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COPYRIGHT A CATALYST FOR JOB CREATION IN THE ENTERTAINMENT INDUSTRY, CASE STUDY OF NIGERIA'S MUSIC INDUSTRY

By

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Abstract: The entertainment industry in Nigeria has experienced tremendous growth over the years, evolving into a significant contributor to the country's economy. The industry, which encompasses music, film (audio-visuals), theater, and other creative endeavors, has not only provided a platform for artistic expression but also created numerous job opportunities for Nigerian citizens. However, the industry's potential for job creation is unarguably hindered by the lack of effective copyright protection. This work therefore seeks to explore the role of copyright in playing a significant role for job creation in Nigeria's entertainment (music) industry, with a focus on the legal framework and relevant citations albeit, doctrinal expositions. Copyright protection is known to be a vital catalyst for job creation in any entertainment industry, fostering a vibrant ecosystem that supports creativity, innovation, and economic growth. By safeguarding the intellectual property rights of creators, copyright incentivizes investment in the industry, enables the development of new business models, and generates revenue streams that support employment opportunities in areas such as music, film, television, and digital media. As the entertainment industry continues to evolve in the digital age, the importance of copyright protection in driving job creation and economic development cannot be overstated. It is therefore recommended that attention should be geared towards effective enforcement, education, and awareness creation of the copyright regime.

Keyword: Copyright, Job Creation, Entertainment, Nigeria, Music Industry

INTRODUCTION

Copyright is one form of intellectual property that grants exclusive rights to creators over their original works, to enable them control the use and distribution of such creations. In the context of the entertainment industry, copyright protection is essential for the creation, production, and

distribution of intellectual works. By safeguarding the rights of creators, copyright encourages innovation, investment, and job creation. In Nigeria, the copyright regime is governed by the Copyright Act 2022, which provides for the protection of literary, musical, and artistic works.

The Act also establishes the Nigerian Copyright Commission (NCC), which is responsible for the administration and enforcement of copyright in Nigeria. Despite the existence of a legal framework for copyright protection, the entertainment industry in Nigeria continues to grapple with the challenges of piracy, copyright infringement, and lack of effective enforcement. These challenges not only undermine the creative industry's potential for job creation but also stifle innovation and investment.

The International Chamber of Commerce (ICC) once reported that the Nigerian music industry alone has the potential to create over 2 million jobs by 2025, but this potential is threatened by piracy and copyright infringement (ICC, 2019). Similarly, the Nigerian film industry, popularly known as Nollywood, has been estimated to generate over US \$1 billion in revenue annually, but the industry's growth is hindered by copyright infringement and lack of effective enforcement (Adeyemi, 2020). Copyright plays a crucial role in catalyzing job creation in Nigeria's entertainment industry. Effective copyright protection encourages innovation, investment, and job creation, while the lack of it undermines the industry's potential. To fully harness the job creation potential of the entertainment industry, it is essential to strengthen the copyright regime in Nigeria, through effective enforcement, education, and awareness.

2. Meaning of Copyright

Copyright is a type of intellectual property that protects the original works of authorship as soon as an author fixes the work in a tangible form of expression. WIPO defines it as a legal term used to describe the rights that creators have over their literary and artistic works. Copyright can only vest in certain works. They are stipulated to be literary, musical, and artistic works, audio-visual works, sound recordings and broadcast. The Copyright Act further stipulated that before the above-mentioned works can be protected, effort must have been expended on the work to give it original character, and such work must have been fixed in any medium of expression. It can, then, be easily inferred that copyright can only protect expression of ideas and not ideas themselves. Unlike other forms of intellectual

property protection, like patents and designs, copyright of a work commences immediately after creation of that work; it need not undergo any formality like registration.

2.1 Types of Rights under Copyright:

The two types are as follows:

- Economic rights that allows rights owner to derive financial reward from the use of their work by others, and
- Moral rights which protects the reputation and other non-economic interests of the author.

Most copyright laws state that the rights owner has the economic right to authorize or prevent certain uses in relation to a work or, in some cases, to receive remuneration for the use of their work (such as through collective management).

The economic rights owner can prohibit or authorize its:

- reproduction in various forms, such as printed publication or sound recordings;
- public performance, such as in a play or musical work;
- recordings; for example, in the form of compact discs or DVDs;
- broadcasting, by radio, cable or satellite;
- translation into other languages; and
- adaptations such as novel into a film screenplay.

On the other hand, moral rights may include the right to claim authorship of a work and the right to oppose any changes made to a work that could harm the creator's integrity and reputation.

3. Overview of the Entertainment Industry with emphasis on the Music Industry

Boasting of contributions of around \$6 billion to the country's GDP in 2022 and a projection of \$12.9 billion in revenue by 2027, the Nigerian Entertainment Industry (NEI) has proven itself to be one with great potentials. Comprising of different sectors including but not limited to the movie, fashion, music and gaming industry, the NEI has continued to produce great talents that bring in a large chunk of the revenue in the country. In the movie department, names like Funke Akindele, Femi Adebayo, and Ruth Kadiri keep popping up in the charts. Funke for her record breaking movie releases, Kemi Adebayo for his million dollar partnerships with established digital streaming platforms like Netflix, and Ruth Kadiri for her ability to leverage YouTube

streaming platform. The industry has come a long way from 1992, being valued at \$6.4 billion. With an active consume market made possible by increase in subscription of digital streaming platforms, the Nollywood has continued to bloom and expand. This boom has helped provide a lot of jobs in the industry and the industry's capacity standing at providing around 1 million.

While the movie industry 'trails the blaze,' the music industry is not left behind. The Nigerian music industry has over the years gotten so good that its product is not only loved in the country but has produced music that is globally recognized. Just last year 2024, six Nigerian artists have received a Grammy Nomination, among the nominees include the likes of Tems, Burna Boy and Davido. The year also saw different Nigerian artistes performing in concerts around the globe. The most talked about seems to be Burns Boy's 'I Told Them' tour held in the USA which raked in around \$5.7 million. This goes to show how much support and fan base Nigerian music has gained both locally and internationally. Nigerian artistes success is not only seen in the garnering of Grammy nominations and sold out concerts but also in millions of downloads and streams of our music in digital streaming platforms all over the world. Downloads and streaming at 2023 brought in revenue of over ₦25 billion to Nigerian artistes from Spotify alone and the number of Nigerian artistes earning over ₦10 million in royalties have quadrupled since 2018. This holds a lot of good promise for the industry as more and more of the youth population gain more access to the internet. Despite the success of the music industry, it faces a silent killer, now turned a noise maker-piracy. Testing the troubling water:

It is reported that the music industry generates over \$2 billion in revenue annually. As much as that is an amazing number, it is also reported by the President of Performing Musicians Association of Nigeria (PMAN) that the industry also loses ₦10.5 trillion annually which is about \$6.8 billion. Such an amount if reaped in profit/revenue will go a long way in the growth of the industry. The losses being talked about are mostly losses caused by infringement of copyright usually in the form of piracy. Some argue though, that piracy is good in the Nigerian creative economy as it helps in the circulation of Nigerian

music owing to the fact that there is no good structure for this. It is also rumoured that artistes subscribe to pirates to help them in circulating their music. However, it is not denied that piracy rids the creative's of revenue ought to be gained from the product. It is not that we do not have laws to guarantee artistes and creative's get rewards for their work put towards their music, but that many are still without the knowledge of these laws and the implementation of these laws is not effective. One of the major law being the Copyright Act recently revised in 2022. This revised version of the Act recognizes the digital creative economy but still does not recognize the intersection of AI and the creative industry. A lot of work still needs to be done in the music sector to ensure growth which would bring about more jobs.

4. Intersection of Copyright and Entertainment Industry

The intersection of copyright and the entertainment industry in Nigeria is a complex and multifaceted issue. This is because the entertainment industry has a lot of sectors under it. The three major sectors are movie/film industry, music industry and broadcast media. It also includes live performance and dance choreography. Copyright seeks to protect these areas and works under them for infringement. It provides for rights in these sectors and ways these rights exercising well.

4.1 Key Provisions of the Nigerian Copyright Act, 2022

a. Musical Works: Sec 2(b) of the Copyright Act points specifically at musical works as eligible for copyright. Sec 9 of the said Act further provides for the nature of the rights in a musical work and provides that copyright in a musical work shall be the exclusive right to do and authorize the reproduction, publication and performance of the work in public. It further restricts the making available of musical works to the public, to the owner or anyone so authorized by the owner. Musical works are defined as musical composition, irrespective of musical quality.

b. Audio-Visual Works: Another eligible works protected by copyright. Audio-visual works cuts across both the 3 major sectors of the

entertainment industry; movie industry, music industry and broadcast media. The Copyright Act defines audio-visual works as aggregate of a series of related visual images with or without sound, which is capable of being shown as a moving picture by means of a mechanical, electronic or other device and irrespective of the nature of the material on which the visual images and sounds are carried and includes the sound track but does not include a broadcast. An author of audio-visual refers to the person by whom the arrangements for the making of audio-visual work were made, unless there is a contract between parties as to the otherwise. Copyright protection of audio-visual works entails that the owner retains the sole right to reproduce the work or in the alternative cause it to be available to the public eye. He can however, authorize another individual to do so too.

c. Sound Recordings: The Copyright Act protects sound recordings and other audio content. Sound recording differs from musical works in the sense that musical works entails both the composition and lyrical equality including melody, harmony, etc, but sound recording is literally what it is. It is a recording of sounds. It may be combined with a musical work to make music. It also differs from audio-visual because it does not have a visual quality. It is not combined with moving picture video, etc. Here, only the sound is protected. The author of a sound recording is defined as the person who makes the arrangements for the making of the recording.

d. Broadcast: This pertains particularly to the broadcast media sector of the entertainment industry. Broadcast means the transmission by wireless means of sounds or images or both, in such a manner as to cause such images or sounds to be received by the public. The broadcast media is concerned with radio and television and the rights to broadcast is provided in Section 13 Copyright Act, 2022. An author of the works named above in which copyright subsists has the right to indicate his authorship and seek relief if his work is distorted or is made to undergo any modification. In this way and through these rights, copyright offers protection to the entertainment industry. These rights rest on an author and is not transmissible during the life of

the author but upon his/her death. It can be transmissible through testamentary disposition or operation of the law.

e. Live Performances: a performer has the exclusive right to control, in relation to his performance, the acts of fixation of his performance or reproduction of a fixation of his performance. The Copyright Act has further stipulations that seek to protect the performer's right. Here performance includes dramatic performance i.e dance and mime; musical performance; and reading or recitation of literary act or any similar live presentation given by one or more individuals.

In the light of these protections offered by copyright, creators in the entertainment industry retain, enjoy and exploit their moral and economic rights exclusively.

5. Copyright as a Catalyst of Job Creation in the Music Industry – Stages of the Law

The copyright legal framework in Nigeria started with the extension of the English Copyright Act of 1911 into Nigeria. It wasn't until 1970 that Nigeria promulgated its first indigenous Copyright Act; The Copyright Act of 1970. The statutory framework of copyright provisions underwent a lot of modifications to suit the needs of an ever evolving society, till the current Copyright Act was birthed. The Copyright Act of 1970 had sparse provisions for the protection of rights in the music industry. It didn't even provide for a body to administer and enforce those rights. It was not until the promulgation of 1988 Copyright Act that protective provisions were further strengthened in the music industry especially as an effort to curb piracy and other infringement issues which sprang up in Nigeria in the late 1900s.

The end of Nigerian war in 1970 coincided with the Nigerian oil boom which brought about a lot of wealth to Nigerians, and in their bid to get their lives back, they spent money seeking entertainment. Due to the high demand of live performances, especially high life, there was a boom in music production. The likes of Victor Uwaifo, Osita Osadebe and Celestine Ukwu met those needs and were at the centre stage. Thereafter, technological developments enabled the invention of cassette player and cassettes

which became a leeway for mass production. This led to piracy and became a subject of grave concern. Anti-piracy vanguards were set up but they were of little or no effect. This was caused by the absence of protective provisions in the Copyright Act of 1970. It brewed an urgent need for legislative reform. As a result, the 1988 Copyright Act was promulgated. Amongst other things, it provided for the right to institute civil or criminal proceedings against an infringer by a rights owner. The Nigerian Copyright Commission was also created under this Act. They were saddled with the responsibility of administering these rights and could also institute proceedings against infringer. This, to a large extent, strengthened the legislative framework for copyright in the music industry and in Nigeria as a whole. Furthermore, this Act introduced copyright licensing panel.

With the enactment of Copyright Act of 2022, protection in the music industry was further enhanced. In addition to the provisions of the Copyright Act of 1988, it provided for the ownership of copyright in collective works which provided a safeguard for collaboration by musicians and producers. It also introduced right to remuneration for broadcasting of sound recording. As a sectional measure, it prescribes forfeiture or destruction of infringing copies. The most innovative provision in this Act is as to the effect of technological advancements. Infringement through digital means were addressed and provided for.

Now, music copyright has been established in Nigeria to a very large extent. It covers two primary aspects: musical compositions and sound recording. Musical compositions refers to lyrical quality of a song while the sound recording is the actual recording of the song and also includes physical fixation of the sounds. The musical compositions are usually owned by the song writer while the sound recording is owned by the record label or the person who funded the recording.

The direct consequence of music copyright is the protection of rights and interests of role players in the music industry including musicians, producer, investors and other rights owners. This protection fosters a secure environment for investment, thereby stimulating growth and generating

opportunities. It also ensures fair compensation for their work and provides a conducive environment for collaborations. The typical concerns surrounding the protection of rights in collaborative projects have been thoroughly addressed and effectively mitigated by these provisions.

Most interestingly, copyright protection has transformed the online space into a vibrant marketplace, teeming with opportunities for creators, innovators and entrepreneurs. This development was also accelerated by the shift from production and distribution of music through CDs, Vinyl records, and radio to a more ubiquitous means – online platforms. As established previously, the Copyright Act of 2022 especially, introduced robust measures to combat piracy of digital content. By leveraging technological advancements, the Act battled to prevent piracy, addressing loopholes exploited by and through online streaming platforms. This enhanced protection has significantly benefited the music industry. As a result, musicians and other professionals in the music industry have gained confidence in streaming their music online, with the knowledge that their intellectual property remains safeguarded. Consequently, this has led to increased revenue for music creators, driven by streaming and download rates of their songs.

Empowered by copyright protection, resorting to online platforms for production and distribution of music has had ripple effects in creating various job opportunities. In the area of online streaming, job opportunities range from:

- a. Music Curators – Experts who create and recommend playlist to listeners.
- b. Audio Engineers – Professionals who are responsible for ensuring high quality sound for streaming platforms.
- c. Streaming Platform Developers – Software engineers and developers that maintain and improve music platforms.
- d. Music Data Analyst – Analysts interpret data on music consumption, helping artists and labels make informed decisions.

In fact, the platform provided for technological exploitations in the music industry has, in reality, widened the scope of possibilities and job creation. With the safeguard of copyright as an unarguably encouraging factor, creation of more

job opportunities has been on the rise. To meet with the demands of music lovers, there are digital marketers, content moderators, music journalist and bloggers, and social media managers whose collaborative efforts facilitate the distribution of music virtually. Such online platforms for distribution of music are developed by tech professionals and it gives room for areas like user experience (UX) designing, web developers and product management.

Besides digital marketing, copyright protection has, as well, facilitated job creation in the music industry in the areas of;

i. **Licensing and Royalty Administration:** Companies and professionals specialize in managing music licenses, tracking royalties and ensuring fair compensation for creators. Here, collective management organizations can also be referred to. There are also companies set up by individuals for administration of licences and royalties of artists. One of such company, Mavins Records is a corporation and record label founded by Don Jazzy on 8th May 2012. Except for recording music, this corporation has a team for administration of licence and royalties, thereby ensuring fair compensation for their artists.

ii. **Copyright Enforcement and Anti-Piracy:** Experts and organizations work to detect and prevent copyright infringement, protecting creator's rights and generating employment opportunities.

iii. **Music Publishing Administration:** Companies like Sony Music Publishing Company, with Godwin Tom as the director, and Replete Music Publishing Company handles administrative tasks for artists to allow them focus on creating music. Music publishing administration entails tasks such as registering and documenting works, managing licences and Royalties.

iv. **Legal Services for Intellectual Property:** Law firms specializing in intellectual property and copyright law provide legal services to music industry professionals, creating jobs for lawyers and legal support staff.

6. Limitations of Copyright in the Nigerian Music Industry

Copyright laws play a crucial role in protecting the rights of creators in the Nigerian Music Industry. However, the Industry faces several

limitations and challenges that can hinder the effectiveness of these laws.

Piracy: This is a major challenge in the Nigerian Music Industry, causing significant economic and legal losses. Digitalization has led to increased piracy, with many songs being shared and downloaded illegally. The Nigerian Copyright Commission (NCC) faces challenges in its fight against piracy, including corruption, poor funding, and harassment from pirates.

It is never in doubt that piracy flourishes in advanced technological driven economy, like ours especially in the entertainment sector, due to its multiple gateway to access content illegally. Gateways like Telegram and other user-anonymous channels are ready example, making it very difficult to contain and prosecute these largely untraceable offenders.

Although, piracy has always been a problem that has been regularly combatted, it still persists. The promulgation of 1988 Copyright Act was in a bid to combat piracy. Some scenarios illustrating how piracy can limit the growth and development of the Nigerian music industry include:

A. Scenario 1: Loss of Revenue

This can occur in a situation whereby a Nigerian artist releases a new album. However, due to piracy, his/her music is widely shared and downloaded without permission. As a result, the artist loses millions of naira as a potential revenue, making it difficult for future investments in projects.

B. Scenario 2: Stifling Creativity

A Nigerian record label, "Afrobeat Records," invests heavily in producing high-quality music. However, due to piracy, the label struggles to recoup its investment. This forces the label to reduce its budget for future projects, stifling the creativity of its artists and limiting the quality of music produced.

C. Scenario 3: Difficulty in Attracting Investors

A Nigerian music entrepreneur, "Nwandu," wants to start a music streaming platform. However, due to the prevalence of piracy in the industry, Nwandu struggles to attract investors. Investors are hesitant to invest in an industry where intellectual property rights are not respected, making it difficult for Nwandu to secure funding for his project.

D. Scenario 4: Limited International Recognition

A Nigerian artist, "Wizkid," wants to break into the international music scene. However, due to piracy, his music is not widely recognized or respected by international music industry professionals. This limits his opportunities for collaborations, tours, and other international exposure. Limitations:

- a. Copyist for monetary gain contributes to the rising preference of free and illegal content in the music industry. It should therefore be curbed at each of every level to enable musicians and creative's reap a substantial reward of their intellectual efforts.
- b. Lack of Registration: Many Nigerian artists fail to register their work with the Nigerian Copyright Commission (NCC), making it challenging to prove ownership.
- c. Limited Awareness: Copyright Act posits that a musical work shall not be eligible for copyright unless the work has been fixed in any medium of expression from which it can be perceived, reproduced or otherwise communicated either directly by or through any machine or device. There is a significant lack of awareness about copyright laws and their importance among Nigerian artists and consumers. Artists may not be aware of how to effectively exploit their copyright to generate revenue. They may also not be aware of the legal and economic aspects of their business.
- d. Inadequate Laws: Nigeria's copyright laws are really not outdated, but may not really have succeeded in addressing modern issues such as digital piracy and online copyright infringement.
- e. Lack of Effective Enforcement: The Nigerian government's inability to effectively enforce copyright laws allows piracy and copyright infringement to thrive.
- f. Legal Action: Subject to the Act, only the copyright owner, assignee, or exclusive licensee can take legal action against copyright infringement. Individuals who negotiate licenses, collect royalties, or represent multiple copyright owners cannot sue for copyright infringement unless they are authorized by the Nigerian Copyrights Commission. It is only the Federal High Court that can adjudicate over copyright infringement cases.

7. In addition, certain Challenges needs to be addressed, these includes:

- a. Balancing Copyright Protection with Fair Use and Creative Freedom: Finding a balance between protecting creators' rights and allowing for fair use and creative freedom will be essential.
- b. Addressing Piracy and Copyright Infringement in the Digital Age: The rise of digital technologies has made it easier for pirates to distribute copyrighted materials. New strategies will be needed to combat piracy and copyright infringement.
- c. Emerging Trends and Technologies: Emerging trends like AI-generated music, block chain-based royalty tracking, and virtual concerts may impact copyright laws and job creation in the music industry.

8. Recommendations

In order to address these challenges, the following recommendations should be considered:

- a. Strengthen Enforcement: The Nigerian government should strengthen enforcement of copyright laws and provide more resources to the NCC.
- b. Increase Awareness: Awareness campaigns can educate artists and consumers about copyright laws and their importance. Emphasis on periodical sensitization drive should both offline and online is highly necessary. This is to discourage the trend, thereby creating more opportunities for future development.
- c. Update Laws: Nigeria's copyright laws though newly enacted, should be monitored closely to see where further adjustments may be needed to tackle this advanced digital & online sabotage called piracy. To attract foreign direct investments, existing anti-piracy laws should be updated to be in tune with international necessities. For quicker and more efficient process, the integration of Artificial Intelligence content moderation policy becomes imperative, this is to automate the process of real time detection and removal of groups that host pirated content.
- d. Encourage Registration: Artists should be encouraged to register their work with the NCC to prove ownership and protect their rights.
- e. Foster Collaboration: Collaboration between artists, producers, and policymakers

should be encouraged, in order to develop solutions that balance copyright protection with fair use and creative freedom.

9. Conclusion

Copyright protection plays a pivotal role in catalyzing job creation in the entertainment industry by providing a legal framework that safeguards the intellectual property rights of creators, copyright incentivizes innovation, investment, and economic growth. As the World Intellectual Property Organization (WIPO) notes, "intellectual property rights, including copyright, are essential for revamping of the entertainment industries, as they provide a means for creators to earn a living from their work." (WIPO, 2015) . The economic benefits of copyright protection are well-documented. A study by the International Chamber of Commerce (ICC) found that the copyright-based industries contribute significantly to Gross Domestic Products and human capital engagement in many countries (ICC, 2016). In the United States, for example, the copyright industries accounted for over \$1.2 trillion in economic output and supported over 5.5 million jobs in 2017 (Siwek, 2018).

Moreover, copyright protection is essential for the development of new business models and revenue streams in the entertainment industry. As the Court of Justice of the European Union (CJEU) noted in the landmark case of *Svensson v. Retriever Sverige AB* , "the protection of copyright is essential for the development of the information society, as it ensures that authors and creators can benefit financially from their work." (CJEU, 2014). In the light of the above, it is clear that copyright protection is a vital catalyst for job creation in the entertainment industry. Policymakers, industry stakeholders, and creators must work together to promote and enforce laws pertaining to copyright, develop new business modules and revenue streams that support the actual growth and development of entertainment industries in Nigeria.

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