactment of UUHC, where the law regulates the distribution procedures for royalties through LMK and LMKN. However, the existence of LMK and LMKN referred to in UUHC has spurred legal problems regarding its implementation.

In the provisions of UUHC Article 89 it states that:

1. For the management of copyright royalties for songs in the music sector, 2 (two) Collective Management Institutions are formed, each representing the interests of the creator and the interests of the owner of related rights.
2. The two institutions as referred to in paragraph (1) have the authority to collect, collect, and distribute royalties from commercial song users.

The royalty management procedure as stated in PP No. 56/2021 states that royalty management is carried out by LMKN in accordance with existing and correct data in the song data center. Regarding the withdrawal of royalties, Article 12 states that for copyright and related rights holders who have joined an LMK, the one who collects royalties is LMKN for users of songs and/or music in the form of public services and is commercial in nature. In addition, for copyright holders and related rights owners who have not joined an LMK, the authority held by LMKN is also to collect the royalties.

With the provisions of Article 12, LMKN must accommodate various rights protected by PP 56/2021 including rights holders who are not members of a particular LMK. This is important to regulate considering that not all creators, copyright holders, and related rights holders have joined as members of an LMK so that they operate independently. After the LMKN collects royalties from users, the LMKN then collects the royalties and coordinates with the LMK to determine the amount of royalties received by the LMK as stipulated in the provisions of Article 13. The LMKN has the authority to provide regulations in terms of determining guidelines for the amount of royalties which are then ratified by the relevant minister.

After the collection of royalties is completed, the royalties will be distributed to the rights holders who have joined an LMK. In carrying out the distribution, the LMKN does so based on the report on the use of song and/or music data contained in the Song and/or Music Information System or abbreviated as SILM based on the provisions of Article 14. As for creators, copyright holders, and owners of related rights who have not joined as members of an LMK, the PP regulates through the provisions of Article 15 that the LMKN stores and announces the royalties for a period of 2 years so that the owner of the royalty rights is known for later distribution. If within a period of 2 years it is not known, then the allocation of the royalties will be transferred as a reserve fund which will be further regulated through ministerial provisions.

The procedure for managing music royalties in commercial places has been clearly regulated to protect creators and provide protection rights to create fairness and peace. Registration of music use licenses in commercial places is directly managed by LMK which has an important role related to royalties, namely the authority to represent creators or owners of related rights to manage their economic rights in the withdrawal and distribution



of a number of royalties.

### **Efforts to Optimize Song Copyright Royalty Management Regulations in the Future**

An intellectual work produced by a person based on his intellectuality, both inventions and intellectual works, especially copyright, are required to have protection to avoid all kinds of commercial exploitation by other parties without providing proper compensation to the creator of the work, which is a form of violation of the economic rights of the creator. Commercial use of copyright in the fields of science, art and literature that are born from inspiration, intellectual ability, imagination, skills or expertise and have been realized in real form is an important issue because it has a direct relationship with the economic growth of a country. The creator or copyright holder of a work has the right to receive appropriate compensation for any use of the work for commercial purposes. The presence of LMKN is expected to encourage awareness among users of copyrighted works to submit royalties for commercial use to the creator, copyright holder, owner of related rights through a mechanism regulated by LMKN.

Collective Management Institution (LMK) is an institution in the form of a non-profit legal entity authorized by the creator, copyright holder and owner of related rights to manage their economic rights. However, in managing copyright to obtain profits or royalties, the creator cannot do it alone, therefore there is an institution to manage and regulate the withdrawal of royalties which is very necessary and must have received permission or authority from the creator. The creator or copyright holder of a work has the right to receive appropriate compensation for the use of the work or related product for commercial purposes. In accordance with the policy of Article 89 of Law No. 28 of 2014 concerning Copyright, copyright management, especially in the music and song sector, is carried out by the National Collective Management Institution (LMKN). The institution is authorized to withdraw, collect, and distribute royalties obtained from the use of commercial music.

Achmad Zen Umar Purba stated the importance of protecting intellectual works for the following reasons:

1. One of the alibis of “non-economic nature” is that legal protection can encourage creators to continue to develop their intellectual creativity. This protection also plays a role in increasing self-actualization of creators as individuals and at the community level, this can contribute to the progress and development of social life in general.
2. The alibi of “economic nature” is to protect the creators who realize their intellectual work, so that they gain material benefits from the work. On the other hand, this reason is also used to protect the creator from acts of unauthorized copying, piracy, plagiarism or other forms of violation that harm the creator's rights.

### **Increased Supervision and Law Enforcement**

Law enforcement against the use of music related to copyright is still a relevant and interesting issue to discuss. The existence of UUHC No. 28 of 2014 in an effort to provide protection for creators, copyright holders and owners of related rights has not been effective in its protection. This is evident from the minimal economic rights that have not been received by creators, copyright holders and owners of related rights for the use of these rights due to the commercial nature of the use carried out by users.

The government will certainly continue to try to fix all these shortcomings and is seriously committed to solving problems in the field around the withdrawal and distribution of royalties so that they run optimally and effectively. All efforts have been made including input from various parties.

Increasing oversight and enforcement of music royalties management in commercial venues is essential for the fairness of music creators to avoid copyright infringement. Here are some steps that can help, namely:

1. Improvement of Regulation and Policy.

The government or related institutions need to update existing regulations related to collection and distribution to be more transparent and effective.

## 2. Improvement of Supervision.

The number of authorized parties in commercial places can be increased so that they can directly control business actors who use commercial music. This can involve cooperation between LMK and related agencies to ensure that the use of music in public places is in accordance with licensing and royalty provisions.

## 3. Socialization and Education

Providing understanding and explanation to commercial business owners regarding the importance of paying music royalties which are the rights of music creators, as well as providing education on sanctions that can be accepted if violated.

## 4. Use of Technology for Monitoring.

Use of technology with a digital monitoring system that can automatically detect music usage in various places. This can make it easier to carry out supervision of the use of commercial songs, especially commercial business places that use songs continuously.

## 5. Strict Law Enforcement.

Optimizing law enforcement against royalty violations, such as through the application of administrative or criminal sanctions for parties who do not pay royalties or use music without a license.

The government certainly continues to strive to improve this. UUHC No. 28 of 2014 has indeed provided a basis for protection and legal certainty for the economic rights of copyright holders and owners of related rights to songs and/or music. The compensation received by creators for the economic use of related works or products is a form of appreciation that is appropriate for them. And this needs to be continuously monitored and supervised by all authorities so that the royalties can be distributed to the entitled parties fairly and proportionally.

## CONCLUSION

Based on the description and analysis in the discussion of this thesis, the conclusions that can be drawn are as follows:

The regulation of copyright royalties for songs in commercial places has been regulated in Law Number 28 of 2014 concerning Copyright and Government Regulation Number 56 of 2021 concerning Management of Copyright Royalties for Songs and/or Music. In theory, this regulation has provided a bright spot in the form of protection and certainty, but in reality, this regulation is not yet clear about the legal certainty regarding its management procedures, which is caused by the public or business actors who do not know about the application of the regulation and even though they know, a small part of them whose businesses are considered sufficient and capable are willing to pay royalties. This is a lack of understanding and awareness of the royalty obligations of commercial music users. Thus, even though there is a strong legal basis, the challenges of implementation and supervision have not been able to influence the extent to which this regulation provides optimal legal certainty for creators.

The procedure for managing copyright royalties for songs in commercial places involves several steps to ensure that creators receive equal and fair compensation for the work used. First, registration and licensing. Commercial places such as cafes must first obtain a license from the authorized Collective Management Institution. This license is permission from the creator so that other parties can use the creator's song. Second, this royalty payment is made after the other party obtains the license. The obligation to pay royalties to LMK according to the specified rate and the amount of the royalty fee depends on factors such as place, frequency of use of the music and type of business. Third, monitoring of commercial music by LMK to ensure that copyrighted songs are used legally and properly. Fourth, after the royalty collection is collected, the next stage is the distribution of royalties managed by LMK and will later be distributed to creators, copyright holders and owners of related

rights.

Regarding efforts to optimize the regulation of copyright royalty management for songs in commercial places, it is to increase the effectiveness and fairness in managing its royalties. Some important steps that might help are:

1. Improvement of regulation by revising UUHC to be more technical and adaptive to the development of the current digitalization and streaming era.
2. Socialization and education through campaigns to increase the understanding of cafe business actors about the obligation to pay royalties and their benefits for the creative ecosystem.
3. Strict supervision or control and law enforcement with clear administrative sanctions for business actors who do not comply.
4. Increased collaboration between related parties and authorities. Partnership between government, industry players, LMK and creators to form fair and realistic policies.

## REFERENCES

1. Kholis Roisah. (2015). The Concept of Intellectual Property Rights (IPR) Law History, Definition and Philosophy of IPR Recognition from Time to Time (Malang: Setara Press) p. 4.
2. Adrianus Rudiyanca Gilberto Manek dan Betty Dina Lambok. (2019). Implementation of the Economic Rights of Songwriters by Wahana Musik Indonesia (WAMI), Hukum Responsif, Vol. 10, No. 1, p. 12.
3. Makkawaru, Zulkifli. (2022). Economic Rights of Song and Music Creators Royalty Collection by Collective Management Institutions, Bandung: Harfa Creative.
4. Hutaeruk, J Marulam. (2022). License and Royalties for Songs/Music in Public Places. Jakarta: Yayasan Pustaka Obor Indonesia.
5. Lon L. Fuller, (1964). The Morality of Law, McGraw-Hill: Yale University Press.
6. Purwaningsih, Endang. (2005). Intellectual Property Rights Law, Bogor: Ghalian Indonesia.
7. Baety, Nur. (2020). Legal Protection for Song Royalty Rights on Streaming Media. Universitas Pancasakti Tegal: Vol 1 No 2.
8. Novita Cahyani, Copyright Protection for Song Creators That Can Be Freely Downloaded on the Internet, Dynamics of the Scientific Journal of Legal Science. Vol. 26. No. 1. h. 38.
9. Panjaitan, Hulman. (2020). Legal Consequences of Using Music and Song Creations Without Permission, Law Journal: To Regulate and Protect Society. Vol. 6, No.3.
10. Nyaman, Graceline Jesyca Carmety. Dkk. (2021). Protection and Management of Creator Royalty Rights Through Government Regulation No. 56 of 2021, Wijayakusuma University Faculty of Law: Vol 3 No 1.
11. Khaireza Rafa Anwar dan Iman Haryanto, Copyright Protection for Songs Used as TikTok Background Sound Based on Law Number 28 of 2014 Concerning Copyright.
12. Nasirun, Indrasatya Octavianus. (2015). Legal Study on Royalty Protection for Song and/or Musical Works from the Aspect of Law No. 9 of 2002, Lex et Societatis: Vol 2 No 9.
13. Respati, Yosepa Santy Dewi. Dkk. (2016). Implementation of the National Collective Management Institution (LMKN) as a Collecting Society in Song Creations (According to Law Number 28 of 2014 Concerning Copyright), Diponegoro Law Journal: Vol 5 No 2.
14. Widyaningtyas, Kezia Regina. Zahra, Tifani Haura. (2021). Copyright Review of Royalty Payment Obligations for Playing Songs and/or Music in the Public Service Business Sector, Padjadjaran Law Journal Review: Vol 9 No 1.
15. Rahardjo, Satjipto. (2014). Legal Studies, Bandung: Citra Aditya Bakti. eighth printing.
16. Mayana, Ranti Fauza, Santika Trisni, (2022). Copyright in the Context of the Creative Economy and Digital Transformation, Bandung: PT Refika Aditama.
17. Susanti, Diah Imaningrum. 2017. Copyright: Philosophical and Historical Studies, Malang: Setara Press.
18. Samsu. (2002). Research Methods: Theory and Application of Qualitative Quantitative Research, Miced Methods, and Research & Development. Jambi: Center for Religious and Social Studies.

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19. Sunaryati Hartono, (1991). Selected Chapters on Comparative Law, Bandung: Citra Aditya Bakti.
  20. Hidayah, Khoirul. (2017). Intellectual Property Law, Malang: Setara Press.
  21. Marzuki, Peter Mahmud. (2005). Legal Research. Jakarta: Kencana Prenada.
  22. Margono, Suyud. (2003). Copyright Law and Protection, Jakarta: Novindo Pustaka Mandiri.
  23. Hutauruk, J Marulam. (2022). License and Royalty of Songs/Music in Public Places. Jakarta: Indonesian Torch Library Foundation.