



## KENYA COPYRIGHT BOARD



### PUBLIC NOTICE

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### STATEMENT FROM KENYA COPYRIGHT BOARD (KECOBO) BOARD OF DIRECTORS ON STATUS OF THE COPYRIGHT SECTOR.

The Kenya Copyright Board (KECOBO) is a State Corporation with the mandate of enforcing and administering Copyright and related rights matters. The Board also has the mandate of licensing and supervising the activities of Collective Management Organizations (CMOs).

As Kenyans in general, and the creative sector in particular, might be aware, effecting reforms in Kenya is fraught with various difficulties. These arise from a lack of complete information, misunderstanding of the mandate of State institutions and the robust involvement of sector leaders and other interested parties.

The management of copyright in Kenya is a mess. The CMOs have been accused of wasteful expenditure and failure to account for monies collected on behalf of artists. In addition, there have been complaints of harassment of music users and having multiple collecting entities causing a rise in cost of administering the payment and distribution of royalties.

The Board of Management of KECOBO is made up of professionals and experienced managers in the private sector and senior civil servants. The Management has copyright expertise, experience and commitment to manage intellectual property in the proper manner.

In early 2020, after a comprehensive analysis of the sector's many problems and the directives of His Excellency the President, a framework for the comprehensive reform of the copyright sector was formulated and is being implemented.

The pillars of this framework include: Zero tolerance for the misappropriation or improper use of artists' royalties; ending the harassment of the public in the name of royalty collection; automation of the processes of copyright registration, royalty collection and distribution and the general administration of the sector; institutional reform and strengthening organisations involved; information and training of artists on their rights, craft and other areas of personal and professional growth.

As we speak, all organisations dealing with royalties have been comprehensively audited and the findings forwarded to the Directorate of Criminal Investigations (DCI). The DCI have completed investigations and the matter is now in the hands of the Office of the Director of Public Prosecutions and the Judiciary.

Some of the actions taken by KECOBO are:

1. Launch of NRR and CMO ICT system. Last year, the Ministry of ICT in conjunction with the Kenya Copyright Board (KECOBO) & Collective Management Organisations (CMOs) established an integrated ICT system for registration of copyright, Licensing of music use, Royalty management & Media monitoring. Artists can now undertake online copyright registration including uploading their works; view and manage all their registered copyright

works; make payment against the application where applicable and receive and print their copyright registration certificates virtually.

The National Rights Registry ([nrr.copyright.go.ke](http://nrr.copyright.go.ke)) which is part of the system, already has over 17,000 works registered since its launch. KECOBO has waived payment of registration fee temporarily.

The digital royalty collection module established to better account for royalties collected, distributed or expended by the societies is working. So far over Kshs.180 million has been collected through the digital self-licensing framework.

The digital payment platform, accessible either through the web portal or via USSD Code, is a self-licensing system linked to the relevant tariffs as well as National Transport and Safety Authority (NTSA), Business Registration Services (BRS) and Kenya Revenue Authority (KRA) databases for ease of transaction. The system allows multiple payments option as may be chosen by music users. All payments are then deposited in to an authorised joint CMO account for transparency.

Media monitoring system monitors play of music in various radio media to help in scientific payment of royalties to creatives who are members of the CMOs is the third module. All music uploaded on the National Rights Registry are automatically monitored.

Distribution, which is the fourth Module, has recently been undergoing interlinkage with respective CMO Paybill to enable artist receive royalties. The system is intended to offer a statement of account to artists for the amount received by them as royalties.

2. In line with its mandate and in response to persistent complaints from CMO members, the Board last year commenced the process of streamlining the management of musicians' royalties collected by CMOs by undertaking a three-year forensic audit on the operations of Music Copyright Society of Kenya (MCSK), Performers Rights Society of Kenya (PRISK) and Kenya Association of Music Producers (KAMP).

KECOBO Board of Directors resolved to submit the final audit reports to law enforcement agencies to investigate suspected fraudulent transactions in the CMOs.

The Board has been following up with the Director, Directorate of Criminal Investigations (DCI) and the Office of the Director of Public Prosecutions (ODPP) even as late as this morning. The first group of those found culpable were arraigned before a court of law today with the appearance of the CEO of Music Copyright Society of Kenya who was released on cash bail of kshs.300,000.

3. To support transparency and reduction of costs of administration as well as responding to gaps identified by the Forensic Audits, the Board developed a CMO Policy document that set out standards for administration at the CMOs now under implementation. (<https://copyright.go.ke/downloads/cmo-regulation>)

The Board also developed the copyright regulations 2020 (<https://copyright.go.ke/downloads/copyright-regulations>). This, together with the Copyright Act as amended in 2019, has been guiding the implementation of the Board's regulatory mandate.

4. The Kenya Copyright Board (KECOBO) and the Ministry of ICT last year successfully mediated for a streamlined tariff that considered the interest of the CMOs and Business Management Organisations (users).

## **Current Position**

On the matter of investigations by the DCI, files related to the Forensic Audit are being reviewed by the ODPP.

The licensed CMOs in the last three days withdrew from bank accounts about Kshs.44 million set aside for distribution as royalty in defiance of KECOBO licensing conditions and conservatory directives. The amount was transferred to accounts outside the oversight by KECOBO. So far none of the CMOs has commenced the process of distribution and KECOBO will be observing keenly the manner of distribution by the CMOs with intention to have anyone diverting the funds prosecuted.

In the meantime, KECOBO last week filed a case at the High Court Constitutional Division for declaratory remedies and freezing of known accounts in which proceeds are being held. Unfortunately, KECOBO did not obtain the necessary orders and the case will be going into full hearing in August 2021.

The Board after observing noncompliance with License Conditions approved the commencement of the process of revocation of licenses of KAMP, PRISK and MCSK. This process is still underway. Other measures are being considered in line with the Copyright Act.

## **Conclusion**

KECOBO Board of Directors has been at the forefront of implementing measures to safeguard musicians' funds and streamline a deeply troubled sector.

The Board invites feedback from the public and creative sector and the criticism of elected, and other, leaders. The prosecution of crime and the comprehensive reform of the sector will nevertheless be sustained.

Edward Sigei



**Executive Director**

**KENYA COPYRIGHT BOARD**

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