



WIPO-BCC 27th Advanced Training Seminar on Copyright and Related Rights

Country Report

NIGERIA

**By Mr. Obinna Ignatius NWAGU,
Copyright Officer,
Nigerian Copyright Commission (NCC)**

WRITTEN COUNTRY REPORT BY OBINNA IGNATIUS NWAGU

1. Name of country: Nigeria

2. Copyright and related rights legislation:

In 1970 the first Copyright Law was passed in Nigeria. Although, a more comprehensive Copyright Act was passed in 1988, as Decree No. 47, this law established the Nigerian Copyright Council. The Council was officially inaugurated in August 1989. The Copyright Decree of 1988 was then amended in 1992 and 1999 and is codified as Copyright Act Chapter C 28 Laws of the Federation of Nigeria 2004.

The Copyright Act makes provisions for the definition, protection, transfer, infringement of including remedy and penalty thereof of the copyright in literary works, musical works, artistic works, cinematograph films, sound recordings, broadcast and other ancillary matters.

The Act which represents the laws of the Federation of Nigeria 2004 is arranged in sections which is divided into 4 different parts and contains 5 Schedules.

PART I deals with copyright. Section 1 defines works eligible for copyright which are artistic works, literary works, musical works, cinematograph films, sound recordings and broadcasts. It goes further to discuss originality and fixation which are core conditions for copyright protection. Part I also deals with the nature of copyright as it relates to the right to publish, reproduce, distribute, perform, broadcast, communicate to the public, adaptation etc. of the work. Copyright can be transmissible by way of assignment or licences. An author's moral right is also protected by virtue of Section 12 of the Act and certain categories of authors have a right to share in the proceeds of sale. Section 15 of the Act deals with infringement of copyright. However, Sections 20 to 23 deal with criminal liability for copyright offences. It lists the offences and penalties thereof. The Act makes it permissible for both criminal and civil actions to run simultaneously. In Section 25, involves the Order for inspection and seizure.

PART II deals with Related rights which is represented in the Nigerian Copyright Act as Neighbouring Rights. It is made up of two kinds of rights: Performer's right and expressions of folklore. Sections 26 to 30 deal with performer's right, nature of the right, its duration, infringement, and criminal liability; while Sections 31 to 33 deals with folklore expressions, its nature, infringement of the right and criminal liability involved in respect of the infringement.

PART III explains the administration of copyright. Section 34 of the Copyright Act established the Nigerian Copyright Commission. That Section defines the functions and duties of the Commission. In this part, Section 35 gives the Commission the power to set up a licensing panel while Section 36 deals with the establishment of a Governing Board that shall supervise the Commission. Section 37 deals with the day-to-day

administration of the Commission which is under a leadership of the Director-General who is designated as the Chief Executive of the Commission. Section 38 gives the Commission the power to appoint Copyright Inspectors who have all the powers, rights and privileges of a police officer as defined under the Police Act and under any other relevant enactment pertaining to the investigation, prosecution or defense of a civil or criminal matter under the Copyright Act. Section 39 deals with Collective Management Organizations which is captured in the Act as Collecting Societies. That Section gives the power to the public to form a collecting society. It also gives the Commission the power to approve and thereafter regulate the activities of the CMO. It also states the criminal liability of a collecting society. Section 40 of the Act deals with levy on materials used or capable of being used to infringe copyright in a work. The NCC released a Levy Order in that respect.

PART IV deals with miscellaneous provisions such as Reciprocal extension of protection which applies where a country is a party to a Treaty or Agreement to which Nigeria is also a party as contained in Section 41; the power of the NCC to make regulations for the operations of certain businesses involving works in which copyright subsist as seen in Section 45; the court that has the jurisdiction to hear copyright cases as seen in Section 46; the duty of any person bringing an action against the Commission to serve it with a 3-months pre-action notice as seen in Section 47. Section 51 is the interpretation section.

The First Schedule contains the terms of copyright. For literary, musical and artistic works, the copyright expires seventy years after the end of the year of death of the author. For cinematograph films and photographs, the copyright expires fifty years after the end of the year in which the work was first published. For sound recordings, fifty years after the end of the year in which the recording was first made. For broadcasts, fifty years after the end of the year in which the broadcast first took place.

The Second Schedule deals with exceptions from copyright control in literary, musical, artistic works and cinematograph films. The exceptions include fair dealing for private use, research purpose, criticism etc.

The Third Schedule contains special exceptions in respect of records of sound recording.

The Fourth Schedule contains with compulsory licenses for translation and reproduction of certain works.

The Fifth Schedule deals with transitional and savings provision.

The Regulations made by the Commission (NCC) are as follows:

- a. Copyright (Collective Management Organizations) Regulations 2007: It stipulates the requirements for the grant of approval to function as a Collective Management Organization.
- b. Copyright (Optical Discs Plants) Regulations 2006: By this Regulation, the Commission is empowered to control the activities of reproduction and

manufacture of optical disc plants, the aim being to monitor their activities and stem the tide of piracy.

- c. Copyright (Security Devices) Regulations 1999: It prescribes the fixing of hologram stamps in every film and sound recordings intended or offered for sale, rental, hiring, lending or otherwise distributed to the public for commercial purposes in Nigeria. The hologram stamp is a security tamper proof sticker which when placed on a work makes it easier to identify original works from pirated copies.
- d. Copyright (Video Rentals) Regulations 1999: Its intention was to discourage the proliferation of illegal rental activities by establishing guidelines for the operation of rental businesses in a manner that will guarantee compensation of right owners for commercial use of their works.

Rules and Orders made by the Commission (NCC) are as follows:

- a. Copyright (Dispute Resolution Panel) Rules 2007: It governs the settlement of disputes arising from the Copyright (Collective Management Regulations 2007. The said settlement panel is constituted by the Commission and the final decision shall be binding on parties until set aside by a competent court of law.
- b. Copyright (Levy on Materials) Order 2012: It is a levy on certain listed copyright protected materials that are being produced in or imported into the country. The Order authorizes the relevant government agencies, especially the Nigeria Customs Service, to charge a levy on the said materials and thereafter remit the money to a special account being managed by the NCC. Money in the fund is shared to Right owners through CMOs. It stipulates different percentages for different types of works. However, there is a percentage reserved for the Nigeria Customs Service and the NCC for collecting and keeping the funds respectively. The percentage given to the NCC is reserved for law enforcement.

The Nigerian Copyright Act and relevant legislations are available online at www.copyright.gov.ng/index.php/legislation-regulations.

3. Membership of Conventions, Treaties and Agreements:

Nigeria is a member of the following Conventions, Treaties and Agreements:

- I. Universal Copyright Convention 1952-1971
- II. Berne Convention for the Protection of Literary and Artistic Works (Paris text 1971)
- III. Rome Convention for the Protection of Performers, Phonogram Producers and Broadcasters 1961
- IV. TRIPS Agreement 1994
- V. WIPO Copyright Treaty 1996
- VI. WIPO Performances and Phonograms Treaty 1996
- VII. Beijing Treaty on Audio Visual Performances 2012

VIII. Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired or Otherwise Print Disabled 2013.

4. Name of the Government Department(s) in Nigeria responsible for laws on copyright and related rights:

NIGERIAN COPYRIGHT COMMISSION (NCC)

5. Names of collective management organizations representing or administering the rights of owners of copyright or related rights in Nigeria, the rights which they manage or license and the types of right holders they represent and their websites:

| Name of CMOs | Rights they manage. | The types of rightholders they represent. | Their website |
|--|------------------------------------|---|--|
| Musical Copyright Society of Nigeria (MCSN) | Musical works and sound recordings | Composers, Performers and label owners. | www.mcsnnigeria.com |
| Copyright Society of Nigeria (COSON) | Musical works and sound recordings | Composers, Performers and label owners. | www.cosonng.com |
| Reproduction Rights Society of Nigeria (REPRONIG). | Literary works | Individual authors of literary works, publishers and their respective associations. | www.repronig.ng |
| Audio-visual Rights Society of Nigeria (AVRS) | Film and other audio visual works | Film actors/actresses, film writers, film producers/directors, Performers, | avrsnigeria.com |

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