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Legal Review of Government Regulation No. 56 of 2021 on Copyright Royalties Management for Songs and or Music in Broadcasting Media with Focus on Radio

Maulana Yusuf Rustianto^{1*}, Ariani Yestati², Ivans Januardy³¹Palangka Raya University, Central Kalimantan, Indonesia, maulanayr3544@gmail.com²Palangka Raya University, Central Kalimantan, Indonesia, ariani_yestati@law.upr.ac.id³Palangka Raya University, Central Kalimantan, Indonesia, ivans.januardy@law.upr.ac.id*Corresponding Author: maulanayr3544@gmail.com

Abstract: Broadcast media plays an important role in disseminating information, entertainment, and culture to the public. In Indonesia, radio, as one of the oldest and still relevant media, has an important function in promoting musical works, including disseminating copyrighted songs. However, the use of songs on the radio must comply with applicable legal provisions, including the obligation to pay royalties to copyright owners through collective management institutions, such as LMKM based on Government Regulation Number 56 of 2021. This study aims to review the legal regulations related to the use of songs by radio stations within the framework of copyright royalty management, as well as transparent and effective royalty management mechanisms. The method used is normative legal research with an analysis of primary and secondary legal sources related to PP No. 56 of 2021 and Copyright regulations. The results of the study show that the implementation of these regulations has challenges, such as minimal socialization, complex procedures, and limited supervision. However, the implementation of the royalty management mechanism through LMKM can help protect the rights of creators while supporting the interests of the broadcasting industry. The need for increased socialization, a simpler reporting system, and effective supervision are strategic recommendations to ensure the success of song copyright royalty management on the radio.

Keyword: Copyright, Royalties, Radio Stations, Collective Management, Government Regulation No. 56 of 2021.

INTRODUCTION

In a time when broadcasting media has become diverse and has many forms, radio as one of the oldest forms of broadcasting, entertainment, communication and information media is still quite relevant because of its fairly large commercial value both from the radio station and for songwriters and copyright holders. Of the several functions of radio, the entertainment that is most in demand by the majority of radio listeners is listening to songs broadcast by the radio station. However, without the owner's consent and without paying for the use of the song's economic rights, radio stations are not allowed to play songs. Royalty payments are one form of implementation of the enforcement of recognition of copyright in general and enforcement

of neighboring rights (related rights) in particular (Rizkia & Fardiansyah, 2022). Copyright on songs has been regulated in Indonesia in Law Number 28 of 2014 concerning Copyright, which provides copyright owners with legal protection.

In the Copyright regulations, it is divided into 2 types of rights, namely Copyright and Related Rights. Related rights are those that are associated with copyright, which are distinct rights for broadcasting organizations, actors, and producers. Products made in accordance with Article 40, paragraph (1) of the Copyright rules are protected by copyright, such as songs, books, or photos, while related rights are associated with broadcasted introductory works so that the product includes the entire performance work, albums, or information (Gautama et al., 2022). Copyright is a special right such as moral and economic rights, as stated in Article 4 of the Copyright regulations. Moral rights are rights related to non-economic creations such as changing creations and changing the title and subtitle of creations, and economic rights are the rights to reproduce, distribute, and publish creations. Products pertaining to Creations and/or Related Rights are sold, distributed, and/or disseminated through distribution.

Abdulkadir claims that the right to reproduction entails producing more works that are identical, nearly identical, or similar by using the same or different materials, including converting the work, and the right to announcement entails reading, voicing, broadcasting, or distributing the work in any way that allows others to read, hear, see, purchase, or rent it (Makkawaru & Kamsilaniah, 2021).

From the background above, the research of this article is aimed at the legal regulations regarding the use of songs by radio stations in Indonesia and the mechanisms in managing copyright royalties for songs used by radio stations and royalty rates for radio broadcasting institutions.

METHOD

A normative legal research approach was used to carry out this investigation. This research will review various primary and secondary legal materials, in the form of draft laws and court decisions related to violations of song use and royalties. The primary data that will be used in this research is Law Number 28 of 2014 concerning Copyright, Government Regulation Number 56 of 2021 concerning Management of Song and/or Music Copyright Royalties and those related to the use of songs on the radio. While the secondary data is a source of data related to the use of songs on the radio that can be obtained from various publications, journals and the internet.

RESULTS AND DISCUSSION

Use of Songs by Radio Stations in Indonesia

Broadcasting music by radio stations in Indonesia is a common practice, considering the role of radio stations as a medium for disseminating information and entertainment to a wide and affordable audience. Law Number 32 of 2002 concerning Broadcasting Chapter 1 Article 1 paragraph 3 explains that radio broadcasting is an audible mass communication medium that disseminates concepts and information in an open, general way through regular, continuous broadcasts. However, in carrying out its role as an entertainment medium, radio stations cannot broadcast songs without permission, because songs are creations and works that are intellectual property. Intellectual property is defined as the exclusive right that a person or group of people is awarded by law or regulation for their creative labor; in other words, intellectual property is the right to profit from the products of intellectual innovation (Sinaga, 2020). This is regulated in Government Regulation Number 56 of 2021 concerning Management of Song and/or Music Copyright Royalties. Prior to PP No. 56 of 2021, the regulation regarding royalties and regulations for songwriters in Indonesia was still not fully effective. Although Law Number 28 of 2014 concerning Copyright has become an important

legal foundation, there are still many users of copyrighted works who violate the copyright of their creations by not paying royalties and not asking for permission to use the creations. (Harini et al., 2021) so that PP No. 56 of 2021 was made as a derivative of the Copyright Law for gatherings when songs and music are used commercially.

PP Number 56 of 2021 explicitly discusses the obligation to pay royalties for parties who use songs and/or music commercially, which includes radio stations. In this PP, the use of songs to generate economic profit is explained as "commercial use". Because radio stations earn revenue from advertising through the attraction of listeners made possible by playing songs, this activity is categorized as commercial use. Article 3 paragraph (1) of this PP states that every party who uses songs commercially in public services is required to pay royalties to the Creator, Copyright Holder, and/or Related Rights owner through LMKN (National Collective Management Institution). Thus, radio stations are expressly obliged to pay royalties for the songs they play because royalty payments are part of the economic rights of the creator and related rights owner for the song and/or music copyrighted works that are used commercially. According to Government Regulation Number 56 of 2021 governing Management of Song and/or Music Copyright Royalties, royalties are recompense for the use of a work's economic rights that the creator or owner of associated rights is required to receive. This fee must be paid by users of songs and/or music in commercial public services in order to respect and legally preserve intellectual property rights. It is emphasized by this law that commercial usage of songs and/or music in performances is subject to paying royalties directly to LMKN in addition to license agreement holders.

Mechanisms in Managing Copyright Royalties for Songs Used by Radio Stations

The advancement of intellectual property rights in copyright and related rights requires a more efficient management mechanism to ensure the protection and fulfillment of economic rights for creators and rights holders so that the Collective Management Institution was first regulated in the Copyright Law No. 28 of 2014 in Article 1 paragraph (22), "LMK is an institution in the form of a non-profit legal entity that is authorized by the Creator, Copyright Holder, and/or Related Rights owner to manage their economic rights in the form of collecting and distributing royalties. LMK or Collective Management Organization is an organization that manages economic rights to a creation (including songs, music, books, films) and/or related rights products (including performing works, recording works, broadcast works) to represent and on behalf of the rights holder." The presence of an institution that manages/regulates the collection of royalties by obtaining power from the creator/copyright holder or related rights owner (performer, recording producer, broadcasting institution) to collect royalties from the public who commercialize a creation (Yulia, 2021).

In order to optimize the function of collecting, collecting and distributing royalties and to strengthen the Copyright Law, Government Regulation Number 56 of 2021 concerning the Management of Copyright Royalties for Songs and/or Music was made as a continuation. This PP appoints LMKN as the authorized institution to collect royalties from commercial song users such as radio, and distribute them to creators and copyright holders. If a broadcast station broadcasts music and there is no collective management framework, a separate license will be required for each broadcast of the work so that it will be very difficult for the broadcast station for the user to find all the rights owners and negotiate with each of them to obtain a separate license for the use of the desired work (Nainggolan, 2016). The issuance of PP 56/2021 has a legal impact by providing certainty and protection of economic rights to copyright owners of songs and/or music and also strengthening the role of LMKN in managing royalties. However, from an economic perspective, there are challenges for business actors, especially MSMEs, who must adjust their spending to pay royalties, even though the government provides tariff relief (Zahra & Widyaningtyas, 2021).

Public services that are included in the imposition of royalties are very diverse, including radio broadcasting institutions, restaurants, cafes, hotels, recreation centers, and all other forms of commercial use of songs. The amount of the royalty rate is the responsibility of the LMKN which determines the quantity, payment structure, and control mechanism for royalty payments based on the Decree of the Minister of Law and Human Rights (Kemenkumham) Number HKI.2.OT.03.01-02 of 2016. Royalty rates for commercial radio, for example, are calculated based on a certain percentage of the previous year's audited advertising revenue, where this percentage continues to increase from year to year, indicating dynamic royalty management efforts in accordance with economic developments. LMKN itself is an institution that is authorized to collect, collect, and distribute royalties from commercial users, is a non-APBN government auxiliary agency formed based on the Copyright Law and PP Number 56 of 2021, working together with the Collective Management Institution (LMK) which operationally assists in the implementation of royalty management. This royalty management system is implemented electronically and integratively through the Song and/or Music Information System (SILM) managed by the Directorate General of Intellectual Property of the Ministry of Law and Human Rights, recording all registered songs and music, thus facilitating the recording, reporting, and distribution of royalties in a targeted and transparent manner. However, the construction of this data center requires large funds, around two hundred billion rupiah, so there is a need for acceleration and strategic cooperation with the private sector in order to create a reliable and trusted royalty ecosystem (Muthmainnah et al., 2022).

The royalty payment mechanism stipulated in this PP is carried out through LMKN. The initial step in this mechanism is the obligation of radio stations to submit a license application to the copyright holder using the assistance of LMKN. This license regulates important details of song usage, including the time period, broadcast area, and of course, the amount of royalties. Then, radio stations must also report detailed song usage to LMKN, namely the title of the song played along with the frequency and duration of playback, through the Song and/or Music Information System (SILM). This report is the basis for LMKN to calculate the royalties that must be paid by the radio station. After the royalties are calculated, the radio station is required to make payments to LMKN. LMKN will then distribute the royalties to the relevant rights owners, such as songwriters and copyright owners. Although there are no specific provisions regarding royalty rates for radio stations in PP Number 56 of 2021, the rates will be set by LMKN by considering such things as the type of station (commercial or non-commercial), broadcast coverage area, and number of listeners based on the Provisions of the Minister of Law and Human Rights. Regarding sanctions in PP Number 56 of 2021, they are also not explicitly regulated but are regulated in the UUHC, which states that any individual who violates the economic rights of a creator will be subject to a maximum prison sentence of 4 years and/or a fine of 1 billion rupiah.

The royalty payment procedure begins with the user or radio station calculating the amount of royalties based on the applicable rates. LMKN then receives the payment, collects song usage data, and distributes royalties to creators, copyright holders, and related rights owners who have become members of LMK. If the identity of the creator or rights owner is unknown or has not become a member of LMK, the royalties will be stored and announced for two years so that they can be claimed if the relevant party appears. Failure to claim for two years results in the royalties becoming reserve funds used by LMKN for various organizational needs. (Muthmainnah, Pradita, & Bakar, 2022) For radio stations themselves, in practice, PP Number 56 of 2021 faces a number of challenges. One of them is the lack of socialization. Many parties or radio stations, especially those operating in the regions, are not yet aware of this PP and the obligations it entails. This makes many of them often ignore royalty payments. The royalty payment mechanism, which is considered complicated and confusing, is also another obstacle. The license application and reporting process is considered time-consuming

and costly. LMKN also faces limitations in supervision due to the limited number of personnel to monitor all radio stations both in terms of frequency of use and honesty of reporting, so that some supervision efforts must be carried out from a central point that is potentially not optimal. Then, in terms of legal awareness itself among radio actors, it has not yet been formed, because it is seen that the obligation to pay royalties will burden the operational costs of the radio.

The study's findings reveal differing opinions among the creative sector on Indonesia's current intellectual property rights (IPR) protection framework. Of those surveyed, 55% expressed satisfaction with the system, while 45% expressed dissatisfaction. Forty percent of respondents thought that the enforcement of IPR protection was effective, while sixty percent thought that it was inefficient. Half of the respondents were certain that they could obtain legal recourse for intellectual property violation, while the other half were not. These results emphasize the necessity for stakeholders and policymakers to solve the problems and enhance the efficiency of IPR enforcement as well as the availability of legal redress for innovators and creators in Indonesia's creative sector (Judijanto et al., 2024).

Royalty Rates for Radio Broadcasting Institutions

In the Attachment of the Decree of the Minister of Law and Human Rights of the Republic of Indonesia HKI.2.OT.03.01-02 of 2016, the basis for determining royalty rates is determined proportionally and is based on best practices at the international level and its application is based on the types of radio broadcasting institutions, namely commercial radio and non-commercial radio. The following is the data on the percentage of radio broadcasting institution royalty rates:

Table 1. Royalty Rates for Radio Broadcasting Institutions

Year	Creator's Rights	Related Rights	Total
2015	0,20%	0,15%	0,35%
2016	0,30%	0,25%	0,55%
2017	0,40%	0,35%	0,75%
2018	0,50%	0,45%	0,95%
2019	0,60%	0,55%	1,15%

Royalty rates for commercial radio, both free to air/terrestrial (free to air) and internet network-based (streaming), including Radio Republik Indonesia (RRI) Commercial are calculated based on the amount of advertising revenue from the previous year that has been audited by a Public Accountant multiplied by the percentage of the rate as stated in the data and the rates for non-commercial radio and Radio Republik Indonesia (RRI) Non-Commercial are calculated based on a lump sum with provisions for copyright and related rights of IDR 1,000,000 per year.

CONCLUSION

Based on the results of the research and discussion, it can be concluded that the legal regulations regarding the use of songs by radio stations in Indonesia have been strictly regulated through Government Regulation Number 56 of 2021 concerning the Management of Copyright Royalties for Songs and/or Music. This PP emphasizes the obligation of radio stations as users of copyrighted works to pay royalties to creators and rights owners through a collective management institution, namely LMKN. The royalty management mechanism through LMKN is expected to be able to guarantee transparency, fairness, and effectiveness in the distribution of royalties, while also supporting the protection of the copyright of songwriters. However, the implementation of this regulation still faces significant challenges, such as minimal socialization, complex procedures, and limited supervision and resources.

Therefore, efforts are needed to increase socialization, simplify the reporting system, and strengthen supervision so that the royalty management mechanism can run optimally and provide fair legal protection for all related parties. The implementation of this regulation is expected to increase legal awareness among broadcasting industry players and song users, as well as support the sustainability of the music industry and copyright protection nationally. Regarding the royalty rates for radio broadcasting institutions, the rates are determined based on the type of broadcasting institution (commercial or non-commercial), broadcast coverage area, and number of listeners, as stipulated in the decree of the Minister of Law and Human Rights. The royalty rate for commercial radio is calculated based on a certain percentage of audited annual advertising revenue, with the percentage continuing to increase from year to year. Meanwhile, for non-commercial radio and non-commercial Radio Republik Indonesia (RRI), the royalty rate is imposed in a lump sum of Rp 1,000,000 per year.

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