Book Symposium: Multi-sided Music Platforms and the Law: Reasons why the work is a ground-breaking work of scholarship from the African continent

By:

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April 29, 2020

Background, scope, structure and approach of the book

The impact of digitisation on the music copyright landscape manifests in several ways including the disruption of the scope of protected rights and broadening of the musical copyright market. Digitisation has led to the introduction of new rights, development of new ways of exploitation of, and widespread consumption (authorised and unauthorised) of musical content. Digitisation also made possible the creation of a digital market place, which includes the direct or indirect interaction, through online multi-sided platforms, between copyright owners and other players, such as music content consumers

and the platform firms that utilise music contents – via open and freemium business models – as advertisement mediums for producers of other goods and services in exchange for advertising fees.

The operation of open and freemium business models seriously implicates the copyright and privacy rights of music copyright owners, the scope of platform firms' obligation to copyright owners and competition within the multi-sided music platforms, especially from the perspective of developing counties such as Nigeria and South Africa. These challenges raise a further important question about how best to frame copyright, privacy and competition laws for effective regulation of multi-sided music platforms from a developing country's context.

Presented in a simple, clear, coherent and well-structured manner, the book: *Multi-Sided Music Platforms and the Law: Copyright, Law and Policy in Africa*, a ground-breaking work of scholarship from the African continent, unpacks the foregoing issues and proffers well-articulated regulatory and advisory directions for the regulation of multi-sided music platforms from the perspective of copyright, privacy and competition law in Nigeria and South Africa. Towards this end, and according to the author, the 'book proceeds on the premise that it is equally important to examine multi-sided music platforms from the perspective of the actions [...] of the platform firms (as copyright users)' instead of focusing 'solely on the activities of platform users and how such may have been induced or authorised by the platform firm'. The book is anchored on 7 strong and interconnected chapters, which are arranged in serially numbered paragraphs.

Chapters' Summary

Chapter one sets out the main objective and the jurisdictional focus of the book, the meaning, features of, and players in, multi-sided music platforms. With a major attention on the importance of the use of musical content for the generation of advertising revenues by platform firms, and drawing from the experiences in the EU and US the book principally investigates suitable regulatory mechanism for the 'copyright protection, privacy and competition concerns' raised by the deployment of musical contents by multi-sided music platform for 'digital advertising' in Nigeria and South Africa. The chapter also examined the design, terms of use and privacy policy of multi-sided music platforms.

Chapter two is a general overview of the nexus between copyright competition and privacy laws within the context of multi-sided music platforms. The chapter shows, in more general term, how competition principles can interact with the internal mechanisms of copyright and privacy protection laws for the regulation of the activities of platform firms within the context multi-sided music platforms. The author then asked an important question as to whether the conduct of platform firms should be assessed on the 'basis of a claim in competition within the copyright system or whether it should be seen as the legitimate exercise of the platform owner's control over its platform'.

Chapter three focuses on the important issue of copyright infringement and related matters within the context of multi-sided music platforms. Specifically, the chapter discussed the copyright terms adopted by platform firms; the key elements of copyright infringement claims within multi-sided music platforms and the exclusive rights implicated therein; and possible defences under the Nigerian and South African copyright legislations to infringement claims and their application to multi-sided music platforms. Substantial part of chapter examined the issues around safe harbour regimes and the related value gap proposition. Here, the author concluded, among others, that a 'copyright law system focused on the expectation of revenue from every reproduction of copyright-protected content blurs the consideration of other viable revenue opportunities that free and/or uninhibited reproduction may have offered'.

Chapter four x-rayed the design and operationalisation of multi-sided music platforms and their impact on the privacy of personal data of copyright owners and other users of the platforms in Nigeria and South Africa. In this connection, the chapter examined the data protection laws in Nigerian and South Africa vis-à-vis the implementation of the privacy terms in the user contracts of platform firms and concluded that the 'privacy protection laws may not offer much protection for copyright owners as 'firms' who are data subjects' within the context of multi-sided music platforms.

Relying on EU jurisprudence developed through the application of EU competition law to platform firms in the EU, chapter five pays attention to the application of competition law within the context of multi-sided music platforms in Nigeria and South Africa. It examined the general nature and types of

conducts (restrictive agreements and abuse of dominance) falling under competition law's scrutiny within the context of multi-sided music platforms. The chapter also analysed platform firms' copyright and privacy terms from the perspectives of competition law; determined how the use of protected music contents and personal data by platform firms may result in anti-competitive conducts offensive to competition law; and discussed the defences that may be available against competition regime's enforcement. The author then canvassed for the accommodation of the economic dependence principles within the South African and Nigerian competition regimes as it will help to prevent platform firms from abusing their dominance and obligate them to implement their copyright and privacy terms in a manner that does not restrict the freedom of copyright owners to compete within the multi-sided music platforms.

Chapter six provides regulatory and advisory directions for the application of copyright, privacy and competition laws in Nigeria and South Africa. The chapter proposes certain legislative changes that would involve the 'introduction of a duly clarified exclusive right of communication the public', 'expansion of the current bouquet' of copyright Limitations and exceptions, and provisions to address the 'anti-competitive effects of relative dominance' within the competition regimes. The chapter also canvassed for regulatory cooperation between competition law enforcers and relevant sector-specific regulators, and made a case for appropriate judicial interpretation of the legal regimes that is mindful of the effects of copyright and privacy terms utilised within the context of multi-sided music platforms in Nigeria and South Africa

Conclusion

The structural style of the book is designed to aid easy reference, especially by legal practitioners, judges, lawmakers and policy formulators; to make the book a valuable resource for researchers, academics and students; and an easily comprehensible material for the uninitiated in the field of copyright, privacy and competition law and the operation of multi-sided music platforms. Reading the book from cover to cover, a reader will undoubtedly confirm that the book has achieved this goal. It remains to be said, as posited by the author in her concluding remarks, that present and future challenges call for a deeper reflection on the scope and the role of multi-sided music platforms in the

emerging global context. As the business models of these platforms becomes the go-to business model in the music copyright industry and their activities are increasingly global, both copyright owners and platform firms will need to pay more attention to the legal frameworks and enforcement systems that may apply to them.

In addition, copyright, privacy and competition law enforcers, including the judiciary, in Nigeria and South Africa (and Africa more broadly) need to keep abreast of the peculiarities of multi-sided music platforms to ensure that they do not unduly disrupt their business models while undertaking their enforcement functions. This book is a valuable resource for this purpose.

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