

Reconstructing the Music Royalty Payment Model for Micro, Small, and Medium Enterprises (UMKM) in Indonesia

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Abstract

The use of music in commercial activities, particularly in cafés, restaurants, and other service-oriented businesses, has intensified debates over the legal design of royalty payments in Indonesia. Although royalty obligations serve as an essential mechanism for protecting the economic rights of creators and copyright holders, the application of uniform tariff structures continues to generate concerns regarding distributive fairness, legal proportionality, and regulatory effectiveness. These concerns are especially significant for micro, small, and medium enterprises (UMKM), whose economic capacity, turnover, and intensity of music utilization vary considerably. A standardized royalty regime imposed on economically diverse business actors may create disproportionate compliance burdens and weaken the legitimacy of copyright governance. This study examines the legal construction of music royalty payments for UMKM and formulates a more equitable payment model within the Indonesian copyright framework. It employs normative legal research using statutory and conceptual approaches, focusing on copyright legislation, implementing regulations, and theories of proportionality and regulatory justice in intellectual property law. The findings indicate that the current royalty mechanism remains predominantly tariff-oriented and does not adequately accommodate differences in business scale, revenue capacity, and patterns of music exploitation. As a result, uniform tariffs risk producing unequal legal and economic consequences for UMKM. This article therefore proposes the reconstruction of a proportional and adaptive royalty payment model based on differentiated criteria, including business turnover, ability to pay, business category, and the intensity of music use. Such a framework is expected to balance the economic interests of creators with the sustainability of UMKM, while strengthening legal certainty, improving compliance incentives, and promoting a more socially responsive copyright governance regime in Indonesia.

INTRODUCTION

In recent years, the music industry ecosystem in Indonesia has experienced significant growth, along with the increasing production and utilization of musical works. This development has generated positive impacts, particularly in raising awareness of the importance of legal protection in the field of music. Music itself is a universal form of art that possesses cultural value and contributes to the formation of collective identity within society.¹

In relation to music, copyright as part of Intellectual Property Rights is protected under Law Number 28 of 2014 concerning Copyright, which defines copyright as the exclusive right of a creator that arises automatically based on the declarative principle once a work has been realized in a tangible form. Such exclusive rights include economic rights and moral rights, where economic rights grant the creator or rights holder the authority to obtain economic benefits from the commercial exploitation of a work,² while moral rights relate to the right to have one's name acknowledged and to preserve the integrity of the work.³

These economic rights essentially create legal consequences in the form of obligations for every party that commercially utilizes a copyrighted work to provide compensation to the creator or rights holder. Such compensation is known as royalties, namely payments for the utilization of the economic rights of a copyrighted work or related rights product.⁴ Accordingly, every form of commercial use of musical works, whether direct or indirect, in principle requires royalty payments as a form of respect for the creator's economic rights.⁵ Such utilization is not limited to activities that explicitly generate income, but also includes the use of musical works as supporting elements in business activities that may increase economic value, such as creating ambiance or attracting consumers.

In practice, the commercial utilization of musical works is widely carried out by business actors, including micro, small, and medium enterprises (UMKM), particularly

¹ Yasril Adha, "Seni Musik sebagai Media Pendidikan, Ekspresi Estetis, dan Pelestarian Budaya," *Jurnal Laga-Laga: Jurnal Seni Pertunjukan*, Vol. 7, No. 1, 2021, hlm. 1-10.

² Miftahul Haq, "Perlindungan Hak Ekonomi Hak Cipta Berdasarkan Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta", *Indonesian Journal of Science*, Vol. 2, No. 2, 2025, hlm. 279-282.

³ Puspaasri, B.P., Budiharto, B., dan Setyowati, R.F, Perlindungan Hukum Bagi Pemegang Hak Cipta Atas Lagu Yang Lagunya Digunakan Oleh Pihak Lain Tanpa Izin, *Diponegoro Law Journal*, Volume 9, Nomor 1, 2020, hlm 54-67.

⁴ Rahmi Jened, *Hukum Hak Cipta (Copyright's Law)*, 1st ed. (Bandung: PT Citra Aditya Bakti, 2014), hlm. 87-90

⁵ Suyud Margono, *Hukum Hak Cipta Indonesia Hukum hak cipta Indonesia: teori dan analisis harmonisasi ketentuan World Trade Organization/WTO-TRIPs Agreement*, (Jakarta: Ghalia Indonesia, 2020), hlm. 115-118.

in the café and restaurant sectors.⁶ Music is frequently used as a supporting element in business operations to enhance consumer comfort and increase the attractiveness of business premises. Nevertheless, the use of musical works gives rise to legal consequences in the form of royalty payment obligations, the implementation of which still faces various challenges, especially for UMKM actors who often have limited understanding and capacity to fulfill such obligations.

Problems arise because the royalty payment mechanism in Indonesia has not yet fully provided clarity, convenience, and fairness for UMKM. In practice, the royalty tariff determination system tends to remain general in nature and has not fully taken into account differences in business scale, thereby creating perceptions that the imposed payment burden is disproportionate, particularly for micro and small business actors. In addition, limited legal understanding, lack of socialization, and unequal access to information regarding royalty payment procedures also constitute obstacles to implementation. On the other hand, the royalty management system through Collective Management Organizations (CMOs) and the National Collective Management Organization (LMKN) is also considered insufficiently adaptive, particularly in accommodating the characteristics and economic capacities of UMKM in Indonesia.

In this context, royalty tariff determination should not be applied uniformly, but rather should be structured more flexibly and based on business scale classifications. A fixed tariff model has the potential to create injustice because it does not reflect differences in economic capacity between large enterprises and UMKM. Therefore, a proportional tariff determination model is required, for instance by considering indicators such as business turnover, venue capacity, or the level of music utilization in commercial activities. In this way, the royalty payment system would not only guarantee the protection of creators' economic rights, but also take into account business sustainability, particularly for UMKM actors.

For example, in practice in Indonesia, there are still small-scale café and restaurant business actors who use music as a supporting business element without understanding the obligation to pay royalties. In many cases, such obligations are only discovered after billing from royalty management institutions, which subsequently creates confusion and objections regarding tariff amounts considered inconsistent with the scale of the business. This condition indicates that the implementation of the royalty payment system in Indonesia has not yet been fully effective and still requires adjustments in order to

⁶) Moch. Fatkhur Rozi, Nuzulia Kumala Sari, dan Galuh Puspaningrum, "Kepastian Hukum Penarikan Royalti Lagu dan/atau Musik Secara Komersial terhadap Sektor Usaha Mikro, Kecil dan Menengah", *Fairness and Justice: Jurnal Ilmiah Ilmu Hukum*, Vol. 21, No. 2, November 2023, hlm.60-62

become fairer, more transparent, and more adaptive to the conditions of business actors, particularly UMKMs.

In its implementation, the collection and distribution of royalties are carried out through Collective Management Organizations (LMK) and the National Collective Management Organization (LMKN) as representatives of creators and rights holders.⁷ LMK play a role in collecting royalties from users of musical works, while LMKN has a coordinative function in the management and distribution of royalties at the national level. Through this mechanism, the royalties that have been collected are subsequently distributed to creators and rights holders in accordance with the utilization of the musical works concerned.⁸

However, in practice, the mechanisms for collecting and distributing royalties through LMK and LMKN still face various challenges, particularly regarding transparency, accuracy of usage data, and conformity between distribution and actual utilization of works in the field, which ultimately also affects business actors' perceptions of the royalty payment system..

In relation to the currently developing issue of music royalty payments, various studies have been conducted focusing on the legality of royalty collection, the position and authority of Collective Management Organizations (CMOs) and the National Collective Management Organization (LMKN), as well as the obligations of legal subjects in fulfilling royalty payments. In addition, several studies have also highlighted implementation issues, such as the level of compliance among business actors and the effectiveness of royalty collection and distribution.

Nevertheless, these studies remain limited to normative and institutional aspects and have not comprehensively examined the design of a royalty tariff system that considers differences in the economic capacities of business actors, particularly UMKMs. In practice, however, the primary issue faced by UMKM actors lies precisely in the amount and mechanism of tariff determination, which are considered disproportionate to business scale.

Therefore, this article seeks to offer a reconstruction of a music royalty payment model based on economic indicators, such as turnover and the intensity of music utilization. This approach is expected to produce a more adaptive system, provide legal certainty,

⁷ Nida Kamilah Azhar, "Quo Vadis Lembaga Manajemen Kolektif: Menakar Ulang Efektivitas Pembagian Royalti dalam Kacamata Peraturan Perundang-Undangan", *Jurnal Darma Agung*, Vol. 33, No. 2, April 2025, hlm. 470-482.

⁸ Nida Kamilah Azhar, "Quo Vadis Lembaga Manajemen Kolektif: Menakar Ulang Efektivitas Pembagian Royalti dalam Kacamata Peraturan Perundang-Undangan", hlm. 472

and create a balance between the protection of creators' rights and business sustainability, particularly for UMKM actors. How are the regulations and mechanisms of music royalty payments for commercial utilization implemented in Indonesia?. How can an ideal reconstruction of the music royalty payment model for UMKM actors in Indonesia be formulated?.

METHODS

This study employs normative legal research, namely research conducted systematically to identify legal rules, patterns, principles, and doctrines in order to resolve or answer a legal issue. Normatively, this research analyzes statutory provisions relating to copyright, particularly concerning economic rights and royalty payment obligations. Empirically, the study examines the implementation of these provisions in practice, especially regarding the mechanisms for royalty collection and payment by UMKM actors.⁹

The type of data used in this research consists of secondary data obtained through library research. Such data include primary legal materials in the form of statutory regulations related to copyright and royalty management, secondary legal materials in the form of books, scientific journals, and relevant research findings, as well as tertiary legal materials in the form of legal dictionaries and other supporting sources.

The research approaches employed include the statute approach and the conceptual approach. The statute approach is used to examine regulations governing copyright and royalties, while the conceptual approach is applied to understand relevant legal concepts.¹⁰ Data analysis is conducted qualitatively using a deductive method, namely by examining general legal provisions and subsequently applying them to specific problems. The analysis is carried out through legal interpretation and legal reasoning in order to produce systematic and comprehensive conclusions in addressing the research problems.¹¹

⁹⁾ Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana Prenada Group, 2007), hlm. 35.

¹⁰⁾ Peter Mahmud Marzuki, *Penelitian Hukum*, hlm. 41-105.

¹¹⁾ Peter Mahmud Marzuki, *Penelitian Hukum*, hlm. 35.

RESULT AND DISCUSSION

1. Regulation and Mechanism of Music Royalty Payments in Commercial Utilization in Indonesia, Particularly for UMKMs in the Café and Restaurant Sector

Royalties constitute a consequence of intellectual property rights, which OK. Saidin understands as proprietary rights over the results of human intellectual labor..¹² In line with this view, Munir Fuady states that intellectual property rights are rights over intangible assets that possess economic value.¹³ Thus, every intellectual work, including music, contains economic value that may be utilized by creators as well as other parties. Philosophically, this is also consistent with John Locke's natural rights theory, which emphasizes that every individual has rights over the products of their labor and intellectual thought, so that the granting of royalties constitutes a form of recognition of such rights.¹⁴

Theoretically, intellectual property rights cannot be separated from economic aspects, because every intellectual work essentially possesses both use value and exchange value that may be commercially exploited. From an economic perspective, a copyrighted work is viewed as an asset with economic value because it can provide financial benefits to both the creator and other parties who utilize it.¹⁵ Therefore, legal protection of intellectual works is also intended to guarantee economic incentives for creators.¹⁶

In the legal context, copyright constitutes part of intellectual property rights that grants exclusive rights to creators over their works.¹⁷ These rights include economic rights, namely the right to obtain economic benefits from the use of the work, as well as moral rights inherent to the creator.¹⁸ Theoretically, such exclusive rights are intended to provide creators with control over the utilization of their works while simultaneously ensuring recognition for the results of their creativity.

The use of music in business activities, such as in cafés and restaurants, falls within the category of commercial utilization because it contributes to increasing the economic

¹² H.OK. Saidin, *Aspek Hukum Hak Kekayaan Intelektual*, (Jakarta : Rajawali Pers, 2010), hlm 9.

¹³ Munir Fuady, *Pengantar Hukum Bisnis*, (Bandung: Citra Aditya Bakti, 2011), hlm. 208.

¹⁴ Tomi Suryo Utomo, *Hak Kekayaan Intelektual (HKI) di Era Global Sebuah Kajian Kontemporer*, (Yogyakarta: Graha Ilmu, 2010), hlm. 2.

¹⁵ Adrian Sutedi, *Hak Atas Kekayaan Intelektual*, (Jakarta: Sinar Grafika, 2013), hlm. 40.

¹⁶ Eddy Damian, *Hukum Hak Cipta*, (Bandung: PT Alumni, 2009), hlm. 29.

¹⁷ Undang-undang Nomor 28 Tahun 2014 Tentang Hak Cipta, Pasal 1 angka 1

¹⁸ Sophar Maru Hutagalung, *Hak Cipta Kedudukan dan Peranannya dalam Pembangunan* (Jakarta : Sinar Grafika, 2022), halaman 336.

value of a business, even though it is not always the primary source of revenue.¹⁹ In practice, music is more commonly used as a supporting element that functions to create atmosphere and enhance consumer experience. Nevertheless, such use still gives rise to legal consequences in the form of royalty payment obligations.

Based on the provisions of Article 19 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 27 of 2025 concerning the Implementing Regulation of Government Regulation Number 56 of 2021 on the Management of Song and/or Music Copyright Royalties (Permenkumham No. 27 of 2025), the National Collective Management Organization (LMKN), whether representing creators or related rights holders, possesses authority in royalty management, including the collection, accumulation, and distribution of royalties from commercial public service users.

Furthermore, pursuant to Article 20 of Permenkumham No. 27 of 2025, every party engaging in the commercial use of songs and/or music is required to apply for a license and make royalty payments to creators, copyright holders, or related rights holders through LMKN. This provision demonstrates that the royalty payment mechanism is centrally administered through LMKN as part of a collective licensing system (one gate system).²⁰

Royalty distribution is carried out by LMKN through Collective Management Organizations (CMOs/LMK) representing creators and related rights holders. In practice, the creators' LMKN and the related rights holders' LMKN coordinate in determining the amount of royalties allocated to each LMK based on principles of fairness and established practices. These royalties are subsequently distributed to creators or rights holders who are members of LMK, while for parties who are not members, distribution is conducted by LMKN through claim and data verification mechanisms.²¹

Within this system, royalty payments made by users are centrally collected by LMKN and subsequently distributed to LMKs to be further allocated to entitled parties based on data concerning the utilization of musical works. Such distribution is conducted by taking into account the level of utilization of songs and/or music by users. In addition,

¹⁹⁾ Rianda Dirkareshza, dkk., "Urgensi Reformulasi Mekanisme Pemungutan Royalti Musik bagi UMKM Restoran sebagai Solusi atas Paradoks Penegakan Hukum Hak Cipta di Indonesia", *Jurnal Batavia*, Vol. 2 No. 3, Mei 2025 hlm. 166.

²⁰⁾ Putri Ayu Permatasari, Didiek Wahyu Indarta, dan Irma Mangar, "Tanggung Jawab Hukum Pelaku Usaha Dalam Pembayaran Royalti Lagu Berdasarkan Permenkumham Nomor 27 Tahun 2025 Tentang Peraturan Pelaksanaan Peraturan Pemerintah Nomor 56 Tahun 2021 Tentang Pengelolaan Royalti Hak Cipta Lagu Dan Musik", *Jurnal Ilmu Sosial & Hukum Al-Zayn*, Vol. 4 No. 1, 2026, hlm. 5191.

²¹⁾ Rianda Dirkareshza, dkk., "Urgensi Reformulasi Mekanisme Pemungutan Royalti Musik bagi UMKM Restoran sebagai Solusi atas Paradoks Penegakan Hukum Hak Cipta di Indonesia", 473

LMKs are also required to periodically report royalty distribution activities to LMKN, including the amount of royalties distributed, recipient parties, and music usage data.

In relation to this mechanism, the music royalty payment system in Indonesia is also supplemented by provisions concerning tariff rates imposed on users. These provisions are regulated under the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number HKI.2.OT.03.01-02 of 2016 concerning the Ratification of Royalty Tariffs for Users Engaging in the Commercial Utilization of Musical and Song Copyright Works and/or Related Rights Products.

In the context of the culinary sector, particularly cafés and restaurants, royalty tariffs are determined based on the number of seats available within the business premises. The imposed tariff amounts to IDR 60,000 per seat per year for creators and IDR 60,000 per seat per year for related rights holders, resulting in a total royalty obligation of IDR 120,000 per seat per year.

Accordingly, the larger the seating capacity of a business establishment, the greater the royalty payment obligation that must be fulfilled. For illustration, a café with a seating capacity of 50 seats would be subject to an annual royalty obligation of IDR 6,000,000, whereas a restaurant with a seating capacity of 100 seats would be required to pay IDR 12,000,000 annually.

The use of seating capacity as the basis for tariff calculation demonstrates that royalty determination is based on assumptions regarding a business's service capacity. However, such an approach does not fully reflect the actual conditions of business actors, particularly UMKMs, because it does not take into account other factors such as turnover levels, actual visitor numbers, or the economic capacity of business operators.²²

As a consequence, the implementation of royalty tariffs continues to generate various issues, particularly regarding fairness and proportionality, whereby small-scale business actors may potentially bear burdens disproportionate to their economic capacities. In addition, the uniform nature of the tariff system, along with the limited understanding among UMKM actors regarding royalty mechanisms—including payment procedures, licensing aspects, tariff determination bases, as well as collection and distribution mechanisms—constitutes an obstacle to implementation.

From the perspective of Roscoe Pound's theory, law functions as an instrument for balancing various interests, namely individual interests, societal interests, and state

²²) Singgih Eko Cahyono, *Analisis Implementasi Sistem Royalti Pemutaran Lagu di Coffee Shop Berdasarkan Undang-Undang Hak Cipta di Indonesia*, Tesis, Program Magister (S2) Ilmu Hukum, Universitas Islam Sultan Agung, Semarang, 2025.

interests.²³ In the context of music royalty payments, individual interests are reflected in creators' rights to obtain economic compensation, societal interests are reflected in the need for UMKM actors to conduct their businesses sustainably, while state interests relate to efforts to establish legal certainty and encourage the growth of the creative economy.

However, the seat-based tariff system does not yet reflect a balance among these three interests. The imposition of obligations without considering users' economic capacities tends to accommodate creators' interests more strongly, while the interests of business actors as part of societal interests remain insufficiently protected in a proportional manner. This condition demonstrates that the existing system has not fully fulfilled the function of law as a means of balancing interests as proposed by Roscoe Pound.

In the context of music royalty payments, these three interests can be concretely identified. Individual interests are reflected in the rights of creators and related rights holders to receive economic compensation for the use of their works.²⁴ Societal interests are reflected in the needs of business actors, particularly UMKMs, to utilize music as a supporting instrument for business activities in order to enhance comfort and attractiveness for consumers. Meanwhile, state interests are reflected in efforts to establish legal certainty and promote sustainable creative economic growth.²⁵

However, in practice, these three interests have not yet been placed in a balanced position. The uniform determination of royalty tariffs and payment mechanisms that are not yet fully understood by UMKM actors tend to prioritize the protection of creators' economic rights without adequately considering the conditions of small-scale business actors. Consequently, the interests of UMKMs as part of societal interests become insufficiently protected.

Furthermore, when examined through the theory of Gustav Radbruch, the system has essentially fulfilled the aspect of legal certainty because tariffs are clearly and uniformly determined.²⁶ Nevertheless, the system does not fully reflect the values of justice and utility because it fails to consider differences in the economic capacities of business actors and potentially creates disproportionate burdens. Therefore, the current royalty payment

²³ Satjipto Rahardjo, *Ilmu Hukum* (Bandung: Citra Aditya Bakti, 2006), hlm. 19.

²⁴ Ni Ketut Ayu Karioni, dkk., "Analisis Pengaturan Hak Ekonomi bagi Pencipta dalam Pemutaran Musik untuk Tujuan Komersial Berdasarkan Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta dari Perspektif Tujuan Hukum", *Journal of Innovative and Creativity*, Vol. 5 No. 3, 2025, hlm. 32368.

²⁵ Muhamad Ricki Farchani, *Pembayaran Royalti Lagu pada Kafe (Studi Kasus tentang Live Performance Musik di Wilayah Kecamatan Patebon Kabupaten Kendal)*, Skripsi, Program Studi Hukum Ekonomi Syariah, Fakultas Syaria'ah dan Hukum, Universitas Islam Negeri Walisongo, Semarang, 2025.

²⁶ Satjipto Rahardjo, *Ilmu Hukum*, 19-21

system tends to emphasize legal certainty, but has not yet achieved balance with the aspects of justice and utility.

This condition demonstrates that the existing royalty payment system has not fully created harmonization of interests, but instead has the potential to generate conflict between creators and business actors. Therefore, a more proportional and adaptive approach is required in formulating a royalty payment model.

Accordingly, it may be concluded that the current music royalty payment system still requires adjustments, particularly in relation to the regulation and determination of royalty tariff calculations, in order to better align with the actual conditions of business actors, especially UMKMs. Such adjustments are essential to achieve a balance between the protection of creators' economic rights and business sustainability. Therefore, a more proportional and adaptive model for regulating and calculating music royalty tariffs is required in order to establish a just system.

2. Reconstruction of an Ideal Music Royalty Payment Model for UMKMs in the Café and Restaurant Sector in Indonesia

In the formulation of legislation or legal policy, not only is the aspect of legal certainty required, but the values of justice and utility must also be balanced. This is consistent with the thought of Gustav Radbruch, who emphasized that law must contain three fundamental values, namely justice (*gerechtigkeits*), legal certainty (*rechtssicherheit*), and utility (*zweckmäßigkeit*), all of which must operate harmoniously.²⁷

Furthermore, from the perspective of distributive justice theory, the imposition of rights and obligations within a legal policy must be carried out proportionally by taking into account the conditions and capacities of each party. This principle affirms that equal treatment does not always reflect justice when differences in economic capacity are ignored.²⁸ In line with this principle, the proportionality principle in law also requires that every obligation imposed must be balanced with the objective to be achieved and must not create excessive burdens on the obligated party.

Based on this theoretical framework, in the context of the current mechanism and determination of music royalty tariffs, it can be observed that the existing system does not yet fully reflect the principles of justice and proportionality, particularly for UMKM actors. Therefore, a reconstruction of the music royalty payment model is required so that it becomes more adaptive to the characteristics and economic capacities of business actors.

²⁷⁾ *Ibid*, hlm. 19.

²⁸⁾ Hyronimus Rheti, *Filsafat Hukum*, (Yogyakarta: Universitas Atma Jaya, 2011, hlm. 241–243.

It is well recognized that UMKMs constitute one of the principal pillars of the Indonesian economy. This is reflected in data from the Integrated UMKM Data Information System (SIDT) as of December 31, 2025, which indicates that the number of UMKMs in Indonesia reached 30,209,069 business units, consisting of 99.70% micro enterprises, 0.24% small enterprises, and 0.05% medium enterprises. These data demonstrate the dominance of micro enterprises within the national economic structure.²⁹

Based on the results of questionnaire research conducted on UMKM business actors, it was found that nearly all respondents use music as part of their business activities, particularly to create a comfortable atmosphere and improve consumer experience. However, music generally does not constitute the primary factor directly generating revenue, but rather functions merely as a supporting element.

On the other hand, Government Regulation Number 56 of 2021 concerning the Management of Song and/or Music Copyright Royalties broadens the scope of legal subjects, such that cafés, food stalls, and restaurants are categorized as parties obligated to pay royalties for the use of music. Such obligations constitute a form of protection of creators' economic rights and the realization of justice for the parties involved, particularly creators and related rights holders, as a consequence of the utilization of musical works in commercial activities.³⁰

However, in practice, royalty payment obligations are not yet fully aligned with the actual conditions of business actors, particularly UMKMs. Considering that music generally functions only as a supporting element, the imposition of royalties is often disproportionate to its contribution to business revenue, thereby creating tension between legal obligations and the economic capacities of business actors. This condition reflects a conflict of interests between creators as holders of economic rights and business actors as users of musical works. The application of uniform tariffs without considering business scale has the potential to create disproportionate burdens, such that the current system tends to emphasize legal certainty while not yet fully reflecting justice and utility.

These issues raise questions concerning the basis for determining music royalty tariffs, including the possibility of adjustments based on the characteristics and capacities of business actors. Therefore, in formulating a policy, not only legal certainty is required,

²⁹) Kementerian Koperasi dan Usaha Kecil dan Menengah Republik Indonesia, *Sistem Informasi Data Tunggal Koperasi dan UMKM (SIDT-KUMKM)*, <https://satudata.umkm.go.id/custom-dashboard/>, diakses 20 April 2026.

³⁰) Zulkifli Makkawaru, Hj. Kamsilaniah, dan Almusawir, *Hak Kekayaan Intelektual: Seri Hak Cipta, Paten, dan Merek* (Sukabumi: Farha Pustaka, 2021), hlm. 27

but the principles of justice and proportionality must also be comprehensively considered by taking into account economic conditions, business characteristics, and their impacts on the involved parties.

From the perspective of justice theory and legal certainty, policymaking, including the determination of music royalty tariffs, must reflect a balance between justice, legal certainty, and utility. Therefore, the imposition of obligations should be adjusted according to the capacities and contributions of each party in order to avoid inequality, particularly for UMKM actors.³¹ On the other hand, legal certainty requires that a rule be formulated clearly, consistently, and understandably by legal subjects so that it may be effectively implemented without creating confusion. Accordingly, a sound policy is not only normatively valid, but also practically applicable.³²

Thus, in the context of music royalty payments, the determination of tariffs and management mechanisms should not merely focus on protecting creators' economic rights, but must also consider aspects of justice and the capacities of business actors, particularly UMKMs. Therefore, a regulatory model is required that can accommodate a balance between the interests of creators, business actors, and the state, thereby establishing a system that not only provides legal certainty but also comprehensively reflects justice and utility.

Looking at practices in the United States, the music royalty management system has developed through a more flexible and user-oriented approach. Royalty management is conducted through collective institutions such as Performance Rights Organizations (PROs), which determine licensing schemes and tariffs variably by considering the type of business, business scale, and level of music utilization.³³ In addition, the licensing mechanisms used tend to be simpler and more accessible, thereby facilitating business actors in fulfilling royalty payment obligations.

Compared to practices in Indonesia, the current system still tends to be uniform and not yet fully adaptive to the characteristics of business actors. Tariff determination based on physical indicators such as the number of seats demonstrates the dominance of legal certainty aspects, yet does not fully reflect justice and utility. The seat indicator essentially represents only the capacity of a business establishment, but does not directly reflect the economic capacity of business actors or the business turnover generated. Consequently,

³¹ John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971), hlm. 54.

³² John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971), hlm. 54.

³³ Sheila Noor Baity dan Catur Septiana Rakhmawati, "Harmonisasi Direct Licensing dan Collective Licensing atas Performing Rights di Indonesia," *JIPRO: Journal of Intellectual Property*, Vol. 8 No. 2 (2025), hlm. 210.

business actors with the same number of seats do not necessarily have comparable turnover levels, such that the use of this indicator may create disproportionate burdens for UMKMs.³⁴

Furthermore, when examined through the perspective of distributive justice, the imposition of obligations should be based on the principle of proportionality, namely adjustment according to the capacities and contributions of each party.³⁵ Therefore, the indicators used in implementing royalty tariffs should be capable of reflecting the actual economic conditions of business actors. In this regard, turnover constitutes a more representative indicator because it reflects the total transaction value within a certain period and may therefore serve as a more appropriate basis for determining financial obligations compared to indicators based on physical capacity.³⁶

The use of turnover as the tariff basis not only possesses theoretical foundations, but also legal and operational relevance. Normatively, turnover has become part of the administrative obligations of business actors, whether through financial recording or tax reporting, such that it may be utilized as a more operational indicator in determining royalty tariffs.³⁷ Accordingly, compared to indicators based on physical capacity, turnover is more capable of representing the actual economic conditions of business actors.

Nevertheless, the implementation of turnover as the basis for tariff determination requires a clear verification mechanism in order to guarantee accuracy and prevent data manipulation. Such verification may be conducted through integration with existing administrative systems, such as taxation data or financial reports, while still maintaining data confidentiality.³⁸ In this regard, the role of LMKN may be strengthened not only as a coordinator for royalty collection and distribution, but also as an institution conducting transparent and accountable data validation through cooperation with related agencies.³⁹ Accordingly, a turnover-based model is not only aligned with the principles of justice and proportionality, but also possesses sufficient operational foundations for implementation..

³⁴) Adji Samekto, *Memahami Ajaran Hukum Gustav Radbruch*, (Jakarta: Rajawali Pers, 2025), hlm. 34.

³⁵) Aristoteles, *Nicomachean Ethics*, diterjemahkan oleh Terence Irwin (Indianapolis: Hackett, 1999), hlm. 113.

³⁶) Kasmir, *Analisis Laporan Keuangan* (Jakarta: Rajawali Pers, 2018), hlm. 28–30.

³⁷) Daniel Gervais, *Collective Management of Copyright and Related Rights*, 3rd ed. (Alphen aan den Rijn: Kluwer Law International, 2016), hlm. 78–80.

³⁸) OECD, *Tax Administration 2019: Comparative Information on OECD and Other Advanced and Emerging Economies* (Paris: OECD Publishing, 2019), hlm. 96–98.

³⁹) Constantius Mario Valentino Mbaling & Wilma Silalahi, "Efektivitas Lembaga Manajemen Kolektif Nasional dalam Perlindungan Hak Ekonomi Pencipta Lagu di Era Digital di Indonesia," *Kertha Semaya: Journal Ilmu Hukum*, Vol. 13 No. 9 (2025), hlm. 2145–2147.

In contrast to this approach, the system in the United States, through the concept of fair use, provides flexibility in determining whether the use of a copyrighted work should be subject to payment obligations. The fair use concept is based on four principal criteria, namely the purpose and character of the use, the nature of the work used, the amount and substantiality of the portion used, and the effect of the use on the economic value of the work. These criteria demonstrate that not all uses of copyrighted works should be treated equally, but rather should be assessed contextually.⁴⁰

Similarly, the system in the United States demonstrates flexibility in treating the use of copyrighted works through doctrines such as fair use. This concept is based on several criteria, including the purpose and character of the use as well as its impact on the economic value of the work, demonstrating that not all uses of copyrighted works are treated uniformly, but are instead assessed contextually.⁴¹

When connected to conditions in Indonesia, the use of music in the café and restaurant sector generally does not constitute the primary factor generating revenue, but merely functions as a supporting element to create atmosphere.⁴² Therefore, the use of musical works by UMKM actors cannot be equated with businesses that make music their primary source of profit. Accordingly, a more contextual and proportional approach is required in determining the amount of royalty obligations.

In line with this principle, royalty tariff determination should not be uniformly applied, but rather adjusted according to the economic capacities of business actors and the intensity of music utilization in commercial activities. In this regard, the use of turnover indicators and music utilization intensity becomes relevant as the basis for formulating a fairer and more adaptive tariff model.

Accordingly, the reconstruction of the music royalty payment model is not only based on the principles of justice and proportionality, but also takes into account a contextual approach to the utilization of musical works in practice. One concrete form of such reconstruction is the implementation of a tariff calculation model based on turnover and intensity of music utilization, as reflected in the following table.

⁴¹) U.S. Copyright Office, "U.S Copyright Orrice Fair Use <https://www.copyright.gov/fair-use/#:~:text=About%20Fair%20Use,likely%20to%20be%20considered%20fair> diakses pada 20 April 2026

⁴²) Irfan Aji Wiranata dan Salim Siregar, "Pengaruh Fasilitas Live Music dan Harga terhadap Keputusan Pembelian di Warunk Nonstop (Survei pada Pengikut Instagram @warunknonstop)," *Jurnal Ilmiah Wahana Pendidikan*, Vol. 8 No. 17 (2022), hlm. 220.

Table 1. Music Royalty Tariff Calculation Model Based on Turnover and Music Utilization

Business Category	Monthly Turnover	Basic Tariff	Type of Music Utilization
Micro	< IDR 50,000,000	0.75% of turnover	Background (× 0.7) Ambience (× 1) Live Music (× 1.3)
Small	IDR 50,000,000 – IDR 150,000,000	1.5% of turnover	Background (× 0.7) Ambience (× 1) Live Music (× 1.3)
Medium	> IDR 150,000,000	2% of turnover	Background (× 0.7) Ambience (× 1) Live Music (× 1.3)

Note: This table constitutes an illustrative model of royalty tariff calculation prepared by the author, taking into account business turnover, the level of music utilization, and certain adjustments.

Fundamentally, the model places turnover as the principal indicator in determining royalty tariff amounts, thereby reflecting the economic capacity of business actors (*ability to pay*).⁴³ In this model, the differentiation of tariffs between micro enterprises (0.75%), small enterprises (1.5%), and medium enterprises (2%) is based on differences in economic capacity, whereby the larger the business scale, the greater the expected contribution. This tiered tariff structure constitutes an application of the proportionality principle, such that the imposition of obligations is not carried out uniformly but is instead adjusted according to the capacities of individual business actors.

Furthermore, the tariff amount is adjusted according to the level of music utilization in business activities, differentiated between use as background music, as the principal ambience element, or as a primary attraction such as live music performances.⁴⁴ Accordingly, the larger the business scale and the higher the intensity of music utilization, the greater the royalty obligations that must be fulfilled.

For illustration, in the case of a micro enterprise with monthly turnover of IDR 30,000,000, the basic tariff of 0.75% produces a value of IDR 225,000. If the music is used only as background music, this value is multiplied by a factor of 0.7, resulting in a royalty obligation of approximately IDR 157,500 per month.

⁴³ Imam Basuki dan Steven Chuadinata, "Analisis Ability to Pay and Willingness to Pay Jasa Kereta Api Yogyakarta International Airport," *Jurnal Spektran*, Vol. 7 No. 2 (2019), hlm. 144.

⁴⁴ American Society of Composers, Authors and Publishers, "Music Licensing Guide for Businesses," <https://soundsuit.fm/bmi-and-ascap-music-licensing-for-businesses/> diakses pada 20 April 2026

Meanwhile, for a small enterprise with monthly turnover of IDR 100,000,000, the 1.5% tariff results in IDR 1,500,000. If the music is utilized as the principal ambience element, the royalty obligation remains IDR 1,500,000 per month.

As for a medium enterprise with monthly turnover of IDR 200,000,000, the 2% tariff results in IDR 4,000,000. If the music is used in the form of live music performances, this amount is multiplied by a factor of 1.3, thereby resulting in a royalty obligation of IDR 5,200,000 per month.

Compared with the currently applicable system, which generally employs a fixed tariff approach based on physical indicators such as the number of seats, differences in the burden of obligations become more apparent. Under the old system, a café with a capacity of approximately 50 seats could be charged around IDR 6,000,000 annually regardless of whether the business turnover was high or low. In contrast, under the turnover-based model, a micro enterprise with relatively low turnover would only be charged approximately IDR 1,890,000 annually, thereby making the burden lighter and more compatible with its economic capacity. On the other hand, small and medium enterprises with larger turnover levels would be subject to higher obligations, namely around IDR 18,000,000 to IDR 62,400,000 annually, thereby reflecting a more proportional imposition of obligations.

Accordingly, this turnover-based model not only provides a fairer and more flexible approach, but also explicitly accommodates differentiation in business scale and intensity of music utilization in determining royalty amounts. This approach is consistent with the principles of distributive justice and proportionality, whereby obligations are imposed in a balanced manner according to the conditions and contributions of each party.

CONCLUSION

The regulation and mechanism of music royalty payments in Indonesia fundamentally already possess a clear legal basis through various statutory regulations and are implemented through a collective licensing system with a one gate system mechanism administered by LMKN. Nevertheless, in practice, the determination of tariffs that remains based on physical indicators, such as the number of seats, does not yet fully reflect the actual conditions of business actors, particularly UMKMs. This condition has implications for issues of justice and proportionality, whereby business actors with different economic capacities may be subjected to relatively similar royalty burdens.

An ideal royalty payment model for UMKM actors needs to be reconstructed through a more adaptive and proportional approach, namely by making economic capacity

(*ability to pay*) the primary basis while also considering the intensity of music utilization in business activities. This approach is considered more just because it not only takes into account business scale and capacity, but also the contribution of music to commercial activities. Accordingly, such a model is capable of creating a more optimal balance between the protection of creators' economic rights and the sustainability of UMKM business actors.

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