

REPUBLIC OF UGANDA

OFFICE OF THE CLERK TO PARLIAMENT
20 FEB 2024
RECEIVED
PO BOX 7178, KAMPALA



File

PARLIAMENT OF UGANDA

[Handwritten signature]

REPORT OF THE COMMITTEE ON INFORMATION, COMMUNICATION
TECHNOLOGY AND NATIONAL GUIDANCE ON THE PETITION BY THE UGANDA
NATIONAL MUSICIANS FEDERATION ON AMENDMENTS TO THE COPYRIGHTS
AND NEIGHBOURING RIGHTS ACT

[Handwritten mark]

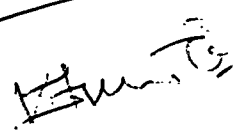


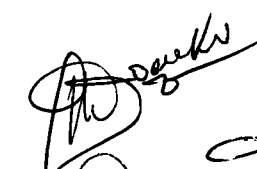
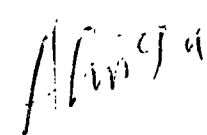
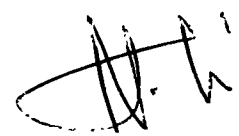

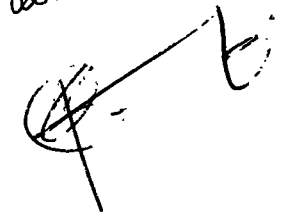

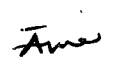
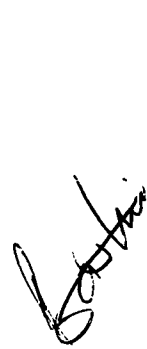
OFFICE OF THE CLERK TO PARLIAMENT

JANUARY, 2024

[Multiple handwritten signatures and initials scattered around the page]

ACRONYMS

bn	Billion
BoU	Bank of Uganda
CMO	Collective Management Organizations
FY	Financial Year
GoU	Government of Uganda
ICT	Information Communication Technology
MoICT&NG	Ministry of Information Communication Technology and National Guidance
MoFPED	Ministry of Finance Planning and Economic Development
MTN	Mobile Telecommunication Network
NAB	National Association of Broadcasters
NITA-U	National Information Technology Authority- Uganda
NCF	National Cultural Forum
tn	Trillion
UBC	Uganda Broadcasting Corporation
UCC	Uganda Communications Commission
UGX	Uganda Shillings
UMA	Uganda Musicians Association
UNMF	Uganda National Musicians Federation
UPRS	Uganda Performing Rights Society
URA	Uganda Revenue Authority
URSB	Uganda Registration Services Bureau
UTCL	Uganda Telecommunications Corporation Limited
WIPO	World Intellectual Property Organization
WTO	World Trade Organization



1.0. INTRODUCTION

On 4th October, 2023, members of the Uganda National Musicians Federation (UNMF) through Hon. Phiona Nyamutoro, the National Female Youth Member of Parliament presented a petition wherein, they called for expeditious amendment of the Copyright and Neighbouring Rights Act, 2006, justifying that the 17-year old law has become outdated in light of advancement in technology and emergence of international best practices.

Pursuant to rule 30 (6) of the Rules of Procedure of Parliament, the petition was referred to the Committee on Information, Communication Technology and National Guidance for consideration, which concluded the investigation and hereby reports.

2.0. TERMS OF REFERENCE (TORs)

The Committee sought to;

- i. Investigate each of the proposals suggested in the petition; and
- ii. Make recommendations where necessary for consideration into the amendments of the Copyrights and Neighbouring Rights Act, 2006

3.0. METHODOLOGY

In conducting the investigation,

- (i) The Committee interfaced with the following persons and entities:
 - (a) Hon. Minister of Information, Communication Technology and National Guidance;
 - (b) Hon. Minister of Gender, Labour and Social Development;
 - (c) Hon. Attorney General;
 - (d) Uganda Communications Commission;
 - (e) Uganda Registration Services Bureau;
 - (f) National Association of Broadcasters;

- (g) Telecommunication companies- MTN Uganda Limited and Airtel Uganda Limited;
 - (h) Uganda Musicians Association;
 - (i) National Cultural Forum; and
 - (j) Uganda National Musicians Federation.
- (ii) Reviewed legal and policy documents, frameworks and other relevant documentation, including;
- a) Constitution of Uganda, 1995;
 - b) Relevant Acts of Parliament including;
 - a. the Copyrights and Neighbouring rights Act, 2006;
 - b. Uganda Communications Commission Act, 2023;
 - c. Uganda Communications (Content) Regulations 2019;
 - c) The Copyright (Amendment) Act No. 14 of 2022 of Kenya;
 - d) The advertising Regulatory Council of Nigeria Act, 2022;
 - e) international copyright treaties that Uganda has ratified; and
 - f) Formal submissions from the witnesses.

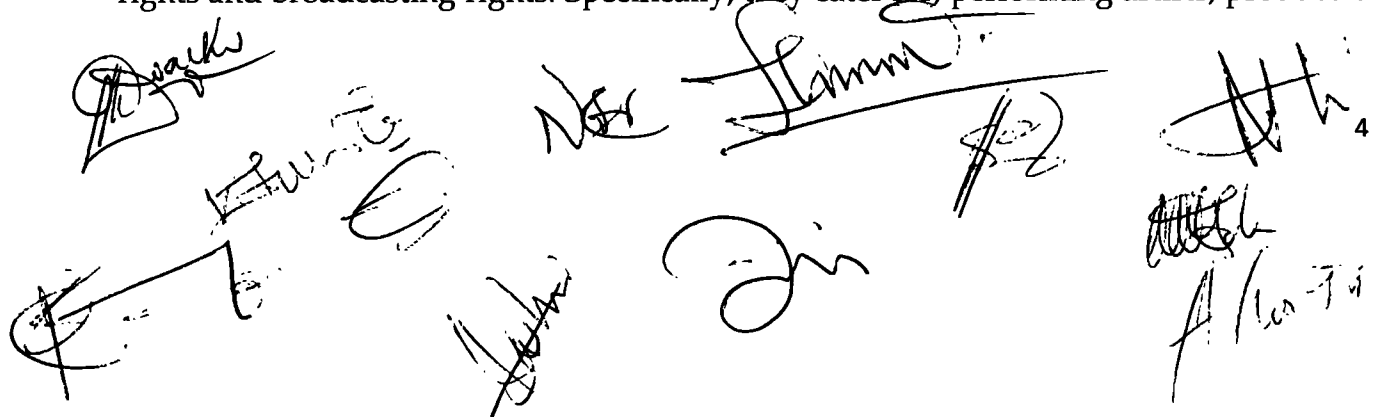


4.0. BACKGROUND TO THE INVESTIGATION



Copyright refers to the rights that creators have over their literary and artistic works, ranging from; books, music, paintings, films, computer programs, databases, architectural, and technical drawings, as well as protecting these original works of authorship, with regard to: originality, creativity, and fixation. It safeguards intellectual property, promotes innovation, and provides financial benefits to creators.

Neighbouring rights refer to the legal right to perform or broadcast recorded music in public. They mainly cater for three categories including; performer's right, recording rights and broadcasting rights. Specifically, they cater for; performing artists, producers



of phonograms, and others in television, radio and broadcasting, printing, recording, translating or adaptation.

In Uganda, the law on copyrights is epitomized in the Copyright and Neighbouring Rights Act 2006, which seeks to provide for the protection of literary, scientific, and artistic intellectual works and their neighbouring rights. This Act was passed primarily because of; the repealed Copyright Act (1953) which had not been revised to cope with developments in commerce. As such, the law was an impediment of economic reform; and because Uganda was facing international pressure to reform its intellectual property regime after becoming a member of the World Trade Organization.

The Uganda National Musicians Federation, an umbrella organization that represents the interests of musicians in Uganda, playing a crucial role in promoting the growth of the music industry in the country, petitioned Parliament, making several proposals for incorporation in the amendments of the Copyright and Neighbouring Rights Act 2006.

The federation in advancing these interests, stated that the music industry like many others worldwide is facing significant challenges and opportunities in the digital era, attributing this to the widespread adoption of technology and digital platforms which has transformed the way music has been created, licensed, distributed and consumed. They state that while this transformation has opened new doors for artists and creators, it has also presented challenges that need urgent attention.

The petitioners thus raised the following proposals under paragraph 5 of the petition;

- a) Revision of charges for caller ring back tones to ensure a fairer split of the revenue collected from the call-back tones in the percentage of sixty per cent to be retained by the artists and forty per cent to be remitted and shared by both the Government and the telecommunication companies;

Handwritten signatures and initials at the bottom of the page, including names like "Am...", "A/mtga", and various initials. The name "A/mtga" is written in a large, stylized font. There are also several smaller initials and signatures scattered across the bottom section.

- b) Imposition of a copy levy on the devices used in the reproduction of copyright protected works to be shared equally between Government and holders of copyright and neighbouring rights registered under the Act;
- c) Imposition of strict measures against broadcasters who use pirated content because it undermines the intellectual property rights of the artists hence causing a negative effect on their livelihood. The petitioners recommend a fine of not less than Uganda shillings five million to be paid by a person who is convicted for infringing the copyright of an artist;
- d) Embracing digital era relating to the protection of the rights of artists in the digital domain, fostering innovation in digital content creation and facilitating fair compensation for the online use of copyrighted works;
- e) Adequate capitalization of Collective Management Organizations (CMOS) in order to empower CMOs to carry out their duties such as licensing, collecting royalties and enforcing the legal framework on copyrights;
- f) Establishment of a clear and transparent structure for the CMOs that incorporate a high level of accountability including regular audits and reporting mechanisms to ensure that royalties are distributed fairly and rightfully to the owners;
- g) Registration and regulation of all third parties including telecom aggregators who are involved in the distribution and dissemination of the copyrighted content;
- h) Requiring broadcasters to dedicate ninety per cent of airtime to Ugandan music as a way of promoting local content and supporting the development of the industry in the country;
- i) Encouraging the use of Ugandan models, actors and actresses and artists in the advertising, promotion, influencing and endorsement of products by companies in Uganda and developing Ugandan publishers, through the imposition of higher charges of publishing licenses for non-Ugandans, as a way of empowering the local creative industry, provide employment opportunities for local content and help build a distinct national identity in advertising;

- j) Requiring aggregators of licensed Ugandan intellectual property to be domiciled in Uganda as a condition for operating to ease accountability since they will be subjected to the country’s legal framework on the copyright law.

5.0. GENERAL OBSERVATIONS

5.1 STATUS OF THE BILL FOR THE AMENDMENT OF THE COPYRIGHTS AND NEIGHBORING RIGHTS ACT

On 20th July 2022, Hon. Kiyaga Hillary sought for leave of the House to introduce a private member’s bill entitled “the Copyright and Neighbouring Rights (Amendment) Bill”. The bill introduces amendments to several provisions in the Act.

It was however resolved by Hon. Kiyaga Hillary and Government to work together, to come up with a holistic amendment of the Act, and according to the Hon. Attorney General’s submission to the Committee, consultations on the bill are on-going.

The Committee was informed that the Ministry of Justice and Constitutional Affairs, Uganda Registration Services Bureau, Uganda Law Reform Commission; and the Uganda Communications Commission commenced the process of amending the Copyrights and Neighbouring Rights Act 2006, with consultations on the domestication of the various international copyright treaties that Uganda has ratified, including;

- i. The Berne Convention for the Protection of Literacy and Artistic Works of 1886
- ii. The WIPO Copyright Treaty of 1996
- iii. The WIPO Performances and Phonograms Treaty of 1996 *Amended*
- iv. The Beijing Treaty on Audio visual Performances of 2012
- v. The Marrakesh Treaty to Facilitate Access to Published Works on Persons who are blind, Visually impaired or otherwise Print Disabled 2013 (Marrakesh VIP Treaty).

To date, consultations have been made with the Ministry of Gender Labour and Social Development, Ministry of Finance Planning and Economic Development, Uganda

[Handwritten signatures and initials at the bottom of the page, including 'Amended', 'Hillary', 'Kiyaga', and others.]

Revenue Authority, National Library of Uganda, Uganda Law Society, Collective Management Organizations, National Association of Broadcasters, National Cultural Forum, Uganda Comedians Association, Uganda National Musicians Federation, and in June 2023, a draft study report of the findings from the consultations was submitted to the Attorney General's chamber. Furthermore, regional consultations jointly done with Uganda Musicians Association, Uganda National Musicians Federation, Collective Management Organizations, and the National Cultural Forum have been held in Gulu, Mbale, Mbarara, and Kampala.

Committee Recommendations

- i. The Committee urges Government to consider and expeditiously domesticate the provisions of the different treaties highlighted above that Uganda has ratified.*
- ii. The Committee recommends for the expeditious drafting and tabling of the amendments to the Copyrights and Neighbouring Rights (Amendment) Bill to Parliament for enactment.*

5.2 COORDINATION AND SUPERVISION OF THE ART AND CULTURE SECTOR

The Art and culture sector in the Country, which includes music, art, drama, creative writing, photography, and dance has a responsibility of preserving and strengthening a strong community's sense of place, forging personal identity, and showing creativity, while also promoting cultural heritage, and fostering national unity.

The sector in Uganda is however affected by supervision by various ministries and departments across Government, including Ministry of Justice and Constitutional Affairs, Ministry of Gender Labour and Social Development, and the Ministry of ICT& National Guidance, which has affected the realization of the mandate of the sector, due to challenges of coordinating the activities therein.

Am...

The poor coordination within the sector is also evident in the lack of collaboration and unity among the various registered artistes' associations in the country including Uganda Musicians Association, Uganda National Musicians Federation, and over fifteen other regional music associations.

The Committee observes that this poor coordination, supervision and the silos nature within the sector affects the operation and management, as the organization, governance, identity and reporting channels are not streamlined and harmonized.

The Committee is of the opinion that, for the sector to thrive, all the entities in the arts and culture sector, and those closely associated with youth empowerment including Sports should be harmonized and housed under one Ministry. This the Committee borrows from the Republic of Zambia that has a Ministry of Youth, Sports and Arts which has thrived in the principles of creativity, patriotism, excellence, and has offered a unique platform for artists, artisans and creative minds, while also driving economic development through investment in the creative sector.

The Committee observes that management of arts, sports, and culture under a single Ministry will not only address the challenges of red tape and lack of centralized management, but also boast multiple opportunities for learning, entertainment, leisure, personal growth, and improving communication within, while also increasing the revenue base from the sector.

Committee Recommendation

The Committee recommends that;

- i. *The Youths, Sports, Culture and Arts sectors should be housed under a single fully fledged Cabinet Ministry in order to make it undertake critical interest in matters affecting young people, which will lead to harnessing opportunities which can convert this largely informal sector into a commercially viable vehicle for job creation, entertainment, education, and widening the country's tax base.*

[Handwritten signatures and initials]

- ii. *Government evaluates the viability of a self-regulating privately managed body to license the art industry actors. This is intended to fully exploit and leverage the potential of the promising arts industry just like has been done through the National Council of Sports for the sports sector. The same has also been witnessed from elsewhere in Nigeria, India, and Korea which have optimally exploited their arts industries.*

6.0. LEGAL ANALYSIS OF THE PROPOSALS IN THE PETITION

- a) *Revision of charges for caller Ring back tones to ensure a fairer split of the revenue collected from the call-back tunes in the percentage of sixty per cent to be retained by the artists and forty per cent to be remitted to be shared by both the Government and the telecom companies.*

In paragraph 4 of the petition, the petitioners aver that the existing legal framework for distribution of revenue collected from caller ring back tones (CRBTs) disadvantages the artists as most of the revenue benefits telecom companies rather than the artists.

CRBTs are classified as a value added service that telecoms offer their customers at a monthly subscription. The revenue distribution formula for MTN indicates that each call back tune is charged UGX. 700. The breakdown of the sharing of these funds varied with the artists indicating as; Government taxes 48% (UGX. 350), MTN takes 35% (UGX. 245), the aggregator 13.2% (UGX. 92.4), and the artiste 1.8% (UGX. 12.6). MTN on the other hand informed the Committee as follows; Government taxes- UGX. 271, MTN deemed costs- UGX. 106, MTN profit- UGX. 194, Aggregators and Artists- UGX. 129

The Committee observed the following under payments of CRBTs:

- i. Failure by artists and content creators to seek and use competent legal advisors and experts during the contract drafting processes, which exposes them to manipulation and exploitation.

[Handwritten signatures and initials]

- ii. Unfair and inequitable revenue models. The current distribution model allocates very low revenue to the artists which is unfair and exploitative, as they own the content. There is need to have equitable sharing of revenue provided for in the regulations or statutory instrument to avoid the unfairness and inequitable distribution of revenue;
- iii. Delayed or non-payment of artists. Artists are not receiving their revenue share in a timely manner, besides there are no real time revenue splits for the different rights;
- iv. Opaque data. There is no data sharing on song downloads/ plays which makes it difficult for artists to assess their accruing earnings and performance in a real-time; this calls for an audit into the data on the downloads;
- v. Contractual and negotiation limitations. Artists contract only with aggregators, and are disempowered to negotiate fair contracts with aggregators that are well backed up by legal teams;
- vi. Unfair contractual terms. Artists have had challenges in directly suing telecommunication companies for the payments under CRBTs because of the lack of direct dealings with the operators. This was however overturned with the recent court ruling in favour of Jamaican artist Garfield Spenser (Konshens) for use of his content by Airtel Uganda and Onmobile who paid over UGX. 700,000,000.
- vii. Limited access to justice. Artists can barely go to Court with aggregators because many of these preferred by telcos are foreign based and prefer their countries of jurisdictions for settlement of disputes.
- viii. The distribution formula provided has no legal provision expressly providing for the distribution of revenue from CRBTs especially the remittance of 48% to Government, contrary to Article 152(1) of the Constitution provides that no tax shall be imposed except under the authority of an Act of Parliament.

In the consideration of this matter, the committee studied and reviewed the practice in Kenya where an amendment vide; "The Copyright (Amendment) Act No. 14 of 2022"

The bottom of the page contains several handwritten signatures and initials in black ink. On the left, there is a signature that appears to be 'A. O. Ochieng'. In the center, there is a large signature that looks like 'James'. To the right of that, there are several smaller initials and signatures, including one that looks like 'N. O.', another that looks like 'D. O.', and a signature that looks like 'A. O. Ochieng' again. On the far right, there is a signature that looks like 'A. O. Ochieng' and another that looks like 'A. O. Ochieng'.

was enacted. The Act expressly provides for the rate of distribution, including, the premium rate of the service provider at 8.5 percent, the telecommunication operator at 39.5 percent; and the artiste or owner of the copyright at not less than 52 percent.

Committee Recommendations

The Committee recommends that;

- i. The Minister for Justice and Constitutional Affairs should amend the Copyright and Neighbouring Rights Act, 2006 to provide for caller ring back tones (CRBT), and then issue and gazette a statutory instrument under the Act to regulate the equitable sharing of revenues from CRBTs and related content- consuming platforms.*
 - ii. The Minister of Information, Communication Technology and National Guidance should ensure that Telecoms create a CRBTs monitoring system for purposes of transparency and accountability to the artistes and the sector.*
 - iii. The UCC should cause audit of CRBTs platforms for copyright infringing content, order take downs and effect compensation of affected rights holders as well as ensure that telecoms account for non-remunerated downloads.*
 - iv. The artists' associations including the Uganda National Musicians Federation and Uganda Musicians Association should ensure that artists receive sufficient legal support in drawing up and managing contracts. The associations should have in-house legal teams.*
- b) Imposition of a copy levy on the devices used in the reproduction of copyright protected works to be shared equally between Government and holders of copyrights and neighbouring rights registered under the Act;*

The Committee considered treatment of similar arrangements in Kenya and is of the considered opinion that the rights-holders should receive fair compensation or remuneration in form of a levy on software used to duplicate and record, store, play and distribute; music, film, books, visual art, and other protected works but no levy should be imposed on devices generally since they have multiple uses apart from copying and duplication of protected work. This is further augmented by the fact that an additional

[Handwritten signatures and initials are present in the left and bottom margins of the page. On the right side, there is a signature and the name 'Aina' written below it. At the bottom right, the number '12' is visible next to a signature.]

levy on technological devices would negatively impact the drive to enhance technology and have it penetrate all corners of the country. Some of the aspects of the economy that would be grossly affected by a levy on devices include financial inclusion through mobile money and agent banking which have allowed for financial access to the remotest parts of Uganda. These financial services have no connection to the reproduction of copyright protected works which the Artists seek to protect. This would be an unintended consequence were the levy allowed to be imposed on devices.

The proposed levy on devices therefore would have far reaching consequences that would negatively affect other areas which have no nexus to the artistry sought to be protected by the Petition. The levy instead can be levied on the software and collected by copy right owners from the software owners at the point of downloading the protected work. These mechanisms can be crafted by the telecommunication companies and the aggregators to achieve what is being sought to protect the Artists' rights.

Committee Recommendations

The Committee recommends -

- i. For the amendment of the Copyright and Neighbouring Rights Act to provide for the private copying levy at a rate that should be determined on software capable of transferring, copying and storing copyrighted content. The obligation to pay this levy should be a contractual arrangement between the copyright owner and the software proprietor.
 - ii. That the distribution of the revenue to the different categories of rights- holders, should be provided for in regulations and may be implemented through respective collecting societies or collective management organizations following systems agreed to by the concerned parties.
- c) Imposition of strict measures against broadcasters who use pirated content because it undermines the intellectual property rights of the artists hence causing a negative effect on their livelihood. The petitioners recommend a fine of not less

than Uganda shillings five million to be paid by a person who is convicted for infringing the copyright of an artist

Section 46 of the Copyright and Neighbouring Rights Act provides for what amounts to infringement of copyright or neighbouring rights, which occurs where, without a valid transfer, licence, assignment or other authorization, a person deals with any work or performance contrary to the permitted free use and in particular where that person does or causes or permits another person.

The Act further provides for offences and penalties against persons that infringe copyright and neighbouring rights under section 47, commits an offence and is liable on conviction, to a fine not exceeding one hundred currency points or imprisonment not exceeding four years or both. These provisions, if well enforced, adequately cover this concern of the petition.

Furthermore, piracy is already an offence, and if the artists cooperate with the responsible agencies including; the Uganda Registration Services Bureau and the Uganda Police Force, the desired objective can be achieved.

Following the aforementioned legal provisions and case law (Angella Katatumba Vs Anti-Corruption Coalition of Uganda (ACCU) HCCS No. 307 of 2011 and Garfield Spencer Vs Airtel Uganda HCCS No. 545 of 2015), the current law sufficiently provides for protection of artists' songs through copyright and bars infringement of their copyright. By illustration, the law already imposes measures against broadcasters who may infringe artists' copyrights.

The Committee however observes that the current sanctions against copyright policy and infringements are not as punitive and severe, and thus not a deterrent to the misuse of copyrighted information.

Committee Recommendations

The Committee recommends that;

- (i) *The Copyright and Neighbouring Rights law should be amended to cater for the development,*

[Handwritten signatures and initials at the bottom of the page, including names like 'Robis', 'V. T. U.', 'James', and 'No 99']

promotion and protection of the intellectual and copyright rights of the value creators of the entertainment industry in Uganda.

(ii) The Government of Uganda embraces the digital era and Artificial intelligence relating to the protection of the rights of creators in the digital domain by creating a robust online application(s) infrastructure to identify online rights infringements, promote, distribute, sell, collect revenues, distribute proceeds to rightful owners, compute and automatically collect the relevant taxes.

d) Embracing digital era relating to the protection of the rights of artists in the digital domain, fostering innovation in digital content creation and facilitating fair compensation for the online use of copyrighted works;

The current Copyright and Neighbouring Rights Act provides for protection of the rights of artists under section 46. It is however necessary to have the Act amended to capture protection of rights in the digital space including online streaming such as YouTube, Spotify, among others and prescribe specific remedies in that regard.

The Committee observes the need to provide for the continuation of protection of copyright irrespective of any generative artificial intelligence modifications as long as the final works do not qualify as derivative works clearly mentioning the primary copyright holders.

Committee Recommendations

The Committee recommends that;

- i. The relevant institutions including the Uganda Police Force and URSB ensure enforcement of criminal measures against circumvention of technology protection.*
- ii. The Law is amended for the provision for the express liability of Internet Service Providers, and telecoms for the copyright infringing content.*
- iii. The registrar of copyrights is granted powers to issue take down orders, blocking of websites and other measures that can protect online works.*

- e) *Adequate capitalization of Collective Management Organizations (CMOS) in order to empower CMOs to carry out their duties such as licensing, collecting royalties and enforcing the legal framework on copyrights;*

Section 57 of the Copyright and Neighbouring Rights Act provides for registration of collecting societies and regulation of their operations. Collecting societies commonly referred to as Collective Management Organizations (CMOS) are registered with Uganda Registration Services Bureau by the Registrar of copyrights.

Regulation 30 of the Copyright and Neighbouring Rights Regulations 2010, allows collecting societies to raise funds either by means of shares or debentures upon obtaining approval from the Registrar of copyright. CMOs can also make deductions off what is collected as royalties for purposes of their internal operations. Section 72 of the Copyright and Neighbouring Rights Act authorizes the collecting societies to invest funds as a way of boosting their financial operations.

The Committee observes that whereas the petitioners seek to have adequate capitalization, no evidence was availed as to how the said provisions of the law have been implemented as a way raising funds for CMOs.

The Committee further observes that CMOs therefore need sufficient legal support to collect royalties from users of protected works.

Committee Recommendation

The Committee recommends that URSB should provide CMOs with sufficient legal support in the collection of royalties from the users of protected works.

- f) *Establishment of a clear and transparent structure for the CMOs that incorporate a high level of accountability including regular audits and reporting mechanisms to ensure that royalties are distributed fairly and rightfully to the owners;*

The current law establishes a structure for CMOs as regards accountability. Among the regulatory measures on collecting societies set by the Act is the requirement to have the accounts of societies audited at least once in every year under section 69.

The collecting societies are also required under section 70 to cause estimates of the income and expenditure of the society to be prepared for the coming twelve months at least three months before the end of its financial year and a copy of the estimates have to be sent to the Registrar of copyright for an opinion before submission to the general meeting.

Under section 74, the registrar of copyrights has supervisory powers over collecting societies including inspecting their books or records to assess their operation.

Accordingly, the current legal frame work provides for regulation of collecting societies which is intended to protect the members or beneficiaries of such societies including artists.

The Committee observes that most of the proposals raised by petitioners in regards to CMOs are addressed in the Act. The issue of concern by the petitioners lies more on enforcement of the provisions of the law rather than amendment of the law.

Committee Recommendation

The Committee recommends that the registrar of copyrights ensures compliance with the provisions of the law by CMOs. This will enable provision of fair, equitable and prompt compensations to artists. It will also enhance accountability to the artists, thus ensuring acceptance of the entity.

- g) Registration and regulation of all third parties including telecom aggregators who are involved in the distribution and dissemination of the copyrighted content;**

The existing licensing framework for the communications sector already provides for regulation of providers of telecommunications, radio, television and online data communication services. Accordingly, most of the telecommunications aggregators are

private limited liability companies registered with Uganda Registration Services Bureau. Since aggregators deal in distribution and dissemination of copyright content, they are regulated by UCC. Section 59(x) of the Uganda communications act 2013 mandates the UCC to set standards, monitor and enforce compliance relating to content. The commission is further mandated under regulation 5 of Uganda Communications (Content) Regulations 2019 to monitor content service providers; including third party content providers transmitting content through an operator, (third parties in this case include aggregators).

Following the above provisions, the law already covers registration and regulation of aggregators. This therefore is not an issue to consider under the amendment of the Copyright and Neighbouring Rights Act.

Committee Recommendations

The Committee recommends that;

- i. The owners of the copyrighted works should take responsibility for ensuring protection of their works, by avoiding situations of voluntarily uploading their works on public platforms such as YouTube, from which members of the public can easily download such works for future use.*
- ii. The UCC and URSB should enforce the Law on the registration and regulation of all third parties involved in the distribution and dissemination of the copyrighted content.*

h) Requiring broadcasters to dedicate ninety per cent of airtime to Ugandan music as a way of promoting local content and supporting the development of the industry in the country;

According to the Broadcasting Policy of Uganda 2006, Local Content which was defined to mean "broadcast content which recognizes the cultural and linguistic diversity of Uganda, carries themes of relevance to the local audience and is produced under Ugandans' creative control", it was approved by cabinet that a provision be made to

provide for national content in the programming of private broadcasters, as such the broadcaster was required to allocate a specified proportion of their programming to the promotion of local content.

The UCC has played a crucial role in regulating the broadcasting industry and ensuring the enforcement on the policy on local content through the Uganda Communications (Content) Regulations 2019. Regulation 32 (1) of the Regulations requires every Free-to-Air operator to promote the incorporation of at least 70% local content of all programme content in its programming schedule, which is the highest regulated expectation around the world.

Relatedly, the media has played a crucial role in supporting the music industry in Uganda in various ways including; sponsorship and advertisement, radio airplay and exposure, online platforms, music blogs and websites, music awards and shows, social media promotion, music education, and copyright protection and sensitization. It is therefore important to enhance collaboration and partnership between the two sectors, yet being mindful of the free market economy.

Therefore, the issue of promotion of local content is already catered for. It may thus not be proper to incorporate this proposal in the amendment of the Copyright and Neighbouring Rights Act as suggested by the petitioners.

The Committee observes that;

- i. The enforceability on 70% directive may come into question on whether all the broadcasters are implementing the directive. This is caused by the lack of adequate monitoring system.
- ii. The 70% local content is not limited to only music, rather all content produced by Ugandans including; drama, current affairs and news, information programmes, educational programmes, children's programmes, and sports programmes.
- iii. The request that 90% songs should be Ugandan is both unreasonable and impractical, as talent globally is dictated by quality. Ugandan music therefore has to match the quality of the music from elsewhere to receive adequate air play.

- iv. Media is governed by consumer interests, as the market is liberalized. The Ugandan music should thus appeal to the consumers who control and dictate the market and airplay. The proposed 90% music airplay will be challenged by the consumers for being unfair and an intrusion of their freedom and right to exercise their choice of content or entertainment.
- v. Media is based on target audiences, and some radio stations play music not common in Uganda including; country, jazz and rock, thus disadvantaging them on the local content component, with these music genres not locally available, and making the proposal impractical.
- vi. Uganda is a free and liberalized economy, pushing the East African and Pan African agenda, and the push for 90% music airplay contradicts this agenda.
- vii. Broadcasters do not operate just to entertain. They also have other objectives such as information and education, which are not necessarily achieved through music. It is also noteworthy that not all broadcasters play music.

The Committee recommends that;

- i. *The proposed 90% music airplay to be given to Ugandan content is rejected as this is unattainable and goes against the policy of free and liberalised economy, as well as the East African and the Pan-African agenda.*
 - ii. *The Uganda Communications Commission should enforce the regulations on Local Content.*
 - iii. *Government should deliberately take an interest in local music by improving its quality to compete globally, by putting in place mechanisms to support artists and musicians to produce better music, including financing of the sector, improving studios and equipment.*
-
- i) *Encouraging the use of Ugandan models, actors and actresses and artists in the advertising, promotion, influencing and endorsement of products by companies in Uganda and developing Ugandan publishers, through the imposition of higher charges of publishing licenses for non-Ugandans, as a way of empowering the*

local creative industry, provide employment opportunities for local content and help build a distinct national identity in advertising;

It is the role of the UCC to regulate advertisements, and according to regulation 27 of the Uganda Communications (Content) Regulations 2019, the commission set up standards for advertisement which every operator is obliged to comply with, such standards include; lawful, honest and decent, conform with the principles of fair competition and any applicable law, do not contain any descriptions, claims or other material which may directly or by implication, mislead members of the public in relation to the product or service advertised, or about their suitability for the purpose recommended, do not unfairly attack or discredit, directly or by implication, any other advertiser, product or advertisement.

The mandate of the commission however does not extend to regulating who is to be engaged as a model of a product to be advertised. That lies within the discretion of the company and the product intended to be advertised. Some of the products have a foreign origin with models already engaged and the Ugandan dealers or agents in such products may not have the capacity to interfere with the advertisement as set.

It should further be noted that encouraging use of Ugandan artists as models is not a copyright neither is it a neighbouring right and therefore is not an issue that can be considered in the amendment of the Copyright and Neighbouring (Amendment) Bill, it would rather be considered under a policy on national local content on human capital. Unfortunately, Uganda presently has no Local Content Law in place.

It is equally important to note that the implementation of this proposal could be challenged for offending other international legal instruments like the East African Treaty, which enjoins all member states to treat persons and products from other member states equally as their own local persons and products.

[Handwritten signatures and initials are present throughout the page, including a large signature on the left, a signature 'AA' on the right, and several other signatures at the bottom.]

Committee Recommendations

The Committee recommends that;

- i. The above prayer should fall under the Build Uganda Buy Uganda (BUBU) and implemented in the context of international and regional legal treaties.*
 - ii. Government should expeditiously re-introduce a Local Content Bill to Parliament for enactment into Law. This will come a long way in addressing matters related to local content.*
 - iii. The Ministry of Trade Industry and Cooperatives should come up with regulations under an appropriate law to address issues of advertisements.*
- j) Requiring aggregators of licensed Ugandan intellectual property to be domiciled in Uganda as a condition for operating to ease accountability since they will be subjected to the country's legal framework on the copyright law.*

The creative industry is global in nature and in a digitally connected world, implementation of this proposal, even if placed under a law, may have practical implementation challenges.

The Committee notes that this matter could best be addressed elsewhere and not through inclusion into the amendments to the Copyright and Neighbouring rights Law, as domiciling all aggregators can be best achieved if a requirement is imposed that all aggregators be incorporated as companies and if it is a foreign aggregator be registered as a foreign company in Uganda under the Companies Act 2012.

The aggregators whether local or foreign companies registered in Uganda can be held accountable as long as there are local regulations apportioning minimum thresholds of revenue to artists.

Committee Recommendation

[Handwritten signatures and initials]

Wor

Ati

Anga

The Committee recommends that all aggregators should be incorporated as companies, and for foreign aggregators, be registered as a foreign company in Uganda under the Companies Act 2012. This will ensure accountability by these aggregators, while also streamlining the supervision of their operations.

7.0. CONCLUSION

Rt. Hon. Speaker and Hon. Members,

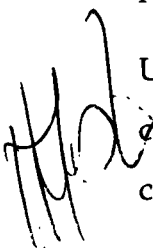
A comprehensive approach to addressing the challenges facing the Ugandan music industry in the digital era will ensure that the Country harnesses the opportunities in the industry by improving the livelihood of people in the music industry value chain, and also widen revenue base to Government.


Relatedly, modernizing the copyright law will enhance enforcement mechanisms, promote local talent, and create a fair and transparent ecosystem in the music industry.

Uganda can therefore foster a thriving and sustainable music industry by addressing the concerns raised which will not only safeguard the rights and interests of artists but also contribute to the cultural and economic development.

I therefore pray that the report of the Committee on ICT& National Guidance be considered by this House and recommendations therein adopted.

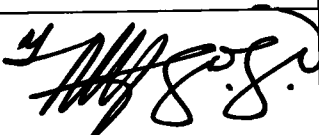

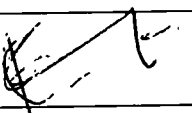
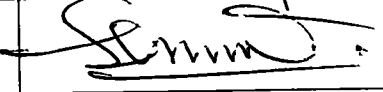
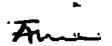
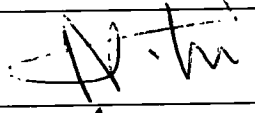


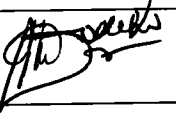
I beg to report





**SIGNATURE SHEET FOR MEMBERS OF THE COMMITTEE INFORMATION, COMMUNICATION
TECHNOLOGY AND NATIONAL GUIDANCE COMMITTEE**

NO	NAME	CONSTITUENCY	SIGNATURE
1	Hon. Eng. Magogo Moses Hassim	Budiope East County	
2	Hon. Tonny Ayoo	Kwania County	
3	Hon. Kambale Ferigo	Kasese Municipality	
4	Hon. Lolem Micah	Upe County	
5	Hon. Mary Anne Tumwine	DWR Ntoroko	
6	Hon. Nulu Byamukama	Kitagwenda County	
7	Hon. Mutiwa Geofrey Eric	Bunyole West County	
8	Hon. Chelangat Solomon Alinga	T'OO	
9	Hon. Barnabas Tinkasiimire	Buyaga West County	
10	Hon. Eng. Abigaba Cuthbert Mirembe	Kibale County	
11	Hon. Elotu Cosmas	Dakabela County	
12	Hon. Cherukut Rose Emma	DWR Kween	
13	Hon. Leku Joel	Terego West County	
14	Hon. Biyika Lawrence Songa	Ora County	

15	Hon. Ezama Siraji Brahan	Aringa County	<i>Norah</i>
16	Hon. Joyce Bagala	DWR Mityana District	
17	Hon. Gorreth Namugga	(Mawogola County South)	
18	Hon. Bashir Kazibwe Mbaziira	(Kawempe Division South)	<i>Bashir</i>
19	Hon. David Serukenya	(Makindye-Ssabagabo Municipality)	
20	Hon. Florence Kabugho	(Kasese District).	<i>Florence</i>
21	Hon. Kiiza Kenneth Nyendwoha	(Bujenje County)	<i>Kiiza</i>
22	Hon. Noah Musa	(Koboko North County)	<i>Noah</i>
23	Hon. Muhammad Nsereko	(Kampala Central Division).	<i>Muhammad</i>
24	Hon. Brig. Gen. Charity Bainababo.	UPDF Rep	