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INDONESIAN PROPOSAL FOR A LEGALLY BINDING INSTRUMENT ON THE  
GOVERNANCE OF COPYRIGHT ROYALTY IN DIGITAL ENVIRONMENT:  
PROMOTING A FAIR CHANCE IN A GLOBALIZED WORLD

*prepared by the Ministry of Law of the Republic of Indonesia*





# WORKING PAPER

**Indonesian Proposal for a Legally Binding Instrument  
on the Governance of Copyright Royalty  
in Digital Environment**

*Promoting A Fair Chance in A Globalized World*

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## Indonesian Proposal for a Legally Binding Instrument on the Governance of Copyright Royalty in Digital Environment

*Promoting A Fair Chance in A Globalized World*

### Executive Summary

**The global digital music industry continues to reflect a notable disparity between developed and developing countries.** While countries in the Global North have taken a leading role in shaping the online ecosystem: major platforms, algorithmic distribution systems, and subscription-based business models, many countries in the Global South continue to face foundational challenges. These include underdeveloped legal infrastructures, limited institutional capacity within collective management organizations (CMOs), and widespread practices of music usage without adequate compensation. As a consequence, creators in developing countries are frequently excluded from equitable royalty distribution mechanisms, despite their meaningful and growing contributions to the global music landscape.

**This Working Paper identifies four key challenges in the governance of music and audiovisual royalties on the digital platforms**, namely: (1) the framework for royalty collection and distribution, (2) the mechanisms used for royalty allocation, (3) the centralization of global copyright database, and (4) disparities in the valuation of copyright royalties. In response, **this paper advocates for a proposal, envisioned as a legally binding instrument on the governance of copyright royalty in digital environment**, which also serves as a strategic initiative by Indonesia to contribute constructively to balance power dynamics within the global intellectual property regime. The Proposal aspires not only to reinforce national interests in safeguarding the rights of local creators but also to serve as a catalyst for broader international collaboration. Ultimately, The Proposal aims to foster a **fair, transparent, inclusive, and sustainable** framework for the governance of phonograms and audiovisual royalties—particularly on digital platforms—by encouraging multilateral dialogue and shared responsibility among nations.

### Background

The growth of the global digital music<sup>1</sup> industry presents a deepening paradox. Countries in the Global North have succeeded in building a well-structured online licensing ecosystem by effectively steering market dynamics through subscription-based business models<sup>2</sup>, distribution algorithms, and the dominance of major digital platforms<sup>3</sup>. On the other hand, countries in the Global South continue to grapple with foundational challenges, including limited access to formal licensing mechanisms, weak governance within collective management organizations (CMOs)<sup>4</sup>, and the widespread normalization of communal music use without proper compensation. This asymmetry highlights a significant gap: while creators in the Global North increasingly benefit from structured royalty distributions that reflect their creative labor, many creators in other parts of the world remain excluded from the economic value generated by their works.<sup>5</sup> At a deeper level, this imbalance reflects broader economic disparities between advanced markets and emerging markets, underscoring the need for more inclusive and equitable frameworks in the global governance of digital music rights.

Despite its significance, this issue has yet to receive focused attention within major international fora. Colombia stands out as one of the few countries that has sought to elevate the discourse on royalty imbalances at the World Trade Organization (WTO). In its *Communication Paper* (IP/C/W/721), dated 16 June 2025, Colombia highlights a concerning trend: the vast majority of royalty flows circulate predominantly among developed countries. At the same time, developing nations collectively received only **USD 16.6 billion** in royalty income, despite having paid out approximately **USD 97.9 billion** to advanced economies—reflecting a **royalty trade deficit of nearly 589%** for low- and middle-income countries.<sup>6</sup> While it is essential to note that these figures represent aggregate royalty flows and do not specifically isolate music copyright royalties,

the data nonetheless highlight a structural imbalance in the global intellectual property system. In a similar vein, global data from 2023 indicate that royalty collections for phonograms and audiovisual works were estimated at approximately **US\$12.47 billion**<sup>7</sup>. However, uncollected royalties in these sectors were projected to range between **US\$51 billion and US\$85 billion**, representing a significant loss for both creators and national economies.<sup>8</sup> On average, global royalty losses were estimated at **US\$38.53 billion to US\$72.53 billion**—or roughly **US\$55.53 billion**—which corresponds to an estimated **US\$83.29 billion to US\$111.06 billion** in forgone global GDP growth, equivalent to **0.08%–0.10%** of global GDP in 2023.

These developments reveal an emerging pattern—one that calls on the global community to critically reexamine the strategic direction of intellectual property governance amid rapid innovation and transformation within the music industry. The Colombian paper advocates for a *rebalancing* of the global IP regime, emphasizing that intellectual property should function as a **catalyst for inclusive and sustainable development**, rather than as a mechanism that entrenches economic asymmetries or perpetuates hegemonic control over developing nations. In this light, there is an increasing need for an initiative that simultaneously protects creators from the growing concentration of commercial power among large platforms and establishes a regulatory framework that promotes fair use through equitable distribution mechanisms. Such an initiative holds the potential not only to advance economic justice within the global music industry but also to meaningfully sustain and preserve cultural expression in the digital age.

### **Governance of Phonograms and Audiovisual Royalty in the Digital Environment: A Case Study of Indonesia**

Indonesia has established a regulatory framework for intellectual property rights through both the ratification of international agreements and the enactment of domestic legislation governing each regime of intellectual property. In the context of copyright, three primary legal instruments serve as the normative foundation:

1. Law No. 28 of 2014 on Copyright (UU 28/2014),
2. Government Regulation No. 56 of 2021 on the Management of Copyright Royalties for Songs and/or Music (PP 56/2021), and
3. Minister of Law and Human Rights Regulation No. 27 of 2025 on the Implementation of Government Regulation No. 56 of 2021 (Permenkumham 27/2025).

These instruments reaffirm the role of the National Collective Management Organization (In *Bahasa Indonesia: Lembaga Manajemen Kolektif Nasional*, hereinafter LMKN) and Collective Management Organizations (In *Bahasa Indonesia: Lembaga Manajemen Kolektif*, hereinafter LMK) as key entities responsible for the collection and distribution of royalties for music and audiovisual works. Their functions are supported by digital infrastructure such as the Songs and Music Database (In *Bahasa Indonesia: Pusat Data Lagu dan/atau Musik*, hereinafter PDLM) and the forthcoming Songs and Music Information System (In *Bahasa Indonesia: Sistem Informasi Lagu dan Musik*, hereinafter SILM). This regulatory architecture reflects the government's commitment to fostering transparency, accountability, and fairness in the collection, distribution, and utilization of royalties—ensuring that creators, rights holders, and related stakeholders receive equitable compensation for their contributions.

While the existing regulatory framework provides a solid normative foundation, its practical implementation continues to present areas for improvement. This Working Paper identifies **three key issues** that warrant the attention of national stakeholders: (1) **infrastructure gaps** that hinder effective rights management and royalty distribution; (2) **the proportionality of tariff setting**, particularly in relation to micro, small, and medium-sized enterprises (MSMEs), which may face disproportionate tariff; and (3) **transparency in collective management organizations (CMOs)**, which remains a critical element in ensuring accountability and trust in the system. Addressing these issues is therefore essential to strengthening the effectiveness of Indonesia's copyright royalty regime and enhancing its alignment with principles of fairness, inclusivity, and legal certainty.

At the foundational level of technical infrastructure for royalty collection, a key challenge lies in the absence of one crucial tool: the SILM. Although mandated by Government Regulation No. 56 of 2021, SILM

has yet to be realized. Four years after the regulation came into force, SILM remains under development by the National LMKN.<sup>9</sup> While the Ministry successfully launched the PDLM in November 2022<sup>10</sup>, the absence of a corresponding system under LMKN's operation presents a significant barrier to **data interoperability**. This limitation undeniably hampers the accuracy, transparency, and efficiency of royalty collection and distribution for musical works.<sup>11</sup> Interoperability between PDLM and SILM is not merely a technical concern; it is a critical precondition for robust oversight of online copyright usage—particularly in the music sector. The current gap weakens the ability of stakeholders to monitor usage and ensure fair compensation to creators and rights holders within the digital ecosystem.<sup>12</sup> The absence of SILM also contributes to a second issue currently drawing public concern—namely, the proportionality of royalty tariffs for micro, small, and medium-sized enterprises (MSMEs). The current tariff structure is widely perceived as not sufficiently aligned with the broader public interest. This concern arises from the fact that **royalty payment rates do not differentiate between large-scale businesses and MSME actors**. While a royalty discount scheme for MSMEs is expected to be established by the LMKN, the policy is still under joint deliberation with the CMOs and the Ministry of Law.<sup>13</sup>

The final and most pressing challenge lies in **ensuring transparency within the governance of CMOs**. This includes concerns over the lack of clarity regarding operational cost deductions, the scope and effectiveness of oversight and evaluation functions, and the limited legal certainty surrounding copyright-related disputes. According to Minister of Law Regulation No. 27 of 2025 (*Permenkum* 27/2025), both LMKN for Creators and LMKN for Related Rights Holders are permitted to deduct up to 8% of the total annual royalty collections to cover operational expenses, including commissioner remuneration, oversight facilitation teams, and other related costs. However, as of now, no detailed formula or publicly accessible methodology exists for calculating the management fee deducted from total royalties collected. From a regulatory perspective, Articles 51-56 of *Permenkum* 27/2025 address evaluation, financial reporting, and auditing. Nonetheless, the absence of clear implementation guidelines or Standard Operating Procedures (SOPs) continues to hinder effective oversight and accountability. At the same time, the CMO governance is also reflected in the lack of legal certainty for dispute resolution—whether between CMOs and their members<sup>14</sup>, or between creators and related rights holders.<sup>15</sup> It is essential to reaffirm that disputes within the royalty ecosystem, in line with international practice, should be treated as **private law matters**. As such, royalty-related dispute mechanisms should fall under private law frameworks, including the promotion of Alternative Dispute Resolution (ADR) as a viable pathway for non-litigious settlement.

At this point, within the context of domestic governance, Indonesia's national legal framework has provided an essential foundation for the management of copyright in musical works. However, the implementation of this normative framework continues to face persistent challenges, particularly in the areas of infrastructure development, tariff proportionality, and transparency in the governance of CMOs. These challenges should be understood within a broader global landscape, wherein developing countries structurally experience a royalty payment deficit *vis-à-vis* developed nations. The ongoing international discourse on inequalities in the digital music industry underscores the urgency for domestic reforms that prioritize transparency and system interoperability. At the same time, these reforms are vital to strengthening Indonesia's position in advocating for a more equitable global royalty governance framework—both at the national and international levels.

### **Global Inequalities in Phonogram and Audiovisual Royalties in the Digital Environment: Bridging the North–South Divide**

At the international level, copyright and related rights treaties generally provide foundational principles and broad guidelines, leaving the development of detailed domestic legal frameworks to the discretion of each member state. Historically, the international intellectual property regime has been shaped by the treatment of copyright as a matter of private law, and is thus governed primarily through private law avenues.<sup>16</sup> This structure has, over time, contributed to significant **disparities in copyright governance between developed and developing countries**. These disparities arise largely due to **differences in institutional capacity**,

**enforcement mechanisms, and resource availability**, factors that continue to limit the ability of many developing nations to effectively protect and enforce copyright. Consequently, while international agreements set a shared normative baseline, the uneven implementation across jurisdictions has resulted in systemic gaps that reinforce the global imbalance in the management and monetization of creative works.<sup>17</sup>

The evolution of international copyright agreements reflects a gradual shift from narrow artistic protection to broader regulatory frameworks aligned with global trade. This progression began with the Berne Convention of 1886, which primarily focused on protecting literary and artistic works, and later expanded through a number of modern agreements. A pivotal moment occurred with the adoption of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in 1994. While earlier treaties largely emphasized the recognition of rights emerging from technological developments, TRIPS marked a significant turning point by positioning copyright protection as an integral component of a country's trade policy.<sup>18</sup> Unlike previous copyright agreements, TRIPS introduced a binding dispute settlement mechanism under the auspices of the World Trade Organization (WTO)—thereby linking intellectual property more directly with global trade norms and enforcement frameworks. In effect, **TRIPS revolutionized how actors in the copyright sector conceptualize the protection and monetization of intellectual property rights**, reinforcing the role of copyright as both a legal and economic instrument in the international order.

Modern international agreements, including the TRIPS Agreement, have undoubtedly brought benefits to creators in both developing and developed countries. These agreements offer a common framework that allows creators across jurisdictions to participate in global creative industries on more **equal and fair terms**. Nevertheless, a growing body of research has identified persistent challenges primarily stemming from **disparities in resources and legal infrastructure** between developed and developing countries. In general, developed countries benefit from **greater capital, an earlier starting point**, and more advanced systems, including: (1) **established human resources** with stronger awareness and expertise in copyright protection; (2) **well-established domestic legal frameworks** for intellectual property enforcement; and (3) **financial capacity** to pursue cross-border dispute resolution, including litigation or arbitration in foreign jurisdictions. These asymmetries would hinder the full realization of benefits for creators in developing countries, despite the shared international standards. Therefore, closing this implementation gap remains a key priority for ensuring the inclusivity and fairness of the global copyright system.<sup>19</sup>

This issue is further exacerbated by the digitization of creative works, a transformation largely driven by developed countries equipped with advanced technological infrastructure. With greater access to education on intellectual property and superior technological capabilities, creators in developed countries are better positioned to capitalize on the benefits of digitization, maximizing their market reach and securing their rights in digital environments. In contrast, creators in developing countries often lag behind in utilizing legal infrastructure for copyright protection and in leveraging technology to expand their market presence.<sup>20</sup> A study focusing on African countries reveals that many lack the resources and legal infrastructure necessary to protect local creators, including in cases of copyright infringement or unauthorized use of their works by entities in developed nations—often without compensation. This systemic gap has contributed to a rather timely progress in improving the welfare of creators across the African continent.<sup>21</sup> This concern is echoed in Colombia's Communication Paper (IP/C/W/721), which highlights the imbalance in royalty flows, showing that revenue disproportionately moves from developing countries to developed ones.

As the digital music industry continues to evolve, the role of CMOs in royalty collection and distribution has become increasingly relevant—particularly in relation to the use of phonograms and audiovisual works on online platforms such as streaming services. Through CMOs, creators and rights holders are able to receive fair compensation for the use of their works, even when such usage occurs across borders and across digital platforms. In this regard, CMOs serve a strategic function by bridging the interests of rights holders and users within the online music ecosystem—both at the national and global levels. Their role is critical in ensuring that digital music platforms operate in a way that respects the rights of creators, facilitates fair remuneration, and upholds the integrity of intellectual property governance in the digital era.



## Problem Statement: Scope of Issues in The Indonesian Proposal

The preceding discussion underscores that the governance of phonograms and audiovisual royalties, at both domestic and international levels, continues to reveal a widening disparity between established legal frameworks and their practical implementation. On the global stage, developing countries remain constrained by structural asymmetries in capital, technology, and legal infrastructure, rendering the Global South a participant in a system predominantly shaped by the Global North. These dynamics resonate domestically in Indonesia, where the collection of royalties for the online use of phonograms and audiovisual works continues to face considerable obstacles. In light of this context, the present working paper advances an issue mapping, as illustrated in the chart below

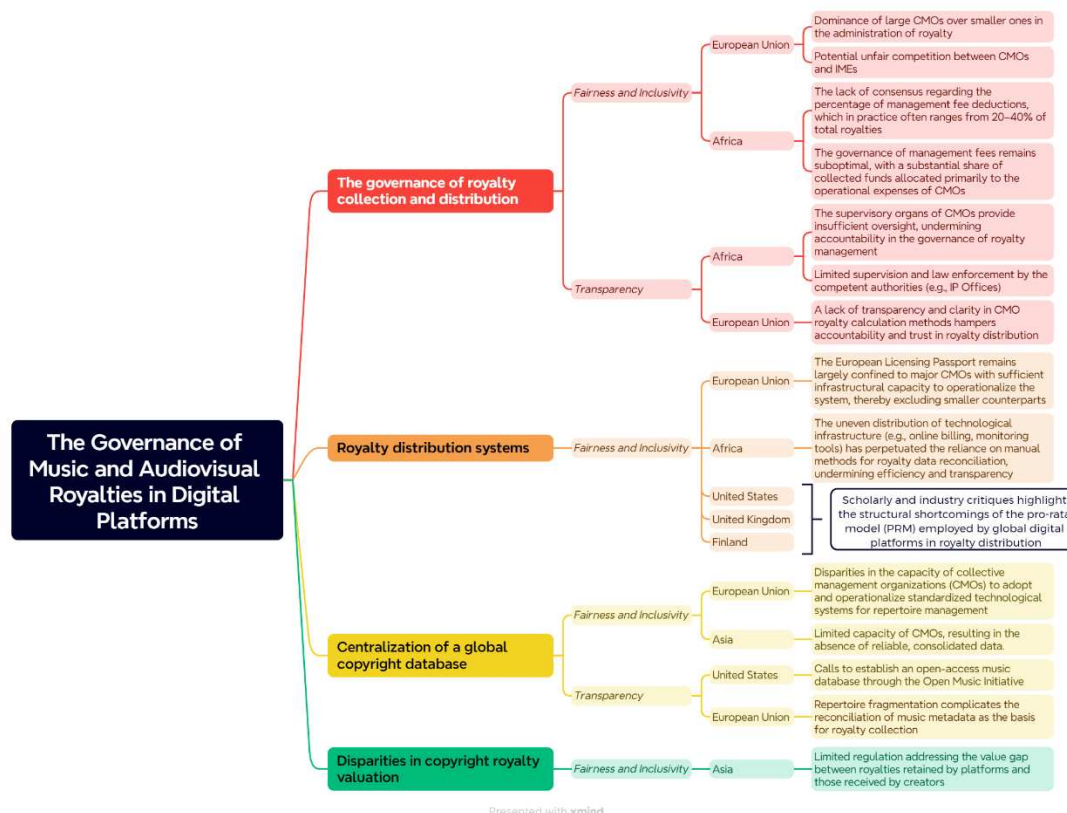


Figure 1. Identifying Regional-Level Challenges in the Governance of Phonograms and Audiovisual Copyright in Digital Environment

Based on the chart above, it becomes evident that both at the national and international levels, the root of the challenges surrounding online music licensing and royalties lies in structural asymmetries within the global intellectual property landscape, with direct repercussions for the domestic contexts of developing countries. In practice, these asymmetries are reflected in a set of issues that may be classified into four key issues: (1) the governance of royalty collection and distribution, (2) the mechanisms for royalty disbursement, (3) the centralization of the global copyright database, and (4) disparities in the valuation of copyright royalties.

**First, on the governance of royalty collection and distribution** by CMOs. Since rightsholders generally cannot collect royalties directly from users, CMOs serve as intermediaries, collecting royalties from users and distributing them to rightsholders. This mechanism has been the global norm for royalty administration, at least since the adoption of the Berne Convention in 1886. However, as previously noted, regulatory arrangements governing CMOs remain sub-optimal, particularly with respect to the core principles of fairness, inclusiveness, and transparency. On *fairness and inclusiveness*, studies have pointed out persistent challenges in domestic regulatory frameworks (and, in some cases, regional ones such as within the European Union). For instance, certain EU Directives risk reinforcing the dominance of large CMOs at the expense of smaller organizations in the online music royalty mechanism.<sup>22</sup> Similar issues are also found in Africa, where

the absence of agreements on maximum deductions for management costs has resulted in significant withholdings—ranging from 20 to 40 percent—of total royalties collected.<sup>23</sup> In addition, concerns are often raised regarding the **financial management capacity of CMOs**, where collected royalties are disproportionately allocated to CMOs’ administrative and operational expenses rather than distributed to rightsholders.<sup>24</sup> Regarding **transparency**, key issues include limited accountability of CMOs to rightsholders, such as the lack of regular reporting<sup>25</sup> or overly complex explanations of royalty distribution mechanisms.<sup>26</sup> Furthermore, supervisory organs such as audit boards or national intellectual property offices are frequently reported, particularly in Global South countries, to exercise inadequate oversight.<sup>27</sup> Taken together, these findings suggest that royalty collection and distribution by CMOs in many jurisdictions have yet to be governed in accordance with the principles of fairness, inclusiveness, and transparency.

**Second, on royalty distribution systems.** While international treaties leave the detailed arrangements of royalty distribution to member states’ domestic law, the Global North is generally better positioned than its Global South counterparts in negotiating with digital music platforms. Given that the intellectual property regime is rooted in private law and premised on the legal principle of freedom of contract<sup>28</sup>, prevailing practices tend to grant significant leverage to free-market mechanisms. The contractual models most commonly applied today draw on the U.S. Copyright Act, which effectively reflects the dynamics of the current digital music industry, which is marked by the dominance of large corporations from advanced economies.<sup>29</sup> In Indonesia, for example, subscription rates remain exceptionally low, with less than 20 percent of total users, which results in the application of a “minimum distribution” mechanism. Under such a system, principles of fairness and inclusiveness in royalty distribution remain far from being realized. A central issue in this regard is the debate over the **pro-rata model (PRM)**, which serves as the basis for royalty distribution by major digital platforms such as Spotify and Apple Music.<sup>30</sup> Numerous studies<sup>31</sup> criticize the PRM for disproportionately benefiting platforms and large record labels, while offering only minimal royalties to rightsholders. This has prompted exploration of alternative distribution models. Notably, however, such initiatives are being advanced primarily by Global North countries (i.e., the United Kingdom, Finland, and the United States), aimed at fostering healthier market competition while also building a more inclusive ecosystem for creators.

**Third, on the centralization of a global copyright database.** A number of studies highlight significant disparities among CMOs in their capacity to develop adequate infrastructure for copyright data management. Such disparities mean that only CMOs with sufficient capabilities are able to collect and distribute royalties effectively, particularly in the cross-border context. For instance, CISAC membership data reveals that affiliated CMOs remain dominated by organizations from Europe and North America. This situation reflects not only a global imbalance but also disparities within the Global North itself, since CIS-Net<sup>32</sup> standardization requirements can typically only be met by relatively large CMOs. From the perspective of the EU, this has generated substantial criticism of the EU Directives framework, which is often perceived as failing to ensure **fair** and **inclusive** competition. Concerns of fairness and inclusiveness are also evident in countries such as Indonesia, India, and Spain. Despite ranking among the highest in total music streams, these countries consistently generate among the lowest levels of revenue.<sup>33</sup> In Indonesia, for instance, industry stakeholders have noted cases where other countries sought to “represent” Indonesia in negotiations with digital platforms on the grounds that Indonesia was “unable” to meet industry standards.<sup>34</sup> Such perceptions risk leading to significant revenue losses, as royalties originating from other jurisdictions effectively disappear into a “black box” rather than reaching the rightful holders.

At the same time, another initiative aimed at enhancing transparency in the management of music data is the **Open Music Initiative**, launched by the Berklee College of Music and the MIT Media Lab. This academic-driven effort has been positively received, catalyzing cross-sector collaboration among music industry stakeholders, including digital platforms such as Spotify and YouTube, as well as major record labels.<sup>35</sup> The initiative responds to the persistent fragmentation of repertoire data management, which underpins royalty collection and distribution. Such fragmentation complicates the reconciliation of music metadata and the calculation of total streams, thereby undermining the overall **transparency** of the online

music business.<sup>36</sup> Concrete action from these two key drivers of innovation—industry actors and higher education institutions—should be understood as a **call for action** to governments, in their role as regulators, to move swiftly in consolidating and advancing this agenda within international forums.

This type of initiative is not without precedent. In 2010, the music industry, working in collaboration with WIPO, undertook the establishment of the Global Repertoire Database (GRD), a pioneering effort aimed at developing a centralized music database to streamline global licensing processes and enhance transparency in rights management.<sup>37</sup> A decade later, in 2020, WIPO launched WIPO Connect<sup>38</sup> and later entered into agreement with CISAC to facilitate participation in CISAC’s international information systems network.<sup>39</sup> Nevertheless, WIPO Connect functions primarily as a foundational tool for developing countries, enabling them to meet, at a minimum, the baseline requirements of industry standards set by CISAC. As the industry and digital platforms become increasingly complex, WIPO Connect has often been deemed insufficient to meet the needs of emerging CMOs in many jurisdictions.<sup>40</sup>

GRD<sup>41</sup>, along with similar initiatives such as WIPO Connect, represents a noteworthy example of good practice that provides a foundation for international copyright data centralization administered by an international organization. Building on these precedents, there is a compelling case for WIPO to serve as the central agency overseeing a global database system for phonograms and audiovisual works. Such a mechanism would enhance transparency, interoperability, and fairness in royalty management while strengthening global trust and cooperation. With its institutional mandate, technical expertise, and established trust among member states, WIPO is uniquely positioned to facilitate a harmonized framework that bridges the persistent gaps between developed and developing economies in the global creative ecosystem.

**Fourth, on disparities in copyright royalty valuation.** Overall, findings indicate that copyright actors in the Global North hold greater leverage in determining the valuation of royalties.<sup>42</sup> Supported by superior financial, technological, and cultural resources, these actors are able to penetrate markets more effectively and secure broader exposure for their works, which in turn enhances their valuation. This structural imbalance stems from several factors. **Financially**, Global North actors can promote their works on a far larger international scale. **Technologically**, they are better positioned to leverage digital tools to reach potential users. **Culturally**, the privileged status of Global North languages such as English, French, and Spanish as global lingua francas significantly increases both exposure and market penetration.<sup>43</sup> In the contrary, in much of the Global South, local languages are primarily confined to domestic or regional use, limiting international reach. Consequently, works originating from the Global North generally command higher valuations than those from the Global South, reflecting not merely artistic merit but entrenched asymmetries in resources and access.

At the next layer, the four issues outlined above intersect with concerns surrounding publishing rights—a related concept<sup>44</sup> in the online environment designed to safeguard media workers in relation to their journalistic outputs. Much like musical works, journalistic content remains vulnerable to unauthorized use by major technology platforms, whether through the deployment of journalistic articles by artificial intelligence<sup>45</sup> or through the modification and reproduction of both musical and journalistic works into new audiovisual content. This situation underscores the urgency of establishing a comprehensive, cross-sectoral regulatory framework to ensure that creators receive fair protection and equitable remuneration for their works within an increasingly dynamic digital ecosystem.

The foregoing analysis underscores that the challenges surrounding phonogram and audiovisual royalties cannot be effectively addressed through isolated national measures. The cross-border nature of these issues calls for a concerted international response, particularly through the establishment of a legally binding instrument that ensures fair, transparent, and accountable governance of copyright royalties in the digital environment. An instrument capable of advancing royalty governance that is fair, inclusive, transparent, and sustainable; the very foundations underlying the four key issues discussed above. Absent a global standard that can bridge financial, technological, and cultural asymmetries within the prevailing free-market system of the digital music industry, royalty distribution will continue to reproduce structural inequities. It is therefore imperative to pursue the development of an international legal framework that can serve as the basis for

consolidating the international community in building a more equitable and transparent governance mechanism at the global level.

## **Conclusion: Toward a Fair, Globalized World**

At this point, the imbalance in the governance of music licensing and royalties on digital platforms underscores the structural power asymmetry within the global intellectual property regime. While creators and rights holders in the Global South are inherently confronted with structural barriers stemming from economic disparities, in practice, both the Global South and the Global North face similar challenges when dealing with the dominant players in the digital music industry. As a consequence, the economic benefits of musical works are concentrated primarily in the platforms—especially those with substantial capital and bargaining power—rather than flowing proportionally to creators and rights holders. This situation not only widens economic disparities but also hampers the full potential of the global creative industry to grow inclusively and sustainably. In this context, The **Proposal** emerges as **Indonesia’s strategic initiative** to consolidate the international community in building a fair, inclusive, transparent, and sustainable global governance framework for digital music royalties. As an international legal instrument<sup>46</sup>, this document is expected to strengthen the governance of copyright royalties in the digital environment by providing a set of rules of the game that uphold the principles of fairness, inclusivity, transparency, and sustainability.

Building on the four key issues elaborated in the previous subsection, The Proposal offers an alternative solution by (1) establishing a global framework for the governance of royalty collection and distribution, including cross-border licensing, and (2) promoting the adoption of a modular system in the standardization of a “global music database” through cross-sector collaboration among states, businesses, creators’ and rights-holders’ associations, as well as academic institutions and practitioners. The Proposal also aligns with the agenda of the 45<sup>th</sup> session of the *Standing Committee on Copyright and Related Rights*, which seeks to advance “a possible international legal framework regarding the right to equitable remuneration for copyright and related rights in the digital environment,” including models for the collection and distribution of such remuneration. Reforming the governance of phonograms and audiovisual royalties on digital digital environment constitutes an initial step toward laying the foundation for fulfilling other copyright-related rights, including those related to journalistic content in the digital sphere, as part of a broader effort to build a digital ecosystem that fosters innovation. Through The Proposal, Indonesia not only reaffirms its national interest in safeguarding local artists but also positions itself as a driving force in shaping a more balanced global ecosystem.

Finally, as a member of WIPO, the Government of Indonesia upholds the Organization’s mission as enshrined in its founding instruments and draws inspiration from existing precedents such as the Madrid System, the Hague System, the Lisbon System, and the Patent Cooperation Treaty. Within this spirit, the Proposal calls for WIPO to administer a future global framework on royalty governance and to assume a more active role in addressing developmental disparities among its Member States. It is envisaged that a multilateral approach under WIPO’s auspices would foster a fair, transparent, inclusive, and sustainable system for the protection of phonograms and audiovisual copyrights in the digital environment.

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## **Endnotes**

<sup>1</sup> The terms “music” and “phonograms” are used interchangeably in this document to refer broadly to sound recordings and their underlying artistic works. This is in line with previous treaties administered by WIPO, which distinguish between phonograms (fixations of the sounds) and artistic works while recognizing their close technical interrelation in copyright governance.

<sup>2</sup> Vialma, “Revenue Distribution and Transformation in the Music Streaming Value Chain,” *Perspectives for the Diversity of Cultural Expressions* (Paris, 2022).

<sup>3</sup> Rebecca Giblin and Cory Doctorow, “Streamers Use Playlists to Control the Music Industry,” *WIRED*, October 2022, <https://www.wired.com/story/spotify-streaming-playlists-music/>.

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## **Annex**

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## Annex I - Identification of Multi-regional Challenges in the Governance of Phonograms and Audiovisual Copyright in the Digital Environment

Key Issues	Aspect	Problem Identification	Region	Current Regulation
The governance of royalty collection and distribution	Fairness and inclusivity	Differences in regulation between collective management organisations (CMOs) and independent music entities (IMEs).	European Union	<i>Directives</i> 2014/26/EU
		Potential unfair competition between CMOs and IMEs.	Kenya - Africa	ARIPO Member states’ respective Copyright Law
		Suboptimal governance of management fees. The absence of an agreed cap on management fees has allowed CMOs to impose disproportionately high deductions (20–40%).	Africa	
	Transparency	Limited supervisory functions of CMOs, such as the absence of periodic audits or reviews of their financial reports.	Africa	
		Limited supervision and law enforcement by the competent authorities ( <i>e.g.</i> , IP Offices)		
		Limited information on royalty distribution schedules and deadlines. As a result, creators often wait for months or even years before receiving royalty payments.		
		Violation of licensing terms by CMOs: only 35.9% of the required 70% of total royalties was actually distributed.		
Royalty calculation methods employed by CMOs are perceived as insufficiently transparent and difficult to understand.	European Union	<i>Directives</i> 2014/26/EU		
Royalty distribution systems	Fairness and inclusivity	The European Licensing Passport remains largely confined to major CMOs with sufficient infrastructural capacity to operationalize the system, thereby excluding smaller counterparts	European Union	<i>Directives</i> 2014/26/EU
		The uneven distribution of technological infrastructure ( <i>e.g.</i> , online billing, monitoring tools) has perpetuated the reliance on manual methods for royalty data reconciliation, undermining efficiency and transparency.	Africa	ARIPO Member states’ respective Copyright Law
		Scholarly and industry critiques highlight the structural shortcomings of the pro-rata model (PRM) employed by global digital platforms in royalty distribution	European Union, United Kingdom, United States	<i>Directives</i> 2014/26/EU, US <i>Copyright Law</i> , UK <i>Copyright Law</i>
Centralization of a global copyright database	Fairness and inclusivity	Disparities in the capacity of collective management organizations (CMOs) to adopt and operationalize standardized technological systems for repertoire management	European Union	<i>Directives</i> 2014/26/EU



Key Issues	Aspect	Problem Identification	Region	Current Regulation
		<ul style="list-style-type: none"> <li>Limited capacity of CMOs, resulting in the absence of reliable, consolidated data.</li> <li>From an industry perspective, Indonesian CMOs have not yet demonstrated sufficient capacity to converge with established international standards. This perceived gap has opened opportunities for foreign entities to assume the role of representing Indonesian musical works at the regional level in the Asia-Pacific region.</li> </ul>	Indonesia, Asia	PP 56/2021
	Transparency	The fragmentation of repertoires complicates the reconciliation of musical work metadata, which serves as the basis for royalty collection.	European Union	<i>Directives</i> 2014/26/EU
		Increased demand to establish an open-access database of musical works as advocated by the Open Music Initiative	United States	<i>US Copyright Law</i>
Disparities in copyright royalty valuation	Fairness & inclusivity	The lack of regulatory frameworks specifically addressing the issue of the value gap between royalties accrued by digital platforms and the proportion actually received by creators.	Asia	N/A

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## **Annex II - Illustration: *Pro-Rata Model (PRM)* and *User-Centric Payment System (UCPS)***

### **A. *Pro-Rata Model (PRM)***

In the pro rata model, all monthly revenues are pooled and distributed to each song based on the total number of streams. The formula for calculating the Pro Rata Model (PRM) for a single song is as follows

$$\frac{\text{Total number of streams Track A}}{\text{Total number of streams}} \times \text{Total revenue}$$

For example, if Track A receives 100 streams, while the total number of streams amounts to 1,000,000, and the total revenue after service fee deductions is IDR 500 million, then the amount allocated to Song A is calculated as follows:

$$\begin{aligned} & \frac{100}{1.000.000} \times 500.000.000 \\ & 0.0001 \times 500.000.000 = 50.000 \end{aligned}$$

The amount of IDR 50,000 is then distributed to the rights holders of Track A.

### **B. *User-Centric Payment System (UCPS)***

The calculation under the User-Centric Payment System (UCPS) model is conducted on the basis of each individual's listening habits. The formula for calculating UCPS for a single song is as follows

$$\frac{\text{Number of streams of Track A by User 1}}{\text{Number of total streams by User 1}} \times \text{Total revenue from User 1}$$

For example, if the total number of streams by User 1 amounts to 100, with Track A accounting for 25 of those streams, and the revenue generated from User 1 is IDR 150,000, then the amount allocated to Track A is calculated as follows:

$$\begin{aligned} & \frac{25}{100} \times 150.000 \\ & 0.25 \times 150.000 = 37.500 \end{aligned}$$

The amount of **IDR 37,500** is then distributed to the rights holders of Track A.

## **Reference**

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**Annex III - Identification of Domestic and Regional Issues in Copyright Governance Between Digital Platform Companies and Press Companies.**

Key Issues	Aspect	Problem Identification	Region	Current Regulation
The governance of royalty collection and distribution in journalistic works	Fairness and Transparency	Indonesia accommodates the concept of “publisher rights,” but does not establish governance for royalty payments on the copyright of journalistic works. Presidential Regulation No. 32/2024 regulates cooperation between digital platform companies and press companies. Article 7 paragraph (2) stipulates that such cooperation may take the form of paid licenses, revenue sharing, sharing of aggregated user data on news, and other forms as agreed upon.	Indonesia	Presidential Regulation Number 32 of 2024 on the Responsibility of Digital Companies to Support Quality Journalism
		The European Union grants “press publishers’ related rights” through Article 15 of the DSM Directive and requires authors/journalists to receive a fair share of licensing revenue. However, interpretations of this Article vary, resulting in different implementations and governance mechanisms across member states.	European Union	<i>EU Directive on Copyright in the Digital Single Market (2019/790)</i>
		In Australia, the News Media Bargaining Code has created an imbalance between large press companies and smaller regional/rural press companies in securing commercial contracts with Google and Meta.	Australia	News Media Bargaining Code (NMBC) 2021.
		<ul style="list-style-type: none"> <li>In 2014, Spain introduced a “Link Tax,” which prompted Google to shut down access to Google News for several years.</li> <li>Studies indicate a decline in news consumption after the Link Tax, which negatively impacted smaller media companies that depend on visitor traffic and advertising revenue.</li> </ul>	Spain	<i>Asociación de Editores de Diarios de España (Canon AEDE) part of Ley de Propiedad Intelectual 2014</i>
		The algorithms of major digital platforms (Google, Meta, X) dominate global news in South Africa and underrepresent local communities and media.	South Africa	
		The dynamics between copyright holders and data search software by artificial intelligence: Asahi Shimbun Co. and Nikkei Inc. sued Perplexity AI Inc. in the Tokyo District Court. Perplexity AI was accused of copying news from the two press companies without permission and using the copied news as part of the company’s generative AI.	Japan	著作権法 / Japanese Copyright Act (Last Amendment at 2018)

Key Issues	Aspect	Problem Identification	Region	Current Regulation
	Transparency	Presidential Regulation 32/2024 does not address the procedural level or the framework of obligations for fulfilling rights over journalistic works from digital platforms to press companies.	Indonesia	Presidential Regulation Number 32 of 2024 on the Responsibility of Digital Companies to Support Quality Journalism
		Transparency in revenue sharing between press companies and journalists remains uneven across EU member states. Although EU Directives require a “fair share” for journalists, in practice the amount and mechanisms of revenue sharing with reporters (including contributors/freelancers) are often not published or are negotiated individually, leaving little oversight from associations.	European Union	<i>EU Directive on Copyright in the Digital Single Market (2019/790)</i>
Royalty Distribution System	Fairness and Inclusivity	Presidential Regulation 32/2024 requires platforms not to commercialize news and to initiate negotiations, but it does not establish a royalty formula or a minimum share for journalists/freelancers.	Indonesia	Presidential Regulation Number 32 of 2024 on the Responsibility of Digital Companies to Support Quality Journalism
Centralization of Copyright Data Management	Fairness and Inclusivity	There is no global or centralized system specifically for journalistic copyrights worldwide. At present, there is no single international database that manages or stores copyright data exclusively for journalistic works on a global scale.	There is no specific reference yet.	There is no specific reference yet.
Disparities in copyright royalty valuation	Fairness and Inclusivity	There is no specific regulation yet, but there is a valuation placed on journalistic works, particularly within media companies.	There is no specific reference yet.	There is no specific reference yet.

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