

WRITTEN COUNTRY REPORT BY OSONDU B. COLLINS NWEKE

1. **Name of country** - Nigeria

2. **Copyright and related rights legislation**

The current operating copyright legislation in Nigeria is the Copyright Decree 47 of 1988, *(later codified as Copyright Act, Chapter C28, Laws of the Federation of Nigeria, 2004 - following amendments in 1992 and 1999)*. Essentially, the Act makes provisions for the definition, protection, transfer, infringement of copyright with concomitant remedy and penalty regarding copyright in literary works, musical works, artistic works, cinematographic films, sound recordings, broadcast, performer's rights and expression of folklore. The Copyright Act is divided into 4 parts and 53 sections with 5 schedules.

Part 1 makes provisions for works eligible for copyright and the nature of rights conferred on authors of such works. For example the following works are eligible for copyright protection: literary works; musical works; artistic works; cinematograph films; sound recordings and broadcast. Also, the following rights were conferred on authors of copyright works: reproduction; publication; performance; production, translation; distribution; broadcast or communication to the public; and adaptation. The part 1 also provides for qualification for protection, identifies subject matters not eligible for copyright protection, and vests first ownership of copyright on the author of such work. By way of example, for a copyright work to be protected, it has to meet the following conditions:

- a. sufficient effort has been expended on making the work to give it an original character (especially for literary, musical and artistic work).
- b. The work must have been fixed in a definite or tangible medium of expression now known or later to be developed, from which it can be

perceived, reproduced or otherwise communicated either directly or with the aid of any machine or device.

- c. Either the author or the work itself must be substantially connected with Nigeria or the work must have been made by a government authority or a prescribed international body or international agreements.

The part 1 in addition, provides for assignment and licence of rights in a copyright work (section 11) ; moral rights (section 12); resale rights (section 13); compels printers, publishers/manufacturers of copyright works to keep register of works produced with penalty for false entries (sections 14 and 23) ; what constitutes infringements of copyright and remedies to such infringements. In Part 1 are also provision for criminal liability for infringement, provision for the possibility to simultaneously commence civil and criminal actions as well as provision for the Nigerian Copyright Commission to prescribe anti-piracy measures.

Part 2 makes provisions for the protection of performer's right and expressions of folklore as neighbouring rights. The part 2 also provides for what constitutes infringement of performer's rights and expressions of folklore and criminalises such infringement with liabilities (sections 26 – 30).

Part 3 provides for the establishment of the Nigerian Copyright Commission (NCC); establishment, membership and functions of Governing Board of NCC; and appointment of the Director General and other staff of NCC (Sections 34 – 36). Part 3 also empowers the NCC to grant compulsory license and to constitute a Copyright Licensing Panel in this regard (section 37). Furthermore, Part 3 (Section 38) empowers the NCC to appoint Copyright Inspectors which has powers akin to that of the police such as the powers to arrest and prosecute copyright offenders in court. Similarly, Part 3 (section 39) empowers NCC to approve collecting society and criminalises the performance of the function of collecting society by any group of persons without the approval of NCC. Moreover, Part 3 (section 40) provides for Levy on Copyright Material, also known as private copying levy.

Part 4 deals with miscellaneous provisions, namely: Reciprocal extension of protection ; Admission of affidavit evidence ; Restrictions of importation of printed copies; powers of the NCC to make regulations; Jurisdiction (Federal High Court is given the exclusive jurisdiction to try copyright cases); limitations of suit against the NCC; Powers of the Minister to give directives ; Interpretation ; and Repeals etc.

In addition, First Schedule provides for terms of copyright. For instance, literary, musical and artistic works – 70 after the death of the author or publication; photographs, cinematograph films, sound recordings, broadcasts, and performer's rights – 50 year.

Second Schedule provides for exceptions from copyright control, such as for fair dealing for purposes of research, private use, criticism or review of current events subject to attribution; for parody, pastiche or caricature; educational purposes by approved educational institution; reading or recitation in public of a reasonable extract from a published literary work subject to attribution and non-commercial purpose of such acts; etc.

While the Third Schedule provides for special exceptions in respect of a sound recording of musical work, Fourth Schedule makes elaborate provision for compulsory licence for translation and reproduction of certain works subject to certain conditions. Finally, the Fifth Schedule deals with transitional and savings provisions.

The Nigerian Copyright Act is available online via www.copyright.gov.ng/index.php/legislation-regulations.

3. Membership of Conventions , Treaties and Agreements

Nigeria has joined the following international conventions, treaties and agreements:

- i. Berne Convention for the Protection of Literary and Artistic Works(Paris text 1971)
- ii. Universal Copyright Convention 1952-1971;
- 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. Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired or Otherwise Print Disabled 2013; and
- viii. Beijing Treaty on Audio Visual Performances 2012

4. **The name of the Government Department in Nigeria responsible for laws on copyright and related rights** - Nigerian Copyright Commission.

5. **The names of collective management organisations (CMOs) , rights they manage and types of rightsholders they represent**

Name of CMOs	Rights managed	Types of rightsholders they represent
Copyright Society of Nigeria (COSON) Website: www.cosonng.com	Musical works and sound recordings	Authors, composers, music publishers and label owners
Musical Copyright Society of Nigeria (MCSN) Website: www.mcsnnigeria.com	Musical works and sound recordings	Authors, composers, arrangers and music publishers.
Reproduction Rights Society of Nigeria (REPRONIG). Website : www.repronig.ng	Literary works	Individual authors of literary works, association of rightsholders of literary works, publishers, including assignees of a literary work.
Audio-visual Rights Society of Nigeria (AVRS) Website: avrsnigeria.com	Film and other audio visual works made for broadcast and similar media.	Film actors/actresses, film writers, film producers/directors, Performers,

END OF REPORT