



Demystifying Copyright Protection and Enforcement in Nigeria: A Comprehensive Overview of the Nigerian Copyright Act, 2022

1.0 Introduction

The Nigerian Copyright Act of 2022 remains an important enactment marking a significant progress in the copyright regime in Nigeria. Aimed, *inter alia*, at protecting the rights of authors, providing access to creative works, ensuring international treaty compliance, and enhancing the effectiveness of the Nigerian Copyright Commission, the Act for the first time made provisions related to online content and addresses copyright infringement issues in the digital realm. In addition, by making provisions for takedown notices, responsibilities of service providers, user challenges, liability limitations, and the power of the Commission to block infringing content, the Act maintains a balance between the essentiality of contents creation and contents sharing online, and the necessity for copyright protection in the digital environment. This article provides a comprehensive overview of the Act. It examines key aspects of the Act such as objectives, eligible works for copyright, ineligibility criteria, and conditions for copyright eligibility amongst others. The establishment, functions, and powers of the Nigerian Copyright Commission (the Commission), as well as the framework for copyright administration in Nigeria are also discussed.

2.0 Objectives of the Act

The Act sets out four main objectives which are safeguarding authors' rights for equitable recognition and reward, provision of appropriate limitations and exceptions to enable access to creative works, ensuring compliance with international copyright treaties, and enhancing the Nigerian Copyright Commission's regulatory capabilities.¹

3.0 Works Eligible for Copyright

The Act outlines six categories of works eligible for copyright protection: literary, musical, artistic, audiovisual, sound recordings, and broadcasts. To qualify, a work must display originality and be fixed in a medium for perception, reproduction, or communication - expression. This eligibility applies regardless of the work's quality or intended purpose.²

¹ See section 1 of the Act.

² See section 2 of the Act.



4.0 Ineligibility for Copyright

The Act provides certain categories of works that are ineligible for copyright. These include ideas, procedures, official texts, and state symbols;³ official texts of a legislative or administrative nature as well as any official translations, except their compilations;⁴ and official insignia like flags, coat-of-arms, anthems, and banknote designs.⁵ Meanwhile, the Act emphasizes that copyright eligibility under the Act does not require any formality. This means that copyright protection is granted based on the work's characteristics and the author's nationality or residence.⁶

4.1 Copyright by Nationality or Residence

Under section 5 of the Act, copyright is conferred upon eligible works by Nigerian citizens, residents, or corporate entities established under Nigerian laws. Works first published in Nigeria, sound recordings made in Nigeria, and broadcasts transmitted from or by Nigerian-based broadcasting organizations are also eligible.

4.2 Copyright by Reference to Country of Origin

Under section 6 of the Act, copyright shall be conferred on a work if it is first published in Nigeria, or sound recording made in Nigeria or broadcast transmitted from Nigeria⁷ or by a broadcasting organisation that has its headquarters situated in Nigeria.

4.3 Copyright in Works of Government, State Authorities, and International Bodies

Copyright is also conferred on works created by or under government direction, agency, or a prescribed international body. This provision helps protect governmental and international organization works.⁸

4.4 Copyright by Reference to International Agreements

Section 8 sets out the conditions under which copyright is conferred on a work. Copyright is granted if at least one of the authors is a citizen or resident of a country party to an international agreement with Nigeria or if the work is published in a country with obligations under such an agreement. The Commission's certification is considered conclusive proof of a country's status under such agreements.⁹

5.0 Exclusive Rights Conferred by Copyrights

Section 9 enumerates the exclusive rights of copyright holders for literary and musical works. Copyright owners have the sole right to reproduce, publish, perform, translate, adapt, and undertake various acts related to their works. These rights extend to adaptations and translations of the original work as well. Each right has the nature of copyrights inherent in them as provided by the Act and this is further discussed below.

³ See section 3(a) of the Act.

⁴ See section 3(b) of the Act.

⁵ See section 3(c) of the Act.

⁶ See section 3(c) of the Act.

⁷ Which should not have been the subject of any copyright conferred by section 2 of the Act.

⁸ See section 7 of the Act.

⁹ See section 8 of the Act.

- 5.1 Nature of Copyrights in Artistic Works;** Section 10 outlines the exclusive rights conferred upon the creators of artistic works. These include the rights to reproduce, publish, include in audiovisual works, broadcast, communicate to the public, make available through wire or wireless means, adapt, and undertake similar actions related to their creations.¹⁰
- 5.2 Nature of Copyrights Rights for Audiovisual Works;** section 11 provides nature of copyright inherent in copyright protection for audiovisual works. Copyright holders in this regard are granted the exclusive right to reproduce, broadcast, communicate, distribute, adapt, and perform actions related to audiovisual works. This also applies to adaptations and translations of such works.
- 5.3 Nature of Copyright in Sound Recordings;** Section 12 details the exclusive rights of copyright holders for sound recordings. These rights include the authority to reproduce, broadcast, communicate, distribute, make available through wire or wireless means, and more. The section also addresses the distribution of sound recordings and their ownership.
- 5.4 Nature of Copyright in Broadcasts;** Section 13 discusses the exclusive rights granted in respect of broadcasts. These rights encompass rebroadcasting, communication to the public, distribution, fixation, reproduction, and adaptation of broadcasts. The section also outlines the provisions for television broadcasts and the rights of cable operators.

6.0 Moral Rights of Authors

The Act does not only make provision for legal rights, but it also equally makes provisions for moral rights of the author. Section 14 establishes the moral rights of authors. Authors have the right to claim authorship and object to any distortion, mutilation, or derogatory action in relation to their work that could harm their honour or reputation. This further extend a right to a person to object to a work being falsely attributed to him as the author.¹¹ These rights are inalienable during an author's lifetime and can be transmitted through testamentary disposition or operation of law after their death.¹² Other salient issues covered under this are examined below.

- 6.1 Equitable Remuneration for Sound Recordings:** Section 15 grants performers and copyright owners of sound recordings the right to equitable remuneration for broadcast of sound recordings. The amount and conditions of remuneration are agreed upon by the parties involved, with the Commission intervening in case of disputes.
- 6.2 Authorship and Use of Audiovisual Works:** Section 16 addresses the rights and compensation related to the incorporation of works in audiovisual works and their subsequent broadcast. The owner of the copyright in the original work incorporated in an audiovisual work is deemed to have

¹⁰ Copyright by reference to international agreements

¹¹ Section 14(2) of the Act.

¹² Section 14(3) and (4) of the Act

authorized the broadcast unless agreed otherwise. Fair compensation is owed to the owner of the broadcasting right.

- 6.3 Share in Sale Proceeds for Artistic Works:** Section 17 grants authors of artistic works, manuscripts, and musical compositions an inalienable right to a share in the proceeds of subsequent sales of their works through public auctions or dealers after the first transfer. This right applies to original works and is subject to conditions determined by the Commission.

7.0 Commencement and Duration of Copyright

By virtue of section 18 of the Act, copyright begins at the creation or making of the work. This is, however, subject to the provisions of certain sections of the Act.¹³ The duration of copyright protection varies based on the type of work. Literary, musical, and artistic works have protection lasting 70 years after the author's death. Different periods are specified for works derived from other works, audiovisual works, photographs, sound recordings, and broadcasts. Joint authorship works follow the duration of the last surviving author.¹⁴

8.0 Exceptions to Copyright

Part II of the Nigerian Copyright Act, 2022 outlines exceptions to copyright protection. It specifies instances where the rights conferred by various sections of the Act do not apply due to fair dealing or specific circumstances. The Act recognizes the importance of balancing copyright protection with the interests of education, research, and public interest. These exceptions are discussed below.

8.1 Fair Dealing Exceptions

Section 20 stipulates fair dealing exceptions where copyright holders' rights are not applicable. This includes purposes such as private use, parody, satire, research, criticism, reporting of current events, inclusion in audiovisual works or broadcasts, quotations, public reading, government use, and more. Factors like the purpose, nature, amount used, and market effect are considered in determining fair dealing. The provision emphasizes acknowledgment of the original work, and it lists various scenarios where fair dealing applies.

8.2 Educational Exceptions

Sections 21 to 23 address educational exceptions. Educational institutions and instructors can copy works for instructional purposes without infringing copyright. These provisions allow for the copying of passages from literary or musical works, sound recordings, audiovisual works, broadcasts, and cable programs. The sections impose limitations on the extent of copying and acknowledge licensing schemes.

8.3 Archival, Library, and Museum Exceptions

Sections 24 and 25 pertain to archival, library, museum, and gallery exceptions. These institutions are allowed to make and distribute copies of protected works for non-commercial purposes, including backup and preservation. Copying is permitted for works

¹³ Such as sections 3, 4, 5, 6, 7 and 8 of the Act.

¹⁴ See section 19 of the Act.

not commercially available or where copyright permission is unattainable after reasonable efforts. Copies made can be lent to users or used for private study.

8.4 Accessible Format Copy Exceptions

Section 26 outlines exceptions for accessible format copies to benefit persons with disabilities. Authorized entities can produce and distribute accessible format copies, allowing visually impaired individuals to access copyrighted works. The section defines terms like "beneficiary person," "authorized entity," and "accessible format copy."

8.5 Recording of Musical Works

Section 27 focuses on exceptions related to the recording of musical works. It allows for the recording of a musical work or its adaptation if the work has been previously recorded with the copyright owner's consent. Certain conditions, including notice and royalty payment, must be met to prevent copyright infringement in this regard.

9.0 Ownership, Transfers, and Licenses in Copyright Law

Part III of the Act addresses ownership, transfers, and licenses of copyrighted works in Nigeria. This section outlines the initial ownership of copyright, transfers of rights, licenses, and special circumstances where works can be used for public interest or to rectify market abuses. It also covers provisions for translating and reproducing works for educational purposes, broadcasting translations, and exceptions to copyright in specific cases. The Act also discusses the incident of initial ownership of copyright and provides that copyright, as per the Act, initially vests in the author unless stated otherwise in an agreement.¹⁵ However, when a work is created under a contract for services or during employment by a government entity or prescribed international organization, the copyright belongs to the employer or organization.¹⁶ More so, in the case of commissions for photographs, portraits, or audiovisual works for private and domestic purposes, the person commissioning the work holds a non-exclusive license for non-commercial use. They also have the right to prevent public distribution of the commissioned work.¹⁷ Other salient points covered by this part of the Act are discussed below.

9.1 Collective Works:

According to the Act, the copyright in a collective work belongs to the person who initiated or directed its creation. Authors of works within a collective work maintain the right to use their works independently of the collective work's copyright.¹⁸

9.2 Transfer and Licensing of Copyright

Copyright is deemed movable property and can be transferred through assignment, testamentary disposition, or operation of law. Assignments or licenses may be limited to specific acts, periods, or geographical areas. Written form is required for assignments or exclusive licenses, while non-exclusive licenses can be oral, written, or inferred from conduct. Of note is the specific reference to Chapter 4 of the Constitution of the Federal

¹⁵ Section 28(1) of the Act.

¹⁶ See section 28 of the Act generally.

¹⁷ Ibid

¹⁸ Section 29(a) and (b) of the Act.

Republic of Nigeria 1999 in the section thus bringing the issue of copyright as a movable property within the confines of constitutional protection.¹⁹

9.3 Joint Ownership and Material Ownership

Multiple owners share joint interests in copyright if they co-own a work. However, ownership of the material holding a work doesn't confer copyright ownership. Transferring material ownership doesn't transfer copyright and vice versa.

9.4 Licensing for Translation and Reproduction

Under the Act, qualified individuals can apply to the Commission for licenses to translate or reproduce works for teaching, research, or systematic instructional activities.²⁰ The applicant shall pay to the owner of the copyright in the work, royalties in respect of copies of the translation of the work produced, calculated at such rate as the Commission may, in the circumstances of each case determine and consistent with the standards for licences freely negotiated between persons in Nigeria and owners of translation rights in their country.²¹ Other conditions applicable are also determined by the Commission, and licenses can be withdrawn if circumstances change.²²

Interestingly, the Act defines “qualified person” to mean – (a) a citizen of Nigeria or an individual habitually resident in Nigeria; or (b) a body corporate incorporated under any written law in Nigeria. It equally defines “research” to include ‘industrial research or research carried out by bodies corporate not owned or controlled by the Government, carrying on any business.’ “Purposes of teaching, research or scholarship” under the Act includes all types of organised educational and instructional activities at any level in educational institutions.²³

9.5 Licensing for Broadcasting and Special Circumstances

Under this same copyright regime, broadcasting organizations can obtain licenses to broadcast translated works for educational or research purposes.²⁴ The Commission can also authorize work use to rectify market abuses or promote public interest.²⁵

10.0 Acts of Copyright Infringement and Legal Remedies

Part IV of the Copyright Act deals with copyright infringements in Nigeria. It outlines the acts that constitute copyright infringement without the authorization of the copyright owner, the legal remedies available to copyright owners, the process for obtaining orders to seize infringing copies, and the presumption of copyright subsistence for registered works. Infringing acts are provided to include violating exclusive rights, importing infringing copies, selling infringing works, possessing equipment for making infringing copies, permitting unauthorized public performances, allowing reproduction of copyrighted works, and performing works for trade or business purposes.²⁶ However, for an act to be considered copyright infringement under the Act, it must relate to the whole

¹⁹ See section 30(1) to (11) of the Act.

²⁰ See section 31(1) and (2) of the Act.

²¹ Section 31(4)(a) of the Act.

²² Section 31(5) to (8) of the Act.

²³ See section 34 of the Act.

²⁴ Section 32 of the Act

²⁵ See section 33 of the Act.

²⁶ See section 36 of the Act.

or a substantial part of the work, whether in its original or in a recognizable derivative form.

Furthermore, the Act also make provisions for legal remedies to copyright infringement by making infringement of copyright actionable by the copyright owner, assignee, or exclusive licensee. Legal remedies that can be sought include seeking damages, injunctions, accounts, or similar relief available in cases of infringement of other proprietary rights. If both the copyright owner and an exclusive licensee have concurrent rights of action, they must seek court approval to proceed with the action either together or as defendants. There are, however, exceptions to damages that can be sought. If an infringement was committed unknowingly and the defendant had no reasonable grounds to suspect copyright subsisted in the work, the plaintiff cannot claim damages. However, an account of profits related to the infringement can be sought. Furthermore, in cases where the infringement was particularly flagrant and the defendant benefitted significantly from it, the court can award additional damages along with the normal damages.²⁷

11.0 Entry and Inspection Orders

The Act empowers the court to issue orders to authorise entering of premises suspected to be housing infringing copies or equipment used for making infringing copies. A police officer or Copyright Officer can accompany the applicant for inspection and seizure. Providing false information, by anyone, in support of an application under this section is an offence punishable, upon conviction, with a fine of at least N100,000 or imprisonment for a term of at least one year or both.

12.0 Offences related to Infringing Copies

The Act criminalizes certain acts declared as constituting copyright offences. These include making, importing, possessing, selling, hiring or distributing infringing copies. Offenders can face fines of at least N10,000 for each infringing copy or imprisonment for several years. However, if the defendant(s) proves that they were unaware that the copy was infringing, they may not be found guilty of the offense.²⁸ Similarly, distributing copyrighted works for commercial purposes, such as rental, lease, hire, loan, or similar arrangements, without the owner's consent, is also an offence and the offenders can face fines or imprisonment for at least three years.²⁹ The Act empowers the courts handling proceedings for copyright offences to make order for the destruction or surrender of infringing copies, as well as related materials, even if the alleged offender is not convicted.³⁰

Furthermore, unauthorized communication of copyrighted works to the public via wire or wireless means for commercial purposes is considered an offence and the offenders can face substantial fines and imprisonment.³¹ Moreso, performing acts specified under section 13(1)(a)-(e) of the Act related to broadcast without the owner's consent similarly

²⁷ See section 37 of the Act generally.

²⁸ See section 44 of the Act generally.

²⁹ See section 44(4) of the Act.

³⁰ See section 44(5) of the Act.

³¹ See section 44(7) of the Act.

constitutes an offense.³² This act includes unauthorized retransmission of broadcasts. Offenders can face significant fines and imprisonment.

13.0 Compounding of Offences

The Act allows the Nigerian Copyright Commission to compound (settle) offences by accepting sums of money, not exceeding twice the minimum fine that would have been applicable upon conviction.³³ Any person who aids or induces another person to commit a copyright offense is also considered guilty of an offense and can be subject to the same punishment as the primary offender.³⁴ In relation to corporate body, the body corporate itself and its principal officers are deemed to have committed³⁵ the offense except if it's proven that the offence occurred without the knowledge of these individuals or that due diligence was exercised to prevent it.³⁶ Where a body corporate is convicted of an offence, the court can order the forfeiture of its assets and properties, unless it's proven that these assets were not obtained from the proceeds of the offence.³⁷ For the purpose of the Act, “body corporate” includes a firm or other association of persons.³⁸ Interestingly, the Act allows both criminal and civil actions to be taken simultaneously for the same copyright infringement.³⁹

14.0 Anti-Piracy and Other Copyright Protection Measures

Part VI of the Act is dedicated to various measures aimed at enforcing copyright protection. These measure covers record-keeping requirements, antipiracy devices, technological protection measures, rights management information, and customs enforcement against infringing goods. These measures are designed to strengthen copyright enforcement and protect the rights of creators and copyright owners. They are further discussed below.

14.1 Record-Keeping Requirements

This mandates individuals and entities involved in the production or reproduction of copyrighted works to maintain records of their activities. These records must include details such as the author's name, title of the work, date of use or production, quantity produced, and any other prescribed information.⁴⁰

14.2 Antipiracy Device Prescriptions

The Nigerian Copyright Commission, with the consent of the Minister, is empowered to prescribe design, label, mark, impression, or other antipiracy devices to be used on or in connection with copyrighted works.⁴¹ Offences related to non-compliance with these

³² See section 44(8) of the Act.

³³ See section 44(9) of the Act.

³⁴ See section 45 of the Act.

³⁵ See section 46(1) of the Act.

³⁶ See section 46(2) of the Act.

³⁷ See section 46(4) of the Act.

³⁸ See section 46(3)(a) of the Act.

³⁹ See section 47 of the Act.

⁴⁰ See section 48(1) of the Act.

⁴¹ Section 49(1) of the Act.

prescriptions, such as selling or importing works without the prescribed antipiracy devices, are subject to penalties.⁴²

14.3 Technological Protection Measures (TPMs)

Section 50 of the Act prohibits knowingly circumventing TPMs that protect access to copyrighted works. It also restricts the manufacturing, import, sale, or provision of devices primarily designed for circumventing TPMs. “Circumvent a technological protection measure” in this regard means ‘avoiding, bypassing, removing, deactivating, decrypting or otherwise impairing a technological protection measure.’⁴³ Exceptions are provided for certain activities, such as lawful investigations or achieving interoperability. Just as the Act provides for TPM, it similarly made provisions for Rights Management Information (RMI) Offenses). “Rights Management Information” is defined in the Act to mean information identifying ‘a work or other subject matter, the author, owner or any right in it including information about the terms and conditions of its use and any number or code that represents such information, attached to, or appearing in connection with the communication to the public of a work or subject matter.’⁴⁴ Offences related to RMI include providing false RMI, removing or altering RMI without authorization, and distributing works with altered RMI. Violators can face fines, imprisonment, or both.⁴⁵ More so, individuals whose rights are violated under sections 50 (TPMs) or 51 (RMI) can take legal action to seek redress, including damages, accounts, or injunctions, and even the court can also impound devices or products involved in the violation.⁴⁶

15.0 Customs Enforcement

This empowers copyright owners to request the Nigerian Customs Service to treat infringing works as prohibited goods during a specified period. The Customs Service is then required to intercept and impound these works upon reasonable suspicion. The right owner or authorized representatives can inspect the impounded works, and actions must be taken promptly. Importation or exportation of infringing works during the specified period is prohibited.⁴⁷

16.0 Notice and Takedown Procedure

Under sections 54-55 of the Act, copyright owners can issue infringement notices to relevant service providers, requesting the removal or disabling of access to infringing content hosted on their systems or networks. The notice must include specific information, such as the owner's signature, details of the infringing material, and contact information. Upon receiving such a notice, the service provider must notify the subscriber responsible for the content, take down the infringing content, and inform the copyright owner. The incorporation of this measure is undoubtedly an important safeguard for copyright owners in the digital environment.

⁴² Section 49(2) to (5) of the Act.

⁴³ Section 50(3)(b) of the Act.

⁴⁴ Section 51(3) of the Act.

⁴⁵ Section 51(1) and (2) of the Act.

⁴⁶ Section 52(1) to (7) of the Act.

⁴⁷ See section 53(1) to (12) of the Act.

17.0 Counter Notices and Restoration

A subscriber can challenge a takedown notice if they believe it was a mistake or misidentification. If a subscriber sends a counter notice and the copyright owner does not respond within seven days, the service provider may restore the content. However, the service provider must take steps to prevent reuploading of removed content.⁴⁸

18.0 Suspension of Repeat Infringers' Accounts

Section 56 of the Act empowers or obliges service providers to suspend accounts of users who repeatedly infringe copyright. A warning notice is, however, required to be sent after the first instance, and upon a second notice, the account is suspended for at least one month. Users can challenge these notices, and if unresolved, the matter can be referred to the Commission for determination.

19.0 Liability Limitations

Under sections 57-59 of the Act, service providers are protected from liability for good faith actions taken under these provisions. They won't be held liable for infringing content stored at the direction of users if they promptly remove it upon notification. Similarly, service providers linking to infringing content won't be liable if they act promptly upon notification.

20.0 Identifying Online Infringer and Commission's Power

The Act empowers copyright owners to apply to the court for an order to a service provider to identify alleged infringers. This section plays an important role in enhancing copyright protection in the online environment. It provides a legal mechanism for copyright owners to identify alleged infringers and take action against them. Online copyright infringement is prevalent due to the ease of sharing and distributing digital content. What section 60 has done is enable copyright owners to identify individuals or entities responsible for alleged infringement. This is crucial for taking appropriate legal actions against those who violate copyright by distributing or reproducing copyrighted works without authorization. More so, copyright owners often face challenges in tracking down infringers in the online realm, section 60 has now empowered copyright owners to request a court order to compel service providers to disclose information and reveal the identity of alleged infringers. This will facilitate more effective enforcement of copyright rights, deterring potential infringers and preserving the value of creative works. The section also gives the Commission the power to block or disable access to infringing content, links, or websites.⁴⁹

21.0 Performer's Rights

Performers are granted exclusive rights over their performances, including the fixation, reproduction, distribution, broadcasting, renting, lending, and making available to the public of their performances. These rights extend to various acts involving their performances and protect against unauthorized use.⁵⁰ The term "performance" encompasses dramatic performances, musical performances, and other live presentations.

⁴⁸ See section 55 of the Act.

⁴⁹ See Sections 60-61 of the Act.

⁵⁰ sections 63-62 of the Act.

A "performer" includes actors, singers, musicians, and dancers who perform or interpret literary or artistic works.⁵¹ Meanwhile, performer's rights are applicable if at least one performer is a Nigerian citizen or resident, or if the performance takes place or is fixed in Nigeria or a country bound by international agreements with Nigeria.⁵²

22.0 Consent and Rights of Performers

Sections 65-66 makes provisions for performers' consent to broadcasting to include authorization for rebroadcasting, fixation, and reproduction. Performers now have the right to be identified in connection with their performances and to object to distortions or derogatory actions that harm their reputation. These rights are not transferable during their lifetime. Where performers perform as a group, the consent of the person in charge suffices. Even though consent to inclusion in an audio-visual fixation waives certain rights, specific exceptions are provided for certain purposes such as demonstrations, education, and broadcasts.⁵³ Performer's rights last for 50 years from the end of the year the performance was first fixed.⁵⁴ Acts constituting infringement of performance right includes unauthorized acts as defined in Section 71 of the Act. Nonetheless, infringement is actionable as a breach of statutory duty and can lead to damages, injunctions, and other remedies.⁵⁵

23.0 Expressions of Folklore

Expressions of folklore are protected against reproduction, communication to the public, and adaptations. Fair dealing, education, and certain utilizations are exceptions. Source attribution is required, and the Commission holds the right to authorize actions.⁵⁶ Using folklore without permission or misrepresenting its source or distorting it can lead to offences.⁵⁷ Individuals can face fines and imprisonment, while corporations can face fines and offenders may have infringing articles forfeited to the Commission.

24.0 Establishment of the Nigerian Copyright Commission

Sections 77-78 of the Act establish the Nigerian Copyright Commission (referred to as "the Commission") to be a body corporate with perpetual succession. It is vested with the authority to acquire, hold, dispose of property, and sue and be sued in its corporate name. The Commission aims to regulate and enforce copyright matters within Nigeria.

The Functions and Powers of the Commission are prescribed in section 78 of the Act. The Commission is responsible for various functions related to copyright administration. These include monitoring copyright-related agreements, investigating and resolving copyright infringement cases, informing the public about copyright matters, maintaining a copyright works register, and regulating collective management of rights. The

⁵¹ See section 63 of the Act.

⁵² See section 64 of the Act.

⁵³ Sections 67-68 of the Act.

⁵⁴ Sections 70-72 of the Act.

⁵⁵ Ibid

⁵⁶ Section 74-75 of the Act.

⁵⁷ See section 76 of the Act.

Commission also possesses powers to prosecute, levy charges, implement protection measures, and more.

The Commission is overseen by a Governing Board comprising various members, including a Chairman who shall have expertise in copyright matters, the Director-General of the Commission, representatives from relevant ministries, law enforcement agencies, and representatives from different artistic categories. The Board's proceedings are guided by supplementary provisions mentioned in the Schedule of the Act.⁵⁸ The Commission is empowered to appoint copyright officers to enforce copyright provisions. They are granted powers to investigate, enter premises, arrest suspects, demand records, seize infringing material, and more, and obstructing a Copyright Officer's duties is considered an offense.

25.0 Registration of Works and Collective Management Organizations

Under sections 87-88 of the Act, the Commission is empowered to establish and maintain a Register of Works for copyright protection purposes. Collective Management Organizations (CMOs) can apply for approval to represent copyright owners in licensing, royalty collection, and distribution. The Commission approves CMOs that meet specific criteria and can revoke or suspend their approval. Unauthorized operation of CMOs is an offence.

26.0 Levy on Copyright Material

By virtue of sections 89 of the Act a levy is imposed on materials used or capable of being used to infringe copyright. The funds collected are paid into the Commission's Fund and may be disbursed to approved CMOs or rights owner representatives. The Minister can exempt certain materials from the levy.

27.0 Dispute Resolution Panel

The Commission has power under section 90 of the Act to constitute a Dispute Resolution Panel to address disputes related to royalty payments, licence terms, and other matters requiring the Commission's determination. The Panel is composed of experts in copyright matters, and its decisions can be reviewed by a court.

28.0 Conclusion

The Nigerian Copyright Act of 2022 is a significant enactment to the Nigerian copyright regime. It sets the stage for the protection and regulation of creative works in Nigeria. By outlining objectives, defining eligible works, and specifying conditions for copyright, the Act aims to harmonize copyright practices with international standards while facilitating access to creative expressions. The Act's comprehensive approach lays the foundation for the subsequent provisions that detail the rights and limitations of copyright holders in different categories of creative works. Of note is the fact that the Act addresses the challenges of copyright infringement in the digital era and also afford protection to copyright owners in the digital environment; it provides procedures for notice and takedown, user challenges, and liability limitations for service providers, as well as granting powers to the Commission. This, no doubt, can strike a balance between

⁵⁸ See section 79 of the Act.

protecting copyright holders and facilitating online content sharing. The clearly delineating functions, powers, and responsibilities assigned to the Commission and the mechanisms set up for copyright administration, enforcement, and dispute resolution by the Act are pivotal in ensuring the effective management and protection of copyright-related matters in Nigeria. It is hope that the Act will be effective and efficiently implemented to achieve its objectives.

Author



Kazeem A. Oyinwola LL.B, BL, LL.M.,
Managing Partner,
Amofin Solicitors, Nigeria
kazeemoyinwola@amofinsolicitors.com.ng
kazdan01@gmail.com
+233408034987270
<https://www.amofinsolicitors.com.ng>
info@amofinsolicitors.com.ng