

Regulatory Challenges of Digital Direct Licensing on Royalty in Indonesia's Copyright Regime

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Abstract

This article reviews the evolution of digital technology has transformed royalty distribution mechanisms within Indonesia's copyright ecosystem. The emergence of the Digital Direct License (DDL) system represents a paradigm shift, enabling copyright holders to receive royalties directly through digital platforms—bypassing the traditional role of Collective Management Organizations (LMKs) and the National Collective Management Organization (LMK Nasional). This shift has sparked significant legal debate, raising concerns over the erosion of institutional authority and potential legal uncertainties. This study explores the legal implications of DDL implementation on the operational integrity using a normative juridical method. The results show that without proactive legal reinforcement, the adoption of DDL risks undermining copyright law enforcement, disrupting institutional functions, and fostering unauthorized royalty flows. The study calls for strategic legal recalibration to safeguard collective rights management and mitigate emerging legal ambiguities.

Keywords: Digital Direct License, Copyright Law, Collective Management, Royalty

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1. Introduction

The advancement of digital technology has profoundly impacted the creative industry, offering increased efficiency and effectiveness that enable individuals to amplify their creativity. Creativity, as the primary driver of innovation, has given rise to creations that provide substantial benefits to society. In relation to copyright, these creations—products of human intellectual and imaginative effort—are crucial assets that must be protected. Such protection is granted to creators in the form of rights due to the moral and economic value embedded in their works.¹ In Indonesia, copyright protection is governed by Law No. 28 of 2014 on Copyright.

By definition, copyright is an exclusive right held by the creator or copyright holder to control the use of their work. Copyright serves as an incentive for creators to experiment and invest time and resources in developing new works. With copyright protection in place, creators are reassured that their works are safeguarded against unauthorized copying or use, allowing them to earn fair compensation from their creations.² This legal safeguard also ensures that creators retain control over how their work is used, enabling them to express their creative vision without fear of exploitation or distortion. Hence, creativity and copyright work hand in hand to foster an environment in which creators can thrive and contribute meaningfully to society.

Behind the concept of copyright protection lies a fundamental principle: that creators must receive appropriate recognition and remuneration for their works. The importance of copyright cannot be overstated. Innovation and creativity are invaluable assets in modern society, and without adequate protection, many creators would hesitate to develop new ideas or produce original works. Therefore, copyright provides critical incentives for ongoing creative and innovative activity.

A tangible form of this incentive is royalties. Royalties are payments made to copyright holders in exchange for the use of their works by others. The significance of royalties lies in the government's responsibility to ensure that creators and rights holders receive fair economic compensation for the use of their intellectual property. One measure the government has taken to guarantee this is the establishment of institutional bodies to manage royalty distribution—namely, Collective Management Organizations (LMKs) and the National Collective Management Organization (LMK Nasional). These institutions facilitate the fair flow of income among creators, producers, distributors, and other stakeholders involved in the production and distribution of works, particularly in the field

¹ Darmantho, Adhitya. "Copyright in the Art Industry: Ethical and Management Challenges for Artwork Protection." *Jurnal Seni Musik* 13, no. 1 (2024): 42-58.

² Nugroho, Bimo Satria Fajrin, and Muhamad Adji Rahardian Utama. "Legal protection of copyright in the globalization era: A comparison of Indonesia and China." *Journal of Law and Legal Reform* 1, no. 4 (2020): 671-680.

of music and/or song.¹

The role of Collective Management Organizations (LMKs) is to represent creators or rights holders in establishing licensing agreements with users of musical works. LMKs play a vital role in assisting songwriters and composers in realizing their economic rights and ensuring that any exploitation of musical works by third parties is conducted under proper licensing agreements. On the other hand, the National Collective Management Organization (LMK Nasional) carries broader regulatory and administrative responsibilities. These include collecting, managing, and distributing royalties in the field of music and songs; drafting the code of ethics for LMKs operating in the music sector; overseeing the management and distribution of royalties by LMKs; and issuing recommendations to the Minister for sanctions in response to code of ethics violations or regulatory infractions by LMK administrators.

Additionally, LMK Nasional provides recommendations to the Minister regarding the licensing of LMKs under its coordination; establishes the systems and procedures for calculating royalty payments from users to LMKs; determines the distribution procedures and the royalty shares for creators, copyright holders, and related rights holders; mediates disputes arising from royalty distributions by LMKs in cases of member objections; and is responsible for submitting performance and financial reports to the Minister.²

While the importance of royalties is indisputable, ensuring a fair and effective royalty system remains a significant challenge. With the advancement of digital technology, new difficulties have emerged in tracking and calculating the use of digital works, which can compromise the accuracy and timeliness of royalty payments to creators. As such, there is a pressing need for ongoing efforts to enhance the royalty payment system to ensure it remains relevant and efficient in the digital age.

One response to these emerging challenges is the concept of the Digital Direct License (DDL). DDL enables copyright holders to receive royalties directly through digital platforms, bypassing intermediaries such as Collective Management Organizations (LMKs) and the National Collective Management Organization (LMK Nasional).³ A key advantage of DDL lies in the efficiency it offers. By eliminating intermediaries, the royalty distribution process becomes faster and more transparent. Copyright owners can monitor the usage of their works in real time and receive direct payments without delays associated with multi-layered bureaucratic procedures.

However, alongside these benefits, the emergence of DDL introduces legal complexities that must be addressed—chief among them being the evolving role of LMKs and LMK Nasional within this shifting regulatory and economic landscape. The absence of clear legal parameters for DDL could result in overlapping authority, weakened institutional functions, and potential violations of copyright law. Therefore, it is crucial to examine the legal implications of DDL not only to ensure fair and lawful royalty distribution, but also to prevent institutional erosion and safeguard the integrity of Indonesia's copyright governance framework. This article aims to fill a critical gap by offering a comprehensive legal analysis of DDL's impact and proposing strategic directions for harmonizing digital licensing with the existing collective management structure.

2. Method

This study employs a normative juridical approach to examine the legal implications of implementing the Digital Direct License (DDL) scheme in Indonesia, particularly its impact on the roles and functions of Collective Management Organizations (LMKs) and the National Collective Management Organization (LMK Nasional) in managing copyright royalties. Data collection is conducted through literature review, involving the study of statutory regulations, academic publications, and relevant legal instruments related to DDL and collective rights management. The analysis is grounded in legal principles and doctrines, applying qualitative interpretation to assess how general legal norms apply to the emerging licensing framework. This method enables a structured and systematic evaluation of the legal complexities introduced by DDL, ensuring the findings are both doctrinally sound and relevant to current regulatory challenges.

¹ Ritawati, Raihan, Otom Mustomi, and Mudakir Iskandar Syah. "Copyright in the Digital Age in the Protection of Intellectual Property Rights in Indonesia." In *International Conference on "Changing of Law: Business Law, Local Wisdom and Tourism Industry"* (ICCLB 2023), pp. 1358-1367. Atlantis Press, 2023.

² Nyaman, Gracelina Jesyca Carmety, Kadek Nita Erlita, Anjalia Rambu Kahi, and Ruhil Amani. "Perlindungan Dan Pengelolaan Hak Royalti Pencipta Melalui Peraturan Pemerintah No 56 Tahun 2021." *Wijayakusuma Law Review* 3, no. 1 (2021): 1-24.

³ Nadya, Annisa Putri. "Kekuatan Lembaga Manajemen Kolektif Nasional Dalam Penarikan Royalti." *Jaksa: Jurnal Kajian Ilmu Hukum dan Politik* 1, no. 4 (2023): 142-149.

3. Reconstruction of Royalty Collection Regulation and Digital Direct License System: Assessing Accountability in Royalty Management

In the concept of copyright protection, a fundamental principle is that creators must receive proper recognition and fair compensation for their intellectual works. As articulated by Robert M. Sherwood in his Reward Theory, acknowledgment and reward for intellectual creations serve as a form of appreciation for the creativity invested in producing such works. Innovation and creativity are invaluable assets in modern society; without adequate protection, many creators would feel insecure about developing new ideas or producing original works.¹ Hence, copyright provides the necessary incentives for creators to continue innovating and contributing to cultural and technological advancement.

One tangible form of incentive for creators is the royalty system. Royalties are payments made to copyright holders as compensation for the use of their works by others. Broadly speaking, royalty payments to creators and copyright holders form a core component of the foundational principles of Intellectual Property (IP) protection.² The essential role of royalties lies in the state's obligation to ensure that creators and rights holders receive fair economic recognition for their contributions.

To guarantee such compensation, the Indonesian government has established institutional frameworks—namely Collective Management Organizations (LMKs) and the National Collective Management Organization (LMK Nasional)—to oversee the distribution of royalties. These bodies facilitate fair income flow among creators, producers, distributors, and other stakeholders involved in the production and dissemination of musical works.

Royalties are especially critical within the music industry. This significance is underscored by Frith and Marshall, as cited in Norgard, who argue that royalties lie at the very heart of the music industry itself.

*"For anyone with any interest in music, copyright is vitally important, more important than any other concept in making sense of the variety of social practices that make up 'the music industry'. Copyright provides the framework for every business decision in the industry. (...) Copyright, one might say, is the currency in which all sectors of the industry trade."*³

However, as it turns out into practice, the creators or copyright holders often face limitations in monetizing their works independently. They typically require the involvement of third parties and, to facilitate this, may transfer some or all of their economic rights through licensing agreements. In the case of musical works, a creator or copyright holder may grant a license to a music label to promote and commercially exploit the song or composition.

It is important to recognize that a song or musical composition, with or without lyrics, is a protected work of art under copyright law. Unlike other forms of artistic expression, the copyright structure of a musical work is more complex. A single song can comprise several distinct components—lyrics, music, and arrangement—each potentially created, recorded, and performed by different parties, including singers, artist managers, recording studios, and music labels. Therefore, both moral rights and economic rights—including royalty entitlements—must be respected and fulfilled for all contributing rights holders.

Given this complexity, it becomes evident that the Indonesian government has not yet provided sufficient public

¹ Pratiwi, Arini Yunia, Muhamad Amirulloh, and Anita Afriana. "Harmonisasi Hukum Ketentuan Lisensi Wajib (Compulsory License) Perlindungan Varietas Tanaman Di Indonesia." *Jurnal Poros Hukum Padjadjaran* 2, no. 2 (2021): 284-301.

² Nugroho, Bimo Satria Fajrin, and Muhamad Adji Rahardian Utama. "Legal protection of copyright in the globalization era: A comparison of Indonesia and China." *Journal of Law and Legal Reform* 1, no. 4 (2020): 671-680.

³ With the rise of the digital era, copyright and royalty issues have evolved significantly. Daniel Nordgård highlights that even before digitalization, royalty challenges in the music industry were already evident—such as CD piracy and the unauthorized duplication and sale of cassette tapes by individuals. However, piracy during the physical media era was relatively limited due to technical constraints, including poor sound quality and lower resolution compared to the original versions. Menell referred to these physical media formats as a form of "Technological Protection Measures," which naturally restricted unauthorized copying. In contrast, the digital age has normalized piracy, making it a widespread practice. Numerous websites now offer services to download music from platforms like YouTube. According to Levine, this has led to a troubling shift in public perception, where music is increasingly viewed as a public good—something that should be freely accessible. This mindset encourages a culture of "free riding," where individuals benefit from the creative labor of others without offering compensation. Antonio Rajoli Ginting further discusses this issue, emphasizing the complexities that arise when intellectual property is undervalued in a digital environment. See: Ginting, Antonio Rajoli. "Peran lembaga manajemen kolektif nasional dalam perkembangan aplikasi musik streaming." *Jurnal Ilmiah kebijakan hukum* 13, no. 3 (2019): 379.

education, particularly for users of music in commercial public contexts, regarding which musical elements are subject to royalty collection. Moving forward, the government should engage in proactive public outreach, both through direct engagement and digital media channels. As information is now widely accessible via the internet, online dissemination offers an efficient means of reaching a broad audience. However, to ensure clarity and acceptance, in-person outreach efforts led by the Directorate General of Intellectual Property or its affiliated agencies should also be considered.

Such socialization efforts are essential to raise awareness and understanding of the relevant government regulations (e.g., implementing regulations on royalty collection), so that all segments of society understand their obligations. Ultimately, a more detailed and structured public communication strategy is necessary to reinforce the legal position and operational capacity of LMKs and LMK Nasional within Indonesia's copyright framework.

In response to the demands of the digital era, the use of technology has become essential as a medium for transforming the royalty collection and monitoring system for music and songs—particularly through integration with the Digital Direct License (DDL) system on a digital platform. Such a platform could establish partnerships with global streaming services like Spotify, YouTube, and others, while also collaborating with LMKs to oversee and collect royalties from local-level usage, such as regional events and small businesses.

Technology-enabled royalty collection and monitoring can facilitate real-time reporting to both creators and users of musical works. These mechanisms can be categorized into two main modes:

1) *Offline Mechanisms*

- a. **On-Site Audio Recognition Devices:** Technologies installed in commercial venues—such as restaurants, cafes, hotels, and karaoke establishments—to detect songs played. Detected data are transmitted to a central server for analysis and royalty calculation.
- b. **Smartphone-Accessible Digital Platforms:** Event organizers and business owners report music usage via mobile apps linked to the LMK system. The data submitted are verified prior to royalty distribution.
- c. **Collaboration with Industry Associations:** To increase tracking accuracy, LMKs can partner with organizations like the Indonesian Hotel and Restaurant Association (PHRI), ensuring proper royalty payments from commercial music use.

2) *Online Mechanisms*

- a) **Digital Fingerprinting:** This technology assigns a unique “fingerprint” to each song, enabling automated tracking across streaming platforms and social media.
- b) **Artificial Intelligence and Big Data Analytics:** AI systems analyze usage data—such as stream counts, user location, and duration—to calculate royalties.
- c) **Strategic Alliances with Streaming Platforms:** Direct data-sharing partnerships with platforms like Spotify, YouTube, or TikTok allow LMKs to gather accurate, real-time music usage metrics.
- d) **Creator and User Dashboards:** A transparent interface where both creators and users can view usage logs, earnings, and receive notifications, including alerts about unauthorized use.

From a legal theoretical standpoint, this framework aligns with Utilitarian Theory in intellectual property law, which asserts that granting exclusive rights (such as copyright) incentivizes creativity and benefits society as a whole. The digital integration of royalty collection and monitoring enhances the enforcement of economic rights—a core component of copyright—ensuring that creators are adequately compensated. Furthermore, the proposed model reflects Legal Certainty Theory, which emphasizes the necessity for clear, predictable legal frameworks that support trust and compliance. A technology-integrated royalty system ensures transparency, accountability, and efficiency, fulfilling key pillars of good governance and legal justice.

Finally, the emphasis on real-time reporting and oversight supports the Theory of Social Justice in law by promoting equitable sharing of economic benefits derived from intellectual labor, especially among marginalized or independent creators who often face systemic disadvantages in traditional royalty systems.¹ In this context,

¹ Maharani, Vira Nur, and Dwi Desi Yayi Tarina. "Wewenang dan Tanggungjawab Lembaga Manajemen Kolektif Nasional (LMKN) Dalam Perlindungan Hak Ekonomi Musisi Indonesia." *Jurnal Interpretasi Hukum* 5, no. 1 (2024): 881-888.

justice must be reflected in mechanisms that ensure every musical work used for commercial purposes is accurately tracked and reported, so that the royalties received by creators genuinely correspond to the actual usage of their works. Effective oversight is essential to prevent copyright infringements and misuse of creative content, while royalty collection must be based on valid, accountable, and transparent data.

For this reason, the legal framework must provide sufficient space for songwriters to receive benefits proportional to their contributions within the music industry, while also safeguarding them from injustices that may arise due to legal gaps, data inaccuracies, or weaknesses in royalty management systems. Therefore, the legal construction must not only be oriented toward legal certainty, but must also strive to achieve a balanced relationship among the rights of creators, rights holders, and users—ensuring both protection and equitable participation for all stakeholders.

Specifically, Carino (1993) introduced a model of administrative accountability that includes four types: traditional, managerial, programmatic, and process-based accountability.¹ He explained that administrative accountability involves a clear hierarchical structure connecting central units of responsibility with subordinate units. This hierarchy is typically formalized through organizational regulations or established through informal relational networks.

The core focus of this model is on delivering accountability to top-level leadership, with responsibility cascading down to lower levels. To ensure compliance with directives, intensive oversight mechanisms are implemented. A simplified projection of this model can be found in Carino's accountability framework, as illustrated in Table 1.

Table 1. Carino's Model of Administrative Accountability

	Traditional Accountability	Managerial Accountability	Program Accountability	Process Accountability
	1	2	3	4
<i>Who is accountable?</i>	Employees and officials	Administrator	Administrator	Administrator
<i>To whom is he accountable?</i>	People through legislature, President, Constitutional Bodies/ hierarchy	Same as Col. 1	Same as Col 1 Others: Professional Standards and Individuals conscience	Same as Col. 1 Other as Col. 3 Direct Accountability to people thru they participation in negotiation.
<i>To what standard of values is he accountable?</i>	Regularity, legality and compliance	Economy and efficiency	Economy, efficiency and effectiveness (3Es)	3 Es plus decentralization and participation.
<i>By what means is he made accountable?</i>	Line-item budgeting, traditional accountability, standard operating procedures.	Management audit, systems, improvement.	Comprehensive audit, program evaluation, productivity measurement.	Negotiations

Source: Primary data, 2024 (Processed).

In the context of overseeing music and song royalty collection, accountability is a key principle that must be firmly established. Essentially, accountability refers to the obligation of those entrusted with authority to justify, disclose, and report all actions and responsibilities to those who granted the mandate, and who have the legal and moral authority to demand such accountability.

At its core, accountability refers to the obligation of an entrusted party to justify, disclose, report, and take responsibility for all actions and activities under its mandate to those who have granted that authority and

¹ As cited in Sawir, Muhammad. "Konsep akuntabilitas publik." *Papua Review: Jurnal Ilmu Administrasi dan Ilmu Pemerintahan* 1, no. 1 (2017): 10-18.

possess the right to demand such responsibility. From this definition, accountability emerges as essential in fostering transparency, as previously discussed. In this context, accountability is closely linked to the principles of transparency and good governance, aiming to build trust and ensure that all parties involved carry out their roles ethically, effectively, and in accordance with regulatory frameworks.

According to Article 90 of the Indonesian Copyright Law (UUHC), the management of royalties by the National Collective Management Organization (LMK Nasional) must be conducted in a transparent and accountable manner. LMK Nasional is responsible for ensuring that royalties are collected, calculated, and distributed fairly to entitled rights holders. In practice, accountability efforts in oversight are carried out through mandatory financial and performance audits by public accountants. The law further stipulates that the Minister of Law may impose sanctions if these obligations are not fulfilled by LMK Nasional.

Government Regulation No. 56 of 2021 reinforces the importance of royalty oversight through mechanisms such as data collection, usage reporting, and regulatory monitoring. For instance, users of music—such as hotels, cafés, and event organizers—are required to submit playlists of the songs they use to LMK Nasional. Additionally, the implementation of SILM (Music Licensing Information System) as a digital reporting tool enhances transparency by facilitating real-time data submission and monitoring. Moreover, Article 55(3) of the Copyright Law allows the Ministry of Law, upon verified reports and sufficient evidence, to recommend the Ministry of Communication and Information Technology to partially or fully shut down online content that infringes copyright or to block access to electronic systems hosting such infringing content.

Despite these frameworks, royalty collection by LMK Nasional still faces significant challenges. Although users are legally obligated under Government Regulation No. 56/2021 to report commercial usage of music, compliance remains low, primarily due to the absence of strict and enforceable sanctions for violators. Furthermore, LMK Nasional's limited resources hinder its ability to monitor music usage across Indonesia.

These issues lead to suboptimal royalty collection, revealing a fundamental gap in accountability—both internally within LMK Nasional and externally among users who fail to report commercial use. Therefore, strengthening accountability requires enhanced oversight, particularly in tracking royalty collection and distribution to prevent misuse or opacity. Currently, the internal royalty collection mechanism of LMK Nasional lacks full transparency. There is an urgent need to clearly outline the end-to-end procedures, from collection to distribution. Without such clarity, trust among creators and commercial users is undermined.

This lack of trust is exemplified by the reluctance of some event promoters to pay performing rights royalties to LMK Nasional, due to difficulties in accessing transparent information about how royalties are collected and distributed. Some musicians have also publicly stated that they have not received royalties from performances where their music was used commercially.¹ This situation highlights a critical imbalance, where the role of external oversight over LMK Nasional's royalty management remains inadequate. While legal provisions mandate the publication of financial and performance audit results, on-the-ground realities suggest these obligations are either poorly enforced or not implemented.

To address this, LMK Nasional must adopt internally accessible, transparent, and accountable oversight mechanisms, particularly through the integration of Digital Direct License (DDL) with SILM and advanced music data centers. Such systems would enable stakeholders to track usage and distribution in real time, ensuring transparent and fair royalty management.

Integration with DDL can also involve automated monitoring algorithms that track song usage with high accuracy. This ensures that royalties are promptly distributed to copyright holders, without unnecessary delays. By strengthening oversight through technology, transparency, and real-time data access, both creators and commercial users can regain trust in the royalty management system, minimizing disputes and improving compliance across the board.

4. Conclusion

The management of copyright royalties by Collective Management Organizations (LMK) and the National Collective Management Organization (LMK Nasional) in Indonesia is principally governed by the Copyright Law and Government Regulation No. 56 of 2021. While this legal framework provides the foundational basis for royalty administration, its practical implementation remains complex and is often plagued by inefficiencies and weak oversight. This creates a significant gap between copyright holders and the equitable distribution of

¹ Sardjono, Agus, Brian A. Prastyo, and Derezka G. Larasati. "The Effectiveness of National Collective Management Organization Regulation." *Indonesia Law Review*. 6 (2016): 325.

royalties. In the music industry, the presence of LMK and LMK Nasional is perceived as suboptimal. Bureaucratic procedures are seen as overly complicated, and confusion in royalty collection is exacerbated by the proliferation of multiple LMK and inconsistent terminology between the Copyright Law and its implementing regulation.

In the context of modernizing royalty payment schemes to adapt to digitalization, the emergence of the Digital Direct License (DDL) presents a potentially more effective and efficient solution. However, DDL also poses a challenge to the traditional roles of LMK and LMK Nasional in royalty management. By enabling direct royalty payments from digital content users to creators, DDL reduces reliance on conventional intermediaries. In response, LMK and LMK Nasional must adopt strategic reforms to remain relevant in an increasingly digital ecosystem. This transformation requires strengthening their operational capacity through the development of a more responsive and comprehensive legal framework—one that aligns with technological advancements and the evolving needs of copyright holders.

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