

CHALLENGES OF COLLECTIVE MANAGEMENT ORGANIZATION IN THE NIGERIAN MUSIC INDUSTRY

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ABSTRACT

This paper provided an overview of the Nigerian music industry, highlighting its huge potential for national economic growth and development. It discussed the imperative of Collective Management Organisation (CMO) in the industry. It also examined the evolution of the CMO institution in Nigeria, from historical perspectives. Furthermore, it identified and analyzed the challenges bedeviling the CMO in Nigeria's music industry, undermining its capacity to maximally contribute to the national economic growth and development. It concluded by advocating for appropriate initiatives to tackling the challenges.

1.0 INTRODUCTION

With a diverse ethnic group of well over three hundred, and a population estimated to be over two hundred million which has come to reflect her cultural richness, Nigeria has a vibrant music scene which, over the years, has gain international recognition in no small measure.¹The huge population which is the largest in the African continent offers a domestic market large enough to sustain and ensure the commercial success of most artistic endeavours.² Consequently, most popular music artists fashion their music towards domestic needs.³ On the basis of her musical and cultural output, Nigeria has once been described as “the musical heartbeat of Africa” while being perceived as a stronghold for African popular music.⁴ It is worth noting that modern popular music in Nigeria has strong roots in the existing traditional music practice and culture while its development and modernization has occurred through needs, contacts, foreign influence, religion, government system, the economy as well as urbanization among many factors. This amalgamation has been recognized to reflect the dynamic nature of culture coupled with the incorporation of newer

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¹ Wale Adedeji, The Nigerian Music Industry: Challenges, Prospects and Possibilities" *International Journal of Recent Research in Social Sciences and Humanities* (IJRSSH) Vol. 3, Issue 1, pp. (261-271), January – March 2016 available online at www.paperpublications.org, p.261

² This is reflected in language use where emphasis is laid on the use of regional languages with appropriation of indigenous cum traditional styles of music while subscribing to the use of modern music production and performance. Wale Adedeji, op.cit.,

³ *Ibid*

⁴ See Servant J. C., “Which Way Nigeria?” Music Under Threat: A Question of Money, Morality, Self-Censorship and Sharia” (Copenhagen: Freemuse 2003) p 5

ideas, values and lifestyles from the West.⁵ Urban centers provided an enabling environment for the conglomeration of all these factors resultant of which is the origination and conception of many popular music genres which now have become identity markers for the country.⁶

In the last ten years, the Nigerian music industry has witnessed great impetus and its vibrancy has been widely reported within the African continent and beyond. This vibrancy is also reflected in the recognition of works produced by Nigerian artist on the international scene.⁷ Also worth noting is the rapid increase in terms of international collaborations within the last couple of years, ranging from studio to stage as well as business alliance.⁸ Therefore, there is no doubt that Nigerian music industry is playing important role in the nation's economy. As a matter of fact, its impact cannot be overestimated. Nigerian popular music has been able to raise the standard of living by creating more job opportunities in the nation. The establishment of subsidiary industries, which have created jobs and incomes for the musician and the personnel of the recording studios, storage and marketing agencies, are direct consequences of the music industry in Nigeria. In addition, the patronage that popular music brings helps create new identities and social bond, and consequently, stability in the country. This mostly is due to that fact that individuals with age long and deep seated animosities from various faiths, geographical locations, ethnic groups, socio-economic and educational backgrounds can identify with it.⁹

It is however instructive to note that despite the huge potentials of the Nigerian music industry for economic growth and development of the country, the potentials of the sector is yet to be fully tapped. There is no doubt that many factors are responsible for this. A prominent one however which is the focus of this paper are the challenges in the Collective Management Organization (CMO) of the music industry. To put this in proper perspective, the paper is in five parts. Part one is the introduction. Parts two and three are the imperative of CMO in the music industry and the historical evolution of CMO in Nigeria. Part four

⁵ Falola Toyin and Heaton M. Michael, *A History of Nigeria* (Cambridge: Cambridge University, 2008) 6, cited by Wale Adedeji *op.cit.*, p.261

⁶ These include: Juju, Afrobeat, Fuji, gospel, reggae and hip hop among others producing musical icons of international recognition like Fela Anikulapo-Kuti, King Sunny Ade, Osita Osadebe, Sikiru Ayinde Barrister, Lgbaja and Femi Kuti. Among the younger generation that has taken to hiphop genre like P-square, 2Face Idibia, 9ice, D'Banj, Eedris Abdulkareem, Ruggedman as well as the contemporary neo-soul artist like Asa, Nneka and Bez among others. Wale Adedeji *op.cit.*, p.261

⁷ Femi Kuti won the "African Artist of the Year" at KORA Music Award in 1999 and has since received three Grammy Award nominations till date PSquare repeated the feat at the 2010 edition of the KORA at Ouagadougou. 2Face Idibia has been a multiple award winner from MOBO Awards to MTV (MAMA) Awards capping it with Best Selling African Artist at the World Music Awards in 2008 and BET African artist of the year in 2011 (with D'Banj). The 2014 MTV (MAMA) awards also witnessed a lot of recognition for Nigerian acts with Davido capping artiste of the year as the best male artiste and Tiwa Savage as best female acts among other Nigerian awardees. Burna Boy won Grammy Award in 2022.

⁸ Among notable artist that has graced the Nigerian stage with home-grown artist in the past includes R Kelly, Joe, Beyonce, Nas, 50 Cent, Missy Elliot, Jay-Z, Sean Paul, Akon, Fat Joe, Snoop Dogg, Wyclef Jean, Kirk Franklin and Donnie McLurkin.

⁹ *Ibid.*, citing Agu D C., "The Nigerian policy on Education: Its Impact on Music Education Programme and Delivery in Nigeria" 3 *Akwa Journal of Research in Music and the Arts* (2007) 1-8.

contains the analysis of the challenges of CMO in the music industry. Part five is the conclusion.

2.0 CMO'S ABILITY TO MAXIMISE THE MUSIC INDUSTRY FOR NATIONAL ECONOMIC GROWTH AND DEVELOPMENT

A Collective Management Organization (CMO) is a licensed entity authorized by its members, who own copyrights of original works, to manage the use of such works by negotiating with users, granting license for use upon agreed terms, collecting and distributing royalties among right owners.¹⁰ A CMO is basically a licensed body which manages a pool of copyrights on behalf of its members, dealing with such rights on the basis of agreed terms.¹¹ A CMO plays a dual role of protecting the right holders, the concerned industry and enhancing the consumer's access to the protected work.¹² A fundamental role played by the CMO for the right holder is to reduce the cost of transaction incurred during copyright licensing thereby increasing efficacy between copyright holders and the users of the copyrighted work.

Thus, the idea of a CMO is necessitated by the need to provide copyright owners with an effective means to exercise and enjoy their right over their works. A CMO is also particularly useful in marketing works which are difficult for the right holder to market. A CMO also gives room for collective bargaining which grants right holders a better bargaining power in the course of which it obtains a better deal for its work and negotiates better with multinational organizations.¹³ Though the use of CMO in the music industry presents several advantages, it could also present several disadvantages as well, which might render its whole purpose futile. One of such is the common valuation of all works through a collective scheme, which relegate the works to the same economic value thereby constituting unfairness to works which is in high demand by consumers.¹⁴

3.0 BENEFITS OF CMOS FOR THE MANAGEMENT OF COPYRIGHTS IN THE MUSIC INDUSTRY

CMOs are government approved professional bodies established to promote effective management of copyright of members of a creative industry to prevent infringement of such rights, promote licensing and ensure adequate payment of royalties to right holders. In

¹⁰ Knopf H.P, 'Copyright Collectivity in the Canadian Academic Community: An Alternative to the Status Quo?' 14 *Intellectual Property Journal* (1999) 109-139.

¹¹ The origin of collective management of copyrights in the music industry is traceable to the efforts of the French inventor and playwright, Pierre-Augustin Caron de Beaumarchais towards preserving economic and moral rights of authors. See *Collective Management in Reprography*, WIPO Publication No.924 (E), (2005) available at: https://www.wipo.int/edocs/pubdocs/en/copyright/924/wipo_pub_924.pdf accessed when?

¹² Weiguang Li, 'China's CMC System and its Problems for the Copyright Law of 1990 to its Third Amendment' in Nari Lee, Niklas Bruun, Mingde Li (eds) *Governance of Intellectual Property Rights in China and Europe* (Edward Elgar Publishing, 2016) 216.

¹³ *Ibid.*

¹⁴ Mihály Ficsor 'Collective Management of Copyright and Related Rights' (World Intellectual Property Organization, 2002) 95–120, available at: https://wipo_pub_855.pdfww.wipo.int/edocs/pubdocs/en/w accessed 10 January 2010

modern times, CMOs are globally reckoned with for proper monitoring of copyrights and maximization of the economic benefits of rights for stake holders in the creative industry. The music industry is generally copy-right based as the work of musicians are reproduced and used for various purposes across public spaces on a daily basis.¹⁵

Prior to the digital age, it was generally difficult and almost impossible for a musician to monitor the use of specific works within a particular locality, and enforce his right against each user as the work may be concurrently put to use in hundreds of outlets. This necessitated recourse to CMOs which doubled as the middleman between copyright owners and licensed right users; as well as watchdogs to prevent unlawful use of copyrighted works. The need for CMOs is more glaring in the age of digitalization as the use of digital technological devices makes it relatively easy to infringe the copyright of musicians and increasingly difficult to trace and challenge such infringements. As much as the internet is a viable tool for marketing musical works it has also created more room for illegal sharing, piracy and unlawful use of copyrighted musical works. This cuts down the income of the artist, recording companies and government.¹⁶ However, the basis for the work of a CMO is the existence of copyright protection over original creative works.

Copyright is enjoyed by persons or group of persons who create an original literary or artistic work. It entitles the creator of the work to use, produce and reproduce such work exclusively, or permit other persons or enterprises to use such work subject to agreed terms. Although copyright exists to preserve the authority of right holders over their original work, if not properly managed, it is capable of preventing such right holders from maximizing the potential economic benefits of such literary or artistic work. The economic benefits of a copy righted work may not be maximized where the author fails to adequately regulate the production of derivative works or its prohibition.

Copyrights as granted to holders are bundles of rights capable of being fragmented. The fragmentation makes it extremely difficult for right holders to individually prevent unauthorized use of their works in form of such fragments. Musical work is an example of a copyrighted work which is extremely fragmented in nature. For instance, on a single music track, a television station may need to obtain the right to copy or reproduce the music track. The right to communicate or transmit is a separate right from the substantive music, the sound track and performance of the music in the sound track.¹⁷ The various fragments of a single piece of music may be put to use concurrently in thousands of locations, making it impossible for the right holders to monitor the use, obtain remuneration for every use and

¹⁵ 'From Artist to Audience - How creators and consumers benefit from copyright and related rights and the system of collective management of copyright' (World Intellectual Property Organization Magazine, 2007) available online at https://www.wipo.int/wipo_magazine/en/2007/01/article_0004.html accessed 12 January 2020.

¹⁶ Tassos Patokos, 'A New Era for the Music Industry: How New Technologies and the Internet Affect the Way Music is Valued and have an Impact on Output Quality' (2008) (55) (2) *Panoeconomicus* pp 233-248

¹⁷ Daniel Gervais, 'Collective Management of Copyright and Related Rights' (Kluwer Law International, 2nd ed, 2010) available online at http://www.tripsagreement.net/wp-content/uploads/2014/04/Gervais_9789041127242_Ch-01_Daniel-Gervais.pdf accessed 16th January, 2020.

prevent or challenge the infringement of his work in all those locations. This makes CMOs particularly important for the music industry.

Digitalization has led to the creation of several entertainments related businesses such as advertisement, games and film making which depend solely or partly on music, sound track and musical performances to carry-out their daily transactions. Radio stations, television houses, film recordings, master of ceremonies, and other classes of persons and enterprises depend on access to music to run their daily business.¹⁸ Hence the importance of CMOs to the music industry in the contemporary time. Whereas right to specific reuse of musical works such as musical comedies, opera, ballet, operetta, and musical concerts are specifically granted by individual right holders, the right to regulate use of such works within the public space such as hotels, restaurants, bars, radio and television stations are usually licensed by the CMO.

In Nigeria, the Copyright Act¹⁹ grants exclusive rights over music works and sound recordings to copyright holders within the industry. The right so granted can be managed individually or collectively through a CMO. In most climes, the adoption of a CMO system is the acceptable practice as it is relatively difficult for individual right holders to police all unauthorized use of their works. In Nigeria, the Copyright (Collective Management Organisations) Regulations, 2007 provides for the regulatory licensing, setting-up and control of the activities of a CMO. There was a fierce competition for official recognition as the authorized CMO for the Nigerian music industry between the Music Copyright Society of Nigeria (“MCSN”) and Copyright Society of Nigeria (“COSON”). In 2018, the NCC approved the MCSN as the recognized CMO for the music industry, granted it the official license to operate and suspended the operation license of COSON as constituting an infringement of the Copyright (Collective Management Organisations) Regulations, 2007.²⁰ This implies that as at today, MCSN is the recognized CMO for the Nigerian music industry. A CMO operates within a definite domestic jurisdiction, subject to the legal, regulatory and policy framework in place within the environment. The efficiency of the CMO in performing its functions and protecting the right holders is dependent on the soundness of the laws, institutions and efficiency of the enforcement regime. In the Nigerian music industry, the CMO is not as efficient in ensuring copyright compliance, combating piracy of protected works, enhancing collection and disbursement of royalties over protected works. This is due to the fact that there is in fighting among the organizations, the regulating laws are archaic and lack of digital technological equipment. Meanwhile, in the age of digitalization, there is an increased responsibility on CMOs to protect copyrighted works across national boundaries. Thus, besides seeing to the protection of right holders’ interest within the national arena, in the music industry CMO must be able to effectively cooperate with other CMOs across national boundaries to obtain remuneration over for the use of copyrighted works abroad and prevent infringement of the rights abroad.

¹⁸ *Ibid*

¹⁹ Copyright Act, Section 7 and 8

²⁰ ‘Copyright Collective Societies’ Regulations Revisited - Legal Alert’ ([Business Regulations, Law & Practice](https://www.proshareng.com/news/BUSINESS%20REGULATIONS,%20LAW%20&%20PRACTICE/Copyright-Collective-Societies---Regulations-Revisited---Legal-Alert/41527), August available online at <https://www.proshareng.com/news/BUSINESS%20REGULATIONS,%20LAW%20&%20PRACTICE/Copyright-Collective-Societies---Regulations-Revisited---Legal-Alert/41527> accessed 10 July 2019).

In Nigeria, the benefits of CMOs in the music industry have not really been fully tapped due to a number of challenges which will subsequently be considered.

4.0 EVOLUTION OF COLLECTIVE MANAGEMENT ORGANISATION IN NIGERIA'S MUSIC INDUSTRY

Evolution of CMO in Nigeria is linked to the nation's colonial history. Between 1800 and 1900, several CMOs were established in Europe. An example is the Performing Right Society (PRS) established in London in 1914. Following Nigeria's colonization, as a Statute of General Application, the Copyright Act of 1911²¹ became applicable in Nigeria. Thus, shortly after the formation of the PRS, its scope of authority was extended to Nigeria and it became the recognized body for collective administration of copyrights on Nigeria. However, the role of the PRS began to whittle down following the attainment of independence in 1960 and the subsequent enactment of the first national copyright law in 1970.

It is worth noting that a law firm in Nigeria approached PRS requesting to be appointed as their agent in Nigeria. This request was made in the light of the post-independence economic reformation going-on in the country which calls for development of all sectors including intellectual property rights.²² Thus, the law firm of Giwa & Atilade and Co was licensed as a representative of PRS, to operate as a body responsible for collective administration of copyright in Nigeria. The mandate of PRS was to create awareness, especially among composers and grant license to users. Meanwhile, the level of public awareness was relatively low, thus most users simply declined making payments. Due to the poor response among copyright users, which implied low PRS membership, PRS opted out of operation as CMO, and instead chose to have dealings with government. The owners of the law firm therefore took advantage of the situation to set-up the Musical Copyright Society of Nigeria (MCSN). The registration of the company in 1984 marked the formation of the first CMO in the country. Subsequently, the agency relationship between MCSN and PRS was terminated and replaced with a contract of reciprocal representation.²³

At the time the amendment was made to the copyright Act which led to the enactment of the 1992 Copyright Act, there were agitations in response to the amendment. This is because the 1992 Amendment²⁴ required express approval from the commission before a proposed body can operate as a CMO. Failure to obtain the requisite approval is seen as a crime. As part of the reactions, the Performing and Mechanical Rights Society of Nigeria (PMRS) was registered by a group of performers, composers of music and producers of phonogram. The PMRS was able to secure the approval of the commission, making it the second CMO for the music industry in the country. Meanwhile, prior to the approval of the PMRS, MCSN's application for approval in accordance with the validity requirement of the 1992 Copyright

²¹ By Order-in-Council No. 912 of 24th June 1912 The Copyright Act of 1911 was extended, in 1912, to the territory of Nigeria.

²² Okoroji Tony, *Copyright Neighboring Rights & the New Millionaires: The Twist an Turns in Nigeria* (Tops Limited, Lagos 2008) pp192

²³ Adewopo. A, *Nigerian Copyright System Principles and Perspectives* (Odade Publishers, Lagos 2012) 86

²⁴ Copyright (Amendment) Decree No.98 of 1992. The amendments are now consolidated in Cap C28 of the Laws of the Federation of Nigeria, 2004.

Act as amended was declined by the commission. Among the grounds for the denial is the fact that the PRS and the Mechanical Copyright Protection Society (MCPS), both of the United Kingdom, had stake in the MCSN, hence raising the question of the extent to which the MCSN reflect national interest.

Later, the Commission began to cast doubt on the extent to which the composition of the PMRS reflects national interest. Meanwhile, a comparison between PMRS and MCSN shows that the latter is better positioned to represent the country because it has the requisite infrastructure, foreign connection needed to negotiate international representation and experience. Further, the former did not secure the requisite popularity and acceptance needed for its smooth operation. As a result, the MCSN continued to operate as the *de facto* CMO while the PMRS operated as the *de jure*. However, agitations among the general public for the grant of requisite approval to the MCSN started. Eventually, in May 2005, the NCC granted approval to the MCSN to operate as the CMO for the Nigerian music industry, operating side by side with the PMRS. PMRS protested and applied for the withdrawal of the approval which was later withdrawn.²⁵ The unending and unresolved agitations called attention to the irregularity in the copyright administration and eventually led to the reform of the CMO regulation and administration which cumulated in the enactment of the 2007 CMO regulation by the NCC. Thereafter, there were calls for application to operate as CMO for the Nigerian music industry and license to operate was eventually granted to Copyright Society of Nigeria (COSON).²⁶ This generated a lot of controversy and eventually laid the ground for the reform of collective administration in Nigeria. The reform brought about the Copyright (collective management organization) Regulation 2007, in terms of which a call for applications from interested organizations to operate collective management organizations was made.

5.0 CHALLENGES OF CMOS IN NIGERIA'S MUSIC INDUSTRY

CMOs in Nigeria despite their immense benefit to the nation's Music Industry is faced with various bottle necks which have undermined its effectiveness. These challenges include the following;

5.1 Legal Challenges

Legal challenges are those issues emanating from the content and provisions of the law and its effect of efficiency on the CMOs in the enforcement of copyrights in the music industry. Prominent among these are inadequate laws. The principal instruments for CMO regulation in Nigeria are the 2004 Copyright Act and the 2007 Copyrights (Collective Management Organization) Regulation. The NCC is the principal agency of government responsible for administering the Copyright Act. Within the music industry, the Act confer rights on artistes, sound recorders performers and other stake holders. These rights may be managed individually or through a CMO. However, these laws are old and incapable of needs of music

²⁵ *Ibid* (n. 87) 105.

²⁶ Three applications were received in this respect for music and sound recording and after a thorough process the Commission granted approval to the Copyright Society of Nigeria (COSON) to cover the rights involving music and sound recording.

copyright protection in the digital era having been enacted 16 years ago and 13 years ago respectively.

Digitalization has introduced variances to the nature of copyrights, copyright licensing and the use of copyrighted works in the analogue era. In order for CMOs to adequately protect right holders and users, the laws must be reviewed to cover the fragmentation of rights, and other issues such as on-line licensing and cross-border licensing of the current era. The Copyright law and the CMO regulation must cater for the challenges of digital technology as rooted in moral, economic and human rights of both users and right holders.²⁷ The CMO regulation must cater for issues emanating from online use of copyrighted works and adequately protect all stake holders to whom fragments of rights belong including the lyricists, producer, composer music labels etc. Since submission of rights to CMOs is not compulsory, the law must also envisage the possibility of emergence of de-facto right management and provide for it.

A point in fact worth noting under legal challenge is the issue of interpretation of the law which as the court often does, at times in a manner that undermines the regulatory authority of the NCC. When the Copyrights Act was amended in 1992, a regulatory framework was introduced to CMO administration in Nigeria under the Auspices of the NCC. Among the fundamental reforms made is the condition precedent that a prospective CMO obtain the approval of the NCC before it can operate.²⁸ Further, the NCC shall not approve a new CMO for a class of rights when the subsisting CMO is performing its functions adequately.²⁹ Also, it shall be an offence to operate a CMO without obtaining the prior approval of the NCC.³⁰ These provisions were restated in Sections 17 and 39 of the Copyright Act which prohibit the operation of any association of more than 50 people from acting as a CMO, negotiating license, collecting and distributing royalties to its members who hold copyright without NCC approval, except where an exemption has been obtained from the NCC. However in 2009, following the submission of application for approval to operate as a CMO submitted to NCC by the MCSN, COSON and the Wireless Application Service Providers Association of Nigeria (WASP). COSON's application was granted while those of the other two were rejected. The decision was justified by the provision of the Copyright Act which prescribed monopoly of CMO for each class of copyright.³¹

Thus from 2010 till the time the Attorney General of the Federation gave a directive that the MCSN be granted approval to operate as CMO for the Nigerian music industry, the COSON was the sole CMO for the music industry.³²

²⁷ Daniel J. Gervais, (Re)structuring Copyright: A Comprehensive Path to International Copyright Reform (Elgar Monographs in Intellectual Property Law, Edward Elgar Publishing, 2017) pp256-260

²⁸ Copyright Amendment Act 1999 Section 32(B) (2) (Now Section 39 2004)

²⁹ Ibid Section 32 (B) (3)

³⁰ Ibid 32 (4-6)

³¹ Ibid Section 39(3)

³² It is instructive to note that COSON proceeded to challenge this action in COSON V. MCSN & NCC Suit No. FHC/L/CS/1259/2017

The crux of the matter being that the copyright CMO regime in the country was initially administrative and it only became regulatory following the introduction of the 1992 amendment. However, MCSN has continued to act by the side. Thus, the court has to interpret the provisions of Sections 18, 19 and 39 of the copyright Act to ascertain the legality of MCSN's action in the absence of being granted express authorization. Earlier on, the body language of the court was to declare any representation by the MCSN illegal in the absence of obtaining requisite NCC approval. Thus, in *MCSN v Details Nig. Ltd*³³ the court held that the MCSN lack the *locus* to sue as a CMO or under section 15.

Similarly, in *MCSN v. Ade Okin Records Ltd*³⁴ the court held that it was absurd for the MCSN to act as a CMO. This decision was however overruled by the Court of Appeal where upon application of the purposive rule of interpretation Odunowo and Ukeje JJ ruled that MCSN could enjoy the right to sue under Section 16 of the Copyright Act.³⁵ This is in conflict with the decision in *MCSN vs. Compact Disc Technology Ltd, Nu Metro Home Entertainment (WA) Ltd and Nu Metro Retail Nigeria Limited*³⁶ where the Court of Appeal held that the MCSN lacks the *locus* to exercise its right in the absence of an approval of a waiver granted to it by the NCC. The court explained further that since the MCSN had earned the right to represent its members as the owner, assignee or an exclusive licensee' of their copyright prior to the coming into being of the Copyright (Amendment) Decree No. 42 of 1999, Section 15 (A) of the decree now Section 17 of the 2004 Copyright Act will not have a retroactive effect. The current position of the MCSN was again restated in a more recent decision on an appeal before the Supreme Court in *Adeokin Records Co. & Anor vs. MCSN*.³⁷ This position was again affirmed recently in *MCSN vs. Compact Discs Technologies & Ors*.³⁸

This raises several questions; what is the rule of interpretation applied by the court to arrive at this decision, what is the intent of the legislature, what is the implication of the decision for CMO of copyrights in the Nigerian music industry? These questions can be answered by making recourse to the canons of interpretations which the courts usually make recourse to in the interpretation of statutes. The court may apply the literal rule, golden rule, mischief rule, *ejusdem generis* rule, blue pencil rule; *expresso unis est exclusio ulterior* etc. Here the courts have applied the literal rule in interpreting the provisions of Section 17 and 39 of the Copyright Act. Hence, the decision that the MCSN does not need approval as a CMO or exemption from the NCC as a precondition for the exercise of its rights. However, this position may not necessarily reflect the legislative intent as it implies that the MCSN has right to represent its members in perpetuity. This will also render the whole essence of regulatory regime introduced by the 1992 Amendment to the copyright act, under the NCC futile. However, a mischief rule may be more suitable as it involves balancing the provisions

³³ *MCSN v Details Nig. Ltd* (suit no: FHC/L/CS/434/95)

³⁴ *MCSN v. Ade Okin Records Ltd* (suit no: FHC/L/CS/216/96)

³⁵ *Ade Okin Records Ltd v MCSN* (suit no: CA/L/498/97)

³⁶ *MCSN vs. Compact Disc Technology Ltd, Nu Metro Home Entertainment (WA) Ltd and Nu Metro Retail Nigeria Limited No. SC425/2010*

³⁷ *Adeokin Records Co. & Anor vs. MCSN*³⁷ (2018) 15 NWLR (Pt. 1643) 550

³⁸ *MCSN vs Compact Discs Technologies & Ors case* (2019) 4 NWLR (Pt.1661) 1.

of the law against the legislative intent and the societal mischief which the law was enacted to remedy.

It is therefore submitted that it is not the intent of the legislature that the MCSN should enjoy the right of a CMO in perpetuity. The further amendment made to the 1999 Act reflected in Section 16 and 17 of the 2004 Copyrights Act shows that it was never the intention of the legislature to have a body operate a CMO without obtaining prior approval of the NCC. Also, the decision renders futile the regulatory authority granted to the NCC in the process of emergence of CMOs and determination of their competency, transparency and accountability.

As a result of technological advancement, distributions of music and musical works have become increasingly digitalized. Digital distribution of music helps to reduce the effect of piracy on the income of artistes in Nigeria. Today telecommunication service providers in the country help to make music accessible to subscribers on a large scale through value added services such as caller tunes, caller ring-back etc. Although users only pay a token, the income can be easily accumulated by the copyright holder. As a result of digital distribution, the narrative of loss of more than half of total earnings to the pirates has gradually changed. However, by the unique nature of digital distribution, there is need for corresponding laws that address the major grey areas and standardized contract that aid fair income sharing between media platforms and right holders. All these also call for the CMOs to be abreast of these developments and protect the interest of their members.

Today, the telecommunication companies take 70% of fee paid by users while the copyright holders are only paid 30% for which the CMO is also remunerated. Although globally, this is still a developing area and as such, there may not be available best practices. This notwithstanding, there is need for the law and the CMO management to be abreast of digital sharing and streaming income sharing in a manner that protect the interest of copyright holders.³⁹ In order for the CMOs to adequately protect the interest of members, officials must acquire modern information and telecommunication skill and training, while modern digital monitoring devices must be acquired to follow-up usage and remittances on platforms such as streaming sites, like YouTube and Spotify.

5.2 Corruption

Corruption is the abuse of office and power by a person in whom it has been entrusted, for personal gain. It basically involves abuse of entrusted office for private gain. It is a global problem which has crippled the economy of several nations.⁴⁰ Corruption within the Nigerian public sector is most alarming and the NCC is not spared of the menace. In 2018, the Senior Staff Association of the NCC levied allegation of corruption and embezzlement of public funds against the former DG of the Commission Mr Afam Ezekude. During the protest which was organized under the Association of Senior Civil Servants of Nigeria (ASCSN), an

³⁹ Solomon Nzere, 'The Nigerian Music Industry: Making the Music Pay through Intellectual Property' *Infusion Lawyers* January 2018. available online at http://infusionlawyers.com/wp-content/uploads/2018/01/The-Nigerian-Music-Industry_-Making-the-Music-Pay-through-Intellectual-Property-by-Solomon-Nzere.pdf accessed 10 December 2019

⁴⁰Obuah, E. (2010a). Combating corruption in a "failed" state: The Nigerian Economic and Financial Crimes Commission (EFCC). *Journal of Sustainable Development in Africa*, pp 12, 27-53.

affiliate of Trade Union Congress of Nigeria (TUC) created avenue for the workers to express their lack of confidence in the administration. Other allegations levied against him included non-payment of allowances of staff between 2011 and 2018, failure to acquire equipment field equipment and facilities and illegal renewal of his tenure. Consequently the group also petitioned the Economic and Financial Crimes Commission (EFCC), Department of State Services (DSS) and the Independent Corrupt Practices and other related Offences Commission (ICPC) to investigation of the allegations.⁴¹ Although a new Director-General was appointed in 2019, bringing some measure of hope, but the impact of years of corruption perpetrated by the previous administration has had its adverse effect on the efficiency of the Commission. The failure to pay staff allowance must have affected their zeal to work for those years. Likewise, failure to acquire needed equipment will have affected their efficiency at performing their duties.

It is instructive to note that the menace of corruption is not restricted to regulatory abuse but also affects the administration and operation of the CMO in Nigeria's music industry. For instance, although the CMO regulation set the amount of maintenance fee which the CMO is capable of earning at 30% of total revenue annually, the provisions is ambiguous and gives room for embezzlement. Further, there are no measures in place to ensure that the statutory percentage is not exhausted and to ensure accountability for how the amount is spent. Corruption within the CMO is gradually leading to loss of confidence in the system among copyright holders who the system is meant to protect. This no doubt provoked, two popular musicians Olubankole Wellington, (Banky W) and Innocent Idibia (2 Baba) to address the press over their fear in relation to corruption within the CMO system in the Nigerian music industry. Banky W cited the example of expenses incurred by COSON on security which rose from one million naira in 2017 to 31 million naira in 2018. Despite the huge earnings from royalties, the CMO has not been proactively involved in efforts to check rampant piracy bedeviling the Nigeria's music industry.⁴²

5.3 Policy Summersault on Licensing of CMO for the Music Industry

It is important for copyright owners to know the licensed CMO for managing their rights at every point in time. However, in case of the Nigerian music industry, the reverse has been the case. For more than two decades, there has been an unending squabble over the authorized CMO for the Nigerian music industry, between Copyright Society of Nigeria (COSON) and the Musical Copyright Society of Nigeria (MCSN). COSON is an advocate for monopoly of CMO for the music industry, in line with the Copyright Act which prohibit the licensing of another CMO for the same class of right where the subsisting CMO still effectively represent copyright holders.⁴³ On the other hand, MCSN support multiple CMO system. Following the directive issued by the Attorney General for the Federation in 2017 that the MCSN be granted license to operate having complied with Regulation 2 of the 2007 CMO Regulation, MCSN was granted approval while COSON filed a suit before the Federal

⁴¹ Bertram Nwannekanma, 'Workers seek copyright commission DG's removal for alleged impunity' *The Guardian* (Lagos) 15 March 2018.

⁴² Akinpelu Oluwafunmilayo, 'COSON should not be taken as retirement home - Banky W joins call for audit of society' 12 June 2019. Available online at <https://www.legit.ng/1242091-coson-retirement-home-banky-w-joins-call-audit-music-copyright.html> accessed 2 November 2019

⁴³ Ibid Section 39 (3)

High Court that the license be withdrawn. NCC revoked COSON's license and mandated it to hold its Annual General Meeting of its Directors.⁴⁴

As at today, COSON no longer have the authority to operate as the CMO for the music industry its license having being revoked. The Supreme Court however had held that MCSN does not need license to operate as a CMO.⁴⁵ Amidst these frequent changes of status, the management of copyright of members, collection of fees, and disbursement of royalties and monitoring of infringement which are continuous process are left not properly attended to. For instance, it was reported that in the course of CMO related drama that ensued in December 2017, when Tony Okoroji was sacked as Chairman of COSON, a single artist 'Innocent Idibia' lost the sum of 250 million naira worth of royalty.⁴⁶ If this much was lost by a single artist around December 2017 alone, and the CMO squabble is unresolved till date, the loss maybe unquantifiable.

5.4 Undue Political Interference

Undue political influence is a major factor undermining the effectiveness of the CMOs in the Nigerian music industry. Political influence interferes with the regulatory and supervisory authority of the NCC to make unbiased decision and affect rational decision making. This was properly reflected by the interference of the Attorney General for the Federation (AGF) in 2017, which involved issuance of a directive that the MCSN be granted the approval to practice as a CMO by the NCC.⁴⁷ Although the AGF is authorized by the Copyright Act to exercise such intervention.⁴⁸ However, since the intervention, the operative climate of CMO in the Nigerian music industry has been chaotic. More so, the order given through the directive was not a clear-cut legal action as the direction is in conflict with express provisions of the Copyright Act.⁴⁹ Here the NCC is directed to approve another CMO while the subsisting one is still performing its functions effectively

5.5 Technological Challenges

Digitalization has introduced a major variance to the use of copyrighted works and the protection of bot the users and the copyright holders. Digital technology has changed the demand for music works, making such demands more specific, for particular albums, as opposed to the analogue era where music selection is album based. However, it has also made music and the theft of copyrighted musical works easier through the numerous streaming platforms such as You-tube, Spotify, Deezer, Amazon and Google music. Digitalization has also led to the emergence of a single music market, thus putting pressure on the legal and institutional framework for protection of musical rights. These developments have its influence on the protection of rights of copyright holders. CMOs are

⁴⁴ Frank Okeke & Titilade Adelekun Ilesanmi, 'COSON v. MCSN: let the music pay who exactly? (2)' BusinessDay NG 18 July 2019.

⁴⁵ *MCSN vs Compact Discs Technologies & Ors (2019) 4 NWLR (Pt.1661) 1.*

⁴⁶ Fikayo Olowolagba, '2face Idibia speaks out over alleged corruption in COSON' *Daily Post* 23rd May 2019.

⁴⁷ Desmond Oriakhogba, 'Collective Management of Copyright in Nigeria: Should it Remain Voluntary, May It Be Mandatory or Extended?' (July, 2019). Nigerian Institute of Advance Legal Studies (NIALS), *Journal of Intellectual Property* available online at <https://ssrn.com/abstract=3498393>

⁴⁸ Ibid copyright Act Section 50.

⁴⁹ Ibid Section 39(3)

pressured to acquire multi-territorial licensing structures and that will be able to effectively protect the interest of their members across board. The monitoring of cross-border licensing and protection of members' interest require CMOs to acquire modern technological devices, have skilled man-power and effectively collaborate with CMOs in other climes. CMOs must also brace-up to the challenge of granting on-line licenses and monitoring the use of copyrighted works on-line in order to detect infringement.⁵⁰

Further, the internet and digital devices which facilitate the duplication and transmission of musical works makes the work of the CMO a herculean task. The speed of development and improvements in the quality of digital devices require investment in digitalized equipment and reform of the relevant laws in order to provide requisite protection for copyright holders. In addition to the historical problem of piracy in the nation's entertainment industry, digitalization has led to advancement of piracy thereby making it relatively difficult to trace and combat. The first music streaming platform was the Pandora search engine which was launched in the year 2005. Pandora was an attempt to resuscitate the Music Genome Project⁵¹, a large classification of database on musical information, gathered from music experts and entered into algorithm to enable consumers browse through and select music soothing their taste. Today there are numerous streaming engines with added features which make illegal sharing of music relatively easy. For instance, Spotify makes it possible for users to share music through social media platforms like Facebook, Twitter and Tumblr, and also makes it possible to for users to exchange messages and jointly create playlists.⁵²

As at today, the CMOs operating in the Nigerian music industry do not have the equipment and facilities to carry-out digital licensing and digital right monitoring. In fact the license to operate as CMO in the industry has been an issue of discord between COSON and MSCN for several decades.

At some point, for a duration of about 14 months, before the license of COSON was revoked, both COSON and MSCN had operated side by side as CMO for the Nigerian music industry. However, in April 2017, the MSCN was approved as the CMO for the music industry, following the directive issued by the Attorney General for the Federation to that effect. A subsequent action filed by COSON challenging the authority of MSCN to collect royalties on behalf of copyright owners was dismissed by Federal High Court. The court held that the MSCN have the right to operate as CMO for musical works and sound recordings following the NCC directive.⁵³ Thus as at today, the MCSN is the legally licensed CMO for management of rights of members of the Nigerian music industry.

⁵⁰ Morten Hviid Simone Schroff and John Street, 'Regulating Collective Management Organisations by Competition: An Incomplete Answer to the Licensing Problem?' *Journal of Intellectual Property, Information Technology and E-Commerce Law* (2019) (10) (2)

⁵¹ Harris, Mark. "iTunes Store History - The History of the iTunes Store." About.com: Digital Music. Available online at http://mp3.about.com/od/history/p/iTunes_History.htm Accessed 2 November 2019.

⁵² Available online at <http://www.digitaltrends.com/music/spotify-vs-pandora/> accessed 20th November 2019.

⁵³ Ayomide Odekanyin, 'COSON Loses Bid To Stop MCSN From Collecting Music Royalties' (Nigerian Tribune, 13th February 2018 available online at <https://tribuneonline.com/coson-loses-bid-to-stop-mcsn-from-collecting-music-royalties/> accessed 28th October 2019

It is worth noting that there is the obvious challenge of CMOs flouting the orders of both the NCC and the court. After the revocation of the practicing license of COSON, the organization did not cease to practice as CMO and perform all the rightful function of a CMO in the music industry. As a matter of fact it has continued to collect royalties on behalf of copyright owners. Consequently, the NCC filed a criminal action against COSON in Charge No FHC/L/338C/18, filed on 8th October 2018. The commission challenged COSON's act of requesting for and collecting royalties from copyright users, negotiating and granting of licenses on behalf of right owners without being authorized by the Commission.⁵⁴ These acts of representing right owners without requisite authorization are recognized offences punishable under appropriate section of the copyright Act.⁵⁵ However, of recent, the right of MCSN to operate as CMO without necessarily obtaining a license was upheld by the court. Thus, in order for the CMOs in the Nigerian music industry to adequately protect the interest of right holders, they must brace-up the challenges of copyright monitoring posed by the digital age.

5.6 Inadequate Public Awareness and Cultural Limitations

Public awareness is the act of spreading particular information to the general public to intimate them of the existence of a particular fact, issue or situation. It involves making information accessible within the public domain. Public awareness is instrumental to socio-economic and community development. Information relating to rights, justice, health, development, violence against women, etc., must be accessible in order to drive all round development. Public sensitization and awareness often give priority to the vulnerable members of the society particularly women and children. Instruments of public awareness include means of information dissemination like documentaries, newspaper articles, radio, TV, radio and the internet.⁵⁶ However, in most developing countries, major clogs to public awareness in illiteracy and poverty. Cultural limitations simply refers to traditional believes and practices which has been continuously practiced by a group of people over a period of time.

Generally, there is the popular believe in Nigeria that music is free, this idea accounts for the general reluctance of the people to purchase music and the preference for pirated copies of CDs which are often far less expensive and easier to access than the original. Another major challenge is posed by the high tendency of having copyright holders abandon their rights rather than see to its enforcement. Although the CMO has the mandate to enforce the copyright of its members, the rights holders still have the obligation to monitor enforcement and challenge infringement in a manner that will improve efficiency of the CMO. Another major challenge is posed by the poor public awareness of the concept of copyright, copyright infringements and how to prevent it.⁵⁷ Poverty and illiteracy are prevalent in the country,

⁵⁴ 'NCC Charges COSON To Court For Collecting Royalties Without Approval' (Sahara Reporters, 12th October 2018) available online at <http://saharareporters.com/2018/10/12/ncc-charges-coson-court-collecting-royalties-without-approval> accessed 30 October 2019

⁵⁵ Ibid Section 39 (4) (5) and (6) Here an offence has been committed.

⁵⁶ 'Raise public awareness' (United Nations Women Virtual Knowledge to Center to End Violence Against Women and Girls, 20 December 2011) available online at <http://www.endvawnow.org/en/articles/967-raise-public-awareness.html> accessed 20 November 2019.

⁵⁷ Ese Oraka, 'Music Law: Emerging Issues In Nigerian Copyright Law' *Independent* (Lagos) 12 April 2018.

these coupled with inadequate public sensitization has engineered limited knowledge of copyrights thereby driving increased rate of infringements.

In an interview, the Director General of the NCC, John Asein, expressed the concern that the fact that Nigerians have a preference for cheap commodities is a major factor driving piracy in the music industry. This couples with poor public awareness, poverty and illiteracy makes the public pay little or no attention to the fact that piracy and illegal duplication of copyrighted works amount to theft from the copyright holder.⁵⁸ The war on piracy is also handicapped by poor awareness and inadequate public sensitization. Although among the mandate of the NCC is to sensitize and enlighten the public, the Commission lacks the adequate capacity to cover the nooks and crannies of the country. The situation is worsened by digitalization as the Commission lacks adequate modern technological devices to monitor the use and detect the illegal use of copyrighted works. There is therefore the need for investment in intelligence software to aptly capture the data of copyright holders and legal uses of protected works in order to detect illegal users and bring them to justice.

5.7 Monopolistic Nature of CMO

A monopoly is a business unit, company or entity which dominates the market, sector or industry where it operates, it eliminates fair competition. Whereas perfect competition is a feature of market economy, monopoly is a characteristic of capitalism. It creates room for the single operator to gain so much strength as to dominate the supply of the concerned commodities or services, thereby controlling the market and influencing forces of demand and supply. Monopolies are characterized by barriers to market entry, single market seller, control of commodity prices and economics of scale.⁵⁹ Whereas monopoly leads to economics of scale, as large scale production reduces production cost and increases profit margin of the produces, it poses the danger of abuse of dominant position. This may indeed be serious for goods and services which constitute essentials. In order to operate legally, a CMO must obtain requisite operating license form the relevant government authority. In most climes, only a single CMO is licensed to operate over a field or class of copyright. Thus, by popular practice, CMOs often operate as statutory monopolies, either *de facto* or *de jure*.

However, monopoly of CMO is highly anticompetitive and is gradually becoming unsuitable in the wake of the variances introduced by cross-border use of copyrighted works as a result of digitalization. One of the challenges posed by digitalization is the emergence of cross-border users of digital works. As opposed to the traditional analogue users, digital users utilize copyrighted works across national boundaries, thus requiring the existence of CMOs with extra-territorial license and the capacity to carry-out cross-border monitoring of use of protected works.⁶⁰ The further implication being that the CMO environment must be competitive enough for the licensed CMO to meet international standards. Thus, as opposed to the analogue era, the practice of a CMO being a natural monopoly may not be suitable in

⁵⁸ Femi Adekoya, 'Consumer preference for cheap goods fuelling piracy' *The Guardian* (Lagos) 26 September 2019

⁵⁹ WILL KENTON, 'Monopoly' available at: <https://www.investopedia.com/terms/m/monopoly.asp> accessed 20 November 2019

⁶⁰ Dietz, Legal Regulation of Collective Management of Copyright (Collecting Societies Law) in Western and Eastern Europe, *Journal of the Copyright Society of the USA* 2002, 908.

the age of digitalization. Further, even in the analogue era, operation of a CMO as a statutory monopoly may not aid effective representation and administration of the copyright. For instance, monopoly of CMO encourages blanket licensing and price discrimination. This is a practice whereby users of copyrighted works are granted similar licenses but at varying prices. Monopoly encourages this practice which often has the tendency of affecting the total income of the right holder and may result in unfair representation.⁶¹ Consequently, many nations operate more than a CMO for a class of copyright. For instance, in the United States of America, there are three CMOs operating in the music industry (ASCAP, BMI and SESAC). Similarly, in Europe, the Copyright administration creates room for competition among CMOs administering copyrights in the music industry.⁶²

In Nigeria, the 2004 Copyright Act describes a CMO as a body of copyright owners responsible for negotiating and granting licenses, collecting and distributing royalties in respect of copyright. The Act specifically provides that the NCC can only register one CMO in relation to a class of right at a point in time except where the Commission is satisfied that more than one CMO must be registered to adequately protect right of members.⁶³ To be registered as a CMO, an interested organization must apply to the NCC. Any association made up of over 50 people may so apply to the NCC for grant of license to operate as a CMO for any class of rights.⁶⁴ This has led to several squabbles in the past. Thus, the Act specifically provides for the creation of a statutory monopoly which is the source of the unending squabble in the industry.

In view of these provisions, the NCC received application for registration as CMO for management of musical rights from MCSN, COSON and the Wireless Application Service Providers Association of Nigeria Ltd (WASP) in 2009. Out of the three applicants, the NCC approved and registered COSON as the CMO for the Nigerian music industry in 2010, while the application of the other two applicants was rejected. Whereas COSON which was legally appointed by the NCC advocates for appointment of a single CMO, the MCSN advocated for a system of more than one CMO for the Nigerian music industry. Consequently, the MCSN severally engaged the COSON, NCC and some right owners in court through legal proceedings. This accounted for unending conflict between COSON and MCSN for the right to operate as CMO in the music industry which lasted for about two decades. However, years into its operation as CMO for the music industry, COSON had issues regarding its governance structure. This resulted into a lingering dispute within the governing board of the organization, leading to formation of two factions, with each laying claims as the legitimate board of the organization. Consequently, the NCC issued a directive to COSON requiring the organization to investigate and resolve the dispute within its management structure. Further, there were various allegations levied against COSON which led to the filing of criminal charges against the organization and its management board, as findings shows that COSON had breached its statutory obligations. There were allegations of mismanagement of funds

⁶¹Katz, The potential demise of another natural monopoly: New technologies and the administration of performing rights. *Journal of Competition Law and Economics* 2006, pp245-284.

⁶² Daniel Gervais, 'Collective Management of Copyright and Related Rights' (2nd ed, Kluwer Law International, Netherlands) 2010. P.7

⁶³ Ibid Section 30(3)

⁶⁴ Ibid Section 17 and 39

collected in form of royalties on behalf of copyright owners. The directive of the NCC to COSON on organization of annual general meeting for the appointment of directors was also left unattended to. COSON continued to disregard the directive of the NCC regarding the unresolved issues consequently, the Commission issued an order suspending the operating license of the organization.⁶⁵ Thus, as at 30th April 2018, the NCC suspended the license of COSON as a result of which it cease to be the legally recognized collective management organization for the Nigerian music industry.⁶⁶

Where more than one CMO operates to manage a class of right such copyright in the music industry, there is room for competition among the CMOs, right holders have the choice to determine which of the CMOs will manage their rights and any corrupt CMO can easily be sidelined. Although there is no general rule in relation government's supervisory role over CMOs across climes, the existence of more than one CMO sets the competition law in motion. Competition in any market will facilitate efficient allocation of resources, drive perfect competition and influence price regulation. Thus in various jurisdictions, the operation of CMOs is regulated by the competition laws, to drive efficiency in the service delivery. In the United States for instance, CMOs are regulated by the antitrust division of the department of Justice. While in Europe, the designated Copyright agency responsible for regulating the administration of CMOs readily collaborates with the agency responsible for enforcing the competition law regime.⁶⁷

In Nigeria the current competition law is the Federal Competition and Consumer Protection Act (FCCPA) of 2019, which repealed the 2004⁶⁸ Consumer Protection Act.⁶⁹ Among the fundamental improvements of the 2019 Act is to introduce flexibility to competition law regime in the country thereby making the law applicable to several aspects of business including investment and securities, mergers and acquisitions, and consumer protection. Although the FCCPA does not expressly address copyrights and other aspects of intellectual property rights, the Federal Competition and Consumer Protection Commission which the Act established is granted superior powers over other agencies government including the NCC. The Commission is only subject to competition related provisions of the constitution. Some of the objectives of the FCCPA includes promotion and maintenance of competitive market in the Nigerian economy, provision of consumers with competitive prices, prohibition of restrictive business practices, market distortion and abuse of dominant position.⁷⁰ These objectives clearly conflict the provisions of Section 17 and 39 of the Copyright Act which restrict the number of CMO that can be licensed over a class of right. These obvious inconsistencies between the two laws points to the need to review the CMO regulation and the NCC Act to aid effect protection of intellectual property rights in the country. Thus,

⁶⁵ Article 3(1) CMO regulation empowers the NCC to revoke the license of a CMO upon breach of the provisions of the regulation

⁶⁶ 'NCC sues COSON for operating without approval' (*Punch* 12th October 2018). Available at: <https://punchng.com/nigerian-music-industry-a-source-of-employment-for-youths-today-bo-entertainment-bosses/> accessed 26th August 2019

⁶⁷ *Ibid*

⁶⁸ Federal Competition and Consumer Protection Act (FCCPA) 2019

⁶⁹ Consumer Protection Act, Cap C25, LFN, 2004

⁷⁰ *Ibid*

statutory monopoly granted to CMOs in the Nigerian music industry creates room of corruption, lack of transparency and accountability and undermines adequate protection of copyright holders.

6.0 CONCLUSION

There is no doubt that the Nigerian music industry has a lot to contribute to the national growth and economic development of Nigeria. And with the increase call for the diversification of the economy with the objective of tapping other sources for national economic growth and development, it is a sector of the copyright based industries that could facilitate the realization of this laudable objective. However, without tackling the challenges discussed in this paper with regard to the CMO in the industry, maximizing the potential contribution of the music industry for this purpose may continue to remain a mirage.