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#### INDONESIAN SONGS AND YAYASAN KARYA CIPTA INDONESIA BASED ON LAW OF COPYRIGHTS

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##### Abstract

This article aims at describing the role of Yayasan Karya Cipta Indonesia (YKCI) in copyright protection in Indonesia and the mechanism of royalty payment on Indonesian songs to the YKCI. Conceptual and statute approaches to legislation are the approach used in designing this study. Data were collected through library documentation. Data were analyzed qualitatively. The results show that YKCI's role as an administrator body in copyright protection is to collect royalties from parties that use songs or music commercially and help dispute resolution between creators, users or record producers of songs or music creations. Furthermore, the mechanism of royalty payments to YKCI shall be initiated by the authorization of YKCI by the creator or the copyright holder of the song, so on the basis of such power of attorney. Law Number 19 of 2002 on Copyright should be accompanied by the willingness and ability of the apparatus in enforcing it so that what to be achieved with the act can be obtained. It is recommended that the government immediately issue provisions on the roles, duties and functions of the Copyright Council as well as the organic rules that explain the authority of YKCI which may be the appointment of the Director-General of Intellectual Property Rights (IPR) as endorsement of a collective society in order to attract royalties.

**Keywords:** Royalty, Copyrights of Song, YKCI

##### 1. INTRODUCTION

In its development, all existing works, works and copyrights may be entered and classified in a single "family" having a position of rights, duties, copyrights, patents and trademarks. This is what later developed into one name, namely the right to Intellectual Property Rights (hereinafter referred to as "IPR") which is a system that is inherent in modern life and is a relatively new concept for most countries, especially countries developing. Nevertheless, at the end of the twentieth century and the beginning of the 21st century an agreement of countries to raise the concept of IPR in the direction of collective agreement in the form of Agreement Es-

tablishing the World Trade Organization ("WTO Agreement"). Among a number of agreements reached at the meeting in Morocco on 15 April 1994, there was one that became the focus to be achieved, including the TRIPs (Trade Related Aspects of Intellectual Property Rights) and all international agreements attached, covering those concerning IPR<sup>1</sup>.

The main purpose of the agenda is to protect Intellectual Property Rights (IPR) from piracy of an innovative work in the fields of literature, art, technology and scientific papers<sup>2</sup>.

Intellectual property rights (IPR) serve as an important policy tool for stimulating innovation and economic growth (Chu,

1. Achmad Zen Umar Purba, *Hak Kekayaan Intelektual Pasca TRIPs*, Alumni, Bandung, 2005, p. 1.  
2. Aidi Naman Saheem, *Aspek Hukum Dalam Ekonomi Global*, Cika Indonesia, Jakarta, 2002, p. 92.

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### 1. INTRODUCTION

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2. Ade Maman Suherman, *Aspek Hukum Dalam Ekonomi Global*, Ghalia Indonesia, Jakarta, 2002, p. 92.

Fan, Shen, & Zhang, 2018). Intellectual Property Rights (IPR) are property rights arising or born due to intellectual ability or the result of human creations in the arts, literature, science and technology<sup>3</sup>. Intellectual property is manifested in *rights*. The *right* appearing in the IPR is in principle the same as the property, which is the ownership of the right to be protected by the state, the right to rent to another party, the right to profit commercially.

IPR consists of Copyright and Copyright-related Rights (writings, creations, songs, drama creations, audio-visual creations, paintings and drawings, sculptures, photo creations, architectural creations, sound recordings, musical performances, actors and singers, industrial, trade secrets, trademarks, service marks, trade names / trade names, designations of origin, indications of origin, protection against fraudulent competition, protection of new varieties of plants, and the design of integrated circuit layout)<sup>4</sup>.

Copyright which is part of IPR requires more legal protection arrangement, in the form of development of international law implementation and national law. In response, developed countries, including the United States, are urging developing countries to make IPRs directly linked to trade. One of the reasons is that IPR especially copyright can be one of the national economic strength of a country. This situation is possible because of the advantages of human resources and technology owned by the country. Copyright protection is under territorialism, and therefore, copyright regulations vary by countries (Chen & Ou, 2017).

A State which does not provide protection and infringe intellectual property rights or does not comply with internation-

ally outlined standards may be subject to sanctions, namely the withdrawal of facilities provided in the form of Generalize System of Preferences (GSP), or the existence of trade and retaliation sanctions, against each country exporting goods to America. The US Vice President at the World Bank is required to veto the loans to be granted to a country that does not provide IPR protection<sup>5</sup>.

One of the areas of industry that is part of the copyright industry is the music industry and its trade. In this present era, the existence and development of music and song creation is a thing that is not less important than the technology industry. This industry is also one of the most potential commodities for international trade transactions<sup>6</sup>. It is believed because the music has a very wide market segment and interest by all circles of society without knowing the age limit. Thus, music and song as a commodity have high economic value. If copyright belongs to an individual, he probably will not know about the infringement. Moreover, if he did know about it, it is very burdensome to take effective legal action about it (Savelyev, 2018).

A plausible theory is that copyright and its extension favors the centralization of symbolic production (fewer actors decide what quality is and is not), as they create monopolistic rents that are put at the service not only of material production but of a particular type of symbolic production as well, which favors fixed costs of symbolic production over variable costs. In turn, this process energizes the very same production system, as both a recognizable "quality" product and "talented" artist will reinforce the established discourses of distribution, which include copycats of such products that nonetheless manage to escape the copyright environment (Sanz,

3. Dunia., Ngakan Ketut., 2008, Aspek Perlindungan Hukum Terhadap Pemegang Hak Kekayaan Intelektual, Kumpulan Abstrak Dan Makalah Kongres Kebudayaan Bali I Tahun 2008, Denpasar 14-16 of June 2008, p. 173
4. Eddy Damian, Hukum Hak Cipta Menurut Beberapa Konvensi Internasional, Undang-Undang Hak Cipta 1997 dan Perlingdangannya Terhadap Buku serta Perjanjian Penerbitannya, Alumni, Bandung, 1999, p. 23.
5. Sudargo Gautama, Masalah-Masalah Perdagangan, Perjanjian, Hukum Perdata Internasional dan Hak Milik Intelektual, Citra Aditya Bakti, Bandung, 1992, p. 20-21.
6. ASIRI, Tinjauan Praktikal Terhadap Implementasi Penegakan Hukum HKI dalam Industri Musik Nasional, Makalah seminar pada Adhika Karya Kejaksanaan Agung RI, Jakarta 1995, p. 2.

2015).

Grounded on the above description, this research is to know and understand the copyright in Indonesia as stated in Law no. 19 of 2002), after ratification of the terms of TRIPs is formed, specifically against royalties by YKCI in copyright protection. Specific objectives, namely: to know and understand the role of YKCI in the protection of copyright in Indonesia; to know and understand the mechanism of royalty payments to YKCI against the Indonesian song, relating to UUHC of 2002 in Indonesia.

This study is expected to contribute, i.e., theoretical benefits and practical benefits. Theoretically, this study is expected to provide advantages in the form of thought contribution to the development of Intellectual Property Right law, specifically regarding royalties in copyright protection and is expected to complement the literature on teaching as well as material for further research in the field of law business. Practically, the study is expected to contribute to law enforcement of the Copyright Act in Indonesia, especially for related parties in the enforcement of copyright law, such as music and songwriters, record producers, YKCI, Indonesian Recording Industry Association (ASIRI), Artist Society of Songwriters and Music Recording Studio (PAPPRI); law enforcement officers; legal practitioners; as well as the public as a consumer and as a user (user) creation of music and songs Indonesia.

## **2. METHOD**

The approach used in this study is normative approach as this study is conducted on secondary, primary, and tertiary legal materials, such as books, legal journals, and expert (secondary data) research results<sup>7</sup> namely research that focuses on assessment based on the principles,

principles or legal norms through *library research*. Library research in this analysis is done at: 1) Directorate General of HKI in Jakarta; 2) Warmadewa University Library Denpasar; 3) Faculty of Law Library of Warmadewa University, Denpasar; and 4) Library of Postgraduate Program of Warmadewa University, Denpasar.

In addition to the legal materials described above, there is a number of supporting legal materials that are utilized to support materials obtained through library research by collecting, researching and selecting legal materials that include in-depth interviews with leading figures, a key legal person in the YKCI institution as well as a songwriter. Legal materials collection from the literature was done by collecting, reading, classifying, inventorying the accumulated materials and supporting legal materials from interviews with key legal figures and from YKCI, and subsequently linked to the issues discussed<sup>8</sup>. Analysis of legal materials is done by applying qualitative methods of normative. That is, the legal material obtained through the documentary study is qualitatively qualified qualitatively and systematically arranged to know the completeness of the document. Further analysis of legal materials and drawing conclusions from the results of research, which includes primary legal materials, secondary and tertiary legal materials, conducted by utilizing qualitative methods and further presented in the form of descriptive<sup>9</sup>. This confirms that exposure in the form of sentence descriptions is done so that a conclusion of the problem formulation is obtained.

## **3. DISCUSSION**

### **1. ROYALTY PAYMENT OF SONGS COPYRIGHT TO YKCI**

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7. Ronny Hanitjo Soemitro, 1983, *Metodologi Penelitian Hukum*, Ghalia Indonesia, Cetakan Pertama, Semarang, p. 9

8. Ronny Hanitjo Soemitro, *Op.Cit.*, p. 62

9. *Ibid*, h. 63

***Legal Relationship of the Licensor and Licensee in Royalty Payments***

According to Margono<sup>10</sup>, copyright license can not, by the way, be released from the field of contract law because licenses of copyright include contracts containing detailed provisions governing the rights and obligations of each party. With respect to the grantor or recipient of the copyright license, the issues or issues of the document in a copyright license contract must be considered, i.e:

- Parties that will sign the license contract must be clearly defined;
- The name of the Copyright Holder, in the agreement, should be mentioned;
- A description of the copyrighted material to be licensed, whereby the right to be given should always be clearly stated and identifiable;
- Rights Granted; in a licensing agreement that the licensor grants the licensee the right to exercise his/her rights to be mentioned;
- Duration; how long the license rights are granted should be mentioned;
- Territory; the agreement should mention where the copyright license may be applicable;
- Payment; in making payments there are several ways, for example with a down payment or with a percentage of sales revenue copyrighted works (royalty);
- Obligation to Publish and to Market; the licensee must publish and market the copyrighted works within a certain time frame;
- Accounting and Inspection; if payment is made under a royalty system, the licensee must provide regular financial information. This agreement must allow the licensor to check the relevant calculations, usually this inspection is about how much income earned, how many copies of goods that have been produced and sold within a certain period

of calculation;

- Warranty; in the agreement, a guarantee from the licensor that the copyrighted work is original and not a violation of the other party shall be included;
- Termination; in the agreement, the need to provide records, warnings in the framework of dissolution must be determined, for example the licensee stops publishing and marketing the copyrighted work in case he violated the clause of the contract;
- Arbitration; in the agreement, a clause providing an arbitration or mediation body in the event of a dispute exists shall be considered.
- From the above description, it can be concluded that the rights and obligations of the giver and the licensee include, inter alia<sup>11</sup>:

***Liability of the licensor, i.e:***

- Providing any kind of information relating to the licensed Intellectual Property Rights, which is required by the licensee to carry out the licenses granted;
- Provide assistance to the licensee on how to use or use of the Licensed Intellectual Property Rights.

***The rights of the licensor, ie:***

- Monitoring the execution and use or utilization of licenses by the licensee;
- Obtain periodic reports of the activities of the licensee entitled to use the Intellectual Property Rights licensed;
- Carries out inspections on the licensee's working area to ensure that the Licensed Intellectual Property Rights have been properly implemented;
- Require the licensee, in certain cases to purchase capital goods or other items of the licensor;
- Require the licensee to maintain the confidentiality of the Licensed Intellectual Property Rights.

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10. Suyud Margono, 2003, *Hukum dan Perlindungan Hak Cipta*, Novindo Pustaka Mandiri, Jakarta, p. 76-79.

11. Gunawan Widjaja, 2001, *Lisensi*, PT. Raja Grafindo Persada, Jakarta, p. 30-33

- Require that the licensee does not engage in similar activities, similar, or directly or indirectly may lead to (unfair) competition with business activities that use the licensed Intellectual Property Rights;
  - Accept royalty payments in the form, type and amount deemed appropriate by it;
  - Request for registration of the License granted to the licensee;
  - Upon termination of the license, ask the licensee to return all data, information or information obtained by the licensee during the execution of the license;
  - Upon termination of the license, prohibits the licensee to further utilize all data, information or information obtained by the licensee during the period of license execution;
  - Upon termination of the license, prohibiting the licensee to continue to conduct similar activities, similar, or directly or indirectly may cause competition by exercising the licensed Intellectual Property Rights;
  - Licensing does not remove the right of the licensor to continue to utilize, use or exercise the Licensee's own Intellectual Property Rights.
- Report any infringement of Intellectual Property Rights discovered during practice;
  - Does not utilize any licensed Intellectual Property Rights other than for the purpose of carrying out the licenses granted;
  - Register licenses for the licensors' interests and the course of such licensing;
  - Does not engage in similar activities, similar, or directly or indirectly may result in competition with business activities that use a licensed IPR;
  - Make royalty payments in form, type, and amount agreed upon collectively;
  - Upon termination of license, licensee returns all data, information and information obtained;
  - Upon termination of the license, there is no further use of all data, information or information obtained during the lifetime of the license;
  - Upon termination of the license, there is no longer conduction of activities of a similar nature, similarity or directly or indirectly may result in competition (unfair) by exercising the licensed Intellectual Property Rights.

***Liability of the licensee covers:***

- Carry out all instructions granted by licensors to them to exercise the licensed Intellectual Property Rights;
  - Provide discretion for licensors to conduct periodic or abrupt oversight or inspection to ensure that the licensee has exercised a properly licensed Intellectual Property Rights;
  - Provide reports either periodically or at the specific request of the licensor;
  - Purchase of certain capital goods or certain other goods in the course of the licensing of the licensor;
  - Maintain the confidentiality of the Licensed Intellectual Property Rights, either during or after the expiry of the licensing period;
- Obtain all sorts of information relating to the licensed Intellectual Property Rights required by it to execute such a given license;
  - Obtain assistance from the licensor for all manner of use and/or utilization of the Licensed Intellectual Property Rights.

***Rights of the licensee, i.e:***

The different licensing mechanisms between licensed copyrighted objects are due to the different characteristics of each copyright object (song/music, book publishing or computer program). Inside the song/music and book publishing further highlight the value of commercialization, while in the computer program emphasizes the use of computer programs. In view of the issue of licensing generally provided for in Article 45 of UUHC 19/2002, to pro-

vide guidance and convenience for the licensor and the licensee, an implementation manual or technical guidance on License Mechanism in the Copyright field must be established. In such implementation manuals or technical guidelines, the types of exclusive or non-exclusive licenses, rights and obligations of the parties and the minimum conditions to be set forth in the agreement to the objects of copyright as stipulated in UUHC 19/2002 on the Copyright must be specified in single file.

### **License Listing and Copyright Registration**

#### **1. LICENSE LISTING**

Bintang<sup>12</sup>, in his book "Copyright Law", states that the word 'license' is derived from the word "license" which means permission. Here the creator as the licensor grants the licensee a license for a specified period of time and under certain conditions to enjoy the economic benefits of a copyrighted work. Thus, in contrast to the transition as stipulated in Article 3 UUHC 19/2002, this license is limited in nature. UUHC is essentially a non-exclusive licensing system, whereby although the licensor has licensed certain licensee under a license agreement, the licensor may still exercise its own license or license the other licensee to execute it (announce and multiply the creation). However, this provision may be disregarded by varying arrangements in the license agreement. A licensing agreement creates contractual obligations between the licensor and the licensee, and several types of payment, that reflect several considerations whose nature may be economical, technological, legal or commercial, may be included on the contract (Rocha, Lima, Amorim, & Romero, 2017).

#### **2. COPYRIGHT REGISTRATION**

In view of Article 35, UUHC 19/2002 has regulated the registration of the creation and the state has set up its adminis-

trative registration services so that the creators of a work must register its creation in order to obtain preliminary evidence for the ownership of its rights. Then for the registration of the Copyright Minister of Justice of the Republic of Indonesia has issued a regulation that is the regulation of the Minister of Justice No. M.01-HC.03.01 of 1987 on the Registration of Works. The registration procedure of creation as defined in the regulation is that the request for registration of a work may be submitted to the Minister of Justice of the Republic of Indonesia through the Director of Copyright, under the following conditions: ]

- In duplicate letters;
- Written in Indonesian;
- Typed on double folio paper;
- The first sheet shall be stamped of Rp.6000, -;
- Signed by the applicant or his proxy.
- The Application for the Registration of the Works contains, as follows:
  - Name, nationality and address of the Creator;
  - Name, nationality and address of the Creator;
  - Name, nationality and power of attorney;
  - Type and title of the Created Creation;
  - Date and place of creation are announced for the first time in the territory of Indonesia or outside Indonesia;
  - Description of Creation.

In addition to the registration procedure of creation as described above, the applicant is also obliged to enclose the following registration conditions:

- An example of a creation or successor: the number of instances of creation that must be attached depends on the type of creation proposed, for example for the creation of "Art Logo", which is 10 sheets and for the Book is of 2 copies.

12. Sanusi Bintang, 1998, *Hukum Hak Cipta*, PT. Citra Aditya Bakti, Bandung, p. 41



- Power of Attorney: Where a request is filed by a Proxy, "Special Power of Attorney" shall be attached.
- Written proof of citizenship: this proof includes, for example, a copy of valid identity card (KTP) either by the Creator or his/her proxy, passport and others.
- An official copy of the incorporation of a legal entity: if the applicant is a Legal Entity, he must attach a derivative of the Legal Entity Certificate (Article 2, paragraph (3) of the Minister of Justice of the Republic of Indonesia Regulation No. M.01-HC.03.01 of 1987).
- Photocopy of Taxpayer Identification Number (NPWP): although in the Regulation of the Minister of Justice of the Republic of Indonesia No. M.01-HC.03.01 of 1987 concerning Registration of Work of attachment of NPWP in the application of registration of creation not regulated, such NPWP must be included as stated in Circular Letter of Minister of Justice of RI No. M.02-HC.03.01 of 1991 concerning the obligation to attach NPWP in the application for registration of creation and recording of the transfer of Copyright. This Circular Letter shall apply only to applicants/creators of domestic origin only.
- Pay the registration fee: the registration fee is Rp. 75.000, - and especially for computer program amounting to Rp.150.000, - (PP No. 26 of 1999), and the fee is only valid for one request creation.

After the applicant meets the above-mentioned requirements and submits the application for registration of the work, the applicant is given a receipt and examina-

tion of the administrative formalities of the application file for registration. If the application for registration of registration does not meet the formal requirements, the Directorate of Copyright shall notify the applicant in writing in order to comply with the requirements. If within three months from the date of the notice of the applicant failing to comply with or fulfill the formal requirements, the application for registration of the invention becomes null and void.

### **3. ROYALTY PAYMENT SYSTEM**

Creator, copyright holder, artist, musician, record producer or broadcasting organization, in the exploitation of his or her works, maximally requires the help of another party, the professional organization that specifically addresses the matter. Individuals may not come to every organizer one by one, such as concerts, radio, discotheques, television broadcasting organizations, hotels and public places that use songs or music in commercial activities<sup>13</sup>, to extract the exploitation of the economic rights of the inventor's work or the copyright holder.

Yayasan Karya Cipta Indonesia (YKCI) as a professional organization managing collective administration, especially in the field of songs or music, plays a crucial role in the exploitation of copyrights of songs or music for creators, copyright holders, broadcasting organization artists or record producers, and the distribution of royalties on the right of announcement (performing right).

The collective administration mechanism is a means of managing the exploitation of copyrights by managing the copyright (rights of announcing or reproduction

13. Compare Circular Letter of Head of Regional Office of Legal and DKI Jakarta Legislation No. W7-UM.01.10-415 dated 6 March 2000, which states that to provide protection to the rights of the creator, it is requested that: for the owners/managers/managers of restaurants, bars, pubs, cafes, discos, karaoke, nightclubs, supermarkets, shops, department stores, malls plaza, swimming pool, billiards, gymnasium, fitness center, health center, massage greece, land transportation, sea and air and terminals, offices, banks, hospitals, music concert organizers, fashion shows, exhibitions, seminars, recreational parks, folk amusement parks and so on, which play, display, trade or perform a song/music with or without a poem contained therein so as to be heard by others, whether in the form of cassettes, compact disc, laser disc, dvd, television radio or sound device (phonogram). In the form of background music, live music, discotheques, karaoke, video screens, music calls, radio broadcasts on the internet as well as other new technologies, shall seek permission and pay royalties to the creator or copyright holder.

rights) of a song or music in the sense of collecting fees or royalties for the use of copyrights for commercial purposes in the form of performances and performing and multiplication through printed media or mechanical right, and collective distribution beginning with authorization by the creator or copyright holder of a song or music to YKCI to collect fees or royalties on the right to announce the use of copyright by others for commercial and non-commercial purposes to manage the repertoire reproduce song or music. Thereafter, the activities of distributing the proceeds of fees or royalties to the right (the creator or copyright holder) after deduction of administrative costs take place<sup>14</sup>.

In performing the duties as the recipient of the power of the creators or holders of Music/Song Rights, YKCI conducted monitoring and observations which then recorded the songs to be played in certain discotheques as parameters, for example a city had 30 discotheques, six of them (20% of that amount) is used as a parameter that can represent the remaining 24 with the consideration that a tendency to play the same song is also done for the restaurant.

Payments for the transfer of the economic rights of the creators are usually done in two ways, namely the royalty system and the flat pay system<sup>15</sup>. During this time the songwriter earns a "Flat Pay" fee honored without taking into account the number of cassette units, vcd and cd sold and accompanied by a "bonus" if the song is selected in the first sequence of the cassette cover and earned an additional fee, if it is selected, compiled and etc. This royalty system, when compared to flat pay, differs in terms of the amount of money received in advance. By way of flat pay, the advance received is greater than the royalty system. Instead, the royalty system provides the possibility of the creator being rewarded in the future if the

tape has been sold.

The royalty system does not distinguish a song from being a mainstay or not, as the price judgment is based on how many songs are played. The most important impact of the imposition of this system is the welfare of the songwriter who will be assured throughout his lifetime, even if death can even be passed down to his heirs.

The royalty system is newly known in recent years in the country music industry. Therefore, no wonder if there are still many musicians, songwriters or singers who still do not understand how such a system actually. For example, there are still many musicians who prefer to use the system pay off (flat pay) or paid in advance, whereas with the royalty system, a songwriter may be able to earn better. Seeing this condition, music publisher institutions or better known as a music publisher was popping up. The institute is expected to be a representative of the songwriters in order to contract with the producers with a royalty system. It can not be denied that until now, there is still a producer who takes advantage of the songwriter's incompetence over his royalties, so if it's not billed by the creator, the producer pretends not to know<sup>16</sup>.

Pay Flat payments are indeed more favored by the songwriters, on the grounds that the creator can not control the marketing of the producers. International record companies that have grown in Indonesia, usually contracts with songwriter, singer and musician based on royalty with reference to mechanical rights<sup>17</sup>.

According to Yessi Kurniawan, General Manager of YKCI Jakarta Grand Wisata Center based in Jalan Wijaya II Blok G 40-41 Kebayoran Baru, South Jakarta 12160 INDONESIA, payment for transferring economic rights of creators is usually done in two ways: Royalty and Flat Pay. Both of

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14. Hendra Tanu Atmadja, *Op.Cit.*, p. 315

15. Hendra Tanu Atmadja, *Loc.Cit.*

16. Buletin Karya Cipta Indonesia (KCI), *Mechanical Rights*, Nomor 4, Edisi khusus, Nopember 1998, p. 6

17. Buletin KCI, Nomor 3, Edisi Maret 1998, p. 4

these payment methods have their respective advantages and disadvantages which can be seen in the table as follows:

#### 4. PAYMENT MECHANISM TO YKCI

The protection organization of the music and songwriter is called Yayasan Karya Cipta Indonesia (YKCI). The Foundation

Table 1: Differences Payment System Royalty and Flat Pay

	Royalty System	Flat Pay System
Acceptance of Money	A little ahead, most likely in the back, according to the power of the song	Accept ahead, the size depends on popularity
Rates	For one album shared equally	Very relative, from cheap to expensive
Control	Accountable sales reports for being monitored by a public accountant appointed by a representative of the creator	No need for cash paid
Risk	Profit and loss share	Only borne by the

Source: YKCI, Research on 28 August 2015

A flat pay payment occurs when a work of music and a song is a great success, the creator can not demand anything from the producer, nor if the work does not generate economic profit, then the producer is harmed.

was established based on Notarial Deed No. 42 of 1990 dated June 12. At the time of its establishment, the organization was supported by the Department of Justice of the Directorate General of Copyright, Patents and Trademarks and the Presidential Decree 34, chaired by Moerdiono (former Secretary of State of the New Order era). Despite having the name "Yayasan Karya Cipta", the management of performing rights and royalty collection administered by the foundation covers only music and songs, not to other copyrights protected by UUHC Year 2002.

The objectives of YKCI are:

- To take care of the interests of Indonesian creators whose copyrights are authorized to the foundation, especially in the framework of collecting fee/royalty for copyright users by others for commercial use both inside and outside the country;
- To represents the interests of overseas creators, including in the framework of collecting fees / royalties on the use of foreign copyrights by others for the benefit of commercial use in the territory of Indonesia;

- To represent the creators, preserves and protects the interests of the creators for copyright infringement, specifically regarding its economic interests
- To enhance creator creativity through coaching, developing and adding knowledge ability in music field and law field.

#### 1. YKCI'S WORKING MECHANISM:

##### INTERNAL:

- Inviting all Indonesian songwriters to join YKCI participants;
- The Foundation will receive registration of songs from creators who have been YKCI' participants, and the songs will be carefully registered;
- Upon registration, YKCI and the creator of the musical work will sign a cooperation agreement and authorization
- The Foundation receives power of attorney from the author, as permission or right to be able to collect the royalty payments on the use of the song created to the user
- After the royalties YKCI receives from

the user, the proceeds will be distributed entirely to the creators or copyright holders, net of administrative and tax costs

**External:**

- If internally YKCI has authorized to collect royalty payments from users, YKCI will grant licenses to users to be able to use songs that have been registered with YKCI. Users will have to pay royalties to the creators through YKCI, and will then be distributed to the creators or copyright holders;
- In addition to the royalty payments, users are required to report and submit a list of songs that describe what songs have been broadcasted or publicly listened, and how many of these songs were used for a week or a month

**2. OBLIGATIONS AND RIGHTS OF YKCI PARTICIPANTS**

Dalam melaksanakan perjanjian yang telah ditandatanganinya, peserta mempunyai kewajiban dan hak sebagai berikut :

**Obligation of YKCI participants:**

- Submitting the work of her/his songwriting to YKCI to be registered, whether the music copyrighted works have been announced, or not yet announced;
- Ensuring that the musical copyrighted work submitted to YKCI is original, and that copyrighted work of that music or any part thereof shall not constitute a violation of the melody, or lyric, or copyright of the other party and that it is the holder of the right to announce the work of the music copyrighted;
- Paying the management fee for the right to announce music works to YKCI, which payments are calculated on the basis of a certain presentation of the royalty received by the participant, with the amount specified in the Royalty Ruling Mechanisms Manual;

- Following the applicable taxation provisions of Republic of Indonesia government;
- Not entering into agreements or submit rights to announce music copyrights to other parties during the term of this agreement, and guarantee YKCI of any other party's demands of this musical copyrighted work;
- Not accepting or directly charging user's royalty.

**YKCI Participants' Right:**

- Entitled to make deed of power and transfer of rights;
- Obtain royalties from users whose collection is collected by YKCI;
- Demands YKCI if not giving royalty for the songs that have been broadcast.

**3. YKCI'S OBLIGATIONS, RIGHTS AND DUTIES**

**Obligation:**

- Carrying out the joint administration of the use of copyrighted works of music from the creators;
- Collecting fees or royalties for the use of copyrights for commercial purposes, whether in the form of performances or broadcasting (Performing Right);
- Distributing the fee or royalty fee in point (2) to the songwriter whose song is used after the administration fee deducted;
- Guaranteeing to the user that the repertoire owned by YKCI is correct<sup>18</sup>;
- Giving report of financial income, ie report of royalty payment either to songwriter in Indonesia or to CISAC.

**Rights:**

- Receiving a rights management fee of announcing music copyrighted works;
- Picking up and distributing royalties from music announcements by users.

**Duties:**

18. Repertoire is a number of repertoires of a person's music copyrights, persons or legal entities that are participants of YKCI.

- Carrying out collective administration of the use of copyrighted works in general and in particular to the creators of music and songs both from within and outside the country;
- Collecting royalty for the use of performing rights or mechanical rights in the commercial of music and songs belonging to YKCI participants;
- Distributing the proceeds of royalties to the eligible after deducted by administrative costs;
- Participating actively in education, coaching and development activities in order to increase creativity, knowledge and creator ability in Indonesia.

For performing rights, users who wish to use songs that have been registered with YKCI must obtain permission from YKCI under a license agreement. The license granted by YKCI is called Blanket License, which is basically a certificate covering all songs to be played by the User for one (1) year and may be renewed annually until terminated by either party, subject to mutually agreed terms. Furthermore, the user pays royalty for the use of one year in advance.

#### **4. THE BASIS FOR ROYALTY COLLECTING BY YKCI**

- Royalty collected by YKCI from the user is actually using music and songs commercially, and then distributed to YKCI participants for a certain period of time.
- To determine the size of the royalties to be paid by the user, a standard formula is established in the international performing rights as follows:
- The amount of percentage depends on the intensity and duration of music and song usage based on International Unquoted Acceptance;
- The parameters used are opening day, occupancy rate, one's spending for entertainment;
- For radio and television, it is typically calculated a certain percentage of net advertising revenue;

- For public transportation passenger parameters are used (passenger hours).

#### **5. DIVISION OF ROYALTY BY YKCI TO THE CREATOR OF MUSIC AND SONG**

Royalty obtained from each user is distributed to the creator or copyright holder of the musical work used at the event. Hence, data is needed, as in the following form:

- The names of the creators or holders of copyrights of YKCI participants, obtained from the participants at the time of registering their works.
- A report of the use of music and song-writing works of the user in the form of a list of music and what songs are used and how many times the playback is filled by the user on his own consciousness. Furthermore, the user pays royalty to YKCI.

In addition to referring to the above description, it is worth noting also the basic principle of YKCI royalty distribution as follows:

- The split royalty is only from users who pay royalty.
- Royalty is divided based on reports of music usage.
- Royalty is shared only for YKCI participants.
- Royalty is divided by using song data registered by YKCI participants.
- The size of the song depends on the use of the song.
- Royalty is divided by group of music usage.
- Royalty earned from each song from the same place may vary in number each year.

#### **3. CONCLUSION**

Based on the description of the chapters above, conclusions can be drawn as follows:

The role of Yayasan Karya Cipta Indonesia (YKCI) as the administrative body of

Based on the description, YKCI divides the royalties in the manner shown in the following table:

Music & song title	Creator	Frequency	Score
<i>Aku Suka Kamu</i>	Romagio	40	40
<i>Aku Ingin</i>	Indra L. & Mira	100	100
<i>Untukmu</i>	Tito Sumarsono	30	30
	Total Score	170	170

Source : YKCI, Jakarta, Research August 28, 2015

For example, the royalty earned is Rp. X, - and Collective administration fee (YKCI) is Rp. Y, - then the acquisition of each song becomes:

$$\text{Aku Suka Kamu} = 40/170 \times (\text{Rp. X} - \text{Rp. Y}) = \text{Rp. Z}$$

$$\text{Aku Ingin} = 100/170 (\text{Rp. X} - \text{Rp. Y}) = \text{Rp. Z}$$

$$\text{Untukmu} = 30/170 \times (\text{Rp. X} - \text{Rp. Y}) = \text{Rp. Z}$$

If the copyright is held by multiple persons, then the acquisition of the song will be sub-divided between the copyright holders under the terms of so-called "Distribution Scale", exemplified as follows:

The song "*Aku Suka Kamu*", melody and song created by Indra Lesmana and song lyrics created by Mira Lesmana hence the distribution scale of melody creator divided by poet writer = 50: 50.

If the song earns Rp. Z, - then each will get  $50/100 \times \text{Rp. Z}$ , -.

copyright protection is: (a) to collect royalties on parties that use or use (users) commercial songs and/or music and (b) help dispute settlement between Creator, User (User), and Recording Producer for Song and/or Music Creation in Indonesia.

Mechanism of Payment of Royalties to Yayasan Karya Cipta Indonesia (YKCI), ie: started from authorization by the creator or the copyright holder of the song to YKCI, based on the power of attorney YKCI exercises the collection or withdrawal of royalties by the percentage mechanism from the dealer's price through permission per song with the tariff to record into a cassette, cd, vcd, or other. Thus, it appears that the song or music copyright license issued by YKCI as the power of the Creator or the Copyright Holder is granted to a second party (user) through a negotiated agreement of both parties, but the license agreement will be issued a certificate license after the user of the music/song uses the music/song and pays the royalties. Furthermore, the amount of royalty to be paid by the user, then determined the standard formula applicable in international performing rights that the

percentage depends on the intensity and duration of the use of music and songs with the basis of International Unquoted Acceptance; Furthermore, YKCI on behalf of the creator/copyright holder gives permission to all parties who wish to use the song, especially for announcing or reproducing activities (although the latter is limited). In order to obtain KCI permission, the users pay royalties for one-year advance. Upon payment, KCI will provide a Music Announcement License Certificate (SLPM) which allows the user to use any song in its business activities and release the user from any claim from the creator or KCI. Every March of every year YKCI distributes royalties to songwriters whose songs are used during the January to December period of the previous year.

#### REFERENCES

- Achmad Zen Umar Purba, *Hak Kekayaan Intelektual Pasca TRIPS*, Alumni, Bandung, 2005, p. 1.
- Ade Maman Suherman, *Aspek Hukum Dalam Ekonomi Global*, Ghalia Indonesia, Jakarta, 2002, p. 92.
- Article 1 paragraph (2), *Ibid.*
- ASIRI, *Tinjauan Praktikal Terhadap Implementasi Penegakan Hukum*

- HKI dalam Industri Musik Nasional**, Makalah seminar pada Adhika Karya Kejaksaan Agung RI, Jakarta 1995, p. 2.
- Buletin Karya Cipta Indonesia (KCI), **Mechanical Rights**, Nomor 4, Edisi khusus, Nopember 1998, p. 6
- Buletin KCI, Nomor 3, Edisi Maret 1998, p. 4
- Chen, R., & Ou, Y. K. (2017). Examining design features of copyrights using hot area and track. *Displays*, 49, 88–94. <https://doi.org/10.1016/j.displa.2017.07.005>
- Chu, A. C., Fan, H., Shen, G., & Zhang, X. (2018). *Ac Pt. Journal of Macroeconomics*. <https://doi.org/10.1016/j.jmacro.2018.05.003>
- Dunia., Ngakan Ketut., 2008, **Aspek Perlindungan Hukum Terhadap Pemegang Hak Kekayaan Intelektual**, Kumpulan Abstrak Dan Makalah Kongres Kebudayaan Bali I Tahun 2008, Denpasar 14 -16 of June 2008, p. 173
- 11** Eddy Damian, **Hukum Hak Cipta Menurut Beberapa Konvensi Internasional, Undang-Undang Hak Cipta 1997 dan Perlindungannya Terhadap Buku serta Perjanjian Penerbitannya**, Alumni, Bandung, 1999, p. 23.
- Gunawan Widjaja, 2001, **Lisensi**, PT. Raja Grafindo Persada, Jakarta, p. 30-33
- Hendra Tanu Atmadja, **Loc.Cit.**
- Hendra Tanu Atmadja, **Op.Cit.**, p. 315
- Ibid**, h. 63
- Rocha, A., Lima, R., Amorim, M., & Romero, F. (2017). Payment types included on technology licensing agreements and earnings distribution among Portuguese universities. *Tékhné*, 15(2), 100–107. <https://doi.org/https://doi.org/10.1016/j.tekhne.2017.11.001>
- Ronny Hanitijo Soemitro, 1983, **Metodologi Penelitian Hukum**, Ghalia Indonesia, Cetakan Pertama, Semarang, p. 9
- Ronny Hanitijo Soemitro, **Op.Cit.**, p. 62
- Savelyev, A. (2018). Copyright in the blockchain era: Promises and challenges. *Computer Law and Security Review*, 34(3), 550–561. <https://doi.org/10.1016/j.clsr.2017.11.008>
- Sanz, E. (2015). Copyright indicators and the costs of symbolic production: The cultural dimension of telecommunications policy. *Telecommunications Policy*, 39(3–4), 208–217. <https://doi.org/10.1016/j.telpol.2015.01.004>
- Sanusi Bintang, 1998, **Hukum Hak Cipta**, PT. Citra Aditya Bakti, Bandung, p. 41
- Sudargo Gautama, **Masalah-Masalah Perdagangan, Perjanjian, Hukum Perdata Internasional dan HakMilik Intelektuai**, Citra Aditya Bakti, Bandung, 1992, p. 20-21.
- Suyud Margono, 2003, **Hukum dan Perlindungan Hak Cipta**, Novindo Pustaka Mandiri, Jakarta, p. 76-79.

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