



# KENYA COPYRIGHT BOARD



## **UPDATE ON 2023 COLLECTIVE MANAGEMENT LICENSING PROCESS**

On 7<sup>th</sup> October 2022, Kenya Copyright Board (KECOBO) invited expressions of interest from interested entities wishing to be considered for license to operate as CMOs in 2023. The expressions were required to be received by the Board not later than 25<sup>th</sup> October 2022 at 5pm.

The invitation required applicants to ensure that their applications abide by the requirements under the Copyright Act, No. 12 of 2001 and the Copyright (Collective Management Organization) Regulations 2020.

Additionally, the applicants were required to demonstrate the following:

- a) Adherence to good corporate governance practices including holding elections as provided for under their governing rules.
- b) Capacity and demonstrated experience to manage royalty effectively.
- c) Compliance with other national statutory regulations.

In addition, previously licensed CMOs wishing to renew their license were required to demonstrate the following: -

- a) Demonstrate level of compliance with previous year's licensing conditions.
- b) Render account for monies received from local and international sources in the last three years.
- c) Provide a complete and verifiable member information.

A total of 6 responses were received. The responses were as follows;

- i. Pumzi hub
- ii. Music Publishers Association of Kenya (MPAKE)
- iii. Marie J Productions
- iv. The Performers Rights Society of Kenya (PRISK)
- v. Music Copyright Society of Kenya (MCSK)

vi. Kenya Association of Music Producers (KAMP)

All the applications were reviewed, and detailed reports were generated from each of the applicant where documents were available.

The analysis of the applications came up with the following findings:

- a. That Pumzi Hub, Music Publishers Association of Kenya and Marie J. Productions did not submit any documents to support their application thus were disqualified.
- b. PRISK and KAMP submitted all the required documents and made required payments. Further comments were sought by KECOBO on amounts received for the three quarters of 2022 for no financial reports and royalties have been reported.
- c. MCSK application was adjudged incomplete for non-payment of requisite fee for 2021 and 2023 licensing period and failure to provide the following documents required by the Copyright (Collective Management Organizations) Regulations 2020:
  1. List of beneficiaries and amounts paid in royalties for 2022.
  2. Audited Financial Statements for the period up to June 2022.
  3. Failure to provide authenticated list of members.

**MCSK was therefore advised to cease collection forthwith in the morning of 12<sup>th</sup> January 2023.**

KAMP and PRISK, having complied with the preconditions, have been issued with a four month provisional license subject to meeting the conditions below.

**1. Management of royalties**

- i. Declare all accounts it operates and inform KECOBO of any new accounts that may be opened during the license period.
- ii. All funds shall be deposited in an escrow or an account where the Board representative shall be mandatory signatory.
- iii. All revenues intended for distribution including those of the other rights (represented by author, composer, arranger, and publisher category) received during the period from collection of the joint tariff shall be placed aside ready for distribution within two (2) months.
- iv. The Society(es) shall be required to report amounts collected and set aside every fortnight (14 days).
- v. Collection shall be undertaken through an ICT system that KECOBO can access reports of collections, expenditure and monitor distribution as per Section 22(c) of the Copyright Act.

- vi. Distribution of royalties shall be majorly based on scientific basis (backed by data) in addition to the society distribution rules.
- vii. Set aside 70 per cent of the funds for distribution subject to a fixed annual budget (with monthly breakdowns) as required by Regulation 5(3) e of the Copyright (Collective Management) Regulations 2020.
- viii. The annual budget should be submitted at the beginning of the license period.
- ix. Separate of administrative and royalty Bank accounts

2. **Forensic Audit**

- i. Accept conduct of forensic audit for the last three years up to December 2022
  - ii. Share with Kenya Copyright Board and any other licensed CMOs the forensic audit fees/costs.
3. **Automation of payments** - In consultations with KECOBO, implement automated, regular payments of royalties to artists.
4. **Reporting** as per the Copyright (CMO) Regulations.
5. **Member data:** That member data shall be maintained in a secure digital format after verification for completeness to be undertaken by KECOBO.
6. **Holding Board of Director elections (PRISK)** - Within two months of the resolution of the Court case filed by is resolved, hold physical elections.
7. **Joint collection-** Work jointly with other licensed CMO.

Directions on how the royalties will be collected and managed will be announced in due course.

**EDWARD SIGEI**

**EXECUTIVE DIRECTOR  
KENYA COPYRIGHT BOARD.  
27<sup>TH</sup> JANUARY 2023**