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# **The Legal Awareness of Cafe Owners towards The Fulfillment of Economic Rights in The Form of Royalty Payment as A Copyright Protection**

*Kesadaran Hukum Pemilik Kafe Terhadap  
Pemenuhan Hak Ekonomi Berupa Pembayaran  
Royalti Sebagai Bentuk Perlindungan Hak  
Cipta*

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## **Abstract**

With the existence of Government Regulation Number 56 of 2021 concerning the Management of Royalties for Copyrighted Songs and/or Music, the commercial use of songs/music is required to pay royalties. Article 2 paragraph (1) and Article 3 paragraphs (1) and (2) of the Government Regulation mention that the party paying royalties through LMKN (Collecting Society for Music Works) is those who publicly announce creations, including cafes that frequently play songs or music



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through speakers. This research aims to discover facts in the field regarding legal awareness among cafe business operators regarding the payment of these royalties through data triangulation, which involves collecting data through observation, interviews, and documentation. The research location will be initially observed to identify cafes that play songs or music through speakers. After identifying the cafes that play songs or music through speakers, interviews will be conducted with cafe operators to explore their legal awareness regarding copyright and royalty payment obligations, while the researcher gathers documentation as evidence. The findings in the field prove that legal awareness regarding royalty payments is still lacking among many. This is because they have not heard about the royalty policy and also due to a lack of awareness campaigns from the relevant authorities, necessitating awareness campaigns in various regions, as this can be considered a legal violation. Therefore, it can be said that the most influential factor affecting legal awareness here is the legal framework, which should be more proactive in disseminating information regarding this policy and also more stringent in handling violations.

**KEYWORDS** *Legal Awareness, Song and/or Music Royalties, Copyright, Café*

Dengan adanya Peraturan Pemerintah Nomor 56 Tahun 2021 tentang Pengelolaan Royalti untuk Lagu dan/atau Musik yang Dilindungi Hak Cipta, penggunaan komersial lagu/musik diwajibkan untuk membayar royalti. Pasal 2 ayat (1) dan Pasal 3 ayat (1) dan (2) Peraturan Pemerintah tersebut menyebutkan bahwa pihak yang membayar royalti melalui LMKN (Lembaga Manajemen Kolektif) adalah mereka yang mengumumkan ciptaan secara publik, termasuk kafe yang sering memutar lagu atau musik melalui speaker. Penelitian ini bertujuan untuk menggali fakta di lapangan mengenai kesadaran hukum di kalangan pelaku usaha kafe terkait kewajiban pembayaran royalti melalui triangulasi data, yang melibatkan pengumpulan data melalui observasi, wawancara, dan dokumentasi. Lokasi penelitian akan diamati terlebih dahulu untuk mengidentifikasi kafe yang memutar lagu atau musik melalui speaker. Setelah mengidentifikasi kafe tersebut, wawancara akan dilakukan dengan

operator kafe untuk mengeksplorasi kesadaran hukum mereka mengenai hak cipta dan kewajiban pembayaran royalti, sambil peneliti mengumpulkan dokumentasi sebagai bukti. Temuan di lapangan membuktikan bahwa kesadaran hukum mengenai pembayaran royalti masih kurang di antara banyak pelaku usaha. Hal ini disebabkan oleh kurangnya informasi mengenai kebijakan royalti dan minimnya kampanye kesadaran dari pihak berwenang, sehingga perlu diadakan kampanye kesadaran di berbagai daerah, karena ini dapat dianggap sebagai pelanggaran hukum. Oleh karena itu, dapat disimpulkan bahwa faktor yang paling berpengaruh terhadap kesadaran hukum di sini adalah kerangka hukum yang seharusnya lebih proaktif dalam menyebarkan informasi mengenai kebijakan ini dan juga lebih ketat dalam menangani pelanggaran.

**KATA KUNCI** Kesadaran Hukum, Royalti Lagu dan/atau Musik, Hak Cipta, Kafe

## Introduction

A work is the result of thoughts, ideas, and creativity, which is an achievement to be proud of. Therefore, each work has unique characteristics that can be economically utilized by sharing it with the community to gain recognition. Creating a work is not a simple task, but involves dedication, effort, time, and financial investment. Therefore, it is important not to overlook this and to give respect to its creator. If someone wants to use or distribute the work, they must first obtain permission from its owner.<sup>1</sup> One example of a work of art that can be identified is a song. Songs fall under the category of creations protected by copyright law, as regulated in Article 40 paragraph (1) letter d of Law Number 28 of 2014 concerning Copyrights. Copyright is included in Intellectual Property

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<sup>1</sup> Supramono, Gatot. (2012). *Hak Cipta dan Aspek-Aspek Hukumnya*. Jakarta: PT. Rineka Cipta. page 3

Rights, which is part of assets, especially intangible or immaterial assets.<sup>2</sup> The law stipulates that copyright is the exclusive right of a creator or copyright holder to publish or reproduce their creative work without limitation in accordance with applicable regulations, occurring automatically upon the creation of the work.<sup>3</sup>

Intellectual Property Rights are rights that enable individuals to take actions regarding their intellectual property in accordance with norms or laws that apply.<sup>4</sup> The history of Intellectual Property regulations first emerged in Italy, specifically in Italy in 1470, concerning patent issues. At that time, individuals such as Caxton, Galileo, and Guttenberg were recorded as inventors and held monopolies over their inventions. These patent regulations were later adopted by the Kingdom of England in the 1500s, leading to the creation of the Statute of Monopolies in 1623 as the first patent law in England. Subsequently, a new patent law was enacted in the United States in 1790. In 1883, the Paris Convention was held to discuss protection related to patents, trademarks, and industrial designs. Then, in 1886, the Berne Convention was held to address copyright issues. These conventions aimed to standardize, address new issues, exchange information, and establish protection and procedures for obtaining rights to copyrighted works. Additionally, these conventions established an international bureau aimed at providing intellectual property protection, later known as the World Intellectual Property Organization (WIPO). WIPO is one of the specialized administrative bodies of the United Nations that deals with intellectual property issues.<sup>5</sup> In 2001, the World Intellectual Property Organization declared April 26th as World Intellectual Property Day. WIPO member countries, including Indonesia, will hold various activities to celebrate World Intellectual Property Day.

Since the General Agreement on Tariffs and Trade (GATT) was signed in Marrakesh, Morocco on April 15, 1994, Indonesia is one of the

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<sup>2</sup> Utomo, T. S. (2010). *Hak Kekayaan Intelektual (HKI) di Era Globalisasi, Sebuah Kajian Kontemporer*. Yogyakarta: Graha Ilmu. Page 14

<sup>3</sup> Hidayah, K. (2012). *Hukum Hak Kekayaan Intelektual di Indonesia*. UIN-Maliki Press. Page 4

<sup>4</sup> Sutedi, A. (2009). *Hak Atas Kekayaan Intelektual*. Jakarta: Sinar Grafika. Page 15

<sup>5</sup> Bernard Nainggolan. (2023). *Pemberdayaan Hukum Hak Cipta dan Lembaga Manajemen Kolektif*. Bandung: PT. Alumni. Page. 108-122

countries that agreed to implement the agreement along with its annexes by ratifying it through Law Number 7 of 1994 concerning the Agreement on the Establishment of the World Trade Organization (WTO). The annex related to intellectual property is TRIP's, which aims to ensure that trade relations between countries are conducted in a fair and honest manner.<sup>6</sup> The creator or copyright owner is granted exclusive rights, including economic rights, such as the right to benefit economically from their creation, as stated in Article 8 of Law Number 28 of 2014 concerning Copyrights. Furthermore, in Article 9 of the same law, it is explained regarding the owner of exclusive rights, including the provision that the owner of these exclusive rights has economic rights, including the announcement of the creation. Regarding the announcement of creation, Article 1 number 11 of Law Number 28 of 2014 concerning Copyrights defines it as the dissemination of a creation through either electronic or non-electronic means so that the creation can be heard by people. Therefore, it can be interpreted that broadcasting or playing songs or music through multimedia can be considered as the announcement of creation.

The activities mentioned above are declared to be commercial for creators and copyright holders according to Government Regulation Number 56 of 2021 concerning the Management of Royalties for Copyrighted Songs and/or Music. Therefore, anyone conducting these commercial activities is obligated to pay royalties through the National Collective Management Organization (LMKN) as stipulated in Article 3 paragraph (1) of Government Regulation No. 56 of 2021, which states that parties using songs commercially in public services must pay royalties to the Creator, Copyright Holder, and/or Related Rights owner through LMKN.

Regarding this matter, the writer often goes to cafes and notices that many of the cafes visited are broadcasting or playing music. The researcher themselves feel that enjoying coffee accompanied by music indeed

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<sup>6</sup> Gaol, P. B. (2017). *Wewenang Lembaga Manajemen Kolektif Nasional (LMKN) dalam Menarik, Menghimpun, dan Mendistribusikan Royalti Ditinjau dari Permenkumham Nomor 29 Tahun 2014*. Semarang: Universitas Negeri Semarang. Page 24

provides comfort. However, whether the music broadcasted or played by cafe operators complies with copyright policies or violates those copyrights is uncertain. Are cafe operators aware that royalties must be paid for commercial use? Therefore, the writer intends to conduct research in cafes located around the writer's area, namely Desa Sutawinangun, Kabupaten Cirebon. In this research, there will be 5 cafes in Sutawinangun that will be studied. These cafes are *Tiga Segi Coffee*, *Garasi Cafe*, *Urffeine Cafe*, *Kedai Kopi Kaca*, and *Kopisoe Cirebon*. Based on the description above, this research is expected to provide benefits in the form of knowledge for the community regarding copyright law, thereby increasing awareness and legal compliance. Additionally, this research can also provide information to the Directorate General of Intellectual Property regarding the implementation of copyright law so that it can be further studied and enforced in the future concerning intellectual property rights.

## Method

This research utilizes a qualitative approach. The fundamental concept related to qualitative research is that it aims to explore and understand the meanings attributed by individuals or a group of individuals to social issues.<sup>7</sup> The process of qualitative research involves efforts that engage in direct interaction with respondents, such as asking questions and procedures, collecting data from these interviews, analyzing data from specific to general themes, and then interpreting the data to find meaning that can be concluded in the field.<sup>8</sup>

In studying the awareness of café business owners regarding royalty payments as an economic fulfillment for copyright holders or music creators, this research constitutes a socio-legal study, which is a method of research that examines the law with an interdisciplinary approach, integrating legal and social sciences in a unified approach. According to Muhammad Chairul Huda, socio-legal research with a juridical-sociological approach has characteristics such as discussing the application

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<sup>7</sup> Cresswell, J. W. (2009). *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*. London: SAGE Publications Ltd. Page 4

<sup>8</sup> Moleong, L. J. (2000). *Metodologi Penelitian Kualitatif*. Bandung: Remaja Rosda Karya. Page 3



of a law in society, using logic to examine the application of the law in the present, relying on field facts to determine the validity of the research, and emphasizing data that involves understanding the meanings existing in the researcher's mind or ideas related to legal actions taken by individuals.<sup>9</sup> This research approaches the law towards humans or society as subjects, rather than the other way around where humans become the object of the law. Esmi Warassih emphasizes the importance of developing "social legal theory" to broaden understanding within legal science. She also argues that legal researchers should have a deep understanding of various aspects of social life, including aspects such as culture, economy, religion, and so on. This indicates that understanding the law should be viewed in a broader context that encompasses various dimensions of social life.<sup>10</sup> This research is conducted in Sutawinangun Village, Cirebon Regency, West Java Province. In socio-legal research, both primary and secondary data sources are required.<sup>11</sup>

In the data collection process of this research, triangulation technique is used, which is defined as a data collection technique that combines various techniques such as observation, interviews, and documentation. The researcher employs different data collection techniques on the same source.<sup>12</sup> After that, the researcher processes the data in order to examine the issues and obtain answers. Data processing involves data collection, data reduction, data presentation, and verification. In this triangulation technique, it is not merely about seeking the truth regarding a phenomenon but rather to enhance the researcher's understanding of what has been discovered.<sup>13</sup>

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<sup>9</sup> Huda, M. C. (2021). *Metode Penelitian Hukum (Pendekatan Yuridis Sosiologis)*. Semarang: The Mahfud Ridwan Institute. Page 21

<sup>10</sup> Warassih, E. (2005). *Pranata Hukum; Sebuah Telaah Sosiologis*. Semarang: Suyandaru Persada. Page 101

<sup>11</sup> Huda, M.C. Op. Cit. Page 33

<sup>12</sup> Sugiyono. (2013). *Metode Penelitian Kuantitatif, Kualitatif, dan R&D*. Bandung: Penerbit Alfabeta. Page 224

<sup>13</sup> Stainback, S., & Stainback, W. (1988). *Understanding & Conducting Qualitative Research*. Iowa: Kendall/Hunt Publishing Company. Page 27

## **Result & Discussion**

### **A. Legal Awareness of Café Business Owners Regarding Payment of Royalties for Broadcasting or Playing Songs**

This research was conducted in Sutawinangun Village, which is located in Cirebon Regency. The village is led by a Village Head named Dias Fakhnuritasari with a total population of 5159 people consisting of 2551 men and 2598 women. The village is located on the edge of the city, which makes the village quite organized in terms of infrastructure, both in terms of roads and buildings. The cafes in the village are quite modern in terms of buildings and also services provided in these cafes.

Research on legal awareness in cafes is conducted through on-site observation, interviews involving questions related to respondents' knowledge, understanding, attitudes, and behaviors towards applicable laws, and documentation of this research. The understanding of legal awareness according to Soerjono Soekanto is the individual's awareness of the values contained in the existing law or the expected law. Emphasized in this concept is awareness of the values related to the function of law, rather than just legal judgment on specific events in the respective society. This means that legal awareness is more related to awareness of the principles and objectives of law than legal judgment on specific cases.<sup>14</sup> Sudikno Mertokusumo provides another perspective on legal awareness, which refers to awareness of actions or behaviors that should or should not be done, especially in the context of relationships with others. This means that legal awareness encompasses awareness of our legal obligations to others, reflecting how we should behave and interact in society according to the norms and legal rules in place.<sup>15</sup>

Copyright protection has broad scope as it encompasses various fields, including science, art, literature, and even computer programs. This means that copyright protects various types of intellectual works that

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<sup>14</sup> Soekanto, S. (1982). *Kesadaran Hukum dan Kepatuhan Hukum*. Jakarta: Rajawali. Page 3

<sup>15</sup> Mertokusumo, S. (1981). *Meningkatkan Kesadaran Hukum Masyarakat*. Yogyakarta: Liberti. Page 5



encompass a diverse range of creative expressions.<sup>16</sup> Copyright is a part of the scope of incorporeal property rights, which are abstract possessions that entail control over the results of intellectual effort. Copyright has a duration, meaning its protection will become public domain once its term has expired. Copyright is exclusive in nature, implying that it has the capability to generate new rights. Thus, a copyrighted work may have several rights bound within a single copyright. Transfer of these rights can be done separately or as a whole.<sup>17</sup>

Based on Article 4 of Law Number 28 of 2014 concerning Copyright, creators or copyright owners have exclusive rights, one of which is economic rights, namely the right to obtain economic benefits from their creations as stated in Article 8 of Law Number 28 of 2014 concerning Copyright, which states: "*Hak ekonomi merupakan hak eksklusif Pencipta atau Pemegang Hak Cipta untuk mendapatkan manfaat ekonomi atas Ciptaan.*"

Intellectual Property Rights have interconnected principles, one of which is utility, where utilitarianism criteria can be applied in assessing the protection of Intellectual Property Rights, namely whether regulations related to Intellectual Property Rights protection have provided benefits, which in this case is economic benefits for their owners. Utilitarianism itself is known by the phrase "*the greatest happiness of the greatest number*," which means the greatest happiness for the greatest number of people.<sup>18</sup>

Then, in Article 9 of Law Number 28 of 2014 concerning Copyright, it is explained regarding the exclusive rights owner, among which, it is described that this exclusive rights owner has economic rights including the publication of the Creation; Duplication of the Creation in all forms; translation of the Creation; adaptation, arrangement, or transformation of the Creation; distribution of the Creation or its copies; performance of the Creation; announcement of the Creation; communication of the Creation; and rental of the Creation.

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<sup>16</sup> <https://www.dgip.go.id/tentang-djki/kekayaan-intelektual>

<sup>17</sup> Paserangi, H., & Ahmad, I. (2011). *Hak Kekayaan Intelektual Perlindungan Hukum Hak Cipta Perangkat Lunak Program Komputer dalam Hubungan dalam TRIP's di Indonesia*. Jakarta: Rabbani Press

<sup>18</sup> Bertens, K. (2000). *Pengantar Etika Bisnis*. Yogyakarta: Kanisius

Regarding the announcement of a creation, Article 1 number 11 of Law Number 28 of 2014 concerning Copyright defines it as: *“Pengumuman adalah pembacaan, penyiaran, pameran, suatu ciptaan dengan menggunakan alat apapun baik elektronik atau non elektronik atau melakukan dengan cara apapun sehingga suatu ciptaan dapat dibaca, didengar, atau dilihat orang lain.”*

Which means Announcement is the reading, broadcasting, exhibition of a creation using any electronic or non-electronic means or by any means so that a creation can be read, heard, or seen by others. Therefore, it can be interpreted that broadcasting or playing songs or music through multimedia can be considered as announcing the creation where it includes engaging in commercial activities of the song. This copyright has fundamental principles used as the basis for copyright regulation in all countries, both adhering to civil law systems and common law systems, with some declarative principles that mean automatic protection.<sup>19</sup>

The Copyright Law is supported by Government Regulation Number 56 of 2021 concerning the Management of Royalties for Copyrighted Songs and/or Music, which mandates that anyone or legal entities using the creations of others with the intention of engaging in commercial activities must obtain permission from the copyright holder. This demonstrates the importance of respecting copyright and regulations governing the use of copyrighted works in the context of business or commercial activities. Article 9 paragraph (1) of Government Regulation Number 56 of 2021 states that individuals who wish to use songs commercially in cafes must apply for a License from the Copyright Holder or the owner of Related Rights through the LMKN.

The findings collected from the observation of the research site indicate that out of the 5 cafes studied, all of them play music through speakers. Among these 5 cafes, four use the Spotify application while one uses YouTube to play music. Here is the table which shows the results of the observation:

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<sup>19</sup> Damian, E. (2005). *Hukum Hak Cipta*. Bandung: Sinar Grafika

**TABLE 1. Observation Results**

Cafe	Speaker	Music Broadcasting	Application
Tiga Segi Coffee	√	√	Spotify and/or Youtube
Urffeine	√	√	Spotify and/or Youtube
Kedai Kopi Kaca	√	√	Spotify
Kopisoee	√	√	Spotify
Garasi Cafe	√	√	Spotify

As seen from the data above, Spotify and YouTube dominate in terms of playing songs or music. The use of songs or music in this manner falls under commercial use, broadcasted through the speakers, thus requiring royalty payments. After obtaining this data, each cafe was interviewed with several questions regarding their awareness and knowledge concerning the payment of royalties for the songs and music they broadcast.

In measuring legal awareness, according to Kutschincky, there are several indicators used to assess legal consciousness, namely:<sup>20</sup>

1. Legal Knowledge
2. Legal Understanding
3. Legal Attitude
4. Legal Behaviour

From the points above, the researcher prepares several interview questions covering knowledge, understanding, attitude, and legal behavior. The questions addressed to respondents include topics such as whether they pay royalties, their awareness of royalty payments, their understanding of royalty payments, whether there have been any claims for royalty payments, and so on. The findings from these interviews conclude that all the cafes surveyed do not pay royalties, and the majority of them do not understand royalty payments. Their level of knowledge can be seen in the following table:

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<sup>20</sup> Soekanto, S. (1982). Op. Cit. Hlm. 11

**TABLE 2. Knowledge about Royalty Payments**

Cafe	Understands	Have Heard	Don't Understand
Tiga Segi Coffee		√	
Urffeine		√	
Kedai Kopi Kaca			√
Kopisoe		√	
Garasi Cafe			√

It can be seen that out of the five cafes, three respondents stated that they had only heard about royalty payments, while two respondents admitted to not knowing about royalty payments at all. Those who claimed to have heard about royalty payments explained that they heard about it through news on social media. This indicates that social media has great potential in disseminating information, especially about policies regarding royalty payments. However, it seems that the respondents lacked the willingness to further understand royalty payments.

During the interviews, none of the respondents reported being approached by any party demanding royalty payments. This occurred because these business operators did not register licenses with the LMKN. This aligns with Article 9 paragraph (1) of Government Regulation Number 56 of 2021, which obliges parties engaging in the commercial use of songs or music to apply for a License from the Creator or the Owner of Related Rights through the LMKN.

LMKN (Lembaga Manajemen Kolektif Nasional) holds authority as stipulated in Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 29 of 2014, which mentions that this authority includes the withdrawal, collection, and distribution of royalties from commercial users. The provision specifying this authority is found in Article 5, which states that the management of copyright royalties for songs and/or music is carried out by LMKN Creators and LMKN Related Rights. These institutions have the authority to withdraw, collect, and distribute royalties from commercial users, and they can delegate their

authority to similar LMKNs operating under their auspices.<sup>21</sup> Besides that, LMKN is tasked with overseeing LMKNs for songs and/or music, establishing systems and calculating royalty payments by users, as well as distributing and determining the amount of royalties, as explained in Article 6.<sup>22</sup>

The Standard Operational Procedures for Royalty Withdrawal by the Coordinator for Royalty Withdrawal, Collection, and Distribution (KP3R) for Creators and Related Rights of Songs and Music are issued in Letter No. 08a/SOP Royalty Withdrawal KP3R/LMKN-Pleno/2016. It outlines the following steps:

- 1) KP3R sends an Introduction and Notification Letter along with the LMK Profile, License Form, Royalty Rate Decision, and other required documents to commercial users who do not yet have a license. Users must respond within 7 (seven) working days upon receiving the letter;
- 2) If the Introduction and Notification Letter are responded to by the Commercial User, KP3R and the Commercial User enter into a License Agreement;
- 3) KP3R reports the License Agreement to LMKN;
- 4) KP3R sends the Payment Invoice along with the Tax Invoice to the Commercial User with the LMKN, KP3R, LMK Creator, and/or LMK Related Rights logos along with the Taxes that must be paid in the month the Invoice is issued;
- 5) Payment of royalties by Commercial Users must be made no later than 1 (one) month after the invoice is received;
- 6) If Commercial Users are late in making payments up to 1 (one) month after receiving the invoice, they will be subject to a penalty of 0.05% (zero point zero five percent) per day of the invoiced amount;
- 7) KP3R issues Certificates & Stickers to Commercial Users who have fulfilled their royalty payment obligations;

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<sup>21</sup> Peraturan Menteri Hukum dan Hak Asasi Manusia Republik Indonesia No. 29 Tahun 2014 Article 5

<sup>22</sup> Ibid. Article 6

- 8) If the Introduction and Notification Letter to the Commercial User is not responded to, KP3R issues a Warning Letter that must be responded to by the User within 7 (seven) days;
- 9) If the Warning Letter is not responded to within 7 (seven) days, KP3R issues a Final Warning;
- 10) If the Final Warning Letter is not responded to within 7 (seven) days, KP3R will take legal action in accordance with applicable laws and regulations, with the legal costs borne by the Commercial User;
- 11) License registration fees are borne by the Commercial User.

According to the plenary meeting of the National Copyright Collective Management Organization (LMK) for Creators and Related Rights on May 19, 2016, as conveyed through letter no: 02/LMKN-Pleno/External/2016, stated by the Minister of Law and Human Rights of the Republic of Indonesia via Decree of the Minister of Law and Human Rights of the Republic of Indonesia No: HKI.2.OT.03.01-02 of 2016 concerning the Ratification of Royalty Rates for Users Engaging in Commercial Utilization of Creations and/or Related Rights Products in Music and Songs, there are royalty rates applicable to users engaging in commercial utilization of creations and/or related rights products in music and songs.<sup>23</sup> The royalty rates for cafes, as specified in the aforementioned decree, are categorized under restaurants, cafes, pubs, bars, bistros, nightclubs, and discos. According to the LMKN's Decision on Royalty Rates for Restaurants, Cafes, Pubs, Bars, Bistros, Nightclubs, and Discos stated in the Minister of Law and Human Rights' decree, the royalty rates are determined proportionally and based on international best practices. In Article 1 paragraph (4) of the LMKN's Decision on Royalty Rates for Restaurants, Cafes, Pubs, Bars, Bistros, Nightclubs, and Discos, it is stated that the royalty rate for cafes is Rp. 60,000 per seat, as further elaborated in paragraph (8), which stipulates that royalty payments are made at least once a year.

From the previously presented data, it appears that those who commercially use songs or music do not pay royalties, despite existing

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<sup>23</sup> Faisal, M. (2023). *Tugas dan Wewenang Lembaga Manajemen Kolektif Nasional Berdasarkan Undang-Undang Hak Cipta*. "Dharmasiswa" Jurnal Program Magister Hukum FHUI. Page 1365



regulations regarding such payments. Before delving deeper into the research, it would be beneficial to revisit the provisions regarding royalty payments for songs and music and their relationship with the legal awareness of the community. As we know, songs or music are one of the copyrighted works protected under Article 40 paragraph (1) of the Copyright Law. Songs or music consist of elements such as melody, lyrics, and arrangements, including notation. A song or music is a sequence of melodies that may include lyrics or poetry.<sup>24</sup> Therefore, anything broadcasted with lyrics or poetry is considered a song or music and thus is protected by copyright.

The interviewed café business operators revealed that three cafes had heard about royalty payment policies, while the rest had not heard about them at all. Among the café business operators who had heard about royalty payment policies, they mentioned hearing about them through social media. This indicates that social media plays a significant role in influencing the legal knowledge of the community. The most commonly used social media platforms in Indonesia are Facebook, YouTube, and WhatsApp. These café business operators mentioned hearing about royalty payments through news that appeared on Facebook and Instagram. When asked how they came across this news, they mentioned that they only saw it when such news appeared on their feed, rather than actively seeking it out.

For respondents who had no knowledge at all regarding royalty payments, they admitted to never seeing such news on social media. This indicates that social media only displays news that is deemed interesting to its users. Based on the data presented above, it shows that the legal knowledge of the respondents regarding royalty payments is limited to merely hearing about the policy and not fully understanding its content. It can be concluded that the level of legal awareness among the respondents has not reached the desired level.

Regarding legal understanding, of course, none of them understand this policy since these 5 cafes don't really know about royalty payment policies. In measuring their understanding, researchers use their

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<sup>24</sup> Tyas, H. A. (2007). *Seni Musik*. Jakarta: Erlangga. Page. 107

knowledge of LMKN and the procedures for royalty payments as benchmarks. Their understanding can be seen in the following table:

**TABLE 3. Knowledge about LMKN**

No.	Kafe	Answer	
		Yes	No
1	Tiga Segi Coffee		√
2	Urffeine		√
3	Kedai Kopi Kaca		√
4	Kafe Kopisoe		√
5	Garasi Cafe		√

From all the interviewed cafe, nobody knows what LMKN is. They feel unfamiliar with the name of the institution. Besides being asked about their knowledge of LMKN, respondents are also asked about their understanding of royalty payments.

**TABLE 4. Understanding towards Royalty Payment Procedure**

No.	Kafe	Answer	
		Understands	Don't Understand
1	Tiga Segi Coffee		√
2	Urffeine		√
3	Kedai Kopi Kaca		√
4	Kafe Kopisoe		√
5	Garasi Cafe		√

The results obtained in the field also indicate that no one is familiar with the procedures for royalty payments. However, on the official LMKN website, there is a form available to apply for a license for commercial use of songs or music. The reasons for not knowing the procedures for royalty payments vary. Here are the reasons provided by the respondents.

**TABLE 5. Reasons Not Knowing the Procedure of Royalty Payments**

No.	Cafe	Reason
1	Tiga Segi Coffee	Dont have the need to find out
2	Urffeine	Dont have time to find out

No.	Cafe	Reason
3	Kedai Kopi Kaca	No party demands payment, so they do not make it
4	Kafe Kopisoe	Dont have time to find out
5	Garasi Cafe	No party demands payment, so they do not make it

From these five cafes, there is also a misconception that subscribing to music streaming applications like Spotify is equivalent to paying royalties. However, subscribing to Spotify only pays for personal use, as stated in Spotify's terms and conditions. Therefore, Spotify is not for commercial use, whereas broadcasting songs or music is considered commercial activity. Based on the data above, the level of legal understanding among the respondents is still lacking because they are unaware of royalty payments. They still believe that subscribing to streaming applications for personal use is the same as commercial use, so they feel no need to apply for a license to use songs or music commercially.

Regarding the legal attitude of the respondents towards royalty payment policies can be seen from their views on royalties. Respondents were asked about their views on this policy. Here are the questions given to the respondents and their answers:

**TABLE 6. Respondent's Opinions About Royalty Payments**

No.	Cafe	Answer	
		Yes, it is needed	It is not needed
1	Tiga Segi Coffee		√
2	Urffeine	√	
3	Kedai Kopi Kaca		√
4	Kafe Kopisoe	√	
5	Garasi Cafe		√

From the three respondents who answered that royalties are not necessary, the respondent from Tiga Segi Coffee mentioned that royalties are unnecessary if they are only broadcasting songs or music unless they are performing a specific song or live music. This indicates that the respondent appreciates copyright policies only in the context of song performances. However, broadcasting songs or music in cafes falls under

the dissemination of copyrighted works, which are also protected by copyright law according to Article 1 number 3 in conjunction with Article 1 number 11 of the Copyright Law. Additionally, the respondent from Kedai Kopi Kaca believes that royalty payments should suffice if they are made by parties covering the songs. Similarly, Garasi Cafe holds the same opinion that they do not need to pay royalties because they only play songs or music to create an atmosphere.

For the respondents who answered that royalty payments are necessary, they believe that indeed, the parties involved in creating songs or music deserve to be compensated for each play of their work. It can be concluded that both respondents are able to appreciate the existence of this policy, which can benefit the creators of songs or music.

In terms of legal behavior regarding royalty payments, the author observes how they adhere to this policy. Their legal behaviour can be seen in the table below:

**TABLE 7. Implementation of Royalty Payment**

No.	Kafe	Answer	
		Yes	No
1	Tiga Segi Coffee		√
2	Urffine		√
3	Kedai Kopi Kaca		√
4	Kafe Kopisoe		√
5	Garasi Cafe		√

As seen in the data above, no café pays royalties. Those who do not pay royalties claim it is because they are unaware of how to make such payments. Despite their lack of knowledge about royalty payments, they admit that they indeed do not seek to find out how to make these payments. This demonstrates that their legal behavior is lacking because they do not pay royalties based on their ignorance. However, once a regulation is established, society is considered to be aware of that regulation. Therefore, ignorance of a regulation cannot be used as an excuse for not complying with it.

As previously discussed in Chapter II, in Government Regulation No. 56 of 2021 Article 3 paragraph (2) states that cafes are classified as commercial public services, hence they are required to pay royalties for

using songs for commercial broadcasting. Regarding the broadcasting of songs or music, referring to the Copyright Law of 2014, the broadcasting of songs or music falls under the dissemination of creations as mentioned in Article 1 number 11, which states that broadcasting constitutes the transmission of a creation using electronic or non-electronic means so that a creation can be heard.

Furthermore, it is further elaborated in Article 9 paragraph (1) of Government Regulation No. 56 of 2021 stating that the commercial use of songs and/or music in public services must apply for a license. Looking at the data above, most of these cafes play songs or music using YouTube and Spotify. Can subscribing to these streaming applications be considered as royalty payments? Therefore, the provisions of these applications also need to be examined.

In the Terms and Conditions of Use of *Spotify*, section 3, there is a provision stating:

*“Tunduk pada kepatuhan Anda terhadap ketentuan ini (termasuk syarat dan ketentuan lain yang berlaku), Kami memberi Anda izin terbatas, non-eksklusif, dan dapat dibatalkan untuk menggunakan Layanan Spotify dan Konten secara pribadi dan non-komersial (secara bersama-sama disebut “Akses”). Akses ini akan tetap berlaku kecuali dan hingga diakhiri oleh Anda atau Spotify. Anda setuju bahwa Anda tidak akan mendistribusikan kembali atau memindahtangankan Layanan Spotify atau Konten tersebut.”*

Which basically means that the use of *Spotify* is not intended for commercial purpose. But, of course playing music in cafe is a commercial use of that music which they have to pay royalty for the music. Based on the research conducted on cafes using these indicators, the findings are as follows:

- 1) Legal knowledge: Most respondents have heard the term "royalties" and its association with music.
- 2) Legal understanding: All respondents have only heard about it but do not know the regulations related to royalties.
- 3) Legal attitude: Most respondents understand that songwriters or composers deserve to be paid for their work.

- 4) Legal behavior: Respondents' legal behavior is still inadequate because they want to comply with the regulations, but they have not yet done so because they are still unaware of the regulations regarding song or music royalties.

Therefore, even though many have heard about royalty issues, these cafes still do not understand the commercial use of songs or music and royalty payments. It is important to conduct socialization efforts by the National Collective Management Institution, the Directorate General of Intellectual Property, creators, or any other relevant parties to disseminate knowledge about copyright and royalties widely.

## **B. Factors That Influence the Legal Awareness of Cafe Business Owners**

As per the data previously obtained, these cafes have yet to pay royalties, although they have heard about royalties before. It can be said that their legal knowledge is still not sufficiently deep and only scratches the surface. Regarding legal awareness, according to Zainudin Ali, there are five factors that influence legal awareness, namely:<sup>25</sup>

- 1) Legal knowledge: if a law has been enacted, legally, the regulation is already in force. In relation to this, there is an assumption that the public is considered to be aware of the existence of such legislation.
- 2) Legal understanding: legal understanding is a further step from legal knowledge. Through legal understanding, it is hoped that the public can comprehend the purpose of legislation and the benefits of such regulations.
- 3) Legal arrangement: people comply with the law for various reasons. For example, fear of sanctions, maintaining relations with the government, maintaining good relations with colleagues, perceiving the law as consistent with values, or safeguarding societal interests.
- 4) Expectation towards the law: legal norms will be respected if the public is aware of, understands, and complies with them. Expectations of the law will result in order and tranquility.

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<sup>25</sup> Ali, Zainudin. (2007). *Sosiologi Hukum*. Jakarta: Sinar Grafika. Page 50-69



- 5) Increasing legal awareness: the goal of increasing legal awareness is for the public to understand the law according to their needs. Those responsible for increasing legal awareness in society are legal officers who may directly interact with the public.

Therefore, in this case, the factor that most influences legal awareness is the legal enforcement aspect, where respondents still do not fear the sanctions they may face when they violate the law. They do not consider sanctions because neither the songwriters nor the National Collective Management Institution (LMKN) have ever come to demand royalty payments from them. Reflecting on the theory of legal utility, where a law or policy aims to provide benefits, the policy regarding royalty payments should ideally provide benefits in the form of encouragement to creators to continue creating and innovating. Thus, if more people become aware of the importance of royalty payments to fulfill the economic rights of the creators, there will be more creators producing new works for the enjoyment of the general public.

Because most of them are not aware of the regulations regarding royalty payments for commercial use of songs or music, it can be said that the cause is a lack of enforcement and education regarding this matter. This can be linked to the fact that economic rights are regulated by the creators themselves, meaning the creator can choose whether to demand royalties or not. Additionally, there has been no education on commercial use in those cafes.

## Conclusion

Based on the previously presented data, it is evident that those who use songs or music commercially do not pay royalties, despite the existing regulations. Therefore, it can be concluded that the legal awareness of cafe owners is still below the desired level. Among the four indicators of legal awareness, only a few are fulfilled; for instance, some respondents do not fully understand the policy regarding royalty payments but appreciate its purpose, which is to provide economic benefits to song creators. Furthermore, it is apparent that the most influential factor contributing to this low legal awareness is the lack of legal enforcement, as neither LMKN nor song creators are demanding payments, despite the commercial use of

songs constituting a legal violation. A suggestion would be to conduct intensive education on copyright and royalties. This would help more people understand the importance of royalties for creators, thereby encouraging them to continue creating and innovating.

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