

# Fostering a Creative Economy with Copyright Protection: “Weightless Economy” And Creativity-Based Sustainable Development

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Globalisation and technology development have brought creativity into necessity. Many countries place creativity as the main model of economic development. In this knowledge based economy era, creativity becomes the catalyst for development that millions of people across the world are making a living out of. Irina Bokova, The Director General of UNESCO, stated that the cultural and creative industries have capital worth US\$2,250 billions, nearly 30 million jobs worldwide and have become major drivers of the economies of developed as well as developing countries. (Cultural Times, 2015). Copyright is the branch of intellectual property with a wider scope of protection, since it applies to every production in literary, scientific and artistic works in all forms of expression concerning certain levels of originality. Copyright proved to dominate the product of creative economy subsectors. As the part of creative economy upgrading, on October 16th 2014, the new Indonesia Copyright Law has been enacted to provide an adequate legal instrument in order to sustain the sustainability and growth of creative economy. Another important consideration is that the simultaneity of law development and economic development is a compelling necessity for developing countries in order to transform the creative economic concept into factual creative industries. Based on the relevance of creative economy in a nation's development, this paper aims to identify the expanding protection of copyright law in protecting creativity as the trigger for creative economy, and how to transform the concept of creative economy into a real sector in the form of creative industries. Further research concerns the role of creative industries as the generator of jobs and wealth creation. In addition to its economic benefit, this research also aims to identify the potency of creative

industry in achieving creativity based sustainable development and “weightless economy.”

**Key words:** *Copyright protection, Creative Economy, Creative Industry Development.*

## Introduction

### *Statement of the Problems*

The world has arrived in the 4<sup>th</sup> economic era, known as the knowledge based economy. The exclamation of the creative economy firstly came from developed countries, with the United Kingdom as the pioneer. Economic globalisation heats the pressure of economic competition in conventional industry sectors (manufacturing industry). Ironically to build the new big scale of the manufacturing industry is not easy considering factors such as economic (demands of the huge capital), social factors like the availability of the area, space and other resources, also environmental factors where higher levels of industrial pollution are perceived to endanger the environment.

To overcome the economic, social and environmental issues, the UK developed creative economy as the new economic model known as “*weightless economy*,” the term to describe an economic model that relies on creativity, knowledge, information technology, telecommunications and other intangible assets to gain high value benefits. The basic ideas are no longer embodied in intermediate tangible goods. “*Weightless Economy*” promotes ideas and knowledge as the basic of economic development (Quah, 1996).

*Weightless Economy* puts creativity as the paramount capital; most importantly because creative activities generate self employment, generate informal business that is relatively open to people of all ages, and in fact contributes significantly to youth employment and the empowerment of women by developing their skills and ability to earn certain revenue through small business and informal sectors (United Nations Industrial Development, 2013). According to Chris Bilton, creativity can be perceived as, “a deliberately managed process” or “a deviation from conventional tools and perspectives.” Creativity must meet two criteria: the creation of the mind must produce something new and it must produce intellectual property, which is valuable, useful and beneficial. (Bilton, 2007)

In the era of creativity, intellectual property plays a determinant role in promoting economic development even until the microeconomic level and has strong potencies for economic transition (Goans, 2004; Anggadwita & Dhewanto, 2016). The internationally accepted intellectual property regime creates the global framework in which developing countries can participate in economic and trade activities alongside developed countries.

Creative economy is driven by the utilisation of human creativity, the protection of creativity through copyright law is an ultimate necessity as the acknowledgment and protection of the creators over their creations, to protect the manifestation of ideas and creations of the minds. Adequate protection is expected to generate economic growth and give a real contribution to society; in accordance with “*Public Benefit Theory*” by Robert M. Sherwood, creativity should be acknowledged and protected by law (Bend & King, 2014; Robert M. Sherwood, 1990) in order to boost creativity and to the phase where creativity becomes the foundation of creative economic growth.

Most creative economy sub-sectors result from the copyright domain, so it is ultimately important to examine and identify the impact of Indonesian Copyright Law renewal in fostering creative economic growth and further transforming creative economy into more practical and productive creative industries with massive impact on national development. The two most important statements of the problems in this paper are:

1. How the expanding scope of protection in Indonesian Copyright Law simultaneously foster creative economy and transform the concept of creative economy into creative industry.
2. How to optimally expand the role of creative industries as the generator of jobs and a *weightless economy* instrument in formulating creativity - based sustainable development.

### **Objectives**

This paper aims to identify two problem statements:

1. To identify the expanding protection of copyright law in protecting creativity as the trigger to transform the concept of creative economy into creative industries.
2. To identify the ideal platform to optimally expand the role of creative industries as the generator of jobs and as a *weightless economy* instrument in formulating creativity – based sustainable development.

### **Significance of the Study**

This research project will be aimed towards finding the reciprocal relationship between the expanding scope of protection in Indonesian Copyright Law, simultaneously fostering creative economy and to transform the concept of creative economy into creative industry. This research is expected to be the reference for interested parties and institutions related to the law and economic sectors concerning creative economy and creative industry in the regulation making process and the implementation of existing regulation in order to transform creative economy concepts into factual creative industries. This research also aims to find the ideal platform for creative industries in order to be the generator of jobs to achieve creativity – based sustainable

development. This research can also assist scholars and academic researchers to conduct further research regarding copyrights and its interdependency with creative economy and creative industry.

## **Theoretical Studies**

### ***Indonesian Copyright Law Reform: Unleashing Creativity, Expanding Productivity***

Copyright is the form of intellectual property that incorporates rights to artistic and literary works. Copyright holds both economic and moral rights. Moral rights relate to the acknowledgement of the creator in the terms of ownership of original ideas and concepts, a legitimate economic right is the right to gain material benefit from the utilisation and exploitation of copyrighted object. In a broad sense, copyrights protect creativity and its manifestation.

Creative economy is defined as the transaction of creative products that have an economic good or service that results from creativity and has economic value (Howkins, 2013). The creative contents and products are inseparable vital assets of a community. Those are more than physical things, they are manifestations of embodied knowledge like creativity, technological knowledge, vision and physical skill combined with social relations. There is a compelling interdependency between creativity and productivity.

In order to achieve the desired proportional sustainable development, legal certainty is the ultimate necessity. Legal certainty should be supported by the availability of adequate legal instruments (Oudat, Ahmad, & Yazis, 2016; Mayana, 2004), as the manifestation of the responsive state according to the modern welfare state concept where the state plays a vital role in fostering economic development and the social well-being of its citizens, based on the principles of equality of opportunity to achieve equitable distribution of wealth (Spicker, 2000). According to the Indonesian Design Plan on Creative Economy, there are four fundamental principles of Creative Economy Development, these four fundamental principles for copyright development are strongly connected with copyright (Mari Elka Pangestu, 2014):

1. **The Mastery of Science and Technology**, focuses on human empowerment in their capability to gain comprehensive understanding, practical capability and gain economic and non economic benefit from the manifestation of ideas and creativity combined with science and technology.
2. **Design Thinking**, means the collaboration of science, technology and creativity in creating added value of the product in across a wide scope: economic, functional, social and aesthetic.

3. **Arts and Culture**, as the inspiration in creating distinctiveness and a competitive edge of creative works, strengthening identity, the unity of the nation and to intensify the existence and position of Indonesia in a global market.
4. **The Power of Media**, as the channel of distribution and global display of creative works and creative content in order to be globally spread and gain acknowledgment and appreciation.

Escalation of the protection of creativity and its derivative products is also expected to promote direct investment since the strong intellectual property system is one of the most determinant factors that have a major effect on foreign direct investment decisions (Edwin Mansfield, 1991). These direct investments, both local and foreign, are the crucial means to manifest idea creativity into productivity. In Indonesia, the creative economy sector is considered as the attractive sector for entrepreneurs. On average, the annual growth of the creative economy sector reached 1 % each year. The highest growth occurred in 2013 when the performing art sector reached 3,2 % growth, followed by research and development with 3 % growth, interactive games 2,87 % and advertisement with 2,86 % (Mari Elka Pangestu, 2014).

### ***Creative Economy to Creative Industry: Profound Transformation from a Concept to Implementation***

In order to achieve a better impact, creative economy should be transformed into creative industry. In this transformation, intellectual property, especially copyright, plays a vital role, since creative industries are mainly about combining individual creativity with property and economic exploitation. The legal justification of property is through legal rights. Intellectual property regimes provide protection in the form of rights over intellectual creativity. The transformation from the creative economy concept to implementation in the form of creative industry is of paramount importance for the economic development of a nation considering many aspects, for example:

#### **1. Youth employment and youth empowerment**

Creative economy and creative industries significantly contribute to youth employment as the generator of jobs and the tools to earn revenue to enhance socio-economic up-grading. Taking Europe as an example, cultural based creative industries tended to absorb more youngsters aged 15-29 years in 2013 (EY Publication, 2014).

#### **2. The creativity goes directly proportional with productivity;**

In certain major sectors, creative economy contributes more in providing jobs and makes a significant contribution to national revenue. According to Oxford Economics, in China, the film and television sector gained 78 % more added value per worker compared to the rest of the economy sectors (Oxford Economics, 2015). The productivity of television and

film industries in South Korean workers is 200 % of the national average. (Oxford Economics, 2014).

### **3. Entrepreneurship and Independence**

Creativity becomes the major driver for start up businesses in informal sectors, the ideas, talents and creativity of the creator provide the chain of entrepreneurship. For example the idea starts from the artist, producers, publishers and distributors to generate economic value. The creators are the source of the economic value chain.

### **Methodology**

This research is preceded by studying and examining the literature on theories and concepts related to the theme discussed. The method is qualitative research characterised by its aims, which relate to understanding some aspect of social life in exploring the possible and ideal measures in implementing the concept of intellectual property law as the tool of social engineering in a developing country, and, in return, community empowerment as the instrument of law engineering. This method aims to provide information about the social dimension aspect of this issue. Qualitative methods are also expected to be effective in identifying the problems in intangible forms, such as social norms, socioeconomic phenomena, cultural value and the society's acceptance and resistance factors of globally accepted intellectual property regimes providing recommendations for better systems as conclusions.

### **Result of Analysis**

#### ***Identification of the Escalation Protection of Copyright Law in Protecting Creativity as the Trigger to Transform the Concept of Creative Economy into Creative Industries***

In this knowledge-based era, intellectual property plays a determinant role in promoting economic development, even at the microeconomic level, and possesses strong potencies for economic transition (Goans, 2004). The internationally accepted intellectual property regime creates the global framework in which developing countries can participate in the economic and trade activities alongside developed countries. The pressure point lies in the enforceability of the law. The power of the law will be effectively enforced if supported by the subject of the law.

Copyrights as the protection for creations of the minds are expected to impact creativity, innovation and creative industries in accordance with the benefit matrix of copyrights protection (Handke, 2011). In the short term, copyright protection generates greater revenue to copyright holders as the reward or remuneration, in the long run, copyright protection provides greater incentives to supply creative works in the future. The escalation of creative works directly triggers the establishment of creative industry as the vital platform to transform the creative economy concept into factual creative industry.

The transformation of creative economy concept into creative industry cannot solely depend on the renewal of Indonesian copyright law substance. In accordance with the legal system theory of Lawrence M. Friedman, the enforceability of the law depends on structure, culture and substance (Friedman, 1984;). Legal structure consists of a legal institution with the main function to run, implement and enforce the existing law and regulations. Legal substance, according to Friedman, is perceived as the actual rules, norms and behavioural patterns of people inside the system, and legal culture is social consciousness and social forces which determine how law is used and accepted by society.

The development of legal substance, legal structure and legal culture is a necessity in creating comprehensive protection of copyright as the vital gate in transformation of a creative economy concept into creative industries. The escalation of copyright protection in protecting creativity becomes the strong trigger to transform the concept of creative economy into creative industries based on the following considerations:

**1. Create the creative culture**

When ideas and creativity are given proper protection the creative culture will rise simultaneously. Copyright protection empowers creativity and innovation by ensuring that the author will gain acknowledgment and beneficial rewards or be fairly compensated for their creative efforts.

**2. Strong trigger for *start up* business**

Most *start up* businesses use ideas and creativity as their main capital. When the implementation of ideas and creativity gain proper protection, *start up* businesses will be the ideal option for self employment.

**3. Accelerate the innovations**

Copyright protection triggers the creator to be highly innovative, since copyright protection is mainly granted based on originality.

**4. Escalate the competitiveness of the business**

The global market economy allows and encourages competition between industrial and commercial organisations. Copyright protection increases the competitive edge of a product and encourages the producers to defend the competitive edge in the global economy. Legal protection functions to prevent unfair competition in global business by protecting good faith.

**5. Improvement of product quality**

The competition among producers causes direct implications for product quality. In order to be able to compete in the market, the producers are encouraged to simultaneously improve the product quality as the most determinant factor of the consumer's buying decision.

**6. Generators of jobs**

When the creative economy concept transforms from a small business, or informal sectors

into the industrial scale, the scope of businesses is automatically increased. This requires a higher workforce number, and will enable a greater contribution towards unemployment eradication. For example, in the United States, the core copyright industries employed over 5.5 million workers in 2015, accounting for 3.87% of the entire U.S. workforce, and 4.57% of total private employment in the United States (Siwek, 2016; Tangpornpaiboon, & Puttanapong, 2016).

## 7. Support economic growth

A well enforced copyright protection system positively balances with economic growth. The economic contribution of copyrights in United States is more than 10%, and WIPO finds a strong positive correlation between the copyright share of GDP and international measures of intellectual property protection and international measures for a competitive edge (WIPO, 2013).

### ***Identification of the ideal platform to optimally expand the role of creative industries as the generator of jobs and a “Weightless Economy” Instrument in formulating creativity – based sustainable development***

The structure of the global economy has shifted to creative economy by intensifying creativity and ideas as a production factor. The enforcement of copyrights protection is inseparable from economic and commercial motivation. As the protection for the implementation of ideas and creativity, copyright protection aims to formulate knowledge – driven economic growth. The greater the number of idea-producers, the faster the economy grows.

There are some strategic movements to foster creative economy into the greater scope in the form of creative industries. Recent studies show that the creative economy contributes 7 % on average for Domestic Income and annually absorbed 10 million workers during 2010-2015. Creative industries are the ideal implementation of “*weightless economy*” and a generator of jobs for some considerations

1. Creativity and ideas as the paramount capital possess a high level of renewability with limitless possibility in terms of development.
2. Ideas and creativity independently generate self employment in the form of informal business.
3. Informal business employment is relatively open to people of all ages and various levels of education and skills.
4. Creative economy contributes significantly to youth employment and prevents the escalation of productive unemployment.
5. Creative economy and the informal sector is relatively “women empowerment friendly” for women to develop their skills and earn a certain amount of revenue.

In Indonesia, Government Regulation Number 6 Year 2015 established the Indonesian Creative Economy Agency (ICEA) as a non ministerial agency to support the president in formulating, determining, coordinating and synchronising the economic creative policies. The ICEA holds six strategic visions to manifest Indonesia into a creative superpower country by 2030, as follows:

1. Flowing creative assets to escalate creative culture.
2. Create a conducive ecosystem for creative industries development.
3. Encourage creative innovation, wealth creation and a competitive edge in global trade.
4. Broaden the insight and community appreciation to related aspects of creative economy.
5. Develop awareness and acknowledgment of intellectual property rights, including the legal protection of copyrights.
6. Design and enforce the specific strategy of creative economic development in order to gain Indonesia's competitive edge in global trade.

Another important aspect to formulate an ideal platform for economic development is capital. Many *start up* businesses fail to achieve the development to industrial scale because of a lack of (mostly financial) capital. This problem comes from the fact that the capital owned by most creative economy or *start up businesses* is intangible capital: ideas and creativity. This kind of capital is perceived as not bankable compared to fixed assets.

The financial institution once claimed that there are no appropriate and ideal collateral engagements of these intangible assets. This problem was encountered by one of the most progressive breakthroughs of Indonesian copyright law, stated in Article 16 verse (3) of Law Number 28 Year 2014 where copyright can be the subject of fiduciary collateral. This can be the solution for capital problems of *start up businesses* to explore their main capital asset: creativity and ideas to optimally contribute to economic development and the most effective *weightless economy* development.

## Conclusion

The escalation of copyright protection simultaneously triggers the transformation of the concept of creative economy into creative industries, considering the direct implication as follows: empowers creativity and creates the creative culture, encourages the *start up* business, innovation accelerations and escalating business' competitiveness and improvement of product quality. Furthermore, there is the empowerment of creativity potential in generating jobs and supporting economic growth.

For the formulation of the ideal platform to optimally expand the role of creative industries as the generator of jobs and "*Weightless Economy*" Instrument in formulating creativity – based



sustainable development, a few vital aspects should be considered :legal aspects (substance) by formulating legal regulations, best practice in implementation (structure) by enforcing legal regulations in practice, and society needs and awareness (culture) by fostering the maximum beneficial exploration of ideas and creativity as the paramount capital of *weightless economic* creativity- based sustainable development.



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