



KENYA COPYRIGHT BOARD



COPYRIGHT IN STREAMING FREQUENTLY ASKED QUESTIONS

1. What is streaming as relates to Copyright?

Streaming is the continuous transmission of audio and/or audiovisual works over a computer network with little or no intermediate storage. It is playing audio and/or audiovisual files on a computer, tablet, or mobile phone in real time from a website or a Digital Service Provider (DSPs) platforms or applications at the same time as the files are transferred across a network. Examples of DSPs include Apple Music, Deezer, Spotify, Boomplay etc.

2. What is the difference between streaming, downloading and file sharing?

- Ordinarily, when streaming even though there could be a temporally copy of the audio or audiovisual work that may be created, there is no copy that is stored at the user's end.
- When downloading a copy of the work is made and stored at the user's end.
- File sharing is a way of making files available on a network for others to copy.

3. What rights are involved in streaming

Streaming involves rights that are exclusively held by the author of the work. They include the following rights:

- Right to distribute
- Right of making available to the public

- Right to reproduction
- Right to adaptations

4. What is the role of intermediaries such as Premium Rate Service Providers (PRSPs)?

Intermediaries help right holders who may not have the benefit or the advantage of having direct access to streaming platforms perhaps because they do not have access to internet or cannot afford appropriate gadget. Premium Rate Services are usually channeled through SMS short codes or special numbers that telcos lease to PRS providers. In Kenya Premium Rate Service providers are licensed by the Communication Authority. It is important to read the fine print when engaging intermediaries or streaming platforms.

5. What are the agreement options when engaging intermediaries?

The right holder has the option of either having;

- Exclusive agreement: - Meaning that you are tied for the period of the agreement and you cannot exercise the rights in work subject to the agreement for the period, neither can you license any other competitor.
- Non-exclusive agreement: - Allows you to exercise the rights or license multiple persons/entities.

5. What are Technological Protection Measures (TPMs) and why are they important?

A TPM is a software or other technology that is placed on copyright work to prevent unauthorized access or copying. It ensures that there is no illegitimate access to the copyright work. Examples include passwords.

6. What are the different types of streaming platforms?

The following are different types of streaming models:

- Video on Demand (VOD): - This allows the user to access the content as and when they request for it at a fee without any schedule.
- Freemium Model Platforms: - This allows users to access content free of charge but with pop up adverts directed to the users.
- Subscription Platforms: - This allows users access content after paying a subscription fee.

7. How do right holders get paid in streaming?

Right holders are paid from income generated from;

- Advertising Revenue
- Subscription Revenue
- Flat rate revenue offered per view

The Revenue share is as provided for in the respective agreements with the right holder.

8. What should a right holder look out for in streaming agreements?

A rightsholder must:

- Read the terms and conditions of the platform as they affect how the content is used, consumed, exploited and how one is remunerated.
- Issue of jurisdiction and the law applicable.
- Issue of dispute resolution
- Procedure of take down notices in case of copyright / trademark infringement.

9. Does streaming affect authors of literary works such as books?

With the rise of eBooks and audio books authors do license the use of their works on appropriate streaming platforms as well.

10. Who licenses streaming?

As at the end of 2021 (Composers Authors and Publishers Association) CAPASSO (a Digital Rights Licensing Agency based in Johannesburg, South Africa) collects mechanical

license fees from among others, streaming service providers, and distributes royalties to its members. The membership is composed of music publishers and composers in Africa.