

LAW, FASHION AND THE ENTERTAINMENT INDUSTRY IN NIGERIA: AN OVERVIEW



The Federal Government's renewed focus on non-oil sectors has encouraged the growth of Micro, Small and Medium Enterprises (MSME) in the nation. The fashion and entertainment sector has been instrumental to the growth of this sector via the creation of jobs and revenue for the nation. The United Nations estimated that the world's creative sectors constitute approximately 3.4% of the total value of world trade, with an annual growth rate of 8.7%. Now more than ever, the creative sector is poised for paramount growth and development.

Nigeria's fast growing fashion and entertainment sector has garnered accolades globally because of its ingenuity. As a fashion hub, it has been compared to other fashion centres such as London, Paris, Milan and New York. This report is aimed at providing a concise overview of the fashion and entertainment industry and the legislations that regulate these industries in Nigeria. It shall also evaluate the nature of

licences within the entertainment sector and propose a way forward for the sector.

CURRENT EXISTING REGULATORY FRAMEWORK

The Copyright Act, 2004 (CA) is the primary regulation under which stakeholders in the creative industry are protected. Section 1 of the Act provides that literary works, musical works, cinematographic work, sound recording, and broadcasts are eligible for copyright protection, save that they are original and have been put into a fixed medium of expression.

Furthermore, Section 1(3) of the CA stipulates that an artistic works shall not be eligible for copyright, if at the time when the work is made, it is intended by the author to be used as a model or pattern to be multiplied by an industrial process.

Alternatively, the Patents and Designs Act (1990) can be



used by stakeholders in the fashion industry to protect three-dimensional intellectual property and any combination of lines or colours or both, if they are meant to be used by the creator as a model or pattern to be multiplied by industrial process and not intended solely to obtain a technical result.

However, the Patents and Designs Act has also been criticized because of its cumbersome process for the application of patent. Firstly, a prospective patentee would have the burden of proving that the design is new or an improvement upon a patented invention, results from inventive activity and is capable of industrial application. Then the prospective patentee would have to conclude the lengthy application procedure and pay the prescribed fees.

But the advent of digital technology has made it easier for pirates to copy a design and release same in the market within a very short time frame sometimes ahead of the original inventor, therefore it is essential for the process of application for a patent to be as concise as possible in order to combat the activities of these unscrupulous fellows.

LICENCING WITHIN THE FILM INDUSTRY

Over the years, Nigeria's film industry, which is popularly referred to as Nollywood has alternated between the position as second and third largest in the world in terms of production and revenue generation. Formerly, films were limited to showcases in the cinemas but technological innovation has created an avenue for online streaming of films in this sector. Therefore, licences are required now

more than ever to protect the intellectual property of cinematographers and other stakeholders in the industry.

•The National Film and Video Censors Board (NFVCB) was established by virtue of the National Film and Video Censors Board Act (1993), and it is the official regulatory agency for film and video sector of the Nigerian economy. There are three licences that a granted by the NFVCB, they include:

- Distributors license;
- Exhibitors license; and
- Exhibition premise license.

The NFVCB has the discretion to further qualify these licenses based on the purpose specified by the person intending to acquire the license.

CONCLUSION

A consistent problem amongst MSME's and the creative industry is their inability to safeguard their operations by establishing duly registered legal entities at the Corporate Affairs Commission. The mind-set of simply "chasing the money" needs to be abandoned. Thankfully, entrepreneurs are more educated, and the rate of registration of creative businesses has increased.

Furthermore, the creative sector is rapidly evolving because of the rapid rate of technological innovations however, stakeholders within the sector have lamented about the difficulty they experienced with regard to access to

technological equipment's to aid in the actualisation of their ideas. FashPa is arguably the foremost, online retailer in Africa whose work has been profiled by the Cable News Network, Forbes and so on. They however lamented of inability to access technology or the capital required to obtain such technology.

Regulations within the creative sector have been criticized because of their archaic paradigm and lack of consideration for modern day realities within the sector. A holistic review and reform of the sector in terms of global best practices for intellectual property would be necessary

to foster the growth of the sector and maintain global competitiveness.

Fashion and Entertainment is a sector that is poised to experience continuous growth and exposure. The government needs to pay this sector the due attention it deserves by creating incentives to motivate the foreign and local investors in the sector. Other industries such as power, aviation, agriculture etc receive benevolent support from the government, therefore similar treatment should be awarded to the creative sector.

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