Submission by the Asia Tech Alliance (ATA) on the Revision of Indonesia's Copyright Law No. 28 of 2014

Executive Summary

The Asia Tech Alliance (ATA) welcomes the opportunity to provide input on the revision of Law No. 28 of 2014 concerning Copyright. We recognise the modernisation of this framework as a cornerstone of Indonesia's creative and digital economies. As Indonesia progresses toward its Golden Indonesia 2045 vision and implements its National AI Roadmap, it is essential that the copyright regime supports this momentum through a balanced, evidence-based approach.

ATA believes that purpose-built, iterative regulations (such as Presidential Regulations or Ministerial Guidelines) which incorporate technical standards and industry input are better suited to provide the flexibility required for effective AI governance.

Currently, an omnibus copyright statute which embeds prescriptive obligations may lock Indonesia into rigid standards that reduce Indonesia's ability to respond to rapidly evolving best practices and technical standards. The Bill also introduces several provisions that represent a departure from established international standards such as introducing proactive monitoring obligations without safe harbor and prohibiting the use of AI to mimic creative "style". These risk stifling innovation, deterring investment, and undermining Indonesia's national economic vision.

ATA recommends a balanced approach that facilitates flexible evolution in tandem with international developments, for instance at the OECD level. ATA remains committed to working with the Government of Indonesia to develop a copyright framework that protects creators and individuals while fostering a vibrant, world-class digital ecosystem.

About the Asia Tech Alliance

The Asia Tech Alliance (ATA) is an industry association that represents the technology sector in the Asia-Pacific region. It was established with the support of 12 leading global technology companies. These companies collectively serve billions of users worldwide, including over 200 million in Indonesia alone. Across Asia, ATA members support millions of creators, developers, advertisers, merchants and micro, small and medium-sized enterprises (MSMEs), contributing billions of dollars to the digital economy through investment and innovation.

ATA was founded to promote innovation and sustainable digital economic growth, as well as constructive engagement between the technology industry and policymakers. With operations spanning dozens of Asian and global jurisdictions, ATA members have extensive experience in implementing frameworks for copyright, intellectual property, platform governance, and the digital economy. They operate platforms and technologies that play a critical role in the creation, distribution, discovery, protection and monetisation of copyrighted content. Their services are used daily by hundreds of millions of creators, rights holders, businesses, and consumers, establishing the ATA as a significant stakeholder in the future development of copyright policy.

The ATA respectfully submits these views in support of a balanced, forward-looking Copyright Law that strengthens protection for rights holders while preserving Indonesia's competitiveness as a destination for technology investment, innovation, digital entrepreneurship and growth in the creative economy.

Positive elements to acknowledge

- **Modernisation of the copyright framework**
    - ATA recognises Indonesia’s efforts to update its copyright framework to reflect the realities of the digital economy, including the increasing role of digital platforms, AI-assisted creation, and new forms of content distribution.

- **Recognition of AI-related considerations**
    - The inclusion of provisions addressing AI-assisted works and the use of copyrighted content for AI training signals a forward-looking approach and an intent to provide clearer legal frameworks for emerging technologies.

Key areas for improvement

- **Promoting regulatory harmonisation and preventing duplication**
    - ATA notes that several key provisions in the proposed Bill may create unintended regulatory duplication with three existing instruments.

- On AI governance, it replicates transparency and IP-related provisions already addressed under the AI Ethics Presidential Regulation that KOMDIGI has already developed. Locking these principles into a statutory Law rather than an iterative, risk-based Perpres may reduce the Government's flexibility to adapt to rapid technological shifts.
- On press publisher payments, Article 30 mirrors the objectives of Perpres No. 32/2024, which is already operational and delivering results.
- In the interest of regulatory coherence, ATA recommends that the provision on content monitoring and moderation, AI governance and transparency and publishers rights be removed from the Bill. These issues are better addressed through the continued refinement of the specialized, existing frameworks that currently govern them.

- **Scope and design of content monitoring obligations**
  - The Bill introduces a positive duty on all digital platforms to proactively detect and prevent infringing content. This represents a significant departure from the existing framework under which platforms are not formally required to act absent a complaint or notice.
  - A monitoring-based obligation of this nature raises significant concerns about operational feasibility – particularly for high-volume, user-generated content platforms – and about the appropriate allocation of responsibility between platforms, rights holders, and regulators. It is operationally unfeasible for platforms to independently verify whether every piece of content has obtained the necessary prior rights from owners. This challenge is exacerbated due to the existence of diverse media formats including text, audio, videos and images, each with unique licensing structures and metadata standards.
  - Proactive monitoring at scale is technically impractical and conflicts with user privacy principles. The best practice of notice-and-takedown, which effectively balances rights holder interests with platform operability, is already operationalised through Indonesia's existing framework under MR 5/2020. This has demonstrably delivered results at scale.
  - ATA strongly advocates for removal of the proactive monitoring obligation in the bill. This should be explicitly complemented with a globally-established conditional safe harbor mechanism, where platforms are protected from liability when they respond appropriately and expeditiously to valid notifications. This would achieve similar consumer and rights-holder

protection outcomes while better reflecting the operational realities of digital platforms, which host billions of user-generated posts.
    - For example, both information retrieval services (such as search engines) and user-generated content (UGC) platforms, which host content uploaded by third-party users at volume and velocity that makes pre-screening impractical, should be exempt from proactive monitoring requirements.
    - ATA also encourages the Government to consider providing clearer guidance on the conditions under which closure or licence revocation may be triggered, and to ensure that proportionality and due process safeguards are built into the enforcement framework. Any content moderation outlined in the bill should be aligned with MR 5/2020.

- **Definition of AI-assisted works protected by copyright**
    - The Bill establishes a multi-criteria test for copyright protection of AI-assisted works, requiring evidence of human creative involvement at several stages of the process. The cumulative nature of these criteria, combined with the absence of defined thresholds for terms such as “refinement” or “aesthetic choice”, would create legal uncertainty for creators and enterprises.
    - There is no global consensus on a workable definition of "AI-assisted" work. Modern content creation exists on a spectrum: auto-correct, smart filters, background removal, grammar suggestions, auto-cropping, recommendation algorithms, and generative AI all involve AI at different levels. As such, there is currently no technically sound line between "AI-assisted" and pure human "non-AI" content. Requiring disclosure for all AI involvement would necessitate labeling virtually every piece of digital content, which defeats its purpose.
    - In addition, mandating "documentation traces” of the creation process contradicts the iterative, non-linear nature of AI interaction, where users repeatedly prompt, regenerate, and discard outputs. In short, the documentation burdens do not align with creative workflows.
    - Furthermore, the Bill lacks clarity on which party is responsible for maintaining and providing such evidence. In high-volume environments, requiring platforms to store or verify these traces for every piece of user-generated content is operationally unfeasible.
    - ATA encourages the Government to consider approaches that provide greater clarity and operational certainty. This could include clearer guidance on what constitutes sufficient human involvement (such as iterative

prompting, curation, and selection), or consideration of a distinct “related rights” or “computer-generated works” category to provide a clear and workable form of protection for AI-assisted outputs.
  - ATA also recommends that documentation requirements remain proportional and that the legal responsibility for proving eligibility for protection remains with the party seeking to enforce those rights.

- **Press publisher rights and digital news aggregation**
  - The Bill introduces an exclusive right for press companies to prohibit or license the indexing, aggregating, and displaying of snippets of journalistic works. Digital platforms that index or provide algorithmic recommendations for journalistic content, or use news “for artificial intelligence”, would be required to pay compensation through a Central Collecting body (LMK). This requirement may extend to any entity perceived to receive an economic benefit through the direct or indirect use of journalistic works.
  - Indonesia's current framework for digital platform-publisher relations (under the Presidential Regulation on Quality Journalism, 32/2024) recognises that the relationship between platforms and publishers is a commercial relationship best governed by voluntary cooperation, not state-mandated payment. Publishers choose whether to share content on UGC platforms, while UGC platforms choose whether to display it. This has been working in practice and is consistent with Indonesia's broader market-oriented economic principles.
  - The current framing may also create uncertainty and unintended consequences around activities that are broadly understood to support news discoverability and public access to information. For example, search engine indexing and the display of short excerpts enables users to identify relevant content, and digital platforms typically provide equal distribution infrastructure to all publishers, including every Indonesian media outlet (from Kompas and Tempo to hyperlocal blogs and independent journalists) at no cost. The provision's broad language, which imposes payment obligations on "algorithmic recommendations" and "display snippets", would effectively disincentivize users sharing information
  - ATA encourages the Government to consider removing Article 30 from the Bill. If the Government keeps these provisions, ATA would seek to clarify their scope – in particular, whether standard indexing, algorithmic recommendations, and short snippets that support news navigation would

be treated as falling within existing Fair Use provisions. We also recommend clarifying that the rights listed are not implicated in the case of user-generated content, including links and other news content that is posted by publishers on the platforms.
  - ATA also encourages consideration of implementation approaches that support both sustainable digital ecosystems and the continued accessibility of news content online. In particular, we recommend allowing for voluntary commercial negotiations rather than a mandatory LMK-led compensation model to promote transparency, technical scalability, and the continued accessibility of global news content for Indonesian users.

- **Labeling requirements for AI-assisted works**
  - The Bill requires individuals and entities to disclose the use of AI and the nature of human contribution at both the point of production and the point of dissemination. While ATA supports the goal of enhancing transparency within the digital ecosystem, the current proposal for mandatory, prominent visible labels presents several technical and practical challenges.
  - The lack of a clear technical or legal threshold for determining when content becomes AI-generated presents a foundational challenge. Modern creative tools exist on a spectrum – from basic spell-check and auto-enhance features to full AI generation – making uniform disclosure requirements difficult to apply consistently in practice. This challenge is compounded by the rapid pace at which AI capabilities and content provenance technologies such as C2PA, digital signatures, and detection models are evolving. Routine use of AI-powered tools, notably by millions of MSMEs and individual creators, will inadvertently be subjected to severe legal consequences such as criminal sanctions, which could hamper AI adoption and create uneven enforcement risks.
  - In addition, visible labels are susceptible to circumvention by bad actors, who may easily spoof or remove them, thereby undermining the intended transparency and security objectives. Prescriptive labeling may inadvertently confuse consumers or harm legitimate commercial interests. For example, a small business using AI for minor photographic refinements – such as placing a physical product against a digital background – could see its genuine products perceived as "fake" due to broad labeling mandates. Further, an over-reliance on visible labels can lead to information fatigue, where the warning is so ubiquitous it becomes ignored and ineffective.

  - ATA encourages the Government to consider a more flexible, risk-based approach to AI transparency, and clarify how such an approach contributes to copyright protection and innovation. This could include:
    - Distinguishing between content types such as minor technical edits and the creation of deepfake content to ensure labels are meaningful.
    - Prioritizing industry-standard metadata or digital watermarking over prominent visible labels to enhance durability and reduce user fatigue.

- **Protection of artistic style and personal likeness**
  - The Bill prohibits the use of AI to “imitate the unique style” of a creator or for “using or violating the use of an individual’s name, photo, voice, or likeness in any media”. While ATA supports protecting creators and individuals from the unauthorized sharing of digital replicas, this requirement appears to be a significant departure from international legal norms.
  - Historically, copyright law was designed to protect the creative expression of facts and ideas in tangible form, rather than the underlying facts, ideas, or an artist's general "style". Extending copyright to cover "style" per se could inadvertently restrict the flow of information and freedom of expression.
  - A notice-and-takedown framework is a more effective mechanism for addressing unauthorized digital replicas. Such frameworks allow for a critical balance: ensuring content remains available while providing a clear, responsive channel for removal when an affected party takes action.
  - ATA also recommends that the Government look to existing industry-led tools as a baseline for effective management. For instance, some digital platforms have already implemented technologies that allow creators, musicians, and civic leaders to detect and manage AI-generated content featuring their likeness.

- **Text and data mining for AI development**
  - The Bill subjects AI training to either Fair Use or individual licence agreements. As currently defined, Fair Use is expressly limited to non-commercial purposes, meaning that most commercial AI training activities would fall outside the exception and require individually negotiated licences.
  - Given the scale and volume of data typically involved in AI model development, a requirement for individual licensing agreements for each

piece of training data may not be operationally feasible. Furthermore, the inability to identify or track down owners of “orphan works” (copyrighted material with no identifiable owner) would prevent licensing at scale. This could have implications for the development of AI systems that incorporate Indonesian data, including those developed domestically.
    - Without a specific text and data mining (TDM)/ fair use exception, publicly available data cannot legally be used for AI model development and other large scale data processing. This would penalise routine use by creators, MSMEs, scientists, researchers, and local AI developers. If foundational developers face liability, the resulting compliance burdens, licensing demands and the risk of service disruption could be passed down to the downstream users including MSMEs.
    - ATA encourages the Government to not to impose compulsory licensing for AI training and introduce a TDM exception that applies in commercial contexts instead. Precedents in the Copyright Acts of Japan and Singapore, which explicitly support commercial TDM exceptions and have created a path for the creation of indigenous AI models, may offer useful reference points. A clear TDM framework would support Indonesia’s broader digital economy objectives by enabling responsible AI development on Indonesian content and protecting Indonesia's 64 million MSMEs from inadvertent liability.
    - ATA also recommends the Government to remove the reference to undefined "AI ethical standards." AI governance is a legitimate policy objective but should be addressed through separate AI guidelines, not embedded within copyright law.

- **Proportionality of enforcement and sanctions**
    - Non-compliance with requirements such as LMK payments or AI labeling mandates can trigger closure of the digital platform. While ATA recognises the importance of robust enforcement, we are concerned that the current sanctions regime may be disproportionate to the nature of the potential infractions.
    - Disputes over royalty rates or technical errors in AI labeling are fundamentally administrative or commercial matters which should not attract an existential penalty. Total platform closure can have far-reaching consequences, not only for the service provider but also for the millions of Indonesian creators, businesses, and consumers who rely on these services for their livelihoods and information access.

- ATA encourages the Government to adopt a more nuanced enforcement hierarchy, utilizing warnings, administrative fines, or temporary suspensions before considering the revocation of business licenses or platform closure.
- We also recommend that the Bill explicitly include due process protections, including clear notice requirements, opportunities for remediation, and the right to judicial review before extreme sanctions are applied. This would offer the legal certainty necessary for continued investment in Indonesia's digital economy.

- **Continued engagement and implementation guidance**
  - We recommend the Government to extend the public consultation period and ensure a more meaningful, inclusive consultation process. Given the complexity and far-reaching implications of this Bill, touching on AI, platform governance, press rights, and royalty systems simultaneously, stakeholders require adequate time and structured opportunities to provide substantive input. A meaningful consultation should include:
    - Sufficient time for industry, civil society, and technical experts to analyze provisions and prepare responses;
    - Structured multi-stakeholder forums with the Ministry of Law that allow for technical dialogue, not just one-way submissions; and
    - Transparency on the DIM process – sharing draft Government positions to enable informed feedback before they are finalized.
  - Effective consultation requires adequate notice, accessible documentation, and genuine opportunity for stakeholder input to influence outcomes. Without these elements, unworkable provisions might require costly corrections post-enactment.
  - ATA members stand ready to share technical expertise, international best practices, and engage constructively throughout the regulatory development process.