

Overlapping Music Royalty Sanctions in Public Spaces: An Analysis of Indonesian Legal Politics

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Abstract

The use of music in public spaces continues to increase alongside the development of the entertainment, tourism, and marketing industries, at both the national and international levels, making the management of music royalties a strategic issue in copyright governance. Many previous studies have focused solely on law enforcement effectiveness or compliance with royalty payments, without examining in depth the legal politics underlying the disharmony between public legal norms and contractual mechanisms for royalty management. This study aims to analyze the direction of legal politics in managing music royalty sanctions in the public space, as set out in Law Number 28 of 2014 concerning Copyright (the Copyright Law) and contracts managed by the National Collective Management Institute (LMKN). The method used is a normative juridical approach that analyzes the Copyright Law and applies the principle of distributive justice, drawing on primary and secondary legal materials. The results of the study show that the overlap of sanctions is caused by the absence of a clear legal-political design for placing LMKN contracts as hierarchically integrated instruments within public legal norms, thereby creating legal uncertainty, potential duplication of sanctions, and weak governance of royalty distribution. The novelty of this research lies in its analysis of legal politics in the relationship between public norms and private contracts in the music royalty system, which makes a conceptual contribution to harmonizing sanctions and renewing copyright policies in the era of the digital creative economy.

Keywords: Legal Politics; Copyright; Music Royalty; LMKN.



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Introduction

The development of the Indonesian music industry has been very rapid.¹ This is happening alongside the increasing use of music across various public spaces and digital platforms. Music played in cafes, restaurants, hotels, shopping malls, and entertainment venues is now an important part of a business strategy for attracting customers and building a business image.² In this sense, music is no longer just entertainment. However, it has become an economic instrument of high commercial value that shapes consumer identity, cultural representation, and experience.³ However, this practice also raises complex legal issues, especially regarding the obligation to pay royalties to creators and copyright holders, which often leads to disputes over differences in understanding and interpretation of the regulations.

The phenomenon of the commercialization of music in public space does not occur only in Indonesia; it is also a global problem related to copyright governance, the mechanisms of collective management organizations (CMOs), and the relationship between public and private legal regimes in the enforcement of creators' economic rights.⁴ This condition shows that the management of music royalties is not only related to the economic interests of creators and business actors, but also reflects the state's legal policy (legal politics) in balancing copyright protection, legal certainty, and the business climate. The issue of music royalties in public spaces must be framed as a strategic legal matter with broad implications for the governance of the creative industry.

In the context of national law, one of the main regulations that regulates the moral and economic rights of creators is Law Number 28 of 2014 concerning Copyright (the Copyright Law). Article 9, paragraph 2 of the Copyright Law expressly states that permission from the owner of the work or copyright holder must be obtained before using the artwork for business purposes. Meanwhile, Article 87 of the Copyright Law grants the National Collective Management Institution (LMKN) the authority to collect and distribute royalties to rights owners. Normatively, this regulation can provide

¹ Andreas Rahmatian, "The Musical Work in Copyright Law," *GRUR International* 73, no. 1 (2024): 18–33, <https://doi.org/10.1093/grurint/ikad105>.

² Eric Priest, "The Future of Music Copyright Collectives in the Digital Streaming Age," *The Columbia Journal of Law & the Arts* 45, no. 1 (2021): 1–46, <https://doi.org/https://doi.org/10.52214/jla.v45i1.8953>.

³ Devi Cantika Turnip and Imam Yazid, "Pertanggungjawaban Pembayaran Royalti Konser Perspektif Fatwa MUI Nomor 1 Tahun 2003 Tentang Hak Cipta," *AL-SULTHANIYAH* 14, no. 2 (August 14, 2025): 421–33, <https://doi.org/10.37567/al-sulthaniyah.v14i2.4173>.

⁴ Agus Sardjono et al., "The Effectiveness of National Collective Management Organization Regulation," *Indonesia Law Review* 6, no. 3 (2016): 325–44, <https://doi.org/10.15742/ilrev.v6n3.250>.

legal protection and economic justice for creators. Government Regulation Number 56 of 2021 is a technical guideline for the management and payment of song and/or music royalties in public spaces.

However, rather than strengthening copyright protection, this rule raises new problems. First, there is an overlap of authority between LMKN and the Collective Management Institution (LMK). This government regulation designates LMKN as the primary manager of royalty withdrawals and distributions, even though LMK already has a similar function under the Copyright Law. As a result, there is institutional dualism, confusion for music users regarding the authority to collect royalties, and the potential for double levies. Second, there is uncertainty about the mechanism of royalty payments. This government decision does not regulate in detail the working relationship between LMKN and LMK or the legal payment procedure. Business actors who have paid through one of these institutions are still at risk of being considered to have not fulfilled their obligations, which can cause conflicts and legal uncertainty. Third, creators suffer losses because royalty distribution becomes opaque, slow, and unaccountable. Many creators do not know the amount or mechanism of distributing royalties that they must receive. Fourth, there is overlap between the administrative provisions in the LMKN/LMK contract and the criminal sanctions in the Copyright Law, especially regarding violations of the obligation to pay royalties.

These problems show that music royalty conflicts in the public space cannot be understood solely as a matter of legal compliance, but as a structural issue stemming from the design of regulations and the division of authority between institutions. This disharmony reflects the weak integration between coercive public legal norms and contract-based private mechanisms. The overlap between public and private law is reflected in the Mie Gacoan case, where alleged royalty violations that normatively meet the criminal elements of Article 113 of the Copyright Law were resolved through an administrative mechanism, including mediation and compensation payments of Rp 2.2 billion to 65 outlets.⁵ This practice shows that fulfilling administrative obligations does not automatically eliminate the potential for criminal liability, especially in the context of overlapping authority between LMK and LMKN. Normatively, the potential for the application of criminal sanctions remains open, because royalty payments through mediation do not automatically eliminate the elements of criminal acts as stipulated in Article 113 paragraphs (2) and (3) of the Copyright Law. Based on these conditions, the issue of music royalties in public space needs to be analyzed not only from the perspective of

⁵ Intan Maharani, "Perjalanan Kasus Mie Gacoan Dan Sentra Lisensi Musik Indonesia (SELMI), Kini Sepakat Bayar Royalti Musik Rp 2,2 Miliar," *Kompas.Com*, 2025, <https://www.kompas.com/tren/read/2025/08/09/134500665/perjalanan-kasus-mie-gacoan-dan-selmi-kini-sepakat-bayar-royalti-musik-rp-2?page=all>.

normative compliance but also from political and legal perspectives to understand the direction of policy, the purpose of norm formation, and the institutional implications.

Previous research has generally focused on the normative and technical aspects of royalty management. Research conducted by Opan Satria Mandala et al. in 2025 emphasizes the importance of transparency in the royalty management system.⁶ Meanwhile, Devi Cantika Turnip and Imam Yazid highlighted the normative uncertainty and legal responsibility of event organizers in music concerts.⁷ Other studies have revealed the weak application of criminal sanctions due to the dominance of administrative settlements.⁸ However, the three have not reviewed in depth the political roots of the law that cause overlap (disharmony) between public law (criminal law) and private law (contract law through LMKN). Therefore, this study takes a different approach by analyzing disharmony from a political and legal perspective and formulating a harmonization strategy for the administration of music royalties in Indonesia that integrates administrative, civil, and criminal sanctions. In addition, studies on music royalty management generally focus on the effectiveness of collective management organizations, the protection of creators' economic rights, and licensing mechanisms in developed countries.⁹ The literature has not explicitly addressed the issue of overlapping sanctions between public law and private contracts in developing countries. Thus, there has been no study that comprehensively examines overlapping music royalty sanctions in the public sphere from a political and legal perspective, either in national literature or in international journals.

In this context, two fundamental problems arise that are the focus of this research, namely: (1) How is the form of overlapping sanctions for music royalties in the public space between the Copyright Law and contracts between business actors and LMKN, and (2) How does legal politics address the overlapping of music royalty sanctions in public spaces? The novelty of this research lies in the use of a legal-political perspective to reconstruct the

⁶ Opan Satria Mandala et al., "Analisis Yuridis Transparansi Dalam Sistem Pengelolaan Royalti Musik Di Indonesia Melalui Lembaga Manajemen Kolektif Nasional," *Jurnal Fundamental Justice* 6, no. 2 (2025): 195–208, <https://doi.org/https://doi.org/10.30812/fundamental.v6i2.5203>.

⁷ Turnip and Yazid, "Pertanggungjawaban Pembayaran Royalti Konser Perspektif Fatwa MUI Nomor 1 Tahun 2003 Tentang Hak Cipta."

⁸ Annisa Rachmasari, Zaenal Arifin, and Dhian Indah Astanti, "Perlindungan Hukum Hak Cipta Pada Film Yang Diakses Secara Ilegal Melalui Telegram," *Semarang Law Review (SLR)* 3, no. 2 (December 12, 2022): 13–23, <https://doi.org/10.26623/slr.v3i2.5564>.

⁹ Daniel Gervais, "Collective Management of Copyright and Related Rights," *Journal of Intellectual Property, Information Technology and Electronic Commerce Law*, 1, no. 1 (2010): 1–24, <https://www.amazon.com/Collective-Management-Copyright-Related-Rights/dp/9041154418>.

problem of overlapping royalty sanctions as a relationship between public and private law. Theoretically, this study extends the study of the politics of copyright law, while practically providing a conceptual framework for harmonizing administrative, civil, and criminal sanctions in the management of music royalties in Indonesia. Thus, this research is expected not only to strengthen legal protection for creators but also to create legal certainty and a conducive business climate for creative industry players in Indonesia.

Methodology

This study uses a normative juridical method because its focus is the analysis of written legal norms that regulate the sanctioning of music royalties in public space and their relation to the political direction of national law. This approach allows researchers to assess the coherence, consistency, and legal certainty of the regulation of music royalties within copyright law policy.

The approach used in this study includes several normative approaches. First, the statute approach is used to analyze the Copyright Law and its implementing regulations, especially those related to the management and sanction of music royalties in public spaces. Second, the conceptual approach is used to examine legal politics, distributive justice, and law as a means of social engineering in the context of protecting creators' economic rights and ensuring legal certainty for business actors. Third, an analytical approach is used to examine the relationship and potential conflicts between the public legal regime (criminal and administrative) and the contract-based private mechanism for managing music royalties through LMKN.

In addition, the object of study focuses on written legal norms rather than empirical practice in the field. The legal materials used are classified systematically. Primary legal materials include laws and regulations related to copyright and contract documents used by LMKN in royalty management. Secondary legal materials include scientific literature, articles from reputable national and international journals, and results of previous research relevant to legal politics and copyright governance.

Data analysis was carried out through normative-qualitative analysis, using legal interpretation techniques and norm conflict analysis to assess the level of regulatory harmonization, clarity of the division of authority, and the normative implications of overlapping sanctions on legal certainty. The theoretical frameworks used is the distributive justice theory. It is integrated to address the formulation of research problems. The ultimate goal of this study is to identify the overlapping forms of music royalty sanctions in the public sphere and to formulate normative legal-political strategies to achieve regulatory harmonization, justice, and legal certainty.

Discussion

Overlapping Forms of Music Royalty Sanctions in Public Spaces

The Indonesian music industry has undergone significant changes over the past few decades. Nowadays, music is not just entertainment; it has become an important element in marketing strategies, branding, and customer experience in cafes, restaurants, hotels, shopping malls, and other public spaces. This commercial use of music creates a legal obligation for business actors to pay royalties to song creators and copyright holders.¹⁰ This is regulated by Law Number 28 of 2014 concerning Copyright (the Copyright Law) and by contractual practices through the National Collective Management Institution (LMKN). At this point, legal problems arose from overlapping sanctions between the public and private legal regimes in the management of music royalties in the public space.

The Copyright Law provides a clear legal basis for the economic and moral rights of song creators, where Article 9 paragraph (2) emphasizes that the use of copyrighted works for commercial purposes must obtain permission from the creator or copyright holder. Meanwhile, Article 87, paragraph (1), imposes an obligation on creators and related rights holders to become members of the Collective Management Institution (LMK) to attract reasonable rewards for the use of creations in commercial public services. In addition, Article 88 requires users of creations to pay royalties through LMK. Article 119 of the Copyright Law provides criminal sanctions for any infringement of economic rights, including the unauthorized use of works, with a penalty of up to 4 years in prison and a fine of up to 1 billion rupiah. Normatively, this provision imposes a coercive legal obligation to make royalty payments and subjects nonpaying parties to criminal sanctions.¹¹

The difference in the character of sanctions in the management of music royalties cannot be separated from the overlap of authority between LMK and LMKN in practice in Indonesia.¹² Normatively, LMKN is positioned as a national institution with coordinating, standardizing, and supervising functions

¹⁰ Martin Senftleben, "Bermuda Triangle – Licensing, Filtering and Privileging User-Generated Content Under the New Directive on Copyright in the Digital Single Market "The Bermuda Triangle, Also Known as the Devil's Triangle or Hurricane Alley, Is a Loosely-Defined Regi," *Vrije Universiteit Amsterdam*, 2018, 1–18, <https://doi.org/https://dx.doi.org/10.2139/ssrn.3367219>.

¹¹ Reylandho Cornelius Talahatu, Teng Berlianty, and Agustina Balik, "Perlindungan Hak Ekonomi Pencipta Dan Pemegang Hak Cipta Atas Pemutaran Musik Atau Lagu Di Kafe Dan Restoran," *Kanjoli Business Law* 1, no. 2 (2023): 81–89, <https://doi.org/10.47268/kanjoli.v1i2.11609>.

¹² Constantius Mario Valentino Mbaling, "Efektivitas Lembaga Manajemen Kolektif Nasional Dalam Perlindungan Hak Ekonomi Pencipta Lagu Di Era Digital Di Indonesia," *Jurnal Kertha Semaya* 13, no. 9 (2025): 2145–54, <https://doi.org/https://doi.org/10.24843/KS.2025.v13.i09.p19>.

within the royalty distribution system. Meanwhile, LMK serves as the executor of royalty collection and distribution under the creator's or copyright holder's power of attorney.¹³ However, the reality is that the authority is not expressly formulated, which causes confusion among business actors about which institution is authorized to grant permits, collect royalties, supervise compliance, and determine legal consequences for non-compliance with royalty payment obligations.

The unclear division of authority has direct implications for the imposition of sanctions. The royalty payment obligation undertaken by business actors arises from contractual legal relationships with LMK, either through licensing agreements or collective royalty withdrawal mechanisms.¹⁴ Therefore, logically and legally, the sanctions inherent in the LMK's authority are private civil and administrative sanctions, such as the imposition of contractual fines, license termination or restriction, and the filing of a default lawsuit. LMK does not have the authority to impose criminal sanctions, as it is not a state organ but a private legal entity acting under the power of attorney of the creator or rights holder.¹⁵

On the other hand, LMKN does not have a direct contractual relationship with business actors, so it lacks a legal basis to impose civil sanctions. The authority of LMKN is public-administrative and limited to determining national policies, standardizing royalty rates, coordinating and supervising LMK, and providing recommendations to the state. Thus, criminal sanctions for copyright infringement are not attached to LMKN but are entirely within the realm of state authority, exercised through law enforcement officials, pursuant to the provisions of the Copyright Law.

However, the unclear hierarchical relationship between contractual norms built through the LMK mechanism and legal norms that are operationalized through the role of LMKN causes the same act, namely the use of music in commercial spaces, which can be seen as having fulfilled its contractual obligations, but is still interpreted as an unlawful act in the copyright criminal regime.¹⁶ It is at this point that the overlapping sanctions

¹³ Maharani, "Perjalanan Kasus Mie Gacoan Dan Sentra Lisensi Musik Indonesia (SELMI), Kini Sepakat Bayar Royalti Musik Rp 2,2 Miliar."

¹⁴ Puput Cahyani, Emilda Kuspraningrum, and Deny Slamet Pribadi, "Tinjauan Hukum Hak Royalti Pencipta Lagu Melalui Lembaga Manajemen Kolektif Nasional," *Yuriska: Jurnal Ilmu Hukum* 17, no. 2 (2025): 180–93, <https://doi.org/https://doi.org/10.24903/yrs.v17i2.3512>.

¹⁵ Wahyu Jati Pramanto, "Optimalisasi Penarikan Dan Pendistribusian Royalti Hak Cipta Oleh Lembaga Manajemen Kolektif Nasional," *Jurnal Hukum Dan HAM Wicarana* 1, no. 2 (2022): 93–104, <https://doi.org/https://doi.org/10.57123/wicarana.v1i2.25>.

¹⁶ Gabriel Indarsen, "Konsekuensi Hadirnya Peraturan Pemerintah Nomor 56 Tahun 2021 Tentang Pengelolaan Royalti Hak Cipta Lagu Dan/ Atau Musik Terhadap Pemungutan Royalti Lagu Dan/ Atau Musik," *Locus: Jurnal Konsep Ilmu Hukum* 3, no. June (2023): 99–112,

arise not solely from violations by business actors, but also from the absence of a normative mechanism that expressly links compliance with the collective royalty scheme to the elimination or limitation of criminal liability.¹⁷

According to the theory of legal certainty, legal norms must be drafted clearly and consistently so that they can be understood and obeyed by the public.¹⁸ The inconsistency between criminal sanctions under the Copyright Law and administrative sanctions in LMKN contracts has the potential to weaken the legal function itself, as business actors lack clarity about the legal consequences of their compliance.¹⁹

Furthermore, the application of the principle of justice requires that each party be treated fairly²⁰, while the principle of proportionality requires a balance between the level of violation and the severity of the sanctions imposed.²¹ Unclear norms and differences in interpretation of articles in the Copyright Law have the potential to cause injustice, especially for small business actors who have good faith to comply with the law, but are burdened with criminal risks. On the other hand, the songwriter still has the right to earn a decent reward.²²

The phenomenon of sanctions overlap is not only theoretical, but also appears to be real in the field. Some cafes in Jakarta receive royalty bills that are considered non-transparent. Where the nominal per song looks small, but the total can reach millions of rupiah per month, which burdens small businesses. Another case involves the Mie Gacoan outlet chain, which was sued by the Indonesian Music Licensing Center (SELMi) for playing music

<https://doi.org/https://doi.org/10.56128/jkih.v3i2.44>; Happy Yulia Anggraeni et al., "Legal Certainty of Songwriters' Economic Rights in Music Royalty Management in Indonesia," *Research Horizon* 0696, no. 56 (2025): 849–58, <https://doi.org/https://doi.org/10.54518/rh.5.3.2025.659>.

¹⁷ Muhammad Alwin Abdillah, Nairazi, and Lina Agustina, "Copyright Infringement Crime in Islamic Criminal Law," *Legalite: Jurnal Perundang Undangan Dan Hukum Pidana Islam* 7, no. 2 (December 31, 2022): 119–31, <https://doi.org/10.32505/legalite.v7i2.5368>.

¹⁸ Rachmawati, Emmy Marni Mustafa, and Refki Ridwan, "Kepastian Hukum Kesepakatan Perdamaian Terkait Penyelesaian Sengketa Hak Cipta Pada Platform Youtube Sebagai Industri Kreatif," *Indonesia of Journal Business Law* 4, no. 1 (2025): 106–21, <https://doi.org/10.47709/ijbl.v4i1.5613>.

¹⁹ Kelsen; Hans, *General Theory of Norms* (Oxford: Oxford University Press, 2017).

²⁰ Desi Purnani Adam, Putu Della Paramitha, and Narpaduhita, "Asas Yuridiktas : Penegakan Hukum Dengan Prinsip Keadilan," *Yusthima* 05, no. 01 (2025): 385–92, <https://doi.org/https://doi.org/10.36733/yusthima.v5i1.11491>.

²¹ Wahyu Susanto, Heru Sandika, and Arga J. P. Hutagalung, "Penerapan Asas Proporsionalitas Dalam Kontrak Komersial Pada Jasa Konstruksi," *Jurnal Ilmiah Penegakan Hukum* 8, no. 2 (2021): 193–201, <https://doi.org/10.31289/jiph.v8i2.5675>.

²² Faradilla Meisya Valda, "Kedudukan Asas Proporsionalitas Dalam Perjanjian Timbal Balik," *Pemuliaan Keadilan* 2, no. 2 (April 26, 2025): 40–50, <https://doi.org/10.62383/pk.v2i2.585>.

without paying royalties. After mediation, it was agreed to pay royalties of IDR 2.2 billion for 65 outlets for a specific period.²³ This case confirms that the use of music in public spaces constitutes criminal copyright infringement. However, the settlement is carried out through an administrative mediation mechanism with large royalty payments.

To analyze sanctions overlap, the legal principle approach is highly relevant. Some of them are: First, the principle of legal certainty requires that legal norms be made clear so that people understand their rights and obligations. The ambiguity between the criminal sanctions of the Copyright Law and the administrative sanctions of LMKN contracts creates legal uncertainty that can reduce, or even cause, the ineffectiveness of the legal system. Second, the principle of justice emphasizes fair treatment for all parties, where the inconsistency of sanctions can cause injustice when small business actors are unable to meet high royalty obligations. At the same time, songwriters are entitled to reasonable compensation.²⁴ Third, the principle of proportionality is important because criminal sanctions that are too severe are disproportionate to administrative violations.²⁵

Furthermore, John Rawls, in his book *A Theory of Justice*, emphasizes the principle of difference, which holds that inequality is justified only if it provides the most significant benefit to the most disadvantaged.²⁶ In the context of music royalty, the royalty system should benefit songwriters, especially those who are less well-known. Furthermore, the theory of distributive justice emphasizes that the distribution of royalties must reflect the creator's contribution and the value of their work. The ambiguity of the Copyright Law and LMKN contracts hinders fair distribution because business actors may not fully understand their obligations.

From a legal-political perspective, Satjipto Rahardjo emphasized that law is not just a formal norm, but also a means of achieving social justice and ensuring the effective application of the law.²⁷ This can be done through legal politics by balancing the interests of creators and business actors. This means

²³ Maharani, "Perjalanan Kasus Mie Gacoan Dan Sentra Lisensi Musik Indonesia (SELMI), Kini Sepakat Bayar Royalti Musik Rp 2,2 Miliar."

²⁴ Dimas Gibran and Satrio Utomo, "Peran Mahkamah Agung Dalam Menegakkan Prinsip Keadilan Dalam Sistem Peradilan Indonesia," *Aliansi: Jurnal Hukum, Pendidikan Dan Sosial Humaniora* 2, no. 1 (2025): 325–38, <https://doi.org/https://doi.org/10.62383/aliansi.v2i1.763>.

²⁵ Syamsul Fatoni, "Asas Proporsionalitas : Perspektif Hukum Positif Dan Maqosid Syariah Dalam Sistem Peradilan Pidana," *Jurnal Hukum Ius Quia Iustum* 32, no. December 2024 (2025): 46–71, <https://doi.org/https://doi.org/10.20885/iustum.vol32.iss1.art3>.

²⁶ John Rawls, *A Theory of Justice: Revised Edition* (Cambridge: Harvard University Press, 2020).

²⁷ Satjipto Rahardjo, *Ilmu Hukum: Pencarian, Pembentukan, Dan Penerapan Hukum Progresif* (Yogyakarta: Genta Publishing, 2018).

that the government creates fair sanctions, and business actors make payments voluntarily. This aligns with the concept of legal harmonization, which emphasizes the need for harmony between public law (Copyright Law) and private law (LMKN contract) to minimize normative conflicts. The trick is to encourage the use of mediation and dispute resolution outside the court as a preventive measure that allows both parties to reach an agreement without a lengthy litigation process and to maintain good relations.

The impact of this overlapping sanction is not only felt by business actors in the form of legal and financial risks, but also affects song creators due to the uncertainty of royalty distribution and declining trust in the copyright management system. Some of the factors that cause this overlap of sanctions include. First, there is a difference in legal norms between the Copyright Law, which is public law with criminal sanctions, and the LMKN contract, which is private law with administrative sanctions. These differences create interpretation gaps and trigger implementation uncertainty. Second, the non-uniform interpretation of the contract between LMKN and business actors leads to a conflict in understanding each party's obligations and rights. Third, the lack of education and socialization about the rights and obligations of business actors regarding royalty payments increases the risk of unintentional violations. Fourth, non-transparent royalty collection practices create perceptions of injustice and increase the risk of disputes.

Table 1: Forms and Overlapping Factors of Music Royalty Sanctions

No	Factor	Direct Impact	Indirect Impact
1	Differences in legal norms (the Copyright Law vs LMKN)	Legal uncertainty for business operators	Business operators reduce music playback
2	Inconsistent contract interpretation	Potential legal conflicts	Unfairness toward creators and business operators
3	Lack of education and outreach	Lack of awareness of royalty obligations	Business operators play music without concern
4	Non-transparent royalty collection	High financial burden for small businesses	Risk of abuse of authority

Thus, the overlapping form of music royalty sanctions in the public space lies in the coexistence of criminal sanctions under the Copyright Law and administrative sanctions of LMKN contracts without clarity of authority boundaries and normative hierarchy, which ultimately creates legal uncertainty for business actors and has the potential to hinder the protection of the economic rights of creators. To overcome this, national legal politics needs to

focus on harmonizing regulations and ensuring legal certainty. The Copyright Law and LMKN contracts must be harmonized so that criminal, civil, and administrative sanctions do not overlap. This harmonization requires coordination between the Ministry of Law and Human Rights, LMKN, and business actors' associations (APMI). Concrete steps include preparing clear contract implementation guidelines, classifying public spaces, and determining proportionate royalty rates.

The Role of Legal Politics in Resolving and Preventing Overlapping Music Royalty Sanctions

The overlap of royalty sanctions in Indonesia is a serious problem that underscores the lack of synchronization among administrative, civil, and criminal sanctions.²⁸ In practice, business actors who have fulfilled their obligation to pay royalties through the National Collective Management Institution (LMKN) as stipulated in the Copyright Law may still be subject to other sanctions. This is because there is no clear boundary between administrative violations (e.g., delays or inaccuracies in reporting the use of works) and criminal offenses (e.g., unauthorized use or piracy). As a result, a single act can be charged with more than one type of sanction, including administrative fines, civil lawsuits for damages, or the threat of imprisonment.

In addition, the overlap is also caused by the disintegration of the legal and institutional systems that govern it. The Copyright Law establishes three lines of settlement for administrative, civil, and criminal disputes, but does not provide a clear order of priority. As a result, one case of royalty infringement can be processed simultaneously through LMKN, a lawsuit in the Commercial Court, and a criminal report to the police. This leads to process duplication, wasted time, and the risk of multiple decisions being applied to the same case.

Differences in interpretation between law enforcement agencies and related agencies exacerbate this disharmony. LMKN, for example, manages and distributes royalties collectively but does not have the authority to enforce criminal law. Meanwhile, law enforcement officials such as police or the prosecutor's office often treat infringement of royalty payments as a copyright crime without regard for the administrative mechanisms that have been in place. This condition creates legal uncertainty for business actors and undermines trust in Indonesia's copyright protection system. In addition, the creator or holder of economic rights does not have certainty about the form of legal protection or compensation to be received.

²⁸ M Taopik and Indra Yulawan, "Tinjauan Yuridis Pemberian Dan Perlindungan Hak Royalti Atas Karya Cipta Lagu Atau Musik Berdasarkan Pp No 56 Tahun 2021 Tentang Pengelolaan Royalti Hak Cipta Lagu Dan/Musik Di Kemenkumham," *ADIL Indonesia Journal* 4, no. 1 (November 15, 2022): 43–54, <https://doi.org/10.35473/aij.v4i1.1994>.

The problem of overlapping royalty sanctions is also evident in the relationship between regulations. Some sectoral regulations, such as in the tourism and trade sectors, also require the payment of royalties as a condition for business licenses, but do not always refer to the mechanism set by the LMKN. As a result, business actors often have to fulfill the same obligations through two uncoordinated systems. In addition, there is no uniform interpretation regarding the meaning of “permission to use works”. Some parties consider that permission through LMKN is valid as a collective representation of creators, while others still consider that direct permission is required from the creator or copyright holder. This difference in interpretation creates legal uncertainty and opens the door to criminalizing business actors who have acted in good faith.

In such a situation, the legal protection approach becomes highly relevant for reorganizing the relationship among creators, business actors, and the state. For songwriters, legal protection means ensuring their economic and moral rights are met through appropriate, transparent, and proportionate royalty payments. LMKN acts as a collective institution that collects and distributes royalties, but creators have the right to monitor distribution, demand transparency, and receive compensation commensurate with their contributions.²⁹ Distributive justice theory emphasizes that the distribution of royalties must reflect the value and contribution of the creator's work, so that lesser-known independent creators still receive fair benefits.

The legal responsibilities of each party in the music royalty system must be formulated in a firm and proportionate manner to strike a balance between rights and obligations. Business actors have a legal responsibility to ensure that every piece of music played in public spaces has obtained an official permit and that royalty payments are made in accordance with the terms of the agreed contract. Failure to fulfill these obligations not only causes administrative consequences but can also have implications for criminal liability if there is an element of intentionality that harms the creator or copyright holder.

On the other hand, creators and copyright holders bear moral and legal responsibilities to legally submit works to LMKN, ensure the validity of copyright data, and ensure that royalty distribution is carried out fairly and proportionately. Meanwhile, LMKN, as a public intermediary institution, has a fiduciary responsibility, namely the obligation to collect, manage, and distribute royalties in a transparent, accountable, and distributive justice

²⁹ Nida' Kamilah Azhar, “Quo Vadis Lembaga Manajemen Kolektif: Menakar Ulang Efektivitas Pembagian Royalti Dalam Kacamata Peraturan Perundang-Undangan,” *Jurnal Darma Agung* 33, no. 2 (2025): 470–82, <https://doi.org/http://dx.doi.org/10.46930/ojsuda.v33i2.5739>.

manner.³⁰ LMKN must also play an active role in providing education to business actors and creators to foster mutual legal awareness. With a clear and consistent responsibility arrangement, legal politics in music royalty management will be directed towards fair, transparent governance and will help prevent future normative conflicts.

As emphasized by Satjipto Rahardjo, law should not be understood solely as a set of formal norms, but as a means to achieve social justice, balance the interests of the parties, and enhance the effectiveness of law's application in society.³¹ In the context of music royalty management, legal politics emphasizes the importance of harmonizing the Copyright Law, LMKN contracts, and implementing rules to ensure hierarchical consistency and prevent overlap that harms business actors and creators.

More than that, legal politics functions as an implementable instrument through a series of practical mechanisms, including mediation and out-of-court dispute resolution, transparent supervision of royalty distribution, and massive legal socialization programs for business actors and the public. Thus, the politics of law not only regulates how the law is administered, but also directs the legal system towards certainty, justice, and usefulness that align with the values of protecting the economic and moral rights of creators. Efforts to resolve overlapping sanctions through legal politics are carried out through concrete harmonization measures that involve coordination between institutions and stakeholders. Some of them are:

First, the Ministry of Law and Human Rights (Kemenkumham) has the primary responsibility for coordinating the revision of the implementing regulations of the Copyright Law to align with contracts managed by LMKN. This harmonization ensures that criminal sanctions do not conflict with administrative sanctions, preventing overlap in law enforcement.

Second, LMKN plays a role in developing detailed, operational contract implementation guidelines, including the classification of public spaces, the determination of royalty rates proportional to the scale of the business, flexible payment schedules, and internal mediation procedures to resolve disputes before resorting to litigation. Thus, LMKN serves as a link between public legal norms and private law practices in the field.

Third, the Ministry of Tourism and Creative Economy (Kemenparekraf) plays a role in socialization and legal education for business actors, especially the owners of cafes, restaurants, hotels, and entertainment venues. The goal is for them to understand royalty payment obligations, creators' legal rights, and the benefits of compliance with a transparent licensing system. This approach

³⁰ Lembaga Manajemen Kolektif Nasional (LMKN), *Laporan Tahunan LMKN 2023* (Jakarta: LMKN Press, 2023).

³¹ Satjipto Rahardjo, *Ilmu Hukum* (Bandung: Citra Aditya Bakti, 2000).

also strengthens the preventive function of legal politics by increasing legal awareness and voluntary compliance.

Fourth, the Prosecutor's Office and the Police function as law enforcement officers who enforce the law selectively and proportionately. This means that legal action is taken only against deliberate, commercial, and significant violations of creators' economic rights. Meanwhile, administrative violations or procedural ignorance are resolved through LMKCN's internal mechanisms or mediation channels. This approach is in line with the principle of proportionality in law enforcement and aims to prevent excessive criminalization of business actors.

Fifth, the Indonesian Music Management Association (APMI) plays a strategic role as a communication facilitator between business actors and LMKCN. APMI provides input to improve licensing contracts, channel the aspirations of business actors, and ensure that royalty distribution is carried out fairly, especially for independent creators and musicians. APMI's involvement strengthens policy legitimacy and ensures that the harmonization process runs in a participatory and accountable manner.

Overall, this relationship reflects a collaborative legal politics that not only focuses on normative aspects but also prioritizes the effectiveness of implementation. Through synergy between institutions, the preparation of technical guidelines, legal education, and selective law enforcement, the settlement of overlapping music royalty sanctions becomes more measurable, proportionate, and equitable. This approach also strengthens the state's role in protecting creators' economic rights, maintaining a healthy business climate, and supporting the sustainable growth of the national music industry.

Furthermore, the concept of legal politics in this context is not merely a rule or instrument of law enforcement, but also an instrument of social engineering. Satjipto Rahardjo's thinking is highly relevant as a foundation, in which law serves not only to uphold norms but also to shape collective behavior through principles of justice, proportionality, and usefulness.³² Thus, harmonization of music royalty regulations is not enough to focus solely on legal aspects; it must also address social and cultural factors that underpin the sustainability of the music industry.

Concrete harmonization steps are needed to ensure that each party, both creators and business actors, has clear legal responsibilities, transparent procedures, and a proportionate dispute resolution mechanism. Business actors who have fulfilled their obligation to pay royalties under the LMKCN contract must receive a guarantee against the arbitrary application of criminal sanctions. On the other hand, creators and copyright holders must also receive

³² Satjipto Rahardjo, *Politik Hukum Dan Perubahan Sosial Di Indonesia* (Bandung: Refika Aditama, 2015).

proper and timely compensation through a transparent royalty distribution system closely monitored by LMKN. LMKN, as a national collective management institution, has an important responsibility to monitor, report, and supervise the distribution of royalties to the Ministry of Law and Human Rights (Kemenkumham). With a strict supervision mechanism, the process of collecting and distributing royalties can be carried out in an accountable manner, thereby fostering trust among stakeholders.³³

This approach is very much in line with John Rawls' theory of distributive justice, which holds that inequality in the distribution of resources can be justified only when it provides the most significant benefit to the most disadvantaged.³⁴ In the context of music royalties, this means that protecting creators' economic rights must be a priority without sacrificing legal certainty for business actors. Rawls presents the principle of justice as a moral foundation for regulating the balance of rights and obligations among various parties in society. In addition, Roscoe Pound's social engineering theory provides a relevant framework in which the law is not only a repressive instrument but also a tool for directing social change through preventive policies and legal education that foster awareness and voluntary compliance.³⁵

Practical legal politics must also be adaptive and responsive to social and technological change. Along with the development of the digital music industry and online platforms, music distribution and consumption patterns have undergone a significant transformation.³⁶ Therefore, the government and LMKN need to develop contract implementation guidelines that align with the digital music distribution model to minimize the risk of overlapping sanctions in the future. This includes drafting clear regulations on royalty payment mechanisms in the digital ecosystem, oversight of royalty reporting by streaming platforms, and a fast, efficient dispute-resolution mechanism.³⁷ This approach assigns legal responsibility as a collective obligation to the state,

³³ Kemenkumham RI, *Pengawasan Distribusi Royalti Musik* (Jakarta: Kemenkumham, 2021).

³⁴ Rawls, *A Theory of Justice: Revised Edition*.

³⁵ Roscoe Pound, *Social Engineering and Legal Reform* (USA: Yale University Press, 2012).

³⁶ Gideon M Masola, Rikser Alsandro Parera, and Malino Gemma Galgani, "Pembayaran Royalti Kepada Pemegang Hak Cipta Lagu Dalam Budaya Hukum Masyarakat Di Era Digital," *Locus Journal of Academic Literature Review* 4, no. 3 (2025): 160–67, <https://doi.org/https://doi.org/10.56128/ljoalr.v4i3.474>.

³⁷ Muhammad Aru Ramadani, Puguh Aji, and Hari Setiawan, "Perlindungan Hukum Hak Cipta Lagu / Musik Atas Royalti Dalam Perspektif Teori Keadilan Menurut Undang-Undang No . 28 Tahun 2014 Tentang Hak Cipta," *Media Hukum Indonesia (MHI)* 3, no. 2 (2025): 839–43, <https://doi.org/https://ojs.daarulhuda.or.id/index.php/MHI/article/view/2164>.

LMKN, business actors, and creators, thereby creating a synergy that strengthens compliance through legal awareness.³⁸

In this context, political and legal harmonization also serves as a long-term preventive instrument. The government and LMKN not only act as regulators and supervisors, but also as facilitators, actively educating music industry players and the broader community about the importance of respecting Copyright and royalty mechanisms.³⁹ This education is important for building deep legal awareness, so that the practice of violations can be significantly suppressed. Furthermore, the availability of a clear, accessible alternative dispute resolution (ADR) mechanism will facilitate the resolution of problems without resorting to a lengthy, complex litigation process.⁴⁰

Overall, the integration of regulatory harmonization, clear contract guidelines, mediation mechanisms, legal education, supervision of royalty distribution, and policies that are adaptive to technological advances forms a fairer, proportionate, and sustainable music royalty system. The implementation of a strong and responsive legal policy not only minimizes legal uncertainty and increases business actors' compliance but also protects the economic rights of creators and encourages the growth of the Indonesian music industry in a healthy, transparent, and equitable manner. Thus, legal certainty and the protection of copyright rights can go hand in hand with social and economic benefits for all parties.⁴¹

This harmonious and equitable system is also an important foundation in building a healthy and sustainable national music industry ecosystem. Legal certainty will attract more businesses to invest, while adequate copyright protection will encourage creativity and innovation among music creators.⁴² This synergy ultimately contributes to Indonesia's overall cultural and economic progress while building the country's image as one that respects intellectual works and intellectual property rights.

³⁸ Arofi Mughni, Dan Erwin, and Aditya Pratama, "Analisis Hukum Mengenai Pengelolaan Royalty Atas Hak Cipta Lagu Populer," *Pancasakti Law Jurnal* 1, no. 2 (2023): 279–86, <https://doi.org/https://doi.org/10.24905/plj.v1i2.29>.

³⁹ Dwi Anindya Harimurti, "Copyright And Music And Song Art Works In The Digital Era Hak Cipta Dan Karya Seni Musik Dan Lagu Di Era Digital," *Gagasan Hukum* 5, no. 1 (2023): 51–58, <https://doi.org/https://doi.org/10.31849/jgh.v5i01.14228>.

⁴⁰ Marsela Berliana, Wilma Silalahi, and Universitas Tarumanagara, "Hak Cipta Musik Dan Pengaruhnya Terhadap Industri Musik Di Indonesia," *USR AH: Jurnal Hukum Keluarga Islam* 6, no. 1 (2025): 199–212, <https://doi.org/https://doi.org/10.46773/usrah.v6i1.2120>.

⁴¹ Happy Yulia Anggraeni and Salma Annisa Luthfiyyah, "Problematisasi Hukum Hak Cipta Musik Yang Berkeadilan Pasca Perkembangan Media Youtube," *Yuriska: Jurnal Ilmu Hukum* 15, no. 2 (2023): 144–58, <https://doi.org/https://doi.org/10.24903/yrs.v15i2.2211>.

⁴² Sri Rokmahwati and Universitas Muhammadiyah Tangerang, "Ensuring Legal Certainty of Copyright for AI-Generated Works in Indonesia," *Mimbar Yustitia: Jurnal Hukum Dan Hak Asasi Manusia* 9, no. 1 (2025): 71–80, <https://doi.org/10.52166/mimbar.v7i2>.

Based on the analysis above, legal politics in the management of music royalties must be directed toward harmonizing public legal norms and private contractual mechanisms so that each sanction is hierarchically consistent, proportionate, and legitimate. This approach not only prevents sanctions overlap but also protects the economic rights of creators and provides legal certainty for business actors in a balanced manner.

Conclusion

The overlap of music royalty sanctions in the public space arises from the disharmony between the public legal regime under the Copyright Law and the private law regime applied through contracts between business actors and LMKN. The disharmony is reflected in differences in the character of criminal and administrative sanctions that allow one act to be sanctioned more than once, in interpretations regarding music use permits and royalty payment obligations, in low legal socialization, and in non-transparent royalty collection and distribution mechanisms. This condition shows that the overlap of sanctions does not solely stem from violations of the law, but also from weak regulatory designs, institutional misalignment, and non-uniform implementation practices that create legal uncertainty, potential criminalization of business actors, and suboptimal protection of the economic rights of creators.

Therefore, the role of legal politics becomes crucial to reorganize the relationship between public legal norms and private contractual mechanisms by harmonizing criminal and administrative sanctions, affirming the limits of authority, and strengthening administrative and mediation mechanisms as priorities before criminal enforcement. Within this framework, distributive justice serves as a normative guide to ensure a fair allocation of rights, burdens, and benefits among creators, business actors, and the state in the royalty governance system. Targeted and adaptive legal politics, supported by cross-agency coordination and transparency in royalty distribution, can create a balance between protecting the economic rights of creators, providing legal certainty for business actors, and sustaining a fair, transparent, and competitive national music industry.

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