



DUALE, OVIA &
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Playing Music in Stores and Public Places: Legal Implications of Public Performance Licenses



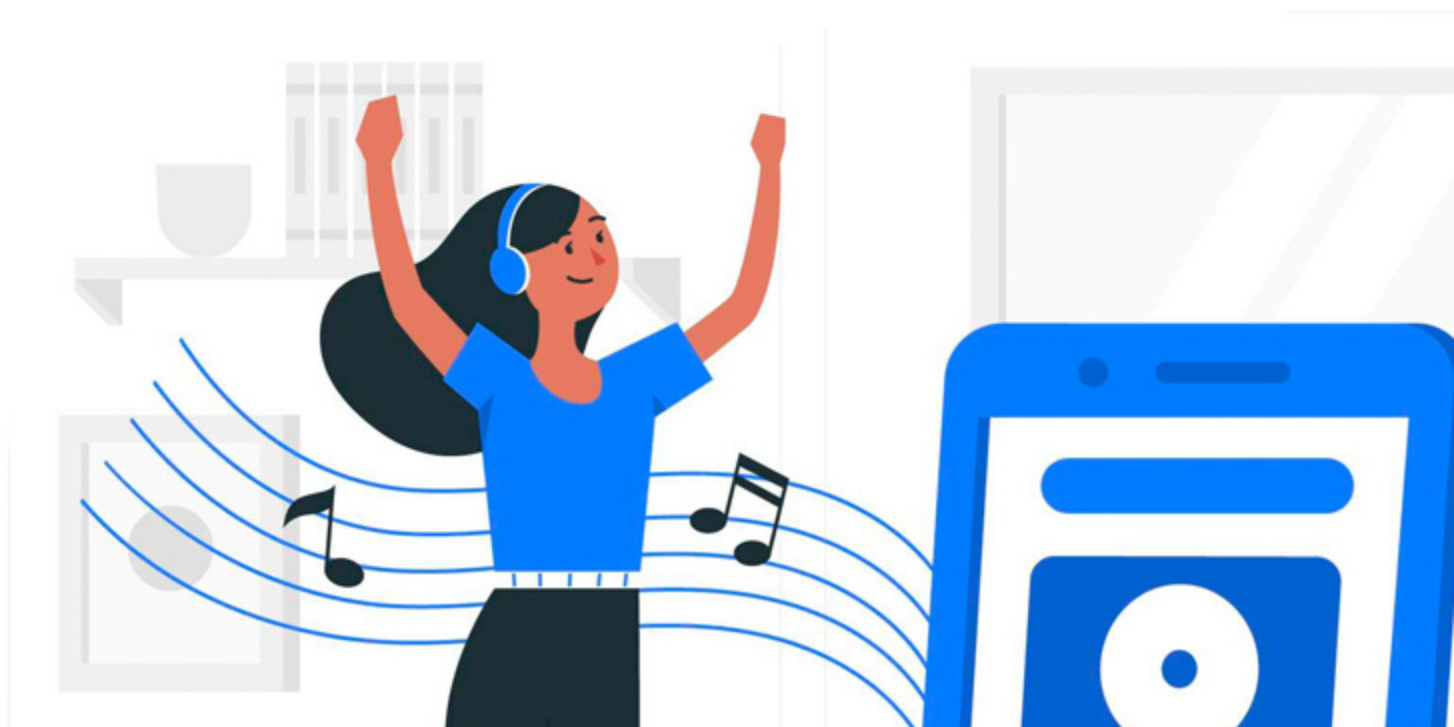
Introduction

Music plays an integral role in today's digital age, driving trade and product marketing across various industries, from entertainment and media to advertising and hospitality. Yet, in using musical works to garner public appeal for commercial purposes, a crucial consideration emerges: how can copyright owners of musical works rightfully benefit from their creation when it is 'performed publicly'?

This inquiry forms the focal point of this piece, as we delve into the realm of copyright ownership rights in musical works and the role played by Collective Management Organizations (CMOs).

Use of Music in Public Places

In the copyright realm, when one refers to music being 'performed publicly', it connotes a wider range of activities other than an artiste's live performance of his/her musical work. Public performances include when a musical work is transmitted to the public, through TV broadcasts, digital service providers, radio, and any other means. Public performance of music also includes storeowners playing music in the background to boost their business and make customers feel comfortable.



Since musical works are subject to copyright protection, copyright laws require a person or entity to obtain a license from the copyright owner in a musical work before authorizing the public performance of the music. The permission to publicly perform a song may be granted upon payment of agreed fees, and such permission is to be lawfully obtained from the copyright holder or a CMO.

According to the Nigerian Copyright Act 2022 (the “**Act**”), any person who allows a place of public entertainment or business to be used for a public performance of a copyrighted work without authorization infringes upon the copyright. However, the Act provides an exception, where the person permitting the place to be used was unaware and had no reasonable grounds to suspect that the performance constitutes an infringement of copyright.

The Act further states that copyright is infringed by any person who performs or causes to be performed for the purposes of trade or business or the promotion of a trade or business, any work in which copyright subsists.



Collective Management Organizations

Collective Management Organizations (CMOs) are non-profit organizations established by copyright owners to collectively administer their copyrights. They negotiate licenses with users of copyrighted works and collect and distribute royalties to their members. CMOs play an important role in protecting the rights of copyright owners and ensuring that they are fairly compensated for the use of their works. In most cases, it is difficult for copyright owners to enforce their rights and for users to obtain music licenses individually. CMOs make it easier for both copyright owners and users by providing a centralized system for licensing and royalty collection.

In Nigeria, CMOs are regulated by the Collective Management Organizations Regulations of 2007 and are licensed by the Nigerian Copyright Commission after meeting certain conditions set out in the Act. Currently, there are two (2) CMOs in Nigeria: The Musical Copyright Society of Nigeria (MCSN) and the Copyright Society of Nigeria (COSON).



How to Obtain a Public Performance License (PPL)

To obtain a PPL, you would be required to approach the relevant CMO and fill out a license application form, provide necessary documentation and pay the required fees.

It is worthy of note that the Nigerian Copyright Commission has reportedly declined to renew the license of COSON, rendering them unable to issue music licenses until their license is renewed.

Conclusion

The use of music in public places attracts legal implications, and it is important to obtain the necessary authorization from the copyright owner. Royalties generated from such licenses provide fair compensation for copyright owners. By obtaining a license, businesses and organizations can legally use copyrighted music in their public spaces without risk of infringement.

