



CONCERNED COPYRIGHT & INTELLECTUAL PROPERTY OWNERS

04 September 2014

Mr. Mohammed Bello Adoke, SAN
Honourable Attorney General of the Federation &
Minister of Justice
Federal Ministry of Justice
Justice Building
Shehu Shagari Way
Abuja

Dear Sir,

COLLECTIVE MANAGEMENT OF COPYRIGHT: WE SAY "NO" TO MONOPOLY

On 5th August 2010, a large delegation of our group visited you and protested the monopoly imposed on the business of collecting societies in the copyright sector of the economy by a cabal in the Nigerian Copyright Commission (NCC) and demanded for immediate de-monopolisation of collective administration of copyright particularly, the business of royalty collection in the entertainment industry. You promised us on that day that you would resolve the issue within two weeks of our visit and urged us to hold you to your words. Our position is contained in our letter of 17th September 2010, copy of which is attached for easy reference.

Four years after your promise and assurances, nothing has changed except for the removal of the erstwhile Director General of the NCC, Mr. Adebambo Adewopo and replacing him with Mr. Afam Ezekude, who by his actions has proved to be two sides of the same coin. Rather than open up the sector by embracing deregulation in the spirit of the Transformation Agenda of Mr. President, he has shrivelled the regulatory regime the more. Thus the imposed monopoly has continued and become entrenched. This has become unbearable for genuine copyright and other intellectual property owners in Nigeria, particularly our members whose constitutional and fundamental human rights are being trampled upon.

We thank you very sincerely for the efforts you made in the following regards:

1. Your directives that MCSN and COSON should find ways of working together as one within 90 days.
2. At the expiration of the 90 days, which came without any resolution between MCSN and COSON, you directed that the matter be taken to the World Intellectual Property Organisation (WIPO) for arbitration.

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3. At the time parties were getting set for the WIPO Arbitration, you directed that parties should approach the Federal High Court for adjudication.

We were informed that the Federal High Court gave judgment in favour of MCSN in two different cases on 25th July 2011 and 18th March 2013 in **Suit Nos. FHC/L/CS/35/08** and **FHC/L/CS/1063/12** affirming the legality and constitutionality of MCSN's existence and operations.

But instead of the NCC to obey these judgments of the Federal High Court as directed by you, they continued in the acts of persecution of MCSN by filing series of spurious criminal charges against it and its officials on the same alleged offence at different divisions of the Federal High Court.

Also of significance is that the **National Assembly** through the House of Representatives of the Federal Republic of Nigeria conducted an investigative Public Hearing on the issue of forced monopoly in the business of collecting societies in Nigeria on 31st May 2013 and on 18th December 2013 at the Plenary session passed a series of resolutions directing the NCC to immediately approve MCSN as a collecting society and review other applications among others. A copy of the House of Representatives' report of 18th December 2013, containing the resolutions is attached for easy reference.

We are concerned that just like the NCC has disobeyed your directives to obey the judgment of the Federal High Court, the same officials of the NCC have continued to disobey the National Assembly by refusing to approve MCSN or review other applications for approval.

We received report that the National Assembly resolution was sent to you with a plea that you should kindly intervene by directing the NCC to obey the National Assembly but no response has been received from you yet.

We are also aware that the cabal in the NCC are working hard to shoot down the Federal Government directives on the establishment of the **National Intellectual Property Commission (NIPCOM)** to include the merging or coming together of NCC, Registrar of Trade Marks and the Office of Patent and Designs, while flouting the directive since 2006 when the President of the Federal Republic of Nigeria first approved the establishment of NIPCOM.

From the foregoing, these cabal in the NCC headed by its Director General, Mr. Afam Ezekude, are actively engaged in regulatory rascality and thereby hurting the business of the entertainment industry and intellectual property in Nigeria.

The issues which we request the Honourable Minister to consider and act upon urgently are as follows:

1. If Monopoly is bad for Aviation, Broadcasting, Telecommunications, Banking, Foods & Drugs, Petroleum, Power and every other sector in our economy, including the Political sector, why should it be good for only the Entertainment/Intellectual Property sector?

2. The major planks of President Jonathan's Transformation Agenda are observance of the rule of law and opening up our economy to enable all Nigerians the opportunity to fairly and equitably participate and compete in all sectors of the economy. Why are the officials in the NCC working against this transformation agenda in the Entertainment/Intellectual Property sector?
3. Why should these NCC officials, notably Mr. Afam Ezekude, Jacob Fagbemi, Abdul T. Kohol, John Asein, Austin Amodu, Chris Nkwocha, Michael Akpan, Obi Ezeilo and Matthew Ojo who have been cited and, or indicted in certain instances of compromising the NCC, continue to act with impunity by refusing to obey subsisting court orders, the directives of the Honourable Minister and the National Assembly as if they were above the law?
4. These NCC officials should no longer be allowed to continue in their regulatory functions to underscore the fact that they have betrayed their oath of office and the Code of Conduct governing public officers.

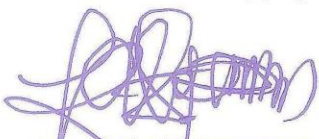
We must state here Sir, that the only reason given by the NCC in letters written by Mr. Jacob Fagbemi of the NCC, is that MCSN's law suit against the NCC over NCC's refusal to approve MCSN is still pending in court. However, the fact remains that there were other cases pending in court when NCC approved and renewed the approval of COSON in 2013 in addition to taking other actions which were prejudicial. We are also aware of many instances where government agencies and authorities including your esteemed office, acted to resolve issues, even when cases are pending in the court on the issues.

MCSN has however informed us and we verily believe them that they will withdraw the matter from court as soon as the NCC implements the National Assembly Resolutions by first approving it as a collecting society to continue its legitimate business.

We therefore call on you Sir, to invoke your powers as the supervisory Honourable Minister in charge of Copyright and other intellectual property matters under Section 50 of the Copyright Act and kindly intervene to bring justice and equity into our sector.

We remain with highest assurances of our best regards.

For: **Concerned Copyright & Intellectual Property Owners (CCIPO)**



Mike Pam
National Coordinator



Yinka Davies
PR Director



Engineer George Dureke
President