



**The Implementation Of Legal Protection And Law Enforcement On  
Royalty Management Of Government Regulation  
Number 56 Of 2021**

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**ABSTRACT**

This article examines Government Regulation Number 56 of 2021 concerning the management of royalties on song/music copyrights. This writing uses a normative juridical approach. This normative juridical approach is employed based on the statutes of black letter law and the conceptual method. The study employed a qualitative approach in analyzing the practice of law enforcement and protection on royalty. The result of the study shows numbers of illegal activity on covering and music production still occurred in Indonesia. It inflicts a financial loss to the creator. Therefore, the Directorate General of Intellectual Property Right issued regulation number 56 of 2021 to encourage the music industry, improve the welfare of creators, and provide greater benefits for songwriters or composers and production. It requires cooperation between the Directorate General of Intellectual Property Rights, LMKCN, creators/owners of related rights, and the public who enjoy commercial songs/music. Moreover, a strict penalty will be imposed on those who violate or deny paying the stipulated royalty.

**Keywords: Copyright; Legal Protection; Royalty Management; Music; Song**

**INTRODUCTION**

This section discusses the purposes of the study or research problems, the contribution to knowledge, and research gap. Please state them clearly in the beginning paragraph supported by related theories in the next paragraphs. INTRODUCTION to CONCLUSION should be 4.000 – 5.250 words.



Every human being has different abilities, character, personality, and intellectual intelligence from one and another. Intelligence quotient is an inborn trait possessed by humans in the form of the ability to produce a mindset to work. It can be improved to make it sharper in thinking. Intelligence quotient creates ideas that can be integrated into works such as art, literature, science, aesthetics, and technology that can obtain protection called Intellectual Property Rights. Intellectual Property Rights (IPR) is an appreciation given by the state for the hard work and thoughts of people who have produced a new work or invention. So that they are entitled to exclusive rights and legal protection for their work.<sup>1</sup>

The resulting works are not only tangible objects but include intangible objects such as songs. Intellectual Property consists of copyright and industrial property rights. According to Article number 1 of Law Number 28 of 2014, Copyright is the exclusive right of the creator automatically given to the creator based on the declarative principles after work is realized in a tangible form without reducing restrictions by the provisions of laws and regulations. If the idea can not be expressed in real work, then there is no legal protection. TRIPS also supports the idea in Article 9 paragraph 2 and Article 41 of Law Number 28 of 2014. Music and Song are real examples of how a great idea is created into the lyrics, and it is still enjoyable with or without a lyric.

Music or songs are always enjoyable for people of different ages. Some people might feel life is difficult without music. In the created music/songs, there are 2 (two) inherent rights, namely moral rights, and economic rights. Moral rights are rights inherent in songwriters so that they are eternal and cannot be transferred. While economic rights are intended for copyright holders in order to commercialize the music/song. So that the creator can fully hold the copyright to commercialize their works. Moreover, the creator can transfer his economic rights to another party. Commercialization of the copyright transfer can be in the form of grants, inheritance, endowments, wills, *assignments*, and licenses. All forms of copyright commercialization are related to royalties. Royalty is a reward for the use of

<sup>1</sup> Achmad, Atiekah, and Kholis Roisah. "Status Hukum Ghostwriter dan Pemegang Hak Cipta dalam Plagiarisme Menurut Undang-Undang Hak Cipta." *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 9.2 (2020): 429-447.



economic rights of work or product received by the creator or the owner of the related rights. With regard to royalties, many cases of piracy or covering songs/music that are conducted without legal permission from the composers and authors of the songs. In this case the creators who hold the licence are aggrieved because the songs should be enjoyed by the public and for entertainment purposes without harming any party. By analyzing the problem arises in this field, the government recently approved the Government Regulation Number 56 of 2021 was recently passed which regulates the management of royalties for song/music copyrights on March 30, 2021. It is expected that this can be solution for those music actors. In addition, the role and firmness of the government is very much needed in enforcing this regulation, which will lead to pros and cons in the community. At some point by employing this regulation the right of songwriters is protected by the law. On the other hand, consumers and entrepreneurs have to add more budget to enjoy the song. It is also expected that this regulation could increase legal protection and law enforcement by reducing fraud against plagiarism, so it can provide the economic rights of songwriters accordingly. The song writers itself can be appreciated through rewarding. The regulation can also encourage the emergence of new songwriters.

This Government Regulation Number 56 of 2021 pays more attention to songwriters who produce a work. On the other hand, what is highlighted in the regulation is the use of commercial public services such as in performances, announcements of creations, and communication of creations. So any commercial that uses the song or music is required to pay royalties to the copyright holder, or the owner of the relevant rights through a collective management agency. A collective management institution is a non-profit legal entity institution, which is authorized by the creator, copyright holder, or related rights owner whose function is collecting and distributing royalties from places that are used as commercial public services, including seminars, commercial conferences, restaurants, pub, bar, bistro, nightclub, discotheque, music concert, aircraft, bus, trains, ocean liner, exhibition, bazaar, cinema, telephone waiting, bank, office, shops, leisure center, television broadcaster, institution radio broadcasting, hotels, hotel rooms, hotel facilities, and karaoke businesses.



With the enactment of this Government Regulation, many parties, including songwriters, the public, or even the owners of public service places, have been in the spotlight, giving rise to various pro and con reactions. Through this is used as the basis for writing articles about the urgency and how problematic the implementation of Government Regulation Number 56 of 2021 is, including: (1) How is the Royalties management on the song or music copyrights and legal protection in Government Regulation Number 56 of 2021?; (2) How is law enforcement on the ratification of Government Regulation Number 56 of 2021?

#### METHOD

Based on the problems above, an appropriate method is needed to serve as a guide in studying the object to be studied. Ronny Hanitijo stated that research generally aims to develop or test the truth of the research.<sup>2</sup> Methods are a way to solve problems or how to develop knowledge using the scientific method.<sup>3</sup> The approach method used is a normative juridical approach. This normative juridical approach is employed based on the statutes of black letter law and the conceptual method.<sup>4</sup> Soerjono Soekanto defined the normative juridical approach as legal research by examining library materials or secondary data as a basis of research by searching for regulations and literature related to the problems studied.<sup>5</sup> The study used secondary data, where the data is employed to answer the research question of this article through a literature study. The primary legal data of the research are collected from the laws and regulations in the field of copyright and in the meantime the secondary data consists of expert's opinions and doctrines contained in legal books. The results of the research are used to explain primary legal materials and secondary materials are obtained by employing document studies by studying books, literature, and papers. Tertiary material retrieves through searching data from the internet, opinions published in magazines and

<sup>2</sup> Soemitro, Ronny Hanitijo. *Metode Penelitian Hukum*. Jakarta: Ghalia Indonesia, 1998, Page 15.

<sup>3</sup> Jonaedi, Efendi and Ibrahim Johnny. *Metode Penelitian Hukum Normatif dan Empiris*. Jakarta: Prenada Media, 2018, Page 3

<sup>4</sup> Ali, Zainuddin. *Metode Penelitian Hukum*, Yogyakarta: Sinar Grafika, 2010, Page 89

<sup>5</sup> Soekanto, Soejono and Sri Mamudji. *Penelitian Hukum Normatif (Suatu Tinjauan Singkat)*. Jakarta: Rajawali Pers, 2001, Page 13-14.



newspapers. Research specification is analytical descriptive because this research will reveal the facts and analyze the current legal phenomena.<sup>6</sup> Therefore, all materials were collected and then analyzed by interpreting and correlating the existing legal materials.

Data processing as an activity to process and analyze the collected data includes editing, coding and tabulation activities.<sup>7</sup> The study used a qualitative approach by analyzing legal theories, while the object of analysis is the practice of implementing protection and law enforcement on royalties after the enactment of Government Regulation Number 56 of 2021.

## RESULTS AND DISCUSSIONS

### **Management of royalties on the song or music copyrights and legal protection in PP no. 56 of 2021**

The scope of Copyright Regulations involves the creations of all copyrighted works that manifest all work into a song/music. A composer is a person or several people who individually or together produce unique and creative lyrics, tones, or songs. The composer holds the copyright of the song/music, the party who receives the right legally from the composer, or another party holds the rights from the party legally. The composer has the right to get royalties for his musical works or songs.

Royalty is a reward on the exertion of economic rights of a work or product of related rights received by the composer or owner of the rights. Meanwhile, related rights are rights associated with copyright which is rights for performers, phonogram producers, or broadcasting institutions. A performer is a person or persons who individually or collectively display and perform work. A phenogram producer is someone or corporation who d has the responsibility to carry out sound or sound recordings for the first time. Broadcasting institutions are broadcasting providers, both public institutions, private broadcasting institutions, community broadcasting institutions, and subscription broadcasting institutions which carry out their duties, functions, and responsibilities following the provisions of laws

<sup>6</sup> Soekanto, Soerjono. *Pengantar Penelitian Hukum*. Jakarta: UI Press, 1986, page 10

<sup>7</sup> Waluyo, Bambang. *Penelitian Hukum Dalam Praktik*. Jakarta: Sinar Grafika, 2002, page 51



and regulations. In some cases, conducting the copyright transfer to obtain royalties in economic rights can be done through an agreement license.

A license consists of permission granting a copyright or related rights holder to another party to exercise economic rights over his creation under certain conditions. So if there are people who want to reproduce commercially and have pocketed a license by the creator or the owner of the related rights, they have legally obtained economic rights.

Collective Management Institute is a non-profit corporation that has been authorized by the composer, copyright holder, or related rights owners to manage economic rights in collecting and distributing royalties. The National Collective Management Institute (LMKN) is a non-State Budget Assistance Institution established by the minister based on the Copyright Act. This LMKN represents the interests of the composer and related rights owners, which consist of the Creator LMKN and the rights holder LMKNs. Collective management institutions must have an operational license based on Article 88 (2) : the requirements include: being an Indonesian legal entity that is not-for-profit, obtaining power of attorney from the creator, copyright holder, or related rights to collect and distribute royalties, owned at least 200 two hundred) Composers for collective management in the field of songs or music and at least 50 (fifty) people for management collectively represent the owners of related rights, able to withdraw, collect and distribute royalties to composers, copyright holders, or related rights of the owners.

### **Royalties Management Procedure**

Royalty is a reward or utilization of economic rights of related rights of work or product received by the creator or the owner of related rights. LMKN manages the royalty based on the integrated data or song center. Every public at large can enjoy songs/music commercially to public services by applying for a license agreement to the holder of a copyright or related right through an LMKN intermediary.

The obligation of songs/music accompanies the license implementation to LMKN through the music/song information system. It is not only the public who has a license permit required to pay royalties of music/song for commercial purposes but also people who do not

have a license agreement but enjoy the use of songs/music in public are also required to pay royalties immediately.<sup>8</sup>

**Table 1: The Amount Of Royalty Rates On Analog And Digital Music Issued**

No.	Place	Exclusive Right	Composers
1	Restaurant and Cafeteria	Rp. 60.000,-/Seat / Year	Rp. 60.000,-/ Seat/ year
2	Public House, bar, and bistro	Rp. 180.000,-/ m2/ year	Rp. 180.000,-/ m2/ year
3	Discotheque and Nightclub	Rp. 180.000,-/ year	250.000,-/m2/year
4	Ring Back Tone	Rp.100.000,-/ call	Rp.100.000,-/ call
5	Bank and office	Rp. 6.000,- Per m2/ year	Rp. 6.000,- Per m2/ year
6	Cinema or Theatre	Lump Sum Rp. 3.600.000,-/ Screen/ Year	Lump sum Rp. 3.600.000,-/ Screen/ year
7	Expo and Bazaar	Lump Sum Rp. 1.500.000,-/ day	Lump sum Rp. 1.500.000,-/ Day
8	Flight	Index passengers fares (0,25 %) x Play period during flight x Percentage of Music usage (10%)	Index passengers fares (0,25 %) x Play period during flight x Percentage of Music usage (10%)
9	Bus, Ship and Train	Number of passengers x index rate (0,25%) x Play period during flight x audibility (10%)	jumlah penumpang x tarif indeks (0,25%) x Play period during flight x audibility (10%)
10	Commercial radio	0,55 %	0,6 %
11	Television broadcasting	0,55 % (the amount of income from previous commercial audited by public accountant x 0,55 %)	0,6 % (the amount of income from previous commercial audited by public accountant x 0, 6 %)
12	Outdoor Recreation Center	Price of admission x 1,3 % x Number of visitors x 300 day x Peage of music usage	<i>Idem</i>

<sup>8</sup> <https://www.dgip.go.id/artikel/detail-artikel/pp-nomor-56-tahun-2021-atur-royalti-lagu-musik-analog-sampai-digital?kategori=liputan-humas>



13	Free Indoor Recreation	Lump Sum Rp. 6.000.000,- / year	<i>Idem</i>
14	Karaoke	50 %	50 %

### **Socialization of the Implementation of Government Regulation Number 56 of 2021**

Since the end of March 2021, The president ratifies the aim and purpose of providing legal protection to the creator of his economic rights to music or songs from the public who will enjoy the song or music commercially. With this government regulation, at least it can appreciate the creativity of song or music creators by giving royalties. As if regulated in this government regulation to optimize the function of royalty management which is collected by the national collective management. In this Government Regulation, songwriters pay more attention to their songs. It can be enjoyed by the public in the form of royalties payments. But on the other hand, trading business actors such as cafe owners, karaoke places, hotels, banks and offices, shops, recreation centers must manage their finances and set strategies. So that people are still interested in visiting places of business because the owner of the trading business will indirectly set aside some money submitted as royalty payments. The songs played and enjoyed by visitors to cafes, karaoke, hotels, offices, and offices, commercial, restaurants, pubs, bars, bistros, nightclubs, discotheques, music concerts, airplanes, buses, trains, ships, exhibitions, and bazaars.

The Director-General of Intellectual Property builds a data *center* that has a function for commercial song/music users to find out the copyright owner of the songs or music. Then the Government is obliged to socialize with all levels of society Government Regulation Number 56 of 2021. This requires extra hard work between the government, songwriters, collective management institutions, and the community. They all must support each other so that Government Regulations can run according to expectations and the realization of a music industry that has intellectual creativity that is competitive.



In addition, this Government Regulation also reaps the pros and cons. From one side, songwriters feel benefited from this regulation, while the owners of businesses or public places have to pay more to pay royalties for the songs they use. However, the community should support government regulations, this is because the song/music industry will rise and indirectly encourage the economy as state income. so that the implementation of government regulations can run well and orderly, the government, namely the Directorate General of Intellectual Property Rights, applies strict sanctions if the public does not obey them and violates the regulations.

### **Law enforcement Upon Ratification of Government Regulation Number 56 of 2021**

Article 54 of Law Number 28 of 2014 regulates the prevention of copyright and related rights on copyright content: (1) Supervision of the creation and dissemination of copyright infringement content and related rights; (2) Cooperation and coordination with various parties both from within and outside the country; (3) Supervision of the act of recording with any media at the venue.

The criminal sanctions for violations of economic rights in Article 9 paragraph (1) on copyright include, among others, Article 113 of Law Number 28 of 2014: (1) Any person who unlawfully violates the economic right for Commercial purposes will be sentenced to a maximum imprisonment of 1 (one) year and/or a maximum fine of Rp. 100,000,000 (one hundred million rupiahs); (2) Any person who without rights and/or without permission of the Author or the Copyright holder who violates the economic rights of the Author for Commercial purposes shall be punished with imprisonment for a maximum of 3 (three) years and/or a fine of a maximum of Rp. 500,000,000.00 (five hundred million rupiahs); (3) Any person without rights or without permission of the creator or the copyright holder who violates the economic rights for commercial purposes shall be punished with imprisonment for a maximum of 4 (four) years and a fine of a maximum of Rp. 1,000,000,000,- (one billion rupiah); (4) Anyone who fulfills the element of a violation of economic rights by committing a form of piracy shall be sentenced to a maximum imprisonment of 10 (ten) years and a maximum fine of Rp. 4,000,000,000,- (four billion rupiah).



## CONCLUSION

There are several abuses that occur by utilizing the work of songs or music such as piracy, covering songs or music without the permission of the creator or who holds the license for the song/music or even using the work for business purposes without giving royalties to those who are entitled. Have a big impact on the progress and the development of the music industry in Indonesia. So that the government as the regulator has the responsibility to bring order to the problems that arise. This can reduce the enthusiasm of songwriters and musicians to be more creative in creating songs or music. Based on the description above, it can be concluded that with the ratification of Government Regulation Number 56 of 2021 concerning the management of royalties on song/music copyrights, it is hoped that it will increase the enthusiasm of Indonesian songwriters and grow new songwriters to work. In composing popular songs. Because this PP focuses on the welfare of the songwriters by giving royalties. In royalty management, the National Collective Management Institute (LMKN) regulated the data that is integrated into the data/song center. Every public at large can enjoy songs/music commercially to public services by applying for a license agreement to the holder of the copyright or related rights. It is hoped that the role of the government will be to carry out massive socialization to songwriters, the general public, and business actors before taking action against violators of this Government Regulation to avoid polemics that will occur due to the one side benefit from songwriting works. The work created is more rewarded with royalties. On the other hand, entrepreneurs and the public must provide funds for enjoying the song or music.

The heaviest threat for violating PP Number 56 of 2021 is a maximum imprisonment of 10 (ten) years and a maximum fine of Rp. 4,000,000,000, - (four billion rupiah). This indicates that the government is serious about improving the welfare of song/music composers and building the music industry in Indonesia which has an impact on improving the people's economy. Hopefully the government regulations issued are guarded and their implementation is carried out to the maximum in the field as well as the



enforcement of strict actions against violations that arise indiscriminately. So that the noble goal of the legalization of this regulation is achieved to the maximum.

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