

**FAIRNESS IN THE DISTRIBUTION OF ROYALTIES FOR PERFORMERS AND RECORD PRODUCERS AS RELATED RIGHTS HOLDERS**

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**Abstract**

Related rights, integral to intellectual property safeguards, confer economic entitlements upon contributors to phonogram performance and production. Royalty allocation to beneficiaries proceeds principally via Collective Management Institutions (LMK) and the National Collective Management Institution (LMKN), per Law Number 28 of 2014 on Copyright and Government Regulation Number 56 of 2021 on Song and/or Music Copyright Royalty Administration. Employing normative juridical methodology with statutory and conceptual emphases, this study reveals that despite normative royalty frameworks, practical hurdles persist: opaque LMK oversight, deficient work utilization tracking, and user noncompliance with payment duties. Moreover, equitable royalty apportionment for performers and producers remains suboptimal. Regulatory fortification, LMK transparency elevation, and digital technology adoption are imperative for equitable, efficacious distribution benefiting related rights stakeholders.

**Keywords:** Royalties, Related Rights, Performers, Record Producers.

**A. INTRODUCTION**

Global creative sector expansion, notably music and recording, elevates artworks to lucrative economic assets. Intellectual property frameworks shield this value via copyright and related rights, vesting proprietors with monopolistic entitlements to commercial gains from exploitation. Related rights specifically empower those facilitating public access—performers, record makers, broadcasters. They underscore that work genesis and dissemination engage not solely authors but diverse creative-technical contributors to production and utilization.<sup>1</sup> In the practice of the modern music industry, royalties are the main instrument that ensures economic sustainability for these industry players.

Internationally, related rights acknowledgment evolved via pivotal accords: the 1961 Rome Convention safeguarding Performers, Phonogram Producers, and Broadcasters; 1994 TRIPS encompassing Trade-Related Intellectual Property Aspects; and 1996 WIPO Performances and Phonograms Treaty (WPPT). These affirm economic recompense entitlements for performers and phonogram creators from commercial recording exploitation.<sup>2</sup> These developments show

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<sup>1</sup> Tomi Suryo Utomo, *Hak Kekayaan Intelektual (HKI) di Era Global* (Yogyakarta: Graha Ilmu, 2010), 98–100.

<sup>2</sup> Muhammad Hawin, “Protection of Performers’ Rights under Indonesian Copyright Law and International Conventions,” *KLRI Journal of Law and Legislation*, Vol.8, No.1, (2018) : 124-168.

that the protection of related rights is part of a global effort to ensure a fair distribution of economic benefits in the creative industries.

Indonesia comprehensively embeds related rights in Law Number 28 of 2014 on Copyright (UUHC), affirming performers' and phonogram producers' monopolies over their recordings' exploitation. It confers economic prerogatives, notably royalties from commercial dissemination via broadcast, public conveyance, or venue deployment. The National Collective Management Institution (LMKN) oversees royalty accrual and apportionment to copyright and related rights beneficiaries. Implementation, however, encounters hurdles in transparency, equity, and apportionment protocols deemed deficient in just principles.

The issue of royalty distribution has become increasingly complex along with digital transformation in the music industry. Digital platforms, streaming services, and social media have created new distribution models that are different from conventional systems based on physical sales or traditional broadcasting. In these conditions, the relationship between creators, performers, record producers, and collective management institutions becomes more complex, especially in determining the proportional distribution of royalties. Some studies have shown that the unclear mechanism of royalty distribution often puts performers at a disadvantage compared to record producers or other rights holders.<sup>3</sup> This situation raises questions about the extent to which the applicable legal system is able to ensure a fair distribution of royalties for all relevant rights holders.

Empirically, various disputes regarding related rights in the Indonesian music industry show that there is a tension between the economic interests of industry players and the legal framework that governs them. For example, debates over the economic rights to performance recordings often have to do with who is entitled to receive royalties and how the mechanism of distribution is done. In some cases, performers do not receive a proportionate share of royalties despite their significant contribution to the production process of the work. This shows that there is a gap between legal norms that recognize rights related to practical implementation in the royalty distribution system.<sup>4</sup>

Extant scholarship extensively probes related rights safeguards and royalty oversight in Indonesia. Hawin, for instance, elucidates national assimilation of global performer protections

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<sup>3</sup> Ritawati, Raihan, Otom Mustomi, Mudakir Iskandar Syah "Copyright in the Digital Age in the Protection of Intellectual Property Rights in Indonesia," *Proceedings of the International Conference on "Changing of Law: Business Law, Local Wisdom and Tourism Industry" (ICCLB 2023)*, (2023): 1358-1367.

<sup>4</sup> Antonio Rajoli Ginting, "Tinjauan Hukum Sistem Pemberian Royalti Bagi Pemain Film," *Jurnal Ilmiah Kebijakan Hukum* Vol.15, No. 1, (2021): 677

amid persistent structural impediments to execution.<sup>5</sup> Another study by Rokan emphasizes the importance of a transparent and accountable royalty management system in order to ensure the welfare of music industry players.<sup>6</sup> Meanwhile, Hutauruk highlighted the role of collective management institutions in collecting and distributing royalties, but also identified various problems related to their management and distribution mechanisms.<sup>7</sup>

While prior inquiries enrich comprehension of related rights defenses and royalty frameworks, emphasis skews toward songwriter copyrights or aggregate collection protocols, sidelining apportionment equity for performer and producer beneficiaries. Moreover, analyses remain largely expository of statutes, neglecting profound justice tenets underpinning distributions. This lacuna underscores opportunities for probing justice realization in related rights royalty allocation.

Evident from the foregoing, Indonesia's statutory scaffolding for related rights notwithstanding, royalty apportionment to performers and producers harbors normative-implementation deficits. This study thus critically dissects justice embodiment in related rights royalty distribution domestically, alongside interpretive or evolutionary potentials of extant provisions for enhanced equity safeguarding creative sector stakeholders.

## **B. RESEARCH METHODS**

This inquiry constitutes normative juridical legal scholarship. Normative research posits law as societal norms scrutinized via bibliographic or secondary sources. It dissects regulatory norms dictating royalty allocation to performers and phonogram producers as related rights proprietors, evaluating their congruence with justice tenets within Indonesia's intellectual property regime.

## **C. RESULTS AND DISCUSSION**

### **1. The Concept of Related Rights in the Copyright System**

Intellectual property regimes extend copyright safeguards beyond originators to public-dissemination facilitators, termed neighbouring rights. These confer monopolies upon

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<sup>5</sup> M. Hawin, *Op.Cit.*

<sup>6</sup> Mustika Putra Rokan, "Royalty Management Regulation for Song and/or Music Copyright: The Needs of Indonesian Musicians," *Locus: Jurnal Konsep Ilmu Hukum* Vol.1, No. 1, (2021): 30-37.

<sup>7</sup> Marulam J. Hutauruk, *Lisensi dan Royalti Lagu/Musik di Tempat Publik* (Jakarta: Yayasan Pustaka Obor Indonesia, 2022) : 45-48.

performers, phonogram producers, and broadcasters for contributions disseminating protected works publicly.<sup>8</sup>

Related rights arose to shield production-distribution stakeholders of protected works, distinct from copyright authorship. Performers—singers, thespians, instrumentalists, dancers—interpret creations, whereas phonogram producers oversee recording-fabrication.<sup>9</sup> International regimes govern related rights via accords like the 1961 Rome Convention, TRIPS, and WIPO WPPT. National incorporations followed, including Indonesia's via Law Number 28 of 2014 on Copyright.

## **2. Arrangements for Related Rights and Royalties for Performers and Record Producers in the Copyright System in Indonesia**

### **a. Related Rights**

UUHC embeds related rights in Article 1(5), defining them as copyright-adjacent exclusivities empowering performers, phonogram makers, or broadcasters to permit or bar third-party uses of performances or recordings. Such safeguards aim for juridical reliability and economic spurs for creative sector participants.

### **b. Performance Performers**

Performers enjoy monopolies over their renditions, encompassing authorizations for recording, duplication, dissemination, and public conveyance. Moral prerogatives further encompass attribution as performer and veto of reputation-harming alterations.<sup>10</sup>

### **c. Producing Phonogram**

Phonogram producers hold exclusivities over their outputs, spanning reproduction, distribution, rental, and public sound conveyance. Protections stem from their fiscal-technological investments enabling marketable recordings.<sup>11</sup>

### **d. Broadcasting Institutions**

Broadcasting entities encompass public, private, communal, and subscription operators executing transmissions per statutory mandates. They possess economic

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<sup>8</sup> Monika Suhayati, "Perlindungan Hak Ekonomi Pemilik Hak Terkait dalam Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta," *Negara Hukum* Vol.5, no. 2 (2014) : 207–221.

<sup>9</sup> Dolot Wiwin Alhasani Bakung dan Mohamad Hidayat Muhtar, "Determinasi Perlindungan Hukum Pemegang Hak atas Neighbouring Right," *Jambura Law Review* 2, no. 1 (2020): 65-82.

<sup>10</sup> F. Triatmojo, Achamd Irwan Hamzani, dan Kanti Rahayu, *Perlindungan Hak Cipta Lagu Komersil* (Pekalongan: Penerbit NEM, 2021) : 118–119.

<sup>11</sup> Usak, "Perlindungan Hukum Terhadap Hak Terkait Produser Fonogram atas Mechanical Rights Fonogram yang Dikomersilkan oleh Pihak Lain," *Refleksi Hukum : Jurnal Ilmu Hukum*, Vol. 10, No. 1 (2016): 55-70.

entitlements encompassing self-execution, permissions, or prohibitions on rebroadcasting, public conveyance, fixation, and/or fixation duplication.<sup>12</sup>

Such framework reveals Indonesia's copyright apparatus shields not merely authors but commercialization facilitators. This mirrors contemporary creative economies enlisting multifaceted production-distribution roles.

### **3. Royalty Distribution Problems for Performers and Record Producers**

#### **a. Institutional Problems in Royalty Management**

Royalty apportionment grapples chiefly with LMK and LMKN efficacy and stewardship. Statutorily pivotal for accrual and disbursement, they encounter transparency-accountability deficits practically. LMK synergies espousing creators, performers, producers—remain suboptimal, risking collection-distribution overlaps. These institutional frailties indicate that despite collective mechanisms enhancing royalty handling, refinements in oversight, regulation, and governance persist requisite.

#### **b. Problems of Data Collection and Identification of Rights Holders**

Royalty distribution contends further with rights holder data accrual. Optimal apportionment demands precise intelligence on exploited works, proprietors, and usage modalities. Practically, myriad performers and producers evade LMK registration, impeding maximal disbursement from their outputs. Digital evolution exacerbates tracking, as streaming platforms enable transborder dissemination necessitating sophisticated logging-identification. Data system shortfalls ultimately obstruct impartial allocations. An integrated database overhaul thus merits pursuit for distributional lucidity and precision.<sup>13</sup>

#### **c. Low Compliance of Work Users with Royalty Payment Obligations**

Work user noncompliance with royalty duties looms large. Commercial entities frequently exploit musical compositions or phonograms sans authorization or remuneration. Prevalent in hospitality like eateries, lodgings, cafes, and karaoke spots leveraging music for patronage, statutory mandates notwithstanding, enforcement falters amid hurdles. Noncompliance stems from legal illiteracy, lax oversight, and feeble infringement pursuit, curtailing performer-producer royalty potentials.

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<sup>12</sup> SIP-R, “Hak Terkait Pada Hak Cipta”, accessed via <https://siplawfirm.id/hak-terkait-pada-hak-cipta/?lang=id> on March 12, 2025 at 13.00 WIB

<sup>13</sup> Muhammad Satria Budi Utama, *Perlindungan Hukum atas Hak Pertunjukan Langsung dalam Pemenuhan Hak Ekonomi Pencipta Lagu*, (Banjarmasin : Universitas Lambung Mangkurat, 2025) : 102.

#### **d. The Challenges of Royalty Distribution in the Digital Era**

Digital technological strides have revolutionized music and performance sectors. Work dissemination now transcends physical carriers like cassettes or compact discs, extending to streaming services and social networks.

Such evolution unlocks novel royalty avenues for proprietors from diverse conduits. Conversely, digitalization introduces royalty oversight complexities, notably usage monitoring and equitable revenue splits.

On digital music arenas, royalties recompense copyright and related rights proprietors for streaming or download exploitation. Pivotal for artist longevity and sectoral viability, platforms vary in apportionment protocols.<sup>14</sup>

Prevailing royalty frameworks struggle adapting to digital advances, denying performers and producers remuneration commensurate with platform exploitation. Royalty oversight reformation technology-attuned, leveraging digital tracking for transparent apportionment thus proves imperative.

#### **4. Analysis of the Principle of Justice in the Distribution of Royalties for Related Rights Holders**

Distributive justice theory is one of the approaches that is often used to analyze the distribution of economic benefits in the copyright system. This concept emphasizes that the distribution of resources or benefits must be carried out proportionately according to the contribution of each party.

In the context of the music industry, performers contribute through artistic interpretation of musical works, while record producers play a role in the production and distribution process of sound recordings. Therefore, both are entitled to a share of royalties from any commercial use of the recording.<sup>15</sup>

The principle of distributive justice demands that the royalty-sharing system not only benefits the songwriter, but also gives a fair share to the relevant rights holders. If the distribution of royalties does not pay attention to the contributions of these actors, then the copyright protection system cannot be said to reflect justice. In practice, the application of the principle of distributive justice can be carried out through a transparent royalty

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<sup>14</sup> Rara Amalia Cendhayanie, Abdullah Sulaiman, "Copyright Of Generative AI Music On Digital Music Platforms In Indonesia", *Greenation International Journal Of Law And Social Sciences*, Vol. 3, N0.3, (2025) : 1153-1161.

<sup>15</sup> Firmandanu Triatmojo, Achamd Irawan Hamzani, and Kanti Rahayu, *Op.Cit*, p.132.

distribution mechanism, the accurate use of data on the use of works, and the determination of proportional royalty rates.

From a justice perspective, the existence of LMK aims to create a more efficient and fair royalty management system. Without such an institution, performers and record producers will have difficulty collecting individual royalties from various users of the work. However, the effectiveness of collective management institutions in realizing the fairness of royalty distribution is still a matter of debate. Several studies show that the royalty management system through LMK is not fully transparent and still leaves problems related to the accountability of royalty distribution.<sup>16</sup>

Ambiguities in the method of calculation and distribution of royalties may cause distrust from the relevant rights holders. Therefore, to realize the principle of fairness, collective management institutions must apply the principles of transparency, accountability, and participation in royalty management.

When analyzed normatively, the Indonesian copyright law system has recognized the economic rights of performers and record producers through the regulation of related rights in the UUHC. The regulation also regulates the mechanism for managing royalties through collective management institutions. This condition shows that the existing royalty distribution system does not fully reflect the principle of justice for the relevant rights holders. Therefore, efforts are needed to improve through increased supervision of collective management institutions, strengthening regulations related to royalty distribution, and the use of digital technology to increase transparency in royalty management.

#### **D. CONCLUSION**

Distributive justice underpins related rights royalty allocation. Copyright equity manifests via contributions-aligned apportionments for performers and producers in work genesis-dissemination. It mandates lucid, responsible, data-driven systems predicated on precise usage metrics. Despite statutory LMK mechanisms, practical impediments thwart equitable disbursements.

Reforms in LMK stewardship, regulatory reinforcement, and digital integration in royalty processes are thus essential for justice realization.

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<sup>16</sup> Fakrulloh, "Legal Study on the Payment Mechanism of Copyright Royalties and Its Implications in the Indonesian Creative Industry," *Greenation International Journal Of Law And Social Sciences*, Vol. 3, N0.2, (2025) : 260-270.

## **E. RECOMMENDATIONS**

The government needs to develop an integrated information technology system to record the use of music works and sound recordings more accurately. An integrated digital system between the users of the work and LMK, so as to increase transparency and simplify the process of distributing royalties to related rights holders.

LMK needs to increase transparency and accountability in the management and distribution of royalties. This can be done through the provision of a clear royalty distribution report that is easily accessible to members, so that rights holders can know exactly the amount of royalties collected and distributed. In addition, LMK also needs to improve the data collection system for works and related rights holders in a more accurate and integrated manner. Good data collection will help ensure that royalties can be distributed appropriately to performers and record producers who are entitled to receive them.

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