

COPYRIGHT (COLLECTIVE MANAGEMENT ORGANIZATIONS) REGULATIONS 2007

Pursuant to the powers conferred on it under Section 39 (7) of the Copyright Act Chapter C28, Laws of the Federation of Nigeria 2004, the Nigerian Copyright Commission hereby makes the following Regulations.

Short Title

1. These Regulations may be cited as the Copyright (Collective Management Organisations) Regulations 2007.

CHAPTER 1: GRANT OF LICENCE

2. Application for Licence

- (1) Subject to the conditions specified under Section 39 of the Act, a company may apply to the Commission in the prescribed form and upon payment of the prescribed fees, for grant of licence to operate as a Collective Management Organisation .
- (2) Every Company applying for licence to operate as a Collective Management Organisation shall furnish the Commission with the following documents:
 - i. a Certificate of registration in respect of the company issued under the Companies and Allied Matters Act;
 - ii. the Memorandum of Association of the Company;
 - iii. the Articles of Association of the Company
 - iv. a Statement indicating the class of right or category of right owners in which the society owns rights, or intends to represent or act for;
 - v. membership list of not less than 100 right owners representing the class(es) of right to which the company is seeking a licence to operate as a Collective Management Organisation, which list shall indicate the signed consent of such persons to belong to the Organisation, or where the Organisation has been in existence, that they are members of the society;
 - vi. Undertakings by at least 5 (five) Directors including the Chairman of the Company that the Company shall comply with provisions of the Copyright Act and these Regulations in respect of the operations of the Organisation;
 - vii. membership agreement used by the organisation;
 - viii. evidence of payment of the prescribed fee(s); and
 - ix. such other documents as may be required by the Commission.
- (3) The Commission may accept an application of a Company if it is satisfied that:
 - i. all the requirements stipulated in the Act and under these Regulations for grant of a licence have been met;

- ii. the organs of the Company comprises at least a General Assembly of all its members and a Governing Board;
- iii. the Chief Executive Officer of the Company who shall not be a member of the Company, is knowledgeable in copyright matters and approved by the Commission as competent to run the affairs of a Collective Management Organisation;
- iv. the Management of the organization have been approved as competent to run affairs of a Collective management Organisation
- v. the memorandum of Association of the organisation provides the main function of the organization to be the administration of collective management of copyright.
- vi. the Articles of Association of the Organisation makes provision for attendance of representative of the Commission at the Governing Board and other general meetings of the organization of the Organisation as an observer;
- vii. no person shall be qualified to be appointed as Chairman of the Governing Board of the Collective Management Organisation unless he is a member of the Organisation; and
- viii. the Governing Board and Management of the Collective Management Organisation consist of persons who are citizens of Nigeria and ordinarily resident in Nigeria.

- (4) The Commission may communicate acceptance of an application to the applicant and where it deems necessary may require the applicant to take such additional steps including the advertisement of its application for grant of licence to operate as a Collective Management Organisation in designated national newspaper(s).
- (5) Upon the approval of an application, the Commission shall issue the applicant a Certificate as evidence of its licence to operate as a Collective Management Organisation.
- (6) Without prejudice to sub-paragraph (7), the Commission may refuse to grant a licence if it is not satisfied with the application of a company.
- (7) If an applicant for a licence has not been able to satisfy the Commission as to any matter required of it under it under these Regulations or the Act, but the Commission considers that the applicant will be able to do so before a final decision is made on the application, the Commission may accept the application subject to such modifications, conditions or limitations as may be appropriate.
- (8) At the request of an applicant for a licence under these Regulations, whose application has been refused or accepted subject to modifications, conditions or limitation, and on payment of the prescribed fee, the

Commission shall provide the applicant, in writing, the grounds for its decision.

- (9) Subject to the provisions of these Regulations a licence shall be valid for 3 (three) years and may be renewed every 2 years in accordance with procedure herein stipulated.

3. Revocation of Licence

- (1) The Commission may, on its own motion or on application by any interested person revoke the licence of a Collective Management Organisation where:
- i. in the opinion of the Commission, the Collective Management Organisation contravenes or fails to comply with any provision of the Act, these Regulations, direction or order made or given to it under these Regulation;
 - ii. the Collective Management Organisation no longer acts for or represents the copyright owners of any class(es) of works in respect of which licence was granted to it;
 - iii. the Collective Management Organisation failed to disclose material facts that, if known at the time of considering its application for a licence, would have constituted cause for refusal of the said application; and
 - iv. the Commission becomes aware of facts unknown at the time of considering the application for grant of licence, or of subsequent occurrences which, if placed before the Commission, would have constituted a ground for refusal of the application for grant of licence.
 - v. On such other ground or grounds that it would be reasonably justifiable to refuse application for grant of licence to operate as a Collective Management

4. Renewal of Licence

- (1) A society may at any time within 6 (six) months before the expiration of its licence apply in the prescribed form to the Commission for the renewal of the licence. Such application shall be accompanied by:
- a. an up-to-date list of its members; and
 - b. the current repertoire administered by the Organisation indicating the title of each work and right owner.
- (2) Upon satisfying itself on the conduct of the Collective Management Organisation the Commission may issue a licence for another period of 2 years on such terms as it deems fit.

- (3) The Commission may refuse to approve an application for renewal of a licence if it is of the opinion that the Collective Management Organisation no longer meets the requirement for grant of licence.

CHAPTER 2

MEMBERSHIP AND MANAGEMENT OF COLLECTIVE MANAGEMENT ORGANISATIONS.

5. Membership Admission

- (1) Membership of a Collective Management Organisation shall be made open to all copyright owners of the category of works or class(es) of rights to which the Organisations seeks licence or is licensed to operate under these Regulations.
- (2) A Collective Management Organisation shall not impose condition(s) requiring a member to constitute the Organisation as his sole collecting agent or as agent for any other purpose otherwise than for the purpose of managing the rights of the member within the scope of the Organisation's licence under these Regulations.
- (3) A Collective Management Organisation shall not make a mandatory requirement for a member to assign to it the right to collect royalties from equivalent foreign collective administration schemes.
- (4) A Collective Management Organisation may make provision for collective membership through an association of right owners or for admission of members through their agents, provided that in such a case, the agent or the association shall undertake to indemnify the Organisation against claims from the actual right holder in respect of any royalty distributed to the agent or the association.
- (5) Where the Commission is satisfied that an organisation is in breach of subparagraphs 1, 2 and 3 above, the Organisation and/or its officers may be liable to a written caution and may be required to rectify the breach within a specified time, failing which the Organisation shall be liable to a fine of N50,000.00

6. Rights of Members

- (1) Each member of a Collective Management Organisation shall be entitled to one vote with similar rights and privileges.
- (2) Each member shall be entitled to obtain from the Organisation:
 - a. annual statements of accounts;

- b. list of persons that Constitute the Governing Board of the Organisation;
- c. annual report of the Governing Board;
- d. report of the auditors;
- e. information on the overall amount of remuneration paid to any Director or employee of the organisation certified by the auditors.

(3) The Governing Board of a Collective Management Organisation shall as far as possible be representative of the different classes of right owners in the society.

(4) Nothing in these Regulations shall reduce, derogate or affect in any way the privileges that members of a Collective Management Organisation are entitled to, or any relief or remedies available to them under their membership agreement or any applicable legislation.

7. Withdrawal of Membership

A member shall, upon reasonable notice of his/her intention to do so, have the right to withdraw his membership of a Collective Management Organisation or the rights assigned to the Organisation in respect of any of his works.

8. Organisation's Obligation to Furnish Information

(1) Collective Management Organisations shall within 30 days of occurrence notify and furnish the Commission with information in respect of:

- a. alteration to the Memorandum or Articles of Association or any internal rules;
- b. adoption of Tariffs and any alteration thereof;
- c. Reciprocal Representation Agreements with foreign collecting societies;
- d. any alteration to the standard membership agreement;
- e. any decisions in judicial or official proceedings to which the society is a party, where the Commission so requires;
- f. any documentation, report or information which the Commission may require.

(2) Collective Management Organisation shall, not later than the 1st day of July in each year prepare and submit to the Commission the following documents in respect of its operation for the preceding year:

- a. a general report of its activities; and
- b. annual audited financial report which shall show among others;
 - (i) the total revenue during the period of the report;
 - (ii) the total sum and general nature of expenses;
 and

- (iii) payment of royalties to members in accordance with the organisation's distribution policy.
- (3) Collective Management Organisations shall provide users of copyright works, or any member of the public, upon a written request, reasonable information on their services. Such information shall include:
 - a. The description of the rights or class(es) of rights it administers;
 - b. Its Current Licensing arrangements including tariff, terms and conditions of licence for all categories of users;
 - c. and such other relevant information that may be necessary.
- (4) Where a Collective Management Organisation seeks any change in the tariff rates for any category of users, it shall inform such users through a medium that could be accessed publicly by them.
- (5) Where the Commission is satisfied that a Collective Management Organisation is in breach of any of the provisions of subparagraphs 1 to 4 above, the Organisation and/or its officers may be liable to a written caution and be required to rectify the breach within a specified time.
- (6) Upon failure to rectify the breach within the specified period, the Collective Management Organisation shall be liable to a fine of *N50, 000. 00 (Fifty thousand naira)*.

9. Report of Meetings

Every Society licensed under these Regulations to function as a Collective Management Organisation shall cause a report containing the minute and decisions taken at every meeting of the General Assembly and Governing Board of the Society to be entered in a special register kept for that purpose and a certified copy of such report shall be submitted to the Commission where the Commission so requires.

10. Accounts, Annual Report and Audit

- (1) Every Collective Management Organisation shall keep proper accounts consistent with ordinary accounting/commercial standard.
- (2) The Commission may, if it considers it necessary, at any time appoint an auditor to audit the accounts of a Collective Management Organisation and the cost of such auditing shall be borne by the Organisation.
- (3) Where as a result of an examination of any account or audit of any account it appears to the Commission that any offence under any enactment has been committed by the society or by any of its officers, the Commission may initiate a criminal proceedings against the Collective Management

Organisation or Officers of the Organisation identified with the Commission of the offence.

- (4) Where an Officer has been indicted for the Commission of an offence as provided in subparagraph (3) above, the Organisation Shall forthwith suspend such officer from further performing the functions of the office he held immediately preceding such indictment.

11. Expenses of Collective Management Organisations

- (1) A Collective Management Organisation may withhold from the amount collected or received by it such deductions necessary to cover any expenditure incurred in the fulfillment of its functions and the amount so deductible shall be within the limits to be decided by the Governing Board subject to a maximum limit of 30 percent of the total royalties and fees collected during the year in which the deductions are made.
- (2) Without prejudice to subparagraph (1) above, the Commission may, upon a prior written application of a Collective Management Organisation approve the deduction of more than 30 percent of the total revenue of the organisation to cover the Collective Management Organisation's expenditure.
- (3) Where an Organisation exceeds its authorized expenditure limit as provided in paragraphs 1 and 2 above, the Collective Management Organisation and/or any of its officers responsible for such breach may be liable to a caution and/or written admonition and be required to rectify the breach within a specified time.

12. Holding Account

- (1) Every Collective Management Organisation shall establish a Holding Account which shall be used, inter alia, to hold any share of the distributable amount, which cannot be allocated or distributed for reasons including the following:
 - i. the society has *lost* contact with the member concerned;
 - ii. the qualified person entitled is not currently a member;
 - iii. where the member or his/her agent is not available or easily ascertainable, the relevant copyright owner or agent entitled to the amount is not ascertained;
 - iv. there is a dispute as to entitlement;
 - v. a portion of funds collected cannot be allocated immediately as there is presently inadequate data for apportionment.
- (2) Where funds in the Holding Account are to be distributed, the Organisation shall distribute the fund based on the best available data prior to expiration of that Holding period.

13. Disposition of Funds in Holding Account.

- (1) Funds placed in the Holding Account are to be held for at most 7 years (the "holding period"). Such funds may be paid out to a person who becomes entitled within this period; that is, where the circumstances that required the amount to be placed in the Holding Account have ceased.
- (2) Amounts which remain in the Holding Account at the expiration of the holding period would fall into general revenue for distribution in respect of the then current accounting period or the period just terminated if that happens to coincide with the expiration of the holding period.

CHAPTER 3

LICENSING AND DISTRIBUTION OF ROYALTIES

14. Licensing and Tariff

- (1) A Collective Management Organisation shall make available to users, on non-discriminatory terms, the complete repertoire of works with respect to which it is representing the right owners
- (2) A Collective Management Organisation shall draw up tariff in respect of remuneration it demands for the usage of copyright works administered by it.
- (3) In setting the tariff, a society may have regard to the following:
 - i. the monetary advantage obtained from the exploitation;
 - ii. the value of the copyright material;
 - iii. the purpose for which, and context in which, the copyright material is used;
 - iv. the manner or kind of use of the copyright material;
 - v. the proportion of the utilization of a work in the context of exploitation;
 - vi. any relevant decision of the Court or the Dispute Resolution Panel; and
 - vii. any other relevant matter
- (4) A Collective Management Organisation may enter into an agreement with representative trade associations, concerning the use of its repertoire by members of such trade associations.
- (5) A Collective Management Organisation shall notify the Commission of any tariff scale accepted under an agreement referred to in subparagraph 4 above.

15. Settlement Of Dispute

- (1) Where there is a dispute arising from any matter that falls within the purview of these regulation, such dispute shall be referred to the Commission which may set up a Dispute Resolution Panel (“the Panel”) to settle the dispute.
- (2) The Panel shall consist of three persons not being staff of the Commission, one of whom shall be designated as the Chairman. The Chairman shall be a legal practitioner of not less than 10 (ten) years post call experience and knowledgeable in copyright matters.
- (3) The Commission shall designate one of its officers not below the rank of a Principal Copyright Officer as the Secretary of the Panel.
- (4) The procedure for referral of a matter to the Panel and the conduct of the business of the panel shall be as set in Second Schedule to these Regulations.

16. Distribution Of Royalties

- (1) Subject to the provision of these Regulation, a Collective Management Organisation shall distribute royalties collected to its members in a manner to reflect as nearly as possible the actual usage of works covered by its repertoire
- (2) A Collective Management Organisation shall establish a distribution plan that is fair and equitable based on a procedure acceptable to its members and information furnished by users.

CHAPTER 4

MISCELLANEOUS PROVISIONS

17. Compensation of Licensees

Every Collective Management Organisation shall provide for compensation, refund or other arrangements which may apply in the event a user is unable to utilize the licence issued to it by the Collective Management Organisation, which situation arose as a result of the negligence, misrepresentation or other such fault traceable to or caused by the Collective Management Organisation

18. Unethical Practices

- (1) The following conduct or practices by Collective Management Organisation shall be deemed to be unethical:
 - (a) granting licences for works for which it is not authorized to administer;
 - (b) collecting and/or distributing or purporting to collect and/or distribute royalties in respect of works for which it is not authorized to administer;

- (c) making false representation in respect of any matter to which it is required to provide information knowing such representation to be false;
- (d) discriminating in the provision of licence to members of the same user class either in the terms of such licence, or differential tariff rate, except such differential treatment can be reasonably justified based on peculiar facts and circumstances applicable to the said user class;
- (e) inducing a user who is in the process of negotiating for a licence with another society or right owner to refrain from completing the licensing process;
- (f) failing to make available to any other Collective Management Organisation information which is reasonably required by such other Collective Management Organisation to enable it effectively administer the rights held by it. Such information may include but not limited to:
 - i. information regarding the repertoire of an author who has assigned works to both Collective Management Organisation;
 - ii. information held by a Collective Management Organisation that may assist the requesting Collective Management in the computation and equitable distribution of royalties; and
 - iii. information on the existing reciprocal representation agreement if any of a Collective Management Organisation.
- (g) using information obtained from another Collective Management Organisation, for purposes otherwise than as stipulated in subparagraph (e) above.
- (h) doing any thing or acting in a manner that has the effect of preventing any other Collective Management Organisation from carrying its functions as approved under these Regulations.

19. Fees

The fees to be paid in relation to any transaction under these Regulations shall be as prescribed from time to time by the Commission.

20. Enforcement of Sanctions

1. Where a Collective Management Organisation is found to be in breach of any part of this regulation or the Copyright Act or has been directed to take any step or action, or where sanction has been imposed on it by the Commission, and the Collective Management Organisation fails to so act or serve the sanction within the time specified by the Commission, the Management Officers of the organization may be liable to a written caution.
2. Where an organization fails to carry out any action within the time as may it may be directed to do so by the Commission, the licence of the Collective Management Organisation may be suspended pending its compliance, and if the Collective Management Organisation fails to

comply within 3 months of such suspension, the Commission may revoke its licence.

3. Any officer of an organization who has been cautioned for two time may be disqualified by the Commission from holding any management position in any collecting organization unless he satisfies the Commission on why he shall not be disqualified or why such disqualification shall be lifted

21. Existing Collecting Societies

An existing Collective Management Organisation approved or whose approval has been renewed at the time these Regulations come into force shall be deemed to be licensed under these Regulations and may continue operations for the unexpired period of its approval provided that if such Organisation applies for renewal, the application shall be in accordance with the provisions of paragraph 2 of these Regulations.

22. Interpretation

(1) In these Regulations unless the context otherwise requires –

”Act” means the Copyright Act Chapter C28 Laws of the Federation of Nigeria 2004.

“Auditor” means a person licensed to practice in accordance with the laws of the Federal Republic of Nigeria.

“Collective Management Organisation” means Collecting Society as defined in the Copyright Act.

“Copyright owner” means any natural or legal person that holds a copyright.

“Dispute Resolution Panel” means a panel constituted pursuant to the provisions of these Regulations.

“Legal Practitioner” has the meaning assigned to it by the Legal Practitioners Act.

“Licence” means a lawfully granted licence permitting the doing of an act controlled by this Act.

“Reciprocal Representation Agreement” means any agreement between foreign collecting societies and indigenous collective management society whereby one collective management organisation grants to the other the right to manage its repertoire in the territory of the other.

“Repertoire” means the catalogue of copyrighted works which is administered by a collective management organisation.

“Royalty” means payment made for the exploitation of copyright works.

“Tariff” means fee or a schedule fees chargeable by a Collective Management Organisation for the exploitation of copyright works administered by it.

“The Commission” means the Nigerian Copyright Commission.

(2) Words not specifically defined in this section, but defined under the Act shall take the meaning ascribed to it by the Act, wherever it appears in these regulations.

23. Repeal and Transitional Provisions

(1) The Copyright (Collective Management Organisation) Regulations 1993 is hereby repealed.

(2) Without prejudice to subparagraph (1) above, any act, approval or action taken in respect of the regulation and operations of collecting societies immediately before the commencement of these Regulations shall remain valid as if they were done pursuant to the provisions of these Regulations.

(3) Any instrument, order, prescription or direction made under the repealed Copyright (Collective Management Organisation) Regulations 1993 which was in force immediately before the commencement of these Regulations shall remain in force subject to any necessary modification, as if it had been made under these Regulations, and may be added to, amended, revoked or varied accordingly.

FIRST SCHEDULE



Copyright (Collecting Societies) Regulations 2006

FORM NCC/CSR 1

APPLICATION FOR GRANT OF LICENCE

1. Name of Applicant.....
2. Contact Information:
 - i. Location address:.....
.....
 - i. Telephone
 - ii. Fax.....
 - iii. Email.....
3. Names of Principal Officers
 - i. Chairman of Governing Board
 - ii. Chief Executive Officer.....
4. Category/Class of Rights for Which Licence is Sought:.....
.....

5. Principal Object of the applicant company.....

.....
.....
.....

6. Subsidiary Objects of the Company.

i.....

ii.....

iii.....

7. Current number of Members.....

8. Details of Affiliation with any foreign organization:

i. Name of Organization.....

ii. Contact Address of Organization.....

.....

iii. Nature of Affiliation.....

UNDERTAKING/DECLARATION OF COMPLIANCE

(To be signed by the Chairman & 2 Directors of the Company)

We the undersigned, being directors of the within named company hereby affirm that the information provided in this form are to the best of our knowledge true and correct and that the applicant company upon being licensed by the Commission shall comply with provisions of the Copyright Act and these Regulations in respect of the operations of the applicant company as a collecting Society.

DATED THIS.....DAY OF.....20

1. -----

Name of Director

Signature

2.-----
 -
 Name of Director Signature

3.-----

SECTION B

For official Action

List of attachments

SN	DOCUMENTS	Confirmation of attachment		REMARKS
		Yes	No	
1	Certificate of registration (CAC)			
2	Memorandum of Association			
3	Articles of Association			
4	Membership List			
5	Affidavit of Compliance			
6	Membership Agreement			
7	Receipt of fees			
8	Evidence of Publication (if required as part of application)			

Date of receipt of Application:.....

Receiving Officer:.....

Remarks of Receiving Officer:

.....

Signature of Receiving Officer:.....

APPENDIX

LIST OF MEMBERS AND SIGNED CONSENT

We the underlisted persons whose names and signatures appear hereunder have consented to be members of the applicant company and have/shall entrust(ed) our copyright works to the applicant company for collective management of same.

[illegible]

SECOND SCHEDULE

COPYRIGHT (DISPUTE RESOLUTION PANEL) RULES 2007 **Copyright Act**

Commencement: **2007**

In pursuance of the powers vested in it under Section 39(7) of the Copyright Act, and Paragraph 15 of the Copyright (Collecting Societies) Regulations 2007 the Nigerian Copyright Commission hereby makes the following Rules.

Citation

1. These Rules may be cited as the Copyright (Dispute Resolution Panel) Rules 2007

Commencement of Proceedings

2. Filing Application

(1) Subject to payment of prescribed fees, a person may initiate proceedings under these Rules for the settlement of a dispute arising from the Copyright (Collecting Societies) Regulations 2007 by a notice as in form 1 (Applicant's Notice) of the **Appendix 1** together with a statement of the applicant's case to the Commission.

(2) Applicant's Statement shall be presented in numbered paragraphs stating all allegations of facts and the relief sought. Any document upon which the Applicant intends to rely shall be attached to the statement and marked as exhibits.

Notification

3. Within 7 days of the receipt of the notice in form 1, the Director General of the Commission shall cause to be served on the Person named as Respondent therein, a notice of the reference of the dispute in form 2 (Respondent's Notice) in Appendix 1, together with a copy of the applicant's statement.

Answer

4. Except where otherwise directed, the Respondent shall, within 14 days of the service of the Applicant's Notice, serve on the Director General of the Commission his written answer to the Applicant's statement and any counterclaim, and the Director General shall cause a copy of the Respondent's Answer and counterclaim to be served on the applicant.

Reply

5. Within 7 days of receipt of the Respondent's answer and counterclaim if any, the Applicant may, if he finds it necessary forward a reply to such answer and/or counterclaim to the Director General of the Commission. Such reply which shall be served on the Respondent by the Director General shall be restricted to points arising from the Respondent's answer or counterclaim, and no new issues or points shall be raised.

Decision to refer dispute to a Panel

6 (1) The Director General of the Commission may at any time before the constitution of the Panel, decide whether the dispute is such that should be referred to a Panel.

(2) If, after considering the reference the Director General decides to entertain the reference, he shall refer same to a Panel; and if he declines to entertain the reference, he shall direct that no further proceedings shall be taken by any party in connection with the reference.

(3) The Director General shall convey his decision to the Parties stating his reasons thereof.

CONSTITUTION OF A PANEL**Appointment of a Panel**

7 (1) Subject to the decision to refer a dispute to a panel, the Director General of the Commission shall, within 10 days after the receipt of the last statement or answer from the Parties, appoint a Panel in accordance with Regulation 15 of the Copyright (Collecting Societies) Regulations 2007.

(2) The Secretary of the Panel shall notify the parties of the appointment of the chairman and members of the Panel.

(3) At the request of a member of the Panel, the member may be released from appointment with the consent of the Commission.

(4) Whenever necessary, a substitute member of the Panel shall be appointed by the Commission. Pending such appointment, the proceedings shall be suspended, unless otherwise agreed by the Parties.

Procedure and Decision of the Panel**Power of Panel to regulate procedure**

8. (1) Subject to the provisions of the Act and these Rules, the Panel shall have power to regulate its own procedure.

(2) Disputes under these Rules may be determined on the basis of documents filed only. However, the Panel may, having regard to the exceptional nature of the case, or at the request of a Party, order a hearing.

Representation and rights of audience

9 (1) A party may be represented at any hearing by a Legal Practitioner, or by any other person allowed by the Panel to appear on his behalf or may appear in person.

(2) Where a Party appoints a representative, the appointment shall either be stated in the notice to the Director General referring a dispute for settlement required to be given in rule 2 (1), or an answer thereto, or made in writing and shall not be effective until notice thereof has been served on the Director General, and a copy of same has been served on every other party and the proof of such service delivered to the Panel.

(3) For the purpose of service on a party of any document, or the taking of any step required or authorized by these Rules, any Representative appointed by a party shall be deemed to continue to have authority to act for such a party until the Panel and every other party has received notice of the termination of his appointment.

Withdrawal of Application

10. The applicant may withdraw his application made under rule 2 at any time before it has been finally disposed of by serving a notice thereof on the Panel, but such withdrawal shall be without prejudice to the Panel's power to make an order as to the payment of costs incurred up to the time of service of the notice. The applicant shall serve a copy of the notice on every other party to the proceedings and furnish the Panel with proof of such service.

Default

11. The Panel may proceed with the Complaint and make its determination if a Party, without good cause, fails to avail itself of the opportunity to present its case within the period of time determined by the Panel.

Decision of the Panel

12. (1) The final decision of the Panel on an Application under these Rules shall be given in writing and shall include a statement of the Panel's reasons.

(2) Any decision, or order of the Panel shall be made by a majority and shall be signed by the members of the Panel. Where a member fails to sign, the decision shall briefly state the reason for the absence of the signature.

(3) The Panel shall forward to the Director General of the Commission a copy of each order or decision made and the Director General shall as soon as practicable serve on every party to the proceedings a copy of same.

(4) At the request of a Party, the Commission shall provide the Party with a copy of an order or decision certified by it.

(5) The final decision should, wherever possible be made within 15 days after the closure of proceedings and such decision shall be binding on parties until set aside by a competent court of law.

Miscellaneous and General

Application of Arbitration Act

13. The provisions of sections 14, 23, and 31 of the Arbitration Act Chapter 19 Laws of the Federation of Nigeria 1990, as set out in Appendix 2 hereto shall apply with necessary modification, in the case of proceedings before the Panel as those provisions respectively apply to arbitration where no contrary intention is expressed in an arbitration agreement.

Fees and Costs

14. (1) The fees specified in Appendix 3 shall be payable in respect of the matters mentioned under this rule, or any other matter therein provided.

(2) Administration Fee

(a) An application for settlement of a dispute shall be subject to the payment to the Commission of an administration fee which shall not be refundable

(b) No action shall be taken by the Commission on an Application until the administration fee has been paid.

(d) If Applicant fails within 7 days to pay the administration fee, the Applicant shall be deemed to have withdrawn its application.

(3) Award of Costs of Proceedings

(a) The costs of the proceedings shall consist of:

- i. The Panel's fees;
- ii. Any properly incurred outgoings of the members of the Panel, and
- iii. Such other expenses as are necessary for the conduct of the proceedings, such as the cost of hearing facilities.

(b) The Panel may, subject to any agreement of the Parties, apportion between the Parties the costs of the proceedings in the light of the outcome of the proceedings and pursuant thereto may order parties to make a deposit prior to the commencement of proceedings.

Service of Documents

15. (1) Any notice or other document required by these Rules to be served on any person may be served personally on the person or, sent to him by pre-paid post at his address for service, or, where no address for service has been given, at his registered office, principal place of business or last known address, and every notice or other document required to be served on the Director General or the Commission may be served personally on the Director General or sent by pre-paid post to the Headquarters of the Commission.

(2) The Panel may direct that service of any notice or other document be dispensed with or effected otherwise than in the manner provided by these Rules.

Time

16. (1) The time for doing any act may whether it has already expired or not be extended-

- (a) With the leave of the Panel, or
 - (b) By the consent in writing of all parties, except where the Panel has fixed the time by order or, if the time is prescribed by these Rules, has directed that it may not be extended or further extended without leave.
- (2) A party in whose favour time is extended by consent under paragraph (1)(b) above shall, as soon as may be practicable after the necessary consents have been obtained, serve notice thereof on the Panel.
- (3) Where the last day for the doing of any act falls on a non-working day or public holiday and by reason thereof the act cannot be done on that day, it may be done on the next working day.

APPENDIX 1

FORM 1

NIGERIAN COPYRIGHT COMMISSION
COPYRIGHT (DISPUTE RESOLUTION PANEL) RULES 2007

Notice of Reference under Rule 2 (1)

To,

The Director General
Nigerian Copyright Commission

TAKE NOTICE that [*name and address of prospective Applicant*] ("the Applicant"), being the prospective licensee/licensor under a licence to be granted by [*name and address of the licensor*] in favour of [*name and address of the licensee*] hereby refers to the Nigerian Copyright Commission a dispute in respect of the said licence pursuant to Paragraph 15(1) of the Copyright (Collecting Societies) Regulations 1993, for resolution by a Tariff Arbitration Panel.

The Applicant's Point of Reference is/are:
{state briefly the nature of dispute and determination sought}

There is delivered herewith a statement of the Applicant's case.

All communications about this reference should be addressed to the Applicant at the address shown above.

Persons involved in the dispute are:
{State name and address of the Respondent(s)}

Dated the _____ day of _____ 20____

[Name and address of Applicant's solicitor/agent].

Signed

Status of signatory [*Applicant, an officer of Applicant, solicitor or agent*]

NIGERIAN COPYRIGHT COMMISSION
COPYRIGHT (DISPUTE RESOLUTION PANEL) RULES 2007

To:.....

Of:.....

In default of forwarding such answer, the Panel shall, unless there are exceptional circumstances that the Panel considers, in its discretion, proceed with the consideration of the dispute and make its determination; and the decision or order of the Panel thereof may be enforced against you.

Dated the _____ day of _____ 20____

Signed.....
Director General
Nigerian Copyright Commission
Annex II, Ground Floor,
Federal Secretariat (Phase 1)
Shehu Shagari Way
P.M.B. 406,
Abuja.

APPENDIX 2

Applicable Provisions of Arbitration Act chapter 19 Laws of the Federation of Nigeria 1990

Section 14: Equal Treatment of Parties

In any arbitral proceedings, the arbitral tribunal shall ensure that the parties are accorded equal treatment and that each party is given full opportunity of presenting his case.

Section 23: Power of Court to Order attendance of Witness

(1) The court or the Judge may order that a writ of subpoena ad testificandum or of subpoena duces tecum shall issue to compel the attendance before any arbitral tribunal of a witness wherever he may be within Nigeria.

(2) The Court or a Judge may also order that a writ of habeas corpus ad testificandum shall issue to bring up a prisoner for examination before any arbitral tribunal.

(3) The provision of any written law relating to the service or execution outside a state of the Federation of any such subpoena or order for the production of a prisoner issued or made in civil proceedings by the High Court shall apply in relation to a subpoena or order issued or made under this section.

Section 31: Recognition and Enforcement of Awards

(1) An arbitral award shall be recognized as binding and subject to this section and section 32 of this Act, shall, upon application in writing to the court, be enforced by the court.

(2) The Party relying on an award or applying for its enforcement shall supply:

- (a) the duly authenticated original award or a duly certified copy thereof;
- (b) the original arbitration agreement or a duly certified copy thereof.

(3) An award may, by leave of the court or a judge, be enforced in the same manner as a judgement or order to the same effect.

APPENDIX 3

FEES PAYABLE

- | | |
|--|---------------------|
| 1. Administration fees where the amount/licence fee in dispute is | |
| a. not more than N100, 000. 00 | N10, 000. 00 |
| b. not more than N500, 000. 00 | N25, 000. 00 |
| c. not more than N1, 000,000. 00 | N30, 000. 00 |
| d. above N1, 000, 000. 00 | N50, 000. 00 |
| 2. Deposit for Cost | N100, 000. 00 |
| 3. Drawing up and Certifying a record of proceedings (Per Folio) | N100. 00 |
| 4. Drawing up and certifying an order of the Panel (Per Folio) | N200. 00 |
| 5. Certifying any other document in the Reference File | N500. 00 |
| 6. Service of any document apart from notice of reference,
Statement of case and answer | N3, 000. 00 |
| 7. Fees of the Panel Members | |
| (1) a. Where Panel Proceedings are Conducted by Hearing | N5, 000. 00/sitting |
| b. Where there is no hearing | N10, 000. 00 |
| (2) The transport cost of Panel members shall be paid according to sums reasonably and
actually incurred. | |