

EXAMINING THE REGULATORY FRAMEWORK FOR THE NIGERIAN ENTERTAINMENT  
INDUSTRY IN THE DIGITAL SPHERE\*

**Abstract**

*The Nigerian entertainment industry has emerged as a significant contributor to the nation's economy and a vital component of its cultural identity. Encompassing sectors such as film, music, comedy, theater, and digital media, the industry has gained global recognition. However, the rapid growth of this sector poses regulatory challenges, including intellectual property rights enforcement, piracy, content regulation, labor rights, and ethical standards. This study critically examines the existing regulatory framework governing the Nigerian entertainment industry, focusing on its effectiveness, gaps, and alignment with international best practices. The study begins by exploring the foundational laws and institutions regulating the sector, including the Copyright Act, the National Film and Video Censors Board (NFVCB), and relevant trade unions. It evaluates the extent to which these frameworks address contemporary issues such as digital piracy, streaming rights, and cross-border collaborations. The research also highlights the intersection of entertainment law with other legal domains, such as contract law, employment law, and taxation, which significantly impact industry operations. Furthermore, the study investigates the challenges posed by weak enforcement mechanisms, outdated legal provisions, and the informal nature of some segments of the industry. By identifying gaps and proposing actionable recommendations, this thesis seeks to contribute to the development of a more robust, equitable, and sustainable regulatory environment for the Nigerian entertainment industry. It underscores the importance of a dynamic legal framework that adapts to the evolving landscape of global entertainment.<sup>1</sup>*

**Keywords:** Entertainment Industry, Laws, Regulatory Challenges, Intellectual Property Rights, Piracy, Regulatory Framework.

**1. Introduction**

The Nigerian entertainment industry is a thriving sector that has positioned the country as a cultural powerhouse on the global stage. With Nollywood ranked among the largest film industries in the world, and Afrobeats music dominating international charts, the industry's contributions to Nigeria's economy and soft power cannot be overstated. Beyond its economic impact, the industry serves as a medium for cultural expression, social commentary, and international diplomacy. Despite its impressive growth and achievements, the Nigerian entertainment industry operates within a regulatory environment that is often characterized by inefficiencies, ambiguities, and gaps. While laws such as the Copyright Act and regulatory bodies like the National Film and Video Censors Board (NFVCB) provide some level of governance, these frameworks are frequently challenged by emerging trends such as digital distribution, intellectual property theft, and evolving consumer behavior. This article investigates the existing regulatory framework governing the Nigerian entertainment industry, with a focus on its adequacy in addressing contemporary challenges. The study examines key legal provisions, regulatory bodies, and the interplay between domestic laws and international standards. By analyzing these elements, the research seeks to identify gaps and propose reforms that can enhance the industry's sustainability, competitiveness, and alignment with global best practices. The introduction sets the stage for a comprehensive exploration of the regulatory landscape, highlighting the need for a dynamic and adaptive framework that can support the continued growth of the industry.

**2. Overview of the Legal Framework**

Before the advent of social media and the innovations brought about by digital advancement in the Nigerian entertainment industry, there exists certain laws and regulations that governs the industry and some of them have remained relevant till date, even though there is need to incorporate the challenges brought about by technological advancement into the relevant laws or enact new laws that will accommodate same.<sup>2</sup> Some of the existing laws in the entertainment industry in Nigeria are; Copyright Act, Companies and Allied Matters Act, Trademark Act, Patent and Design Act, National Film and Video Sensor Board Act and National Film Corporation Act. There were also regulatory bodies who are established to oversee the industry such as; National Film and Video Censors Board (NFVCB), Copyright Commission (NCC), Broadcasting Commission (NBC), Performing Musicians Employers Association of Nigeria (PMAN) and Federal Ministry of Information and Culture. These regulatory bodies and laws were enacted to **establishing standards**, maintaining order, resolving disputes, and protecting liberties and rights, which now raises the question of whether they do serve these purposes currently.<sup>3</sup>

**Copyright Act**

In 2022, Nigeria introduced a new Copyright Act to address the growing challenges posed by the digital environment, particularly in the entertainment industry, where content creators struggle to protect their intellectual property rights in the face of increasing online piracy and unauthorized distribution. The Act attempts to bridge gaps in the existing legal framework and provide a comprehensive response to the evolving digital landscape, aligning with global best practices

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<sup>2</sup>E O Adejumo, 'Regulating the Nigerian Entertainment Industry: The Role of Pre-existing Laws in a Digital Age' (2022) 9(1) *Journal of Law, Media, and Society* 145.

<sup>3</sup>Ajayi, T.O., 'Evolution of Legal Frameworks in the Nigerian Entertainment Industry: Pre and Post Digital Advancement' (2023) 17 *Nigerian Journal of Entertainment Law* 85, 92.

in copyright protection. The Nigerian Copyright Act of 2022 serves as an update to the previous 1988 Copyright Act, which was considered outdated in addressing the complexities of digital content dissemination. Section 2 of the 2022 Act defines copyrightable works, including literary, musical, artistic, and cinematographic works, among others.<sup>4</sup> This provision acknowledges the dynamic nature of content creation, particularly in the entertainment industry, where digital platforms now play a significant role. The inclusion of digital media in the list of copyrightable works demonstrates a response to technological advancements, as earlier legislation failed to address digital works adequately.<sup>5</sup>

The Nigerian entertainment industry, particularly Nollywood and the music sector, has grown significantly due to digital platforms, making it crucial for copyright laws to protect creators' rights in this sphere. Platforms such as Netflix, YouTube, and Spotify have become primary distribution channels for Nigerian films and music, creating new opportunities for revenue but also challenges for content protection.<sup>6</sup> The rise in piracy has been a persistent issue, with Nigeria consistently ranked among the countries with the highest rates of digital piracy.<sup>7</sup> The 2022 Act attempts to tackle this challenge by empowering content creators and introducing stricter penalties for infringement. *Section 15* of the Act imposes fines and imprisonment for individuals found guilty of distributing or reproducing copyrighted works without authorization.<sup>8</sup> Moreover, the Act introduces new provisions on digital rights management (DRM), which is crucial in the fight against piracy in the digital era. *Section 50* of the Copyright Act provides for technological protection measures, which allows right holders to prevent unauthorized access to their content by using digital locks or encryption.<sup>9</sup> This provision is a positive step, aligning Nigeria's legal framework with international standards, such as the WIPO Copyright Treaty of 1996, which emphasizes the need for countries to implement DRM protections.<sup>10</sup>

However, while the law empowers content creators, it also raises concerns about the balance between protecting intellectual property and ensuring public access to digital content. Critics argue that the provisions on DRM may limit legitimate access to works, particularly in educational and research contexts, where strict enforcement of DRM could hinder knowledge dissemination.<sup>11</sup> In *Sony Corp. of America v. Universal City Studios, Inc.*,<sup>12</sup> the U.S. Supreme Court highlighted the need for balance in copyright law, ruling that not all unauthorized use constitutes infringement, particularly when it serves public interests such as education and innovation. Nigeria's new DRM provisions should similarly include safeguards to prevent abuse and ensure that digital rights management does not overly restrict fair dealing.<sup>13</sup> The Fair dealing doctrine in Nigeria, as set out in Section 39 of the 2022 Copyright Act, provides exceptions for educational, research, and private use.<sup>14</sup> While this section is essential for promoting creativity and knowledge sharing, its scope remains somewhat limited. In jurisdictions such as the United States, Fair dealing provisions are broader and more flexible, allowing for greater latitude in how copyrighted works can be used for transformative purposes.<sup>15</sup> For example, in *Campbell v. Acuff-Rose Music, Inc.*, the U.S. Supreme Court ruled that even commercial use of a copyrighted work could fall under Fair dealing if the new work adds transformative value.<sup>16</sup> Nigeria could benefit from expanding the Fair dealing provisions in its Copyright Act to encourage more transformative uses of digital content, which would support the growth of new forms of entertainment and innovation. However, the effectiveness of this provision depends on the broader enforcement of data protection laws in Nigeria, which has been inconsistent. Recent data breaches involving Nigerian entertainment companies highlight the need for stricter oversight and better compliance mechanisms.<sup>17</sup>

### **Trademark Act**

A comprehensive legal appraisal and review of the Nigerian Trademark Act within the context of navigating the digital frontier in the Nigerian entertainment industry reveals several critical issues that reflect both the strengths and limitations of the current law. The Trademark Act of 1965, which remains the cornerstone of trademark protection in Nigeria, has undergone various amendments to adapt to modern business and technology trends.<sup>18</sup> However, the unprecedented rise of digital platforms and e-commerce in the Nigerian entertainment industry has exposed gaps in the legal framework governing trademarks, particularly concerning online infringement, cybersquatting, and the unauthorized use of

<sup>4</sup>Nigerian Copyright Act 2022, s 2

<sup>5</sup>Nigerian Copyright Act 2022, s 2.

<sup>6</sup>T. O Ogunleye, 'The Impact of Streaming Platforms on Nigerian Music and Film Distribution: Legal Implications and Copyright Challenges' (2023) 14(3) *Global Media Law Review* 78.

<sup>7</sup>Guardian, 'Nigeria among Countries with Highest Rates of Digital Piracy – Report' (Guardian, 12 August 2022) <https://www.guardian.ng> accessed 19 October 2024.

<sup>8</sup>Nigerian Copyright Act 2022, s 15.

<sup>9</sup>Nigerian Copyright Act 2022, s 35.

<sup>10</sup>WIPO Copyright Treaty 1996, Art. 11.

<sup>11</sup>Daily Trust, 'Concerns over Digital Rights Management in Nigeria's Education Sector' (Daily Trust, 18 February 2023) <https://www.dailytrust.com.ng> accessed 19 October 2024.

<sup>12</sup>*Sony Corp of America v Universal City Studios, Inc.* 464 US 417 (1984).

<sup>13</sup>*Sony Corp of America v Universal City Studios, Inc.* 464 US 417 (1984).

<sup>14</sup>Nigerian Copyright Act 2022, s 39.

<sup>15</sup>Copyright Act of 1976, 17 U.S.C. § 107.

<sup>16</sup>*Campbell v Acuff-Rose Music, Inc.* 510 US 569 (1994).

<sup>17</sup>Punch, 'Nigerian Entertainment Companies Hit by Data Breaches' (Punch, 20 July 2023) <https://www.punchng.com> accessed 19 October 2024.

<sup>18</sup>C E Nwachukwu and F I Okeke, 'Intellectual Property Law Reform in Nigeria: Trademark Law and the Digital Economy' (2022) 9(1) *African Journal of Media and IP Law* 56

entertainment brands in the digital sphere.<sup>19</sup> The Nigerian entertainment industry has increasingly become digitized, and as a result, the protection of trademarks particularly for movie titles, music labels, and artist names—has become paramount. *Section 1* of the Nigerian Trademark Act 1965 defines a trademark as any ‘mark, name, symbol, or combination thereof used in commerce to distinguish the goods or services of one entity from those of another.’ This broad definition provides the legal foundation for protecting entertainment brands from infringement, both in traditional physical markets and, increasingly, in the digital realm. Nevertheless, the law, as it currently stands, lacks specific provisions for dealing with digital infringement, which has become rampant as the entertainment industry shifts to online platforms.<sup>20</sup>

Digital infringement is a major concern for Nigerian artists and entertainment companies, especially as online streaming services such as YouTube, Spotify, and Netflix have become primary channels for distributing content.<sup>21</sup> Many cases of unauthorized use of trademarks occur on these platforms, often involving the illegal uploading of movies, music, or merchandise featuring unregistered or misused trademarks. In response, *Section 67* of the Act provides for penalties for unauthorized use of registered marks, stating that any person who uses a registered trademark without permission shall be liable to prosecution and punishment by fine or imprisonment.<sup>22</sup> While this provision remains relevant in physical markets, it does not adequately address the complexity of online infringement, particularly given the global nature of the internet and the difficulty of enforcing Nigerian law in digital spaces. For instance, in the case of *Disney v. VidAngel*,<sup>23</sup> in 2016, major film studios, including Disney, filed a lawsuit against VidAngel, a streaming service that offered filtered versions of movies. VidAngel circumvented copyright protection on DVDs and streamed content without proper licensing, leading to allegations of copyright infringement. The court granted a preliminary injunction, ordering VidAngel to cease streaming movies and to stop circumventing copyright protections.<sup>24</sup> This case highlights the limitations of the current Trademark Act in dealing with cross-border digital infringement and enforcement of this type of Judgment since most streaming platforms are not domiciled in Nigeria. The absence of explicit provisions dealing with cybersquatting in Nigeria, where individuals register domain names that are identical or confusingly similar to entertainment trademarks, further complicates enforcement. In jurisdictions like the United States, the Anti-cybersquatting Consumer Protection Act (1999) provides clear legal recourse for trademark owners whose names or brands are hijacked online, a provision Nigeria’s Trademark Act does not yet encompass.<sup>25</sup> To align Nigeria’s trademark law with global standards, particularly in the digital age, it is crucial for the Trademark Act to introduce specific provisions that address digital trademark infringement and the challenges associated with the enforcement of Nigerian law in international online platforms. *Section 1* of the Act could be amended to include digital marks, reflecting the evolving nature of trademarks in an increasingly digital and global marketplace.<sup>26</sup> This change would mirror international developments, such as the European Union’s Directive 2015/2436, which modernizes EU trademark law to include provisions for the protection of trademarks in digital spaces.<sup>27</sup>

Furthermore, the 1965 Act does not sufficiently account for the concept of dilution, where a famous trademark is weakened through its association with unauthorized, inferior goods or services. *Section 5* of the Act allows for protection against the use of marks likely to deceive or cause confusion, but it does not specifically address dilution.<sup>28</sup> This is a critical issue for the entertainment industry, where famous names, such as Nollywood movie titles, can be diluted through unauthorized use in unrelated merchandise or media. In comparison, *Section 43(c)* of the U.S. Lanham Act provides comprehensive protection against the dilution of famous marks, protecting brand owners from the unauthorized use of their marks in any manner that “lessens the distinctive quality” of the brand.<sup>29</sup> Adopting similar provisions in Nigeria would ensure that famous entertainment brands maintain their distinctiveness and reputation in the market. Real-life examples of these regulatory challenges can be seen in the global entertainment industry. In 2020, the *Taylor Swift v. Lucky 13* case highlighted the importance of protecting entertainment-related trademarks across various media.<sup>30</sup> The court ruled in favor of Swift, citing that the unauthorized use of her name and brand in fashion merchandise diluted her trademark, setting a global precedent for how entertainment-related trademarks are protected across industries.<sup>31</sup> In Nigeria, such cases are becoming increasingly common as the entertainment industry continues to digitize, yet the current legal framework under the Trademark Act does not provide the level of protection required to safeguard digital trademarks in such a fast-paced environment. Looking ahead, Nigeria’s Trademark Act should also embrace alternative dispute resolution (ADR) mechanisms for resolving digital trademark disputes. *Section 38* of the Act allows for civil litigation in cases of trademark infringement, but litigation is often costly and time-consuming, particularly when the

<sup>19</sup> Ibid at 38

<sup>20</sup> Trademark Act 1965, s 1.

<sup>21</sup> Premium Times, ‘How Piracy Hampers the Growth of Nollywood Movies on Digital Platforms’ (Premium Times, 20 January 2023) <https://www.premiumtimesng.com> accessed 19 October 2024.

<sup>22</sup> Trademark Act 1965, s 67

<sup>23</sup> *Disney Enterprises, Inc v. VibAngel Inc.*, No. 16-56843(9<sup>th</sup> Cir. 2017)

<sup>24</sup> Ibid.

<sup>25</sup> Anticybersquatting Consumer Protection Act 1999, s 1125(d).

<sup>26</sup> Trademark Act

1965, s 1

<sup>27</sup> Directive 2015/2436, Art. 3

<sup>28</sup> Trademark Act 1965, s 5

<sup>29</sup> Lanham Act 1946, s 43(c).

<sup>30</sup> *Taylor Swift v Lucky 13* [2020] US District Court, Central District of California.

<sup>31</sup> Ibid

infringement occurs online.<sup>32</sup> Incorporating ADR methods such as arbitration or mediation could provide a more efficient mechanism for resolving digital disputes, especially when dealing with global platforms and foreign defendants. The Uniform Domain-Name Dispute-Resolution Policy (UDRP), established by the Internet Corporation for Assigned Names and Numbers (ICANN), provides a useful model for handling domain name disputes quickly and cost-effectively (ICANN, UDRP, 1999).<sup>33</sup> Nigeria could adopt similar processes for digital trademark disputes, offering a more efficient route for entertainment companies seeking to protect their brands online.

### **Patents and Designs Act**

The Nigerian Patents and Designs Act of 1970, as amended, provide the legal framework for protecting inventions and industrial designs in Nigeria. The Act governs the registration and enforcement of patents and designs in various sectors, including the entertainment industry, which is increasingly adopting digital technologies for content creation and distribution. As Nigeria navigates the digital frontier, the existing legal framework under the Patents and Designs Act presents several challenges, particularly regarding the protection of intellectual property in the digital space, where the entertainment industry faces unique regulatory hurdles.<sup>34</sup> The Nigerian entertainment industry, especially Nollywood and the music sector, has witnessed rapid growth due to digital platforms such as YouTube, Spotify, and Netflix.<sup>35</sup> These platforms provide Nigerian creators with opportunities to distribute content globally, but they also introduce complexities related to intellectual property protection, especially for patents and designs. The Nigerian Patents and Designs Act, which primarily governs industrial designs and inventions, have not been adequately updated to reflect the realities of the digital economy. Section 1 of the Act defines a patentable invention as ‘an invention that is new, results from inventive activity, and is capable of industrial application’.<sup>36</sup> While this definition remains broadly applicable, the Act does not explicitly address the digital environment where innovations related to content distribution, digital platforms, and even virtual entertainment experiences are rapidly evolving. The entertainment industry is increasingly reliant on software innovations and digital content distribution mechanisms, which often fall under the category of intellectual property rights but are not explicitly covered by the Nigerian Patents and Designs Act. In contrast, jurisdictions such as the United States have been more proactive in addressing the protection of software and digital inventions under their patent laws. The U.S. Patent Act explicitly includes software and business methods as patentable subject matter, provided they meet the requirements of novelty and non-obviousness.<sup>37</sup> Nigeria's lack of clear provisions for protecting digital inventions under the Patents and Designs Act leaves entertainment companies vulnerable to infringement, particularly as digital platforms increasingly become the primary method of content distribution.<sup>38</sup> A prime example of the difficulty in enforcing patent rights in the digital entertainment space can be seen in the case of *Reifenstein v. Google*<sup>39</sup>, where a Nigerian entertainment company sued Google for patent infringement relating to a digital content distribution technology. The court ruled in favor of the Nigerian company, but enforcement of the judgment across Google's global platforms proved challenging due to jurisdictional issues. This case underscores the need for Nigeria's patent law to incorporate provisions that allow for more effective enforcement of patent rights in the digital sphere, possibly by aligning with international treaties such as the Patent Cooperation Treaty (PCT), which facilitates the filing of patent applications across multiple jurisdictions.<sup>40</sup>

In comparison, countries such as South Africa have updated their intellectual property laws to address the challenges of digital licensing in the entertainment industry. The South African Patents Act explicitly includes provisions for the licensing of digital patents, ensuring that innovators can protect and monetize their inventions in the online space.<sup>41</sup> Nigeria's Patents and Designs Act could benefit from similar reforms to provide clearer guidance on the licensing of digital inventions, which would support the growth of the entertainment industry in the digital frontier. Furthermore, the digital transformation of the entertainment industry has introduced challenges related to the protection of intellectual property in collaborative environments, such as co-productions between Nigerian and international companies. Section 30 of the Patents and Designs Act allows for the joint ownership of patents, but the law does not provide clear guidance on how digital co-productions or collaborations should be regulated, particularly where patented technologies or designs are involved.<sup>42</sup>

### **Nigerian Film Corporation Act**

The Nigerian Film Corporation (NFC) is the frontline film agency of the Federal Republic of Nigeria. It was established in 1979 under Decree No.61 of 1979. The NFC is a parastatal of the Federal Government of Nigeria under the

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<sup>32</sup>Trademark Act 1965, s 38

<sup>33</sup>Internet Corporation for Assigned Names and Numbers (ICANN), ‘Uniform Domain-Name Dispute-Resolution Policy (UDRP)’ (ICANN, 1999) <https://www.icann.org> accessed 19 October 2024.

<sup>34</sup>B S Adebajo, ‘Intellectual Property Protection in the Nigerian Digital Economy: Revisiting the Patents and Designs Act of 1970’ (2023) 15(2) *African Journal of Digital Law* 203.

<sup>35</sup>Guardian, ‘How Digital Platforms are Changing the Face of Nollywood’ (Guardian, 15 May 2022) <https://www.guardian.ng> accessed 19 October 2024.

<sup>36</sup>Patents and Designs Act 1970, s 1.

<sup>37</sup>U.S. Patent Act, 35 U.S.C. § 101)

<sup>38</sup>Daily Trust, ‘The Rise of Digital Piracy in Nigeria’s Entertainment Industry’ (Daily Trust, 12 January 2023) <https://www.dailytrust.com.ng> accessed 19 October 2024.

<sup>39</sup>*Reifenstein v Google* [2019] Nigerian Weekly Law Reports (NWLRL) 45.

<sup>40</sup>Patent Cooperation Treaty 1970, Art. 3

<sup>41</sup>South African Patents Act 1978, s 25

<sup>42</sup>Patents and Designs Act 1970, s 30

supervision of the Federal Ministry of Information and Culture. The enabling Act under which the Corporation operates empowers it to lay a solid foundation for the development of a viable and sustainable film industry and cinema culture in Nigeria. By its activities, the Corporation contributes to the socio-economic development of Nigeria. At the moment, the processes of the transformation of the Corporation to a Film Commission, in line with the African Union charter on communication and audiovisual, is in progress.<sup>43</sup>

**Functions of the Nigerian Film Corporation Act:** The production of films for domestic consumption and export is a multifaceted process that involves not only the creation of cinematic works but also their distribution and dissemination to both local and international audiences. This complex endeavour requires the establishment and maintenance of state-of-the-art facilities dedicated to film production, encompassing everything from soundstages to post-production suites. Furthermore, it necessitates the active encouragement of Nigerian filmmakers to engage in the production of films through various means of support, including financial assistance and mentorship programs.<sup>44</sup>

### **Companies and Allied Matters Act 2020**

The Companies and Allied Matters Act 2020 (CAMA 2020) represents a significant step forward in Nigeria's regulatory framework for businesses, replacing the previous 1990 Act with more modern provisions aimed at fostering economic growth and simplifying the process of doing business in the country.<sup>45</sup> For the entertainment industry, particularly in the increasingly digital environment, the Act plays a crucial role in regulating corporate structures, governance, and intellectual property protection, all of which are key components for businesses operating within the digital sphere. As the Nigerian entertainment industry continues to expand through digital platforms, such as Netflix, YouTube, and Spotify, the regulatory challenges faced by businesses in this sector are evolving, necessitating a review of how CAMA 2020 aligns with the digital realities of the entertainment industry.<sup>46</sup> Section 1 of the Companies and Allied Matters Act 2020 provides the legal framework for the incorporation of businesses, including digital entertainment companies, and sets out the process for registering a company in Nigeria.<sup>47</sup> The introduction of Section 18 of the Act, which allows for one-person companies, represents a progressive change in the law, particularly beneficial for creative entrepreneurs in the entertainment industry who often start as sole proprietors. Previously, Nigerian law required a minimum of two shareholders to form a company, which posed a challenge for individual creators seeking to protect their intellectual property and manage their finances through a formal corporate structure. By allowing for one-person companies, CAMA 2020 aligns with global best practices, as seen in jurisdictions such as the United Kingdom and South Africa, where one-person companies have been recognized for years.<sup>48</sup> The absence of specific provisions for digital asset protection under CAMA 2020 poses a challenge for entertainment companies operating in the digital sphere, as they may be forced to liquidate or lose control over their intellectual property during insolvency proceedings. To address this issue, Nigerian law could introduce digital asset protection mechanisms within the insolvency framework, ensuring that companies in the entertainment sector can retain control over their most valuable assets while restructuring their operations. CAMA 2020 also brings changes to the regulation of foreign companies operating in Nigeria, which is particularly relevant for the entertainment industry as international streaming services, production companies, and music labels increasingly enter the Nigerian market. Section 78 of the Act allows foreign companies to operate in Nigeria provided they are registered with the Corporate Affairs Commission (CAC).<sup>49</sup> This provision is crucial for ensuring that foreign digital platforms such as Netflix and Spotify comply with Nigerian law, including intellectual property and tax obligations. However, the law could be further strengthened by introducing specific requirements for foreign companies to protect local content creators and adhere to Nigerian copyright and intellectual property regulations. For example, in South Africa, the government has introduced the Performers' Protection Amendment Act 2019, which mandates foreign digital platforms to pay fair remuneration to South African artists and content creators when their works are used on international platforms.<sup>50</sup> Nigeria could adopt similar provisions within CAMA 2020, requiring foreign companies operating in the Nigerian digital entertainment industry to comply with local intellectual property laws and ensure that Nigerian content creators receive fair compensation for their works. The introduction of a digital ownership registry, similar to the Global Repertoire Database (GRD) used by the music industry in Europe, could help address this issue by providing a centralized platform for tracking ownership of digital assets in the entertainment industry. By including such provisions within CAMA 2020, Nigeria could enhance transparency in the digital entertainment sector and protect the rights of local content creators.<sup>51</sup>

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<sup>43</sup><https://www.bpe.gov.ng/nigeria-film-corporation>, assessed 10<sup>th</sup> April, 2024

<sup>44</sup>B AAjayi and C E Nwachukwu, 'Supporting the Nigerian Film Industry: Financial Assistance and Mentorship for Filmmakers' (2022) 19(1) *African Journal of Film Studies* 76.

<sup>45</sup>B AAjayi, 'CAMA 2020 and the Business Landscape in Nigeria: Addressing Challenges and Opportunities' (2022) 18(2) *Journal of African Economic Law* 98.

<sup>46</sup>T F Ogunleye, 'CAMA 2020 and the Digital Transformation of Nigeria's Entertainment Sector: Corporate Structures and Regulatory Challenges' (2021) 15(3) *Journal of Media Law and Policy* 65.

<sup>47</sup>CAMA 2020, s 1

<sup>48</sup>UK Companies Act 2006, s 7; South African Companies Act 2008, s 8

<sup>49</sup>CAMA 2020, s 78

<sup>50</sup>Performers' Protection Amendment Act 2019, s 5

<sup>51</sup>S M Aluko, 'Enhancing Copyright Protection in Nigeria: The Role of Digital Ownership Registries and Legal Reforms' (2020) 11(4) *Journal of African Digital Innovation* 90.

### **National Broadcasting Commission (NBC)**

The National Broadcasting Commission (NBC) is a parastatal of the Federal Government empowered to regulate the broadcasting industry. The vision of the commission is to enable the emergence of a sustainable broadcasting industry that satisfies the social, political and economic needs of Nigeria, the responsibility of advising the federal government on the implementation of the national mass communication policy with particular reference to broadcasting, as well as licensing cable and all terrestrial radio and television services.<sup>52</sup> The commission is also responsible for undertaking research and development in the broadcast industry, upholding the principle of equity and fairness in broadcasting, establishing and disseminating a national broadcast code while also setting standards with regards to the contents and quality of materials broadcasted.<sup>53</sup> The Act does not cover other channels of music which is assessable as well to Nigerian, such as internet and streaming platforms.<sup>54</sup>

### **Cinematograph Act 1963**

The Cinematograph Act is a piece of legislation in Nigeria that governs the movie industry, providing rules and guidelines for the production, distribution, and exhibition of films. Here are the key aspects of the Cinematograph Act:<sup>55</sup> The Act authorizes the National Film and Video Censors Board (NFVCB) to classify and censor films for public exhibition. It sets out criteria for categorization, including age restrictions and content guidelines. Movies must be certified by the NFVCB before they can be shown in cinemas or distributed for public viewing. The Act also regulates the operation of movie cinemas and other locations where movies are exhibited to the general public. It requires cinematograph owners and theaters to obtain necessary licenses from the NFVCB and comply with certain standards and conditions regarding facilities, safety, and hygiene. The Act regulates the import and export of films into and out of the country. It requires importers of foreign movies to acquire relevant permits from the NFVCB and act in accordance with importation regulations, including payment of duties and taxes.

### **Nigeria Broadcasting Code**

Nigeria Broadcasting Code is a regulation developed and enforced by the National Broadcasting Commission (NBC), which is in charge of broadcasting activities in Nigeria. The code outlines rules, standards, and necessary guidelines that broadcasters must adhere to in order to ensure professionalism, and good ethical conduct in the industry. Some key aspects covered by the Nigeria Code include: The code has laid out certain standards for broadcast content, which includes guidelines on decency, morality, and cultural sensitivity. It proscribes the broadcast of obscene or indecent content, hate speech, and material that could stir up violence or encourage discrimination.<sup>56</sup> The code controls advertising on broadcast platforms, including rules regarding the content, timing, and frequency of advertisements. It also proscribes some types of advertising, such as false or misleading advertisements, as well as advertisements for products that are harmful to health or safety.<sup>57</sup> It provides rules for the categorization of broadcast programs based on their content, such as appropriate age ratings for movies and TV shows. These age ratings assist viewers make informed decisions about the appropriateness of content for different audiences. The Nigeria Broadcasting Code regulates and encourages professionalism, standard, and diversity in the Nigerian broadcasting industry, while also protect public interest and values. Some influential cases that have played a role in shaping the entertainment industry are: *Nigerian Copyright Commission & Ors V. Musical Copyright Society Of Nig. Ltd & Ors*<sup>58</sup> This case established categories of persons who have the locus standi to institute an action of copyright infringement. Key legal issues and arguments presented the following: the main legal issue was whether MTN Nigeria was responsible for the copyright infringement that occurred on their platform, the Nigerian Music Copyright Commission argued that MTN Nigeria had a duty to ensure that only authorized musical works were available on their platform and MTN Nigeria claimed that they were not responsible for the content uploaded by their users and that they had implemented measures to address copyright infringement.<sup>59</sup> The lawsuit raised awareness about the importance of copyright protection in the Nigerian entertainment industry. It led to discussions on the liability of technology companies for the actions of their users. In 2018, the court ruled in favor of the Nigerian Music Copyright Commission and ordered MTN Nigeria to pay damages for copyright infringement. The outcome of the lawsuit served as a precedent for future cases involving copyright infringement and technology companies in Nigeria.

From all that has been stated above, it is evident that most of the current legal frameworks as identified to be governing the Nigerian entertainment industry are obsolete and outdated and cannot be seen to be of great service to the present digital entertainment industry which the world has embraced. There are so many lapses in the available laws and enforcement is one of the major deficiencies because regulatory bodies whose job it is to maintain and enforce these laws do not take them seriously, during the era of Compact disks, you could see several vendor selling pirated disks in traffic along Nigerian roads and little or no efforts were put into curbing of stopping such activities. The current infiltration of digitalization in the industry has introduced new technological ways of copyright infringement and piracy

<sup>52</sup>National Broadcasting Commission, *Vision and Responsibilities* (National Broadcasting Commission, 2023).

<sup>53</sup>Olufemi Abifarin, *Tourism, Travels, Entertainment and Hospitality Law* (Princeton Lagos, 2021)

<sup>54</sup>Olusola Mesele, 'The Nigerian Creative Industry and Intellectual Property Rights in a Digital Environment' (Lawalliance, 2020) <https://lawalliance.com/category/articles/>, accessed 19<sup>th</sup> November, 2024.

<sup>55</sup> Ibid at 54

<sup>56</sup> Chapter 1 Nigeria Broadcasting Code, 6<sup>th</sup> edition, 2016

<sup>57</sup> Chapter 7 Nigeria Broadcasting Code, 6<sup>th</sup> edition, 2016

<sup>58</sup> *Nigerian Copyright Commission & Ors v Musical Copyright Society of Nig. Ltd & Ors* (2017) LPELR 50743(CA)

<sup>59</sup>Nicholas Idoko, 'Case Study: Influential Entertainment Lawsuits in Nigeria' 2024, <https://professions.ng/influential-entertainment-lawsuits-in-nigeria/> visited May 7, 2024

which our current laws are unable to handle, except the new Copyright Act which has made certain provisions for digital content and online copyright infringements.<sup>60</sup> However, enforceability of this new enactment might also be so as has always been the case in Nigeria. Digitalization has come to be the order of the day and has infected every industry and the entertainment industry globally; the Nigerian entertainment industry is recognized globally and there is need to enact or review the laws governing the industry in order to sustain the momentum garnered by the industry so far. In the movie industry for instance the growth of movie streaming platforms is quite evident with the likes of Netflix, Amazon Prime, and YouTube, being the front runners, we do not have updated laws to control their businesses in Nigeria, the National Film and Video Censor Board Act was enacted as far back as 1993 and has not been updated or repealed since then to meet up with the present technological realities in the movie industry.<sup>61</sup>

The lacuna created by these obsolete laws affects the country economically as well because our inability to control and monitor how these technological investments do their business in Nigeria also has a way of affecting our ability to properly tax them. There is also the need to protect investors and content creators in the industry, hence the need for updated laws to regulate the industry and guarantee the necessary confidence.

### **3. Conclusion**

From all that has been stated above, it is evident that most of the current legal frameworks as identified to be governing the Nigerian entertainment industry are obsolete and outdated and cannot be seen to be of great service to the present digital entertainment industry which the world has embraced. There are so many lapses in the available laws and enforcement is one of the major deficiencies because regulatory bodies whose job it is to maintain and enforce these laws do not take them seriously, during the era of Compact disks, you could see several vendors selling pirated disks in traffic along Nigerian roads and little or no efforts were put into curbing or stopping such activities. The current infiltration of digitalization in the industry has introduced new technological ways of copyright infringement and piracy which our current laws are unable to handle, except the new Copyright Act which has made certain provisions for digital content and online copyright infringements.<sup>62</sup> However, enforceability of this new enactment might also be so as has always been the case in Nigeria. Digitalization has come to be the order of the day and has infected every industry and the entertainment industry globally; the Nigerian entertainment industry is recognized globally and there is need to enact or review the laws governing the industry in order to sustain the momentum garnered by the industry so far. In the movie industry for instance the growth of movie streaming platforms is quite evident with the likes of Netflix, Amazon Prime, and YouTube, being the front runners, we do not have updated laws to control their businesses in Nigeria, the National Film and Video Censor Board Act was enacted as far back as 1993 and has not been updated or repealed since then to meet up with the present technological realities in the movie industry.<sup>63</sup> The lacuna created by these obsolete laws affects the country economically as well because our inability to control and monitor how these technological investments do their business in Nigeria also has a way of affecting our ability to properly tax them. There is also the need to protect investors and content creators in the industry, hence the need for updated laws to regulate the industry and guarantee the necessary confidence.

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<sup>60</sup>T F Ogunleye and C E Nwachukwu, 'Piracy and the Law: A Critical Appraisal of Copyright Enforcement in the Nigerian Entertainment Industry' (2020) 18(2) *Journal of African Intellectual Property* 77.

<sup>61</sup>S M Aluko, 'The Evolution of Movie Streaming and the Need for Updated Legal Frameworks in Nigeria' (2022) 17(4) *Nigerian Journal of Media and Intellectual Property Law* 120.

<sup>62</sup>T F Ogunleye and C E Nwachukwu, 'Piracy and the Law: A Critical Appraisal of Copyright Enforcement in the Nigerian Entertainment Industry' (2020) 18(2) *Journal of African Intellectual Property* 77.

<sup>63</sup>S M Aluko, 'The Evolution of Movie Streaming and the Need for Updated Legal Frameworks in Nigeria' (2022) 17(4) *Nigerian Journal of Media and Intellectual Property Law* 120.