

# AN OVERVIEW OF THE SIGNIFICANT INNOVATIONS INTRODUCED BY THE COPYRIGHT ACT 2022







## Introduction

On 17th March 2023, the President of the Federal Republic of Nigeria signed the Copyright Bill into Law; the Copyright Act 2022 (“the Act”). This Act repeals the Copyright Act, Cap C28, Laws of the Federation of Nigeria (“the 2004 Act”), providing for the regulation, protection, and administration of copyright. The Act is aimed at re-invigorating Nigeria’s creative economy and making it more globally relevant in the digital age. The Act expands the rights of authors, raises the sanctions for infringements, and more pointedly addresses the issues surrounding the exploitation of digital and online use of copyright works.

## Innovations made by the new Act

The Act has introduced some significant provisions highlighted below:

### 1. Objectives of the Act

This is a new introduction as the old Act did not make any provisions pertaining to its objectives. Setting out the objectives in clear terms would serve as a useful guide in the interpretation of the Act. The objectives of the Act is to protect the right of authors; ensure reasonable access to creative works; facilitate Nigeria’s compliance with international treaties and broaden the powers of the Nigerian Copyright Commission (NCC) to effectively administer the provisions of the Act.

### 2. No Formality required for Eligibility of Copyright

Section 4 of the Act states that eligibility for copyright under the Act shall not require any formality. While the 2004 Act did not require that a work had to be registered before copyright in the work could inure to the owner, this position was not expressly stated. This section has been included in the new Act, to clear any doubts (that hitherto existed) on the point that not having a work registered does not limit the owner’s copyright in the work.

### 3. Right to Remuneration for Broadcasting of Sound Recordings

Section 15 has sought to protect the interest of performers and owners of copyright in sound recordings by providing that where a sound recording has been published for commercial purposes, the performer and owner of the copyright of such sound recordings shall enjoy the right to equitable remuneration for any broadcast of the sound recording.

### 4. Definition of Terms; Recognition and Inclusion of Digital Works

Section 108 of the Act defines the word “Copy” to mean a reproduction in any form including a digital copy. The explicit recognition of digital copies in the new Act is a welcome development given the prevalence of social media hype with the attendant era of digital content creation. Also, the words “audiovisual works” has been used to replace Cinematographic films in the list of works eligible for copyright protection under the Act. By Section 11 of the Act, the author of an audiovisual work is granted the exclusive right to reproduce, publish, communicate, distribute, adapt, transfer, transmit, etc., the audio-visual work.



## 5. Collective Management Organizations (CMOs)

Section 39 of the 2004 Act made provision for Collecting Societies with powers and responsibilities to manage the rights of copyright owners. The Act under Section 88 has replaced the word "Collective Societies" with "Collective Management Organizations" availing the CMOs extended powers to grant licenses and manage the affairs of both members and non-members.

## 6. Creation of Non-Exclusive License for Commissioned work

Section 28 of the Act, has created a non-exclusive license in favour of the person who commissions photographs, paintings, drawings, or audiovisual works for private or domestic purposes for non-commercial use of the work without reference to the photographer who is the copyright owner. The person who commissioned the work is also entitled to restrain the publication, exhibition, broadcasting, communication, distribution, and making available copies of the work to the public unless there is a written agreement to the contrary.

## 7. Digital Rights

The Act grants copyright holders the exclusive right to make their work available to the public by wire or wireless means in such a way that members of the public are able to access the work from a place and at a time independently chosen by them.

## 8. Provisions Relating to Online Content

The Act has made quite extensive provisions to ensure that the rights of authors are not violated online. An entire Part (Part VII) has been dedicated to shield owners of copyright from having their work unfairly exploited online. These provisions include the power of service providers to take down infringing content in their network and suspend the accounts of repeat offenders.

## 9. Special Provision for the Visually Impaired

The Act makes special provisions and exceptions for blind, visually impaired, or otherwise print-disabled persons such that authorized entities are allowed to reproduce a work in an accessible format for the benefit of disabled persons without the consent of the owner.

## 10. Performer's Rights

While Performer's rights were set out under Section 26 to Section 30 of the 2004 Act, the new Act dedicates a whole Part (VIII) to ensuring that sufficient protection is given to the performers of creative works. This includes the performer's exclusive right to distribute his fixed performance, the right to rent his fixed performance and make it available to the public by wire or wireless means.

## 11. Expansion to Acts that Constitute Infringement

The Act has introduced more acts that constitute an infringement of copyright. These include:

- Refusing or omitting to pay upon demand, any royalty by virtue of a right of remuneration or agreement; and
- Aiding or procuring another person to commit an act that constitutes an infringement under the Act;
- To knowingly circumvent any technological measure that controls access to copyright-protected works.
- The Act further prohibits the manufacture, sale, purchase, distribution, or use of any device, technology, or service primarily designed for the purpose of circumventing protection afforded by a technological protection measure that effectively protects a work.

## 12. Dispute Resolution Panel

The Act empowers the NCC to set up a dispute resolution panel to resolve disputes arising from the payment of royalties, terms of a license, or any matter in respect of which a determination by the NCC is required under the Act. This provision will go a long way to decongest Nigeria's already overwhelmed court system.





## Conclusion

From the objective of the Act through its entire gamut, it is apparent that the Act aims at appropriately rewarding the intellectual efforts of authors, especially in the commercial sense of it. The Act has done a good job of ensuring that all players within the creative industry are granted rights that protect their interests (commercial and otherwise). The Act definitely addresses challenges encountered by creatives, artistes, photographers, content creators, etc. in a digital-driven economy. It is necessary for the NCC to avail relevant regulations (as soon as possible) that would compel effective implementation of the Act.

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