



PUBLISHING AND COPYRIGHTS ACT ADMINISTRATION IN 21ST CENTURY NIGERIA: HIGHLIGHTS OF ISSUES OF LAW AND PRECAUTIONS

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Abstract

The paper explores the concept of publishing and how the profession is shaped to guide against works and rights of individuals as authors, publishers, users, corporate bodies in relation to Nigerian law. The Publishing industry; as a complex interplay of various interconnected activities involving authors, editors, printers, lithographers, binders, illustrators, and other para-professionals was examined. These individuals collaborate with a collective effort to achieve a cumulative success in the publishing process. Administratively, there are times conflict or confusion arises that could result into litigation involving parties due to copyrights. The paper therefore, examine concept of copyrights as its exercise guided by the administrative law bringing up issues that calls for litigation in case or cases of infringement. Highlight of duties of copyright commission was presented along sides precautions to take in the course of exercising rights to information. The paper concludes that copyright as a form of intellectual property is crucial for the protection of creators' rights, especially in controlling the reproduction or exploitation of their intellectual creations and the primary reason for the need to protect copyrights is economic. Thus, copyright protection is paramount, it's also important to acknowledge that there are exceptions allowing the use of copyrighted works for educational, research, and private development purposes without economic gain as in the case(s) of libraries and allied information centers. This recognition strikes a balance between protecting intellectual property and fostering the dissemination of knowledge. The paper therefore, recommends among others: concerted efforts by the Nigerian copyright commission to continuously emphasizing and hammering on getting permission for the use of copyrighted materials; educate authors and publishers alike to avoid errors in terms of language, spellings, illustrations and some sorts that could warrant infringements on the rights of third parties; balancing creators' rights with public access as well as harmonizing global best practices in administration of intellectual property.

Keywords: Publishing, Copyright Law, Nigeria, Issues of Law and Precautions

Background

The conventional meaning of publishing involves disseminating printed materials like books and newspapers. However, the evolution of digital information systems and the internet has broadened the publishing landscape to encompass electronic resources like e-books, online periodicals, micro-publishing, websites, blogs, video games, and various other related mediums. Copyright systems have evolved over time as a mechanism to safeguard the creative endeavours of individuals and their creations. The enforcement of copyrights is particularly vital in contemporary Nigeria in the 21st century to foster the ongoing development of writing, performing arts, and creative expression. Without copyright protections, there would be minimal incentive for individuals to engage in creative activities, as others could freely take and utilize their work without restriction or permission.

The concept of copyrights is grounded in fundamental principles related to creativity and ownership. Essentially, it originates from the belief that anything we create is an extension of ourselves and should be safeguarded from widespread use by others. In this context, the creator of something holds exclusive rights over the creation, driven in part by economic considerations and also by the idea of this extension of "self." Consequently, publishing endeavours are presumed to be governed by copyright laws, prompting an examination of these issues in the forthcoming articles. The notion of publishing comprises a complex interplay of various yet interconnected activities involving authors, editors, printers,

lithographers, binders, illustrators, and other para-professionals. These individuals collaborate in a collective effort to achieve a cumulative success in the publishing process. As emphasized by Meyile (2018), none of these activities alone can be considered as publishing, and conversely, the absence of any one of them precludes the realization of true publishing. In essence, publishing is the result of the concerted efforts and contributions from a diverse set of participants in the process.

Publishing stands as a crucial national activity within any society, and the advancement of that society is inherently tied to the robust development of its publishing sector. In reality, the degree of development within a society is intricately connected to the extent of publishing activities taking place. To put it plainly, publishing significantly contributes to the progress of a nation, and the advancement of a nation can be gauged by the strides made in its publishing industry. Okwilagwe (2001) characterizes publishing as the business of nurturing and advancing an author's idea, preparing it for public consumption. This definition aligns with Grannis's perspective, as cited by Okwilagwe (2001), wherein publishing is described as the act of making creative works public, presenting them to the global audience, and showcasing the results of the collaborative efforts of creative minds, editors, and printers. In a broader sense, the concept of publishing encompasses the intellectual and business processes involved in selecting, organizing, and presenting books, journals, magazines, and similar materials, with the ultimate goal of promoting their use hence; the elucidation above highlights the concept of publishing as:

- A collaborative effort involving a team of experts working together to achieve a common objective or goals.

- A process characterized by procedural and successive stages of interconnected tasks.

- An inter-play of work conducted by professionals at different junctures within the publishing process.

- Marked by a multiplicity of operations involved in bringing creative works to the public domain.

Baimbridge (2019) supports the explanation by stating that "publishing" constitutes a series of activities occurring between the conception of an idea in an author's mind and the presence of a book on the shelves, be it at home or in a library. According to Meyile (2018), the concept involves the process of producing and disseminating literature or information, making it accessible to the public. Consequently, characterizing publishing as a coordinated effort across various stages, including development, acquisition, copy editing, graphic designing, production and its electronic counterparts, as well as marketing and distribution of books, journals, magazines, newspapers, and other literary works in electronic formats, all contribute to the dissemination of information without any criminal intent.

Publishing serves as a mass communication medium, constituting a subset of modern communication that falls within the domain of print media. In contrast, electronic media encompasses information or data that is generated, distributed, and accessed through

electronic means, involving electronic devices, electromechanical energy, or any equipment used in electronic communications. Commonly used devices for accessing electronic media on a daily basis include television, radio, computers, cell phones, static and sliding billboards, LED displays, and other devices that facilitate the transmission of information to and from individuals through electronic involvement. The computer has transformed business practices, particularly in areas related to inventory control, billing, and monitoring trends in the sales of specific titles. Software programs enable publishers to decrease the costs associated with various publishing processes, facilitating the swift in-house completion of tasks that were once substantial expenses. This application of computer technology has not only streamlined operations for large firms through economies of scale but has also empowered smaller publishers to operate efficiently in ways that were previously feasible only for larger enterprises (Reproduction Society of Nigeria, 2004).

Computer technology as presented by Meyile (2018) has facilitated the efficient utilization of targeted mailing lists and specialized publicity campaigns. Additionally, a crucial application of computer technology lies in the delivery of printed material to readers. This utilization of technology involves linking computers via the Internet and other alternative means of document delivery, presenting profound implications for publishers. It is noteworthy that information will persist in being packaged in both print and electronic formats for generations to come. Information communication technology, globally, cut across disciplines has

presented a multitude of challenges and opportunities that publishers must confront to stay pertinent in the digital economy. Publishers bear the responsibility of ensuring access to their products, prompting an urgent need to develop, own, and operate multiple websites particularly in specific areas (Meyile, 2018). This strategic approach enhances advantages in terms of content, brand visibility, and customer reach, aligning with the evolving landscape of information dissemination in the digital era.

Publishers must actively assume the responsibility of raising awareness about Information and Professional Skills (IPS) beyond merely offering books on computer information access (Okwilagwe, 2001). This is a trend that many publishers have already embraced. It is imperative to revise existing books to incorporate areas where information technology has supplanted traditional communication facilities. Publishers should emphasize the advantages of these technological advancements and convey the consequences of the ongoing digital revolution in their materials. This ensures that the content remains relevant and reflects the contemporary landscape shaped by the pervasive influence of information technology.

Administration of Copyrights in Nigeria

The administration of copyrights in Nigeria is overseen by the Nigerian Copyrights Commission, which was elevated from a council to a commission in April 1996. The commission is tasked with several duties, including but not limited to:

1. being responsible and responsive to all matters affecting copyrights in Nigeria, as stipulated in the relevant legislation.
2. Enlightening and informing the public on issues pertaining to copyrights.
3. Monitoring and supervising Nigeria's position in relation to international conventions on copyrights and providing advice to the government in this context
4. Maintaining an effective databank of authors and their works.
5. Investigating other matters related to copyrights in Nigeria as directed by the Minister from time to time (Achhika, 2015). These functions highlight the commission's role in ensuring the protection and promotion of copyright interests within the country.

To attain these stated objectives, the Nigeria Copyrights Commission requires support from Public and Private sectors, as well as collaboration with the Federal, State, and Local Governments. In practice, Copyright Laws, as outlined by Kolajo (2005), are intended to serve the following purposes when administered logically and conscientiously in Nigeria:

1. Guarantee an author a monopoly right: This entails providing the author exclusive control over the use of their work, including its sale to a publisher, for a specified period.
2. Guarantee a publisher a monopoly right: Publishers are granted exclusive rights to print or arrange for the printing and selling of a work within national boundaries for a specified period
3. Provide financial compensation to the author (royalty): Authors receive

compensation for their creative work in the form of royalties. This not only rewards their creativity but also contributes to the development of the country's Art and Science, indirectly benefiting its economy.

These purposes underscore the significance of copyright laws in protecting the rights of creators, fostering innovation, and contributing to the cultural and economic development of the nation. Interestingly, there are some provisions of the copyright laws specifically designed to deal with infringers on copyright properties i.e pirates. For the simple fact that publisher's revenue as well as the author's royalty is frequently reduced considerably by actions of piracy, then the administration of Copyright law as stated in the Nigeria Constitution and enumerated by Achika (2015) is justified on the following grounds: 1.Criminal Liability: Copyright laws often include provisions for criminal liability to deter and penalize individuals engaged in copyright infringement. This may involve fines or imprisonment for those found guilty of piracy.

2. Civil Action and Remedies: Copyright holders have the right to take civil action against infringers. This could involve seeking damages, injunctive relief, or other remedies through the legal system. Civil actions provide a means for copyright owners to protect their rights and seek compensation for losses.

3. Order of Inspection and Seizure: The law may empower authorities to obtain court orders for the inspection and seizure of materials involved in copyright infringement. This can help prevent the further distribution of pirated works and

serve as a means of enforcing copyright protection.

4. Restricted Acts in Literary, Musical, and Artistic Works: The enumerated list of restricted acts indicates specific actions that are protected under copyright law. These acts include performing, publishing, reproducing, translating, distributing, making cinematography films or records, and broadcasting or communicating works to the public.

5 Unauthorized reproduction and distribution of copyrighted material are common forms of piracy that can significantly impact the revenue of publishers and authors.

6. Order of inspection and seizure in a situation whereby any restricted act in literary, musical and, or artistically work related to the under listed is committed. These could be any of the followings: Performing the work in the public; Publishing the work; Producing, reproducing, performing or publishing any translation of the work.

7. Distributing to the public for commercial purposes, copies of the work by way off of rental, lease, hire, loan or similar arrangement.

8. Make any Cinematography film or record in respect of the work.

9. Broadcast or communicate the work to the public by a loud speaker or any other similar device. The mention of "order of inspection and seizure" suggests a mechanism for enforcing these restrictions by allowing authorities to take action when copyright infringement occurs (Achika, 2015).

In summary, the mentioned provisions in Nigeria's copyright laws aim to address the challenges posed by piracy. These provisions establish both criminal and civil consequences for copyright infringement, provide mechanisms for inspecting and seizing infringing materials, and define specific restricted acts that are protected under copyright law. The ultimate goal is to protect the rights of copyright holders and ensure that they are fairly compensated for their creative works.

Issues of the law in publishing and precautions

Issues in copyright law are recognized for their sensitivity, technicality, and complexity. Fortunately, the law exists to simplify many of these complexities that might otherwise lead to confusion. In a technical sense, law can be regarded as a body of rules, which may be either written or unwritten. These rules delineate the prescribed conduct of individuals in a society and regulate the relationships between the governed and the government. Examples include constitutions, violations of which may incur punishment to varying degrees. Meyile (2018) provides a working definition of law as "a body of rules designed or formulated to guide human conduct or action, which is enforced among the members of a given state or society.

Within the publishing environment, legal concepts are explored, and issues related to law are considered. Some of these legal issues include contempt, disclosure of official secrets, threats to state security, defamation, indecency and obscenity, and copyrights. Each of these

aspects involves navigating the legal framework to ensure responsible and lawful conduct within the publishing industry.

Contempt

Contempt in the publishing environment is a matter of great concern globally, and publishers are advised to exercise caution to avoid legal issues related to contempt. Contempt is defined as an act or conduct that shows disregard, hindrance, or disrespect for rules, or that ridicules the constituted authority or the administration of law. Publishers must be particularly careful to ensure that their publications do not amount to contempt, especially contempt of legal court proceedings. For instance, any publication found to interfere with or obstruct the proceedings of a court of law may be deemed to have committed an offense. There are some specific actions that may be considered as contempt of court. For instance Kolajo (2005) elaborate that any publication that interferes with or obstructs the proceedings of a court of law may be deemed an offense based on the following actions:

- Publishing cases injurious to or against litigants: This involves publishing information that is harmful to or biased against parties involved in a legal suit while it is still under hearing.
- Publishing documents that misrepresent the true position: If a publication includes documents that seem to distort or misrepresent the true facts

of a case in the court of law.

- Publishing secret reports of evidence in pre-judged cases: This refers to the publication of confidential or secret reports of evidence in cases that have already been prejudged or concluded. Such publications can undermine the integrity of the legal process.

Disclosure of Official secret

Publishers bear a significant responsibility not to disclose information of the government or organization in their possession; as such actions can lead to criminal charges. Any act that could amount to criminal prosecution during the lawful discharge of duties by publishers must be avoided. The disclosure of official secrets is considered an offense punishable under section 97 of the criminal codes. Baimbridge (2019) stipulates that "any person who, being employed in the public service, publishes or communicates any fact which comes to his knowledge by virtue of his office, or any document which comes to his possession by virtue of his office and which it is his duty to keep secret, except to persons to whom he is bound to publish or communicate it, is guilty of a misdemeanor and is liable to imprisonment for two years (Obilade, 2005).

Threat to state security

Threat to state security, also conceptually known as sedition, is another legal issue associated with publishing and is closely linked to the preceding concept

discussed. Sedition as advanced by Baimbridge (2009) involves committing an offense by publishing or uttering statements that could generate hatred or contempt towards the government, incite discontent, or lead to protest among citizens. It essentially refers to actions that excite or incite people against the government in power.

In this context, publishers must exercise caution to ensure that their publications are free from seditious words to avoid criminal prosecution for sedition. Conviction for a first offense of sedition may result in imprisonment for two years, a fine of two hundred thousand naira, or both. Therefore, the prudent advice for publishers is to exercise their freedom of expression within the boundaries of the law to prevent the serious consequences of being charged with sedition.

Defamation

Defamation encompasses two distinct ideas: libel and slander, and it can be both a tort and a crime. Section 373 of the Criminal Code of Nigeria extensively addresses this concept. Defamation involves injury to reputation resulting from either written (libel) or spoken (slander) words. A defamatory statement is one that is published about a person, calculated to lower them in the eyes of others, leading to being shunned or avoided, exposing them to hatred, contempt, or ridicule, or conveying an imputation that is disparaging or injurious to their office, profession, calling, trade, or business (Court of Law, n.d).

Defamation is considered to be in a permanent form if it is contained in a painting, cartoon, photography, a statue, or

a film (Ugande & Kombol, 2005). To avoid legal consequences, any publication containing libelous matter is actionable, either as a tort or a crime, and the publisher can be held liable to pay damages to the plaintiff. Therefore, when publishing books, it is crucial to exercise caution to ensure that the publication does not contain any defamatory content that could lead to a libel action.

Publishers are advised to be vigilant and consistently censor materials before making them available to the public to prevent harm to someone's reputation. Meanwhile, for a successful defamation case, the plaintiff must establish that in a defamation case, the plaintiff must establish the following:

- The words were published (not to some other person or persons other than the plaintiff).
- The words or statements referred to the plaintiff (either by his name or any other sign of identity)
- The words defamed the plaintiff.

Indecency and obscenity

Regarding indecency and obscenity, publishers must consistently avoid matters of obscenity through the publication of content that aligns with societal moral standards. The publication or exhibition of obscenities has the potential to corrupt public morality by exposing individuals, particularly vulnerable members of society such as the young and inexperienced, to immoral conducts and other antisocial behaviors. Obscene articles, as defined by Meyile (2018), include publications containing pornographic pictures and similar content.

The Criminal Code of Nigeria, section 233D (1), explicitly prohibits the publication of obscene matters.

The definition of indecent or obscene matters simplifies them as articles capable of corrupting public morality. Consequently, publishers must exercise caution to adhere to this statutory prohibition to avoid legal consequences. As mediums of disseminating information, publishers have a moral and ethical responsibility to contribute to the preservation of morality, public order, and decency in society.

However, it is important to note that a publisher shall not be convicted of the publication of obscene matters if it can be proven that such publication is justified for the public good. This justification may be based on the grounds that it is in the interest of science, literature, art, learning, or of general concern. This exemption recognizes the importance of certain content that may have cultural, educational, or artistic value, even if it touches on potentially sensitive subjects.

The definition of obscenity, as outlined in section 233C(1) of the criminal code, emphasizes that any article is deemed obscene when its effect, taken as a whole, tends to deprave and corrupt individuals who are likely, having regard to all relevant circumstances, to read, see, or hear the matter contained or embodied in it. In light of this definition, publishers must exercise utmost caution to ensure that their publications are free of

Obscenities. This diligence in content creation contributes significantly to upholding moral standards in society and prevents the potential negative impact that

obscenities may have on individuals and the community at large.

Conclusion

In conclusion, copyright is a form of intellectual property that is crucial for the protection of creators' rights, especially in controlling the reproduction or exploitation of their intellectual creations. This protection is vital in the modern conception of property, conferring ownership rights to the creator, allowing them exclusive use and enjoyment of their work. The primary reason for the need to protect copyrights is economic. Copyright infringement poses a threat to the economic foundation of cultural and educational systems by potentially stifling national production capacity. It is essential to recognize that the copyright industry contributes significantly to job creation, self-employment, personal income, cultural satisfaction, and the expansion of the national knowledge base through individual creativity. While copyright protection is paramount, it's important to acknowledge that there are exceptions allowing the use of copyrighted works for educational, research, and private development purposes without economic gain. This recognition strikes a balance between protecting intellectual property and fostering the dissemination of knowledge.

In Nigeria, the copyright industry plays a vital role in providing economic opportunities and cultural enrichment. Therefore, there is a compelling need for credible and imperative measures to protect copyrights, ensuring that creators receive the recognition and benefits they deserve.

Recommendations

The paper therefore, recommends among others:

- Organizing workshops, webinars, and campaigns to educate creators, users, and the public about copyright laws, fair use, and global best practices;
- concerted efforts by the Nigerian copyright commission to continuously emphasizing and hammering on getting permission for the use of copyrighted materials;
- Transparency and accountability: Ensure transparency in the commission's decision-making processes, operations, and financial management, and regularly report to stakeholders.
- Registration and establish a user-friendly system for registering and recording copyrights, making it easier for creators to protect their works.
- Licensing and Royalties: Develop efficient mechanisms for licensing copyrighted works and collecting royalties, ensuring creators receive fair compensation.
- Enforcement and Protection: Collaborate with law enforcement agencies to combat copyright infringement, provide guidance on enforcement options, and support creators in protecting their rights.
- Policy Review and Development: Continuously review and update copyright laws and regulations to

address emerging issues, technological advancements, and changing user needs.

- Stakeholder Engagement: Foster dialogue and collaboration among creators, users, industries, and government agencies to promote understanding, resolve issues, and develop effective policies.
- International Cooperation: Engage with international organizations and foreign governments to strengthen global copyright protection, facilitate trade, and address cross-border issues.
- Funding and Support: Provide financial support, grants, or subsidies to creators, especially emerging artists, to help them register and protect their works.
- Dispute Resolution: Establish a mechanism for resolving copyright disputes through mediation, arbitration, or other alternative dispute resolution methods.

Summarily, if these recommendations are put into action then, copyright commission can effectively promote and protect creative works, support creators, and foster a vibrant cultural landscape.

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