Introduction to Book Symposium – Copyright, Collective Management Organisations and Competition in Africa: Regulatory Perspectives from Nigeria, South Africa and Kenya (Juta, 2021)

By:

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The collective management of copyright and related rights (collective management) is fast growing in Africa and continues to contribute to the growth of the copyright-based industry not just in the individual African countries, but also on a continental level. It contributes by facilitating access to copyright works for users, generating revenue for copyright owners, creating job opportunities and promoting creativity and social welfare, particularly for Africa's youthful and vibrant creators. As such, collective management continue to remain a key component of the economic activities happening within the

copyright-based industries in Africa.

Majority of African countries – over 32 – have one or more collective management organisation (CMO) as the fulcrum upon which their collective management systems revolve. Depending on the copyright legal framework, CMOs are established either as profit, limited liabilities, or non-profit companies, partnerships or agencies. Notwithstanding their status, CMOs continue to have a significant impact on the copyright-based industry in Africa, especially in the area of revenue generation for creators and investors in the industry and in the access infrastructure they provide to users of copyright-protected works. For instance, the 2019 International Confederation of Societies of Authors and Composers (CISAC) global royalty collection reports based on 2018 data shows a significant growth of royalty collection in Africa with countries like South Africa and Algeria topping the chart. Overall royalty collection by CMOs stood at 78million Euros. However, based on the negative impact of the COVID-19 pandemic on the copyright-based industry worldwide, the collection of royalties by CMOs in Africa dropped by 20.1% to about 64million Euros in 2020 (CISAC Report, 2021).

Even so, music CMOs across Africa have established a single multi-repertoire multi-territorial licensing hub to cater for the licensing needs of online service providers and music streaming and download platform, and to facilitate trade in copyright in the African digital space. The hub, which links over 17 music CMOs across Africa by reciprocal representation agreements (RRAs), operates through the Composers, Authors and Publishers Association (CAPASSO) in South Africa. The hub has so far granted multi-territorial digital copyright licenses over online music content to major online players, such as YouTube, Apple Music, Spotify, TikTok, Facebook, Udux, Boomplay, etc.

Despite the benefits that CMOs bring to the copyright-based industry, especially in the areas of royalty generation for copyright owners and enabling access to copyright-protected works for users, CMOs also pose certain challenges in the sense that they have the capacity to abuse the position which they occupy within the collective management mechanism. Indeed, there have been complaints against CMOs bordering on inefficiency and a lack of transparency and accountability in their relationship with copyright owners, users of copyright works and amongst themselves. While these complaints flow

from the copyright sector-specific contexts within which collective management developed, the actions of CMOs also raise serious competition-related concerns when viewed from the perspective that the CMOs exist as natural monopolies within their operational domains and statutes oftentimes support their monopolistic nature.

To address these challenges posed by CMOs within the copyright-based industry in Africa better, national and regional regulatory agencies and policy makers within the copyright landscape continue to seek viable options and strategies the implementation of which will promote an efficient, transparent and accountable collective management system. Existing country-specific evidence from Nigeria, South Africa and Kenya show that regulatory interventions often lead to conflict between regulators and CMOs in the collective management system and serve as excuse by CMOs to perform their core and important function of ensuring adequate earnings for copyright owners. Thus, effective regulatory intervention would require a firm understanding of the dynamics of collective management both from a copyright and competition perspective.

Intended as a valuable source of reference to shape normative and policy initiatives at the continental level, my book – Copyright, Collective Management Organisations and Competition in Africa: Regulatory Perspectives from Nigeria, South Africa and Kenya (Juta 2021) – comprehensively examines the operation and regulation of CMOs in Africa, while drawing from the operational and regulatory experiences of Nigeria, South Africa and Kenya. this symposium draws expert perspectives from across Africa and beyond on whether and how the book achieved its set objectives. The experts are: Dr Chijioke Okorie (University of Pretoria, South Africa); Dr Joel Baloyi (University of South Africa, South Africa); Victor Nzomo (Advocate of the High Court of Kenya and PhD Candidate in Law at UCT); Vellah Kedogo Kigwiru (Advocate of the High Court of Kenya and PhD Candidate, Technical University of Munich, Germany); and Dr Abiola Innis (Caribbean and Americas Intellectual Property Organisation, Guyana). I hope you find the symposium educating and entertaining.

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