

# LMKN AS THE ECONOMIC VALUE DETERMINER IN THE BINDING OF SONG AND MUSIC COPYRIGHT FOR FIDUCIARY GUARANTEE OBJECT

*by* Sri Handayani

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# LMKN AS THE ECONOMIC VALUE DETERMINER IN THE BINDING OF SONG AND MUSIC COPYRIGHT FOR FIDUCIARY GUARANTEE OBJECT

Sri Handayani, Joni Emirzon, Annalisa Y

Lecturers of the Faculty of Law of Universitas Sriwijaya

Corresponding Email: [srihandayani@fh.unsri.ac.id](mailto:srihandayani@fh.unsri.ac.id)

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## ABSTRAK:

Salah satu ciptaan yang dilindungi oleh hak cipta adalah lagu dan/atau musik. Perlindungan hukum terhadap karya cipta lagu dan musik diperlukan agar dapat menciptakan iklim dan suasana yang lebih baik bagi pertumbuhan dan perkembangan industri musik di Indonesia. Undang-undang Nomor 28 Tahun 2014 Tentang Hak cipta mengatur bahwa Hak Cipta dapat dijadikan objek jaminan fidusia. Tetapi pada kenyataannya hal ini masih terdapat kendala terkait penentuan nilai ekonomis hak cipta musik dan lagu sebagai jaminan fidusia. Pihak perbankan belum ada yang menerima hak cipta musik lagu dalam pengikatan kredit perbankan. Penelitian ini adalah penelitian normatif dengan metode pendekatan undang-undang (*statuta approach*), pendekatan konseptual (*conceptual approach*), pendekatan analisis (*analytical approach*) dan pendekatan futuristis (*futuristic approach*). Penentuan nilai ekonomis hak cipta musik dan lagu dapat dilakukan oleh Lembaga Manajemen Kolektif Nasional sebagai Lembaga satu pintu dalam pengumpulan royalti musik dan lagu di Indonesia. Melalui Pusat data dan Sistem Informasi Musik dan Lagu (SIML) dapat membantu menentukan besaran nilai ekonomis musik dan lagu berdasarkan royalti yang diterima Pencipta atau pemegang hak musik dan lagu tersebut.

**Kata Kunci :** LMKN, Hak Cipta, Fidusia.

## ABSTRACT

One of the creations protected by copy right is songs and/or music. Legal protection for them is necessity in order to create a climate that is conducive to the development of music industry in Indonesia. Law number 28 of 2014 concerning copyrights regulates that copyright can be used as a fiduciary guarantee object. However, its use is still hampered by the fact that the economic value of music and song copyrights cannot be determined easily, especially if it is used for fiduciary guarantee. Most banks do not accept it for loan collateral. This research is a normative study using statutory approach, conceptual approach, analytical approach, and futuristic approach. The determination of the economic values of song and music copyrights can be done by LMKN (Indonesia's National Collective Management Body), a one-stop service institution that collects the royalty of music and song in Indonesia. The use of SIML (a music and song information system and data center) can help the estimation of music and song's economic value based on the royalty accepted by the art's creator or copyright holder.

**Keywords:** LMKN, copyright, fiduciary

## INTRODUCTION

### Background of Research

Intellectual property right has become an important point of interest. Intellectual works do contribute much to people's progress, including in economy. Therefore, inventors and creators deserve appreciation for their works. Creations produced from any intellectual work, including those in the fields of art and culture, are intellectual property rights. Therefore, Indonesia must assert the positions of intellectual property, one of which is by ascertaining the copyright of music and song in order to provide strong protection for intellectual works. This effort will support people's economy and wellbeing<sup>1</sup>. Creative economy can serve as one of the pillars of Indonesia's economy, so the development of information and communication technology has become one of the variables for Copyright Law. The development of copyright indeed can play a strategic role, but it can also be used for legal infringement in the area<sup>2</sup>.

Copyright, following the enactment of the new Copyright Law, can be used as a collateral. Since artisans cannot use their works as collaterals to take loans from bank, many of them complained because they feel that their creations are not sufficiently appreciated. If they cannot use their work as a value, it is difficult for them to develop. It is widely believed by people that collaterals must be tangible objects such as land. In fact, the use of intangible objects as collaterals have been long stipulated by laws in other countries.

National economic development can be related and is really closely related with

<sup>1</sup> Edward James Sinaga, "Pengelolaan Royalti Atas Pengumuman Karya Cipta Lagu Dan/Atau Musik (Royalty on the Management of Copyright Songs and Music)," *Jurnal Ilmiah Kebijakan Hukum* 14, No.3 November (2020): 553–587.

<sup>2</sup> Sudjana, "Progresivitas Perlindungan Terhadap Pencipta Dalam Mendorong Ekonomi Kreatif Di Indonesia," *Jurnal Ilmiah Kebijakan Hukum* 14, . No. 2 (2020): 183–200.

protection to intellectual rights. Developed countries, such as the United States, Singapore, and Thailand, receive much from intellectual property products. The economic gains are obtainable because intellectual properties can be sold, licensed, and used as loan collaterals. In addition, it has also been proven that music and song copyrights can be used for commercial purposes and for obtaining loans. They are actually one of main and essential factors for economic growth.

<sup>2</sup> Copyright is one of many intellectual property rights. The protection for which is regulated by Law number 28 of 2014 concerning copyright, which hereinafter is referred to as Copyright Law<sup>3</sup>. One of the creations protected by copyright is song and/or music. Song and/or music works according to "Article 40 (d) can be defined as a whole creation that only contains elements of song, melody, poem, lyric, including arrangement and notation, in the sense that the song and/or music is a unity of creative work".<sup>4</sup>

Music and song are the result of mind work and soul work of human that produce beautiful melodies and tone harmonies that is played. Writing songs or music is not easy as it requires finesse and imagination in order to produce musical artworks that can be enjoyed by many people if the song and/or music are to be marketed.<sup>5</sup>

Song and/or music have been developing, and they have entered all aspects of life. They are played in television broadcasting, radio broadcasting, clubs, restaurants, cafes, karaoke, ring back tones, hotels, recreational centers, concert, etc. They

<sup>4</sup> Nugraha Muslim, "Perlindungan Hukum Terhadap Hak Cipta Multimedia Dari Pembajakan Yang Terdapat Pada Video Blogging (Vlog) Melalui Media Berbasis Online," *Jurnal Lex Latta* Vol.3, No.1 March (2021).

<sup>5</sup> Nurwati Adi Juardi, "Efektifitas Lembaga Manajemen Kolektif Dalam Memungut Royalti Karya Cipta Musik Dan Lagu Pada Pelaku Bisnis Karaoke Berdasarkan Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta.," *Jurnal Hukum De'rechtsstaat*. Volume 4, No. 2 (n.d.): pp. 130.

have developed into an industry that provides for their creators. Therefore, their moral interest and economic interest must be protected for the sake of their creators. Since music and/or song are achievements that consume the times, places, energy, and money of the creators, the owner of the creative work must get economic benefits. In this regard, Indonesian government must ensure legal protection for the creators.<sup>6</sup>

The state's protection for copyright is manifested into measures such as giving the rights for registration, which is termed as "recording" of works. The process includes the registration of song and/or music under the name of the creators in order to safeguard their rights. The legal regulation of Copyright Law follows the declarative principle, through which the registered work is automatically protected by Copyright Law of 2014. Here creators are entitled for moral and economic rights from all of their works that are announced, replayed, or copied by other people. The purpose of this recording is to facilitate verification should copyright violation takes place because songs that are not registered are difficult to be proven.<sup>7</sup>

The objective of the song and/or music registration deals with the licensing to other parties for certain purposes, and the granting of the license shall be followed by the payment of royalty for the creators as meant by Article 9 Section 1 of Copyright Law of 2014. Royalty is defined as a financial reward for the use of the economic rights of creations or products of the said rights that is received by the creator or the owner of the said rights as regulated in Article 1 Number 21 of Copyright Law of 2014.<sup>8</sup> Indonesia, the collection of royalty from the creation of song and/or music has not been optimal. This is evidenced by the fact that, according to the data of the Directorate General of Intellectual Property Right (DJKI), the potential of domestic royalty revenue is IDR

300 billion, but the collected amount was only IDR 70 billion.<sup>8</sup>

The collection of royalty in Indonesia only reached less than a half from the actual potential, and that has become the main problems for creators and for copyright protection in Indonesia. In collecting royalty from their song and/or music works, creators will find difficulties if they have to do it by themselves because the use of their works is extensive and their capacity to monitor the use of their works is highly limited. Therefore, in order to facilitate them to monitor the use of their works, they appoint a representative with the task of taking care the collection and distribution of royalty, i.e. LMK (Collective Management Body).<sup>9</sup>

The tasks of LMK are collecting, accumulating, and distributing royalty from the use of song and/or music works. Copyright Law of 2014 still enables and allows parties to establish their own LMK if they can meet the establishment requirements. However, the collection of royalty through LMK might cause overlapping and make the users of song and/or music works have difficulties in fulfilling their obligations, which in the end reduces creators' royalty revenue.

Therefore, on January 20 of 2015, Indonesian government officially established the national Collective Management Body (LMKN) as an institution that administers anything related to royalty as mandated by Copyright Law of 2014.

LMKN has become the only institution with the authority of collecting, accumulating, and distributing royalty from commercial users as the initial step for creating professional, transparent, fair, and efficient royalty management.

Article 6 Section 3 of Law Number 28 of 2014 concerning copyright stipulates that copyright is a movable and intangible object

<sup>6</sup> Waskito, *Peran LMKN Dalam Pembayaran Royalti Atas Pemanfaatan Hak Cipta Lagu Secara Komersial, Diskusi Teknis Lembaga Manajemen Kolektif Bidang Musik Dan Lagu* (Yogyakarta, 2022).

<sup>7</sup> Sentosa Sembiring, *Prosedur Dan Tata Cara Memperoleh Hak Kekayaan Intelektual Di Bidang Hak Cipta Dan Merek* (Bandung: Book, 2002).

<sup>8</sup> Antonio Rajoli Ginting, "Peran Lembaga Manajemen Kolektif Nasional Dalam Perkembangan Aplikasi Musik Streaming," *Jurnal Ilmiah Kebijakan Hukum* 13, No. 3 (2019).

<sup>9</sup> Hukum online, "Apakah Lembaga Manajemen Kolektif Dibenarkan Secara Hukum," *Hukumonline.Com*, <http://www.hukumonline.com/klinik/detail/ulasan/c1594>.

that can be used as fiduciary guarantees. This means that financial institutions, both banks and non-banks, shall receive copyrights for loan collaterals.

The principle of copyrights as guarantee objects is Law Number 28 of 2014 concerning is inseparable from law of nature theory, which appreciates each and every yields from human mind.

The economic rights adhered to copyright, particularly song and music, contain a consequence that it cannot be transferred to other parties. Therefore, it can be said that it serves as a game changer because it brings a huge change in the economic rights of creators since this term is not regulated in the previous copyright law.

Banks in approving loans uphold the principle of carefulness and trust, and one of the factor that must be analyzed is collateral. According to the 5 Cs, which consist of character, capacity, condition of economic, capital, and collateral; banks believe that collateral is the last resort. Collateral serves key functions when a debtor experiences a default. Another principle to be analyzed is 5 Ps, which consist of party, purpose, payment, profitability, and protection. In this matter banks emphasize protection, which is guarantee from their debtors, in order to anticipate unwanted outcomes that might happen in the future. The last principle obeyed by banks is 3 Rs, which consist of returns, repayment, and risk. Here banks also analyze the ability of debtors to bear risks from events that take place beyond the predictions of both creditor and debtor.

On the basis of in-depth analyses on debtor's goodwill, capacity, and ability, banks must believe that their counterparts will repay their debts or return the paid financing according to the contract. Therefore, conservative banks interpret that certainty in debt payment is acquired from guarantee.<sup>10</sup> The necessity to have objects as collaterals for credit using the carefulness principle is regulated by the Regulation of Bank Indonesia. The regulation is sourced from Law Number 10 of 1998, which proves the importance of

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<sup>10</sup>Heru Soeprapto, "Masalah Eksekusi Jaminan Fidusia dan Implikasi Lembaga Fidusia

guarantee institutions in the approval of bank loans.

In reality, up to this day, there is no financial institution that runs the regulation. This is certainly related to the applicability of bank's carefulness principle, in which banks must assure themselves that the money lent to artisans will be returned.

It is commonly believed that banks will grant loans to applicants should the latter party provide sufficient assets to ensure the performance of their loan.

Stipulations regulated in Article 16 Section 3 are related with, and inseparable from, other regulations. The statutory provisions related with this matter is fiduciary guarantee law and banking law. Financial institutions in Indonesia are still hampered by problems in their functions. The hindrances are related to the following.

1. The economic value of song and/or music copyright
2. The ownership of a copyright (in relation that Indonesia adheres declarative, not constitutive, principle)

The hindrances arise because policies that have been made are not integrated into bodies that particularly regulate copyrights as fiduciary guarantee. This condition poses quite a big risk for banks if they are about to receive copyrights as collaterals. Copyright is an intangible object that, until now, has not been strictly regulated in terms methods that can be used to estimate and interpret its economic value.

### **Problems of Research**

Based on the background above, this research attempts to answer the question whether LMKN is capable of determining the economic value of song and/or music copyright in Indonesia.

### **Objective of Research**

The purpose of this study is to explain and analyze LMKN as the institutions that

Dalam Praktik Perbankan", *Jurnal Hukum Bisnis*, Vol. 26 No. 1, 2007, pp. 50.



determines the economic value of song and/or music copyrights to be used as fiduciary guarantee objects.

### Method of Research

This normative legal research was conducted by examining legal materials using statutory, conceptual, analytical, and futuristic approaches. The sources are primary, secondary, and tertiary legal materials that were acquired from library research and processed using legal interpretation and construction methods. The conclusions were drawn following the incorporation of deductive thought method.

### DISCUSSION

#### National Collective Management Body as the Determiner of Song and Music Copyright's Economic Value for Fiduciary Guarantee Object

The state's involvement in protecting the intellectual property of its citizens is doable because in its essence the instrument of intellectual property is an instrument that aims to appreciate human's work of thoughts regardless the origins. Intellectual property, besides providing economic values for the right owners, gives a major advantage for the state, either from tax collected from its owner or from number of labors that it can absorb.

The protection for creative products is related with the domination of understanding about law of nature that emphasizes on human factor and the use of common sense that is recognized in the civil law system.

Copyright, particularly song and music copyrights, in material law system is categorized as movable intangible objects. However, its guarantee binding does not meet the requirement of the control over collaterals

for the receiver if it is used under pledge contracts because copyright does not qualify for pledge object submission requirements. Copyright cannot be equalized with other immaterial objects such as receivable right or securities, but it is different in its handover procedure. Securities and receivable rights can be transferred through endorsement and assignment, so their binding can be done through pledge warranty. However, the transfer of copyright, particularly song and music copyright, cannot be simply done by transferring work records. It requires another legal action, that is through the Directorate General of Intellectual Property Right. Further, the validity of the application for copyright transfer is closely related with the work of the creator or copyright holder. Therefore, the warranting body that is linked with copyright is the fiduciary guarantee body.

One of the special rights attached to intellectual property right, including song and music copyright is economic value, that is the right to acquire economic benefits from intellectual property. It is termed as economic right because intellectual property right is an object that can be valued monetarily.<sup>11</sup>

Law Number 28 of 2014 concerning copyright has stipulated a new condition that adds economic values to a copyright, in that copyright as a movable and intangible object can be used as a fiduciary guarantee object.<sup>12</sup> Copyright as a material right in the legal system is categorized as movable intangible object, but its guarantee binding does not meet the requirement of the control over collaterals for the receiver if it is used under pledge contracts.<sup>13</sup>

Nevertheless, the condition regulated by the law above is still far from clear, especially for the loan provider as they are difficult to determine the collateral's economic value since copyright is an intangible asset.<sup>14</sup> In the assessment of collateral's economic

<sup>11</sup> Abdul Kadir Muhamad, *Kajian Hukum Ekonomi Hak Kekayaan Intelektual*, 2007.

<sup>12</sup> Sudjana, "Hak Cipta Sebagai Jaminan Kebendaan Bergerak Dikaitkan Dengan Objek Pengembangan Fidusia," *Mimbar Hukum* Vol.24, No. 3 (2012): pp.807.

<sup>13</sup> Nurwati, Adi Sulistiyono, and Martin Roestamy, "MODEL PENGEMBANGAN JAMINAN

<sup>8</sup> FIDUSIA BAGI PEMILIK HAK CIPTA KARYA MUSIK DAN LAGU SEBAGAI OBJEK JAMINAN UNTUK MENDAPATKAN KREDIT PERBANKAN DI INDONESIA," *JURNAL SOSIAL HUMANIORA* 11, No. 2 (2020).

<sup>14</sup> Lisvery, "Aktiva Tak Berwujud" (Jakarta: D FE UI Departemen Akutansi, 2004).

value, it is common that financial institutions (creditors) use the services of appraisers. They are a third party and professionals in financial sector. They provide professional consideration about the economic values of objects that later on will be burdened with guarantee institutions.

The material value of immovable objects in forms of receivables is equal with the amount of the receivables. The values will be mentioned in the appraisal report and later used by loan-providing financial institutions or creditors as the basis for determining the amount of loan they are about to approve.

According to Article 15 of the Regulation of Bank Indonesia of 2012 concerning commercial banks' asset quality assessment, acceptable collaterals are:

- a. securities and stocks that are actively traded in the Indonesia Stock Exchange or have investment ranks and bound under pledges,
- b. land, building, and residence bound under mortgage rights,
- c. machinery that is in a unity with land that is bound under mortgage rights,
- d. aircraft or seacraft with the size of more than twenty cubic meters that is bound under mortgage right,
- e. motor vehicle and supply that are bound under fiduciary contract, and/or
- f. warehouse receipt that is bound under guarantee over warehouse receipt.

Certificates of Intellectual property right has not been included as collaterals referred by the authority of Bank Indonesia. In addition, there is no guidelines that can be used by public appraisers to estimate the right's economic value. Therefore, there is no

financial institutions that take copyright as collaterals.

Indonesia can learn from the US in this matter. The Copyright Law of the United States, in Title 17, regulates that one of the ways of copyright transfer is through mortgage. Its government has established Royalty Judges, a special institution that determines royalty fee value and regulates any matters related with the rights and obligations of parties related with the use of copyright and penalties for any incompliances.

In Indonesia, a similar body has been regulated by the new Copyright Law, i.e. LMKN (National Collective Management Body). This institution is a non-profit legal entity that is given by creators, copyright holder, and/or copyright owner the power to manage their economic rights through the collection and distribution of royalty. In order to provide protection and legal certainty for the economic rights of song and music creators, copyright holders, and related copyright owners, a transparent, quality, and accurate royalty management mechanism that uses information technology is required. Royalty management function is also run by LMKN based on laws that facilitate the representativeness and interest of creators and related copyright owners in the collection, accumulation, and distribution of royalty from people that commercially use the right.

LMKN as an integrated one-stop service institution collects and distributes royalty to provide legal certainty for creators, copyright holders, and related copyright owners. The Bali Declaration contains an agreement that LMKN is the only body that holds the authority to collect, accumulate, and distribute royalty from any commercial usage. This one-stop service royalty collection is the first step for a professional, transparent, fair, and efficient management of music royalty.<sup>15</sup>

The agreement that LMKN is a one-stop service royalty-collecting-and-distributing institution can help or motivate creators, copyright holders, and related copyright owners to remain productive. This is

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<sup>15</sup> Sinaga, "Pengelolaan Royalti Atas Pengumuman Karya Cipta Lagu Dan/Atau Musik (Royalty on the Management of Copyright Songs and Music)."

achievable due to the presence of legal certainties in the protection for creative works when they are used for commercial purposes and legal certainties in the amount of royalty to be received upon the said usage. LMKN can be considered as the law enforcer in song and music royalty since it protects the rights of creators, copyright holders, and related copyright owners and educates the works' users so that they have the awareness toward their obligation to pay royalty whose amount corresponds to the business and events that uses song and music commercially.

The roles of LMKN for the interest of song and music creators are:<sup>16</sup>

- 1) representing creators in bargaining or making cooperations with users,
- 2) supervising the commercial use of song and music and preventing its unlicensed usage,
- 3) helping song and music writers protect economic values entitled to them by announcing, communicating, and presenting works, and
- 4) ensuring that the exploitation of the created song and music by other parties is based on the license for song and music usage.

The enactment of Government Regulation Number 56 of 2021 concerning Copyright Royalty Management ensures protection and legal certainty for the economic rights of creators, copyright holders, and related copyright owners over song and music. Therefore, a transparent, quality, and accurate royalty management mechanism that applies information technology is required. Royalty management is also run by LMKN as an authoritative institution based on laws that facilitate the representativeness and the interest of creators and related copyright owners for collecting, accumulating, and distributing royalty from commercial usage by other parties.

<sup>16</sup> Adi Juardi, "Efektifitas Lembaga Manajemen Kolektif Dalam Memungut Royalti Karya Cipta

A comprehensive royalty management needs to be supported by information technology, in this case Song and Music Data Center, which is managed by the Directorate General of Intellectual Property Right, and SILM (Song and Music Information System), which is administered by LMKN. The Song and Music Data Center is the basis for LMKN in managing royalty and for the people who use song and music commercially in obtaining information about song and music to be used for commercial purposes. Song and Music Data Center is managed by the Directorate General of Intellectual Property Right of the Ministry of Law and Human Rights. It can be accessed by LMKN, creators, copyright holders, related copyright owners, commercial users. Royalty management is done by LMKN based on SILM and the information provided in the data center. The commercial use of song and music will be allowed after users apply for license to the creators or copyright holders through LMKN. Here SILM is an information system that is used in the distribution of song and music royalty.

Figure 1 : The basis of Government Regulation Number 56 of 2021



Source: Directorate General of Intellectual Property Right, Ministry of Law and Human Rights of the Republic of Indonesia

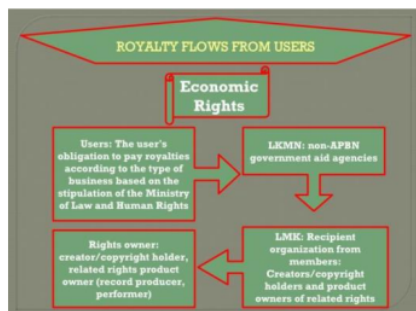
Based on Figure 1, the enactment of Government Regulation Number 56 of 2021 is relevant with the mandate of Law Number 28 of 2014 concerning copyright. This law provides legal protection and certainty for the economic rights of song and music creators,

Musik Dan Lagu Pada Pelaku Bisnis Karaoke Berdasarkan Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta."



copyright holders, and related copyright owners in order to improve national creativity. To ensure the legal protection and certainty for the economic rights of song and music creators, copyright holders, and related copyright owners, a transparent, quality, and accurate royalty management mechanism that uses information technology is a necessity.

Figure 2: Mechanism for Royalty Collection and Distribution

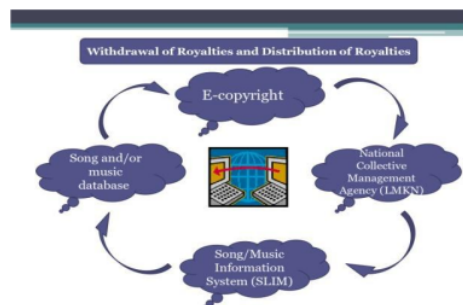


Source: Directorate General of Intellectual Property Right, Ministry of Law and Human Rights of the Republic of Indonesia

LMKN collects royalty from users for creators, copyright holders, and related copyright owners, regardless their membership in the institution. The royalty payment procedures are as follows.

- a. Users apply licenses to copyright holders or related copyright owners through LMKN
- b. The license agreements are recorded by the Ministry of Law and Human Rights according to the provision of law
- c. Users are required to report the use of the song and music to LMKN via SILM
- d. Users pay the royalty to creators, copyright holders, and related copyright owners through LMKN
- e. LMKN accumulates the royalty and determines royalty entitled to each LMK according to the commonly acceptable practice based on fairness principle
- f. LMKN distributes the royalty based on the song and music usage reports entered in the SILM to creators, copyright holders, and related copyright owners.

Figure 3. Royalty Collection and Distribution



Source: Directorate General of Intellectual Property Right, Ministry of Law and Human Rights of the Republic of Indonesia

Based on the regulation, since the enactment of the Government Regulation, events and establishments that use song and music commercially are required to pay royalty according to their types of business and event and in the amount mentioned in the regulation. Those who are conducting events or having establishments that use song and music commercially but fail to meet their obligation will be prosecuted according to the applicable laws.

Royalty from song and music according to Article 14 of Government Regulation Number 5 of 2021 is accumulated by LMKN and is distributed to creators, copyright holders, and related copyright owners member of LMK as well as apportioned to operational and reserve funds. The royalty that has been accumulated by LMKN is distributed by the institution based on the reports of song and music usage recorded in SILM.

The use of song and music copyright for fiduciary guarantee in financial institutions must be specifically regulated by Bank Indonesia and OJK (Indonesia's Financial Service Authority).

The use of song and music copyright as a fiduciary guarantee object must be supported by the roles of Copyright Asset Appraisal Body. Banking and non-banking institutions require

the legal certainty over the values of song and music copyright to be guaranteed.<sup>17</sup>

Banking and non-banking institutions have no experience in appraising copyright assets, so they need help from the Copyright Asset Appraisal Body. This body must be certified and accredited by the Directorate General of Intellectual Property of the Ministry of Law and Human Rights. This institution must be registered in Bank Indonesia whenever they are conducting valuation on copyright that is to be related with bonds of under one year. The institution must also be registered in the OJK if their valuation activity is related with the issuance of stocks or bonds of more than one year. Registration in OJK is also necessary if the institution values copyright that is going to be used as loan collaterals in banking or non-banking institutions.

The value of copyrights as fiduciary guarantee objects is difficult to measure because the appraisal is based on the work itself. Therefore, there should be a third party that serve as the appraiser for the guaranteed copyright. In Indonesia, the institution that can determine the value of a work is LMKN. This institution can be used as a reference and a provider for appraisal institutions that later can measure how high the selling point of a copyright is.

LMKN can measure the value of a copyright monetarily. For example, the value of a song can be measured based on how frequent is a song played and performed by other people. From here song creators and copyright holders will get benefit or royalty, should licensing agreements take place.

LMKN can help public appraisers work on the copyright of song and music by providing official data concerning the amount of royalty received by a song and music copyright during a certain period, and the data can be used as one of the considerations to determine the economic value of the said song and music copyright.

## CONCLUSION

Objects that can be used as fiduciary guarantee must have measurable values for assuring

<sup>17</sup> Hana Djaja Waluja, "Kepastian Hukum Terhadap Penilai Sebagai Penentu Nilai Hak Cipta Dalam

debtor's loan repayments. The value of song and music copyright is difficult to measure for fiduciary guarantee purposes because the matter being guaranteed is the intellectual right of a creation. Therefore, the presence of a third party serving as appraisers is required. Here Collective Management Body (LMK) is one of the institutions that can appraise the economic value of a copyright. The economic value of a song and music can be measured by calculating how often the song and music are performed, i.e. the performing rights, from which the song and music writer receive royalty upon licensing agreements. The National Collective Management Body (LMKN), which was established under the Directorate General of Intellectual Property of the Ministry of Law and Human Rights, regulates the revenue of artisans whose works are used for commercial purposes. This institution is the royalty administrator of commercially used song and music copyright following the enactment of the government regulation concerning the management of song and music copyright royalty. The issuance of the government regulation concerning the management of copyright royalty ensures the legal protection and certainty for the economic rights of creators, copyright holders, and related copyright owners over song and music. This one-stop service royalty collection system is the initial step for the establishment of professional, transparent, fair, and efficient music royalty management. LMKN can help public appraisers determine the economic value of a song and music copyright by providing official data concerning the amount of royalty received by a song and music copyright during a certain period, and the data can be used as one of the considerations to determine the economic value of the said song and music copyright before the copyright is used as a fiduciary guarantee.

## Suggestion

Regulations that lead to policies promoting synergy between related bodies are required to help state organization in implementing copyright, especially song and music copyright for fiduciary guarantee object.

Jaminan Kredit Di Indonesia," *Jurnal Hukum Statuta* Vol.1, No.1 December 2021 (2021): pp.29.

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