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LAW AND REGULATION OF FILM PRODUCTION AND DISTRIBUTION IN NIGERIA

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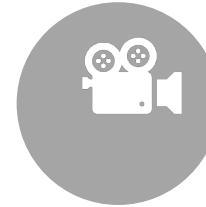
AMERICAN FILM MARKET, SANTA MONICA, CALIFORNIA, USA

9TH day of November 2019,

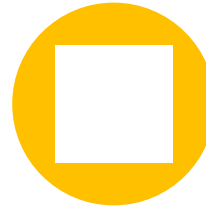
OUTLINE:



Applicable Nigerian
Laws



Overview of
Regulatory framework
for film in Nigeria



Areas for clarification
in the laws regulating
film in Nigeria



Key recommendations
to ensure compliance
with applicable laws



Q & A



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Applicable Nigerian Laws

There are several federal and State Laws, subsidiary legislation and guidelines that regulate film production and distribution in Nigeria. These include but are not limited to the following;

- **THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999 (AS AMENDED)**
- **NATIONAL FILM AND VIDEO CENSORS BOARD ACT NO. 85 OF 1993**
- **THE COMPANIES AND ALLIED MATTERS ACT C20 LFN 2004**
 - **NIGERIAN COPYRIGHT ACT 2004**
 - **NIGERIA INVESTMENT PROMOTION COMMISSION ACT NO. 16 OF 1995**
 - **COMPANIES INCOME TAX ACT 2004**
- **THE LABOUR ACT CAP L1 LFN 2004**
- **PERSONAL INCOME TAX ACT 2011**
 - **TRADE DISPUTES ACT 2004**
- **COMPANIES REGULATIONS 2012**
- **PATENT AND DESIGN ACT 1970**
 - **TRADEMARK ACT 1965**
 - **STAMP DUTIES ACT**
 - **TRADEMARK MALPRACTICES (MISCELLANEOUS OFFENCES) 2004**
- **VARIOUS STATE & LOCAL GOVT FILM REGULATIONS AND TAX LAWS**
- **NIGERIAN IMMIGRATION ACT 2015**
 - **NIGERIAN IMMIGRATION REGULATIONS 2017**

Applicable Nigerian Laws

Relevant regulators and government agencies include but are not limited to the following;

- **THE FEDERAL AND STATE MINISTRIES OF INFORMATION AND CULTURE**
- **NATIONAL FILM AND VIDEO CENSORS BOARD**
- **STATE FILM AND VIDEO CENSORS BOARDS**
- **CORPORATE AFFAIRS COMMISSION (CAC)**
- **NIGERIAN COPYRIGHT COMMISSION (NCC)**
- **NIGERIAN INVESTMENT PROMOTION COMMISSION**
- **TRADEMARK, PATENT AND DESIGN REGISTRY**
- **FEDERAL INLAND REVENUE SERVICE**
- **NIGERIAN IMMIGRATION SERVICE**
- **NIGERIAN COMMUNICATION COMMISSION (NCC)**
- **THE COURTS**



OVERVIEW OF REGULATORY FRAMEWORK FOR FILM IN NIGERIA

The **Nigerian Copyright Act** and the **National Film and Video Censor Board (NFVCB) Act** No.85 of 1993 primarily regulate the production and distribution of film in Nigeria.

The **NFVCB** regulates the distribution and exhibition of films and video works in Nigeria whilst the **Nigerian Copyright Act** grants those who express their idea exclusive legal rights upon completion of an eligible original work. These are known as copyrights.

It is important to note that the NFVCB's powers cover **ALL** films distributed and exhibited in Nigeria, this means both foreign and local films.



OVERVIEW OF REGULATORY FRAMEWORK FOR FILM IN NIGERIA (COPYRIGHT)

- Works eligible for this protection under the copyright act are cinematograph film, musical works, literary works, artistic works, sound recordings and broadcast.
- section 51 of the Act defines cinematography film as the ***first fixation of a sequence of visual images capable of being shown as a moving picture and of being the subject of reproduction.***



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- Section 6 of the Act itemizes the exclusive rights which the copyright owner can exercise as regards a cinematograph film these are;
- ***(i) make a copy of the film, (ii) cause the film, in so far as it consists of visual images to be seen in public and, in so far as it consists of sounds, to be heard in public, (iii) make any record embodying the recording in any part of the soundtrack associated with the film by utilizing such sound track, (iv) distribute to the public, for commercial purposes copies of the work, by way of rental, lease, hire, loan or similar arrangement.***

OVERVIEW OF REGULATORY FRAMEWORK FOR FILM IN NIGERIA (COPYRIGHT)

- These protections are conferred to eligible works which **are first published in Nigeria, authors of eligible works who are domiciled in Nigeria, or are Nigerian citizens, corporations domiciled in Nigeria and/or is first published or its authors and/or corporations are citizens of or domiciled in a country which is a party to an international treaty to which Nigeria is a party.**
- Nigeria is a signatory to the Berne Convention.
- Section 11(1) of the act allows for the copyrights in the eligible works to be transferable like moveable property. Note however that any assignment or exclusive license of these rights must be written to be valid.



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OVERVIEW OF REGULATORY FRAMEWORK FOR FILM IN NIGERIA (COPYRIGHT)

- It is also important to note that there is no work for hire under Nigerian law and that the law recognizes the producer of a film as the author of same.
- The act also gives the Federal High court jurisdiction to resolve copyright related disputes.
- Failure to acquire the copyrights to the relevant works prior to exhibition of the cinematograph film could amount to copyright infringement under Sections 15 of the Act and subject to action under 16 of the Act.
- It is important to point out that under the Act even if an infringer is found to have innocently infringed, they will not be liable for damages but will have to account to the copyright owner for any monies which have been made from the unauthorised exploitation

OVERVIEW OF REGULATORY FRAMEWORK FOR FILM IN NIGERIA (DISTRIBUTION/EXHIBITION)

- The regulation of film exhibition falls within concurrent legislation which means that regulation can be carried out by both federal and state established agencies.
- Despite this provision only a few states have their own regulation. Lagos and Kano State are one of the few which have their own regulatory agencies whom function very similarly to the **NFVCB**
- In order to exhibit a film in Nigeria it must be duly registered with the NFVCB.
- Upon registration, the film is issued a registration certificate.
- The film must also be submitted to the NFVCB and where applicable the relevant corresponding state authority for **ensorship**.
- If successful, it is **issued a censorship certificate**.
- To distribute a film in Nigeria, one must obtain a **license** from the NFVCB (**Section 17(3) of the NFVCB Act**)

OVERVIEW OF REGULATORY FRAMEWORK FOR FILM IN NIGERIA (DISTRIBUTION/EXHIBITION)

Section 33 of the NFVCB Act imposes a penalty of a fine or imprisonment for up to one year for exhibiting a film without censorship.

The various Zonal Film Censors Committees of the NFVCB Board examine each film, censor them according to their content, and grant its approval where the film meets the requirements of the Act which are;

(a) such a film has an educational or entertainment value, apart from promoting the Nigerian culture, unity and interest; and (b) that such a film is not likely- (i) to undermine national security; or (ii) to induce or reinforce the corruption of private or public morality; or (iii) to encourage or glorify the use of violence; or (iv) to expose the people of African heritage to ridicule or contempt; or (v) to encourage illegal or criminal acts;

(vi) to encourage racial, religious or ethnic discrimination or conflict; or (vii) by its contents to be blasphemous or obscene.

Films are classified in Nigeria in the following format;

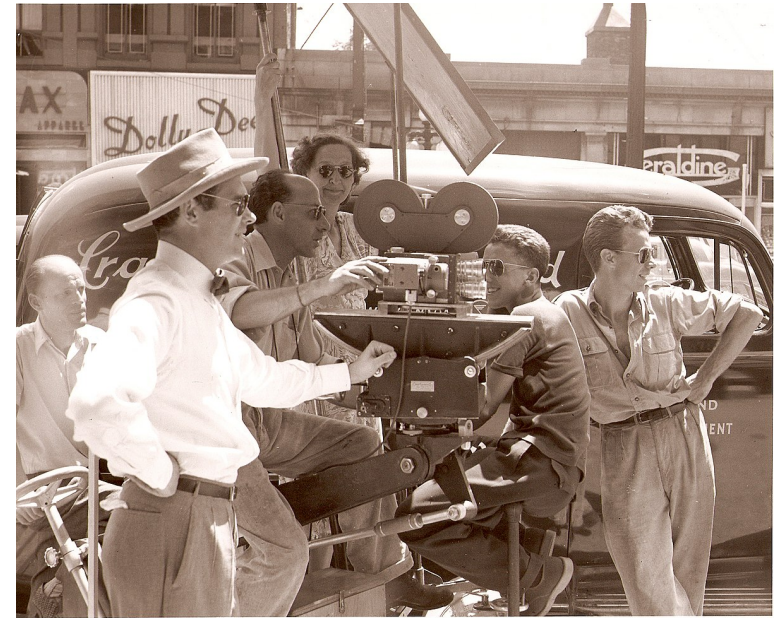
- "G" to indicate for general exhibition;
- "C" to indicate intended particularly for children;
- "NC" to indicate not recommended for children;
- "18" to indicate for mature audiences;
- "RE" to indicate for restricted exhibition;

OVERVIEW OF REGULATORY FRAMEWORK FOR FILM IN NIGERIA (FOREIGN PRODUCTIONS/PERMITS)

Prerequisite visas for foreigners to shoot in Nigeria;

- Business Visa (scouting/meetings/auditions)
- Temporary Work Permit

• Location Permits are required to shoot in Public areas. These are usually issued by state agencies



AREAS FOR CLARIFICATION IN THE LAWS REGULATING FILM IN NIGERIA

- Relationship between the state and federal regulatory bodies.
- Applicability of NFVCB Act to online exhibition



KEY RECOMMENDATIONS TO ENSURE COMPLIANCE WITH APPLICABLE LAWS

Engage the services of Nigerian lawyers to ensure compliance with relevant laws and regulations.

QUESTIONS

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