
THE CHALLENGES OF THE NIGERIAN COPYRIGHT COMMISSION (NCC) IN THE FIGHT AGAINST COPYRIGHT PIRACY IN NIGERIA

Mary Imelda Obianuju Nwogu¹

Lecturer, Faculty of Law, Nnamdi Azikiwe University,
P M B 5025, Awka, Anambra State, Nigeria.

ABSTRACT: *The dawn of information age and the advancement of technology in the reproduction of information and intellectual goods created a favourable tool for piracy; copying and selling of another's intellectual works have become easy and less expensive; copyright theft; production of fake, sub-standard and unlicensed products are on the increase. Hence copyright piracy is a global problem, although more prevalent in developing countries like Nigeria. Copyright piracy has been recognized worldwide as an enemy of creative arts, intellectualism and creativity. It obstructs genuine investments and corrupts cultural value of a nation. Nigeria status as a favourable destination for foreign direct investment and a place where local creative talent can flourish is in jeopardy due to the activities of individuals who unjustifiably infringe on another's copyright works. It is in recognition of the above fundamental facts that the Nigerian Copyright Commission (NCC) which is saddled with the responsibility of monitoring, administering and enforcing copyright laws and ensuring proper implementation of set out rules and regulations on the citizenry in the case of default seeks to fight against piracy. In this fight, the NCC are faced with a plethora of challenges which include, poor financing, mobility, insecurity, favouritism, poor enforcement mechanism, poor information and communication technology (ICT) knowledge, poor equipment for the implementation of the anti-piracy policies and so on.*

KEYWORDS: Nigerian Copyright Commission, Copyright Piracy, Nigeria

INTRODUCTION

Copyright is an intangible, incorporeal property, which guarantees the owner the exclusive right to deal with his/her work within a stipulated time as provided under the law. Copyright and related rights are today perceived as instruments for development, as well as providing a secured and stable environment for creative activities. The creative industry which encompasses all intellectual productions has contributed in no small measure to economic growth and development of creators in the world in general and Nigeria in particular. Surprisingly, the owners of this intellectual creativity are robbed of their rights by pirates who reap where they have not sown. Piracy is a great challenge to creative industry worldwide and Nigeria in particular. It may be said to be a cankerworm in the growth and development of intellectualism, more deadly than AIDS to human health, and the perpetrators, terrorists.

However, the contributions of the creative industry, particularly in copyright issues to socio-economic development has been due to efficient management system. In Nigeria today, this management is carried out by the Nigerian Copyright Commission (NCC). This commission

¹ Mary Imelda Obianuju Nwogu, PhD (Law).

administers copyright issues. Its administration and the output of the creative industry has been frustrated by the effect of copyright piracy which discourages creativity. In reaction to this menace the NCC fights against piracy. However, this fight is met with numerous problems, such as poor funding, security, corruption, poor enforcement mechanism, poor knowledge of information and communication technology (ICT) and so on.

The Nigerian Copyright Commission and the Administration of Copyright

The Federal Military Government in 1988 promulgated the copyright Decree No. 47 of 1988. This Decree was redesignated the Copyright Act in 1990.² This Act not only created favourable conditions for actualization of author's potentials through protection of creative work, but also incorporated on establishment, for the first time, machinery for the administration of copyright in Nigeria called the Nigerian Copyright Council.³ Owing to the need to align the council with the emerging trend in global copyright administration and enforcement, its status was changed to a commission in 1996. The Nigerian Copyright Commission is still incorporated in the subsequent amendment of the Copyright Act in 2004.⁴

The Nigerian Copyright Commission (NCC) is established under Section 34(1) of the Copyright Act,⁵ as a body corporate with perpetual succession and common seal.⁶ The Commission (NCC) has zonal offices in some states of the Federation for the purposes of decentralised administration of copyright matters. It is headed by a Director-General, who is responsible for the day to day administration of NCC.⁷ A governing board is established for the effective management of NCC.⁸ The Commission has numerous functions/roles provided under the copyright Act⁹, which include the following:

- a. To be responsible for all matters provided for in this Act.
- b. To monitor and supervise Nigeria's position in relation to international conventions and advise government thereon.
- c. To advise and regulate conditions for the conclusion of bilateral and multilateral agreements between Nigeria and any other country.
- d. To enlighten and inform the public on matters relating to copyright.
- e. To maintain an effective data bank on authors and their works.
- f. To be responsible for such other matters as related to copyright in Nigeria as the minister¹⁰ may from time to time, direct.

² Cap 68 LFN 1990

³ NCC, Historical Background of NCC, Available at <http://www.copyright.gov.ng/historicalbackground> accessed on 9th Oct. 2014.

⁴ Copyright Act Cap C28. Laws of the Federation of Nigeria 2004.

⁵ Ibid

⁶ Ibid, S. 34 (2)

⁷ I.M Olueze, *Nigerian Copyright Law* (Lagos: Maghlink International Ltd, 1998) P. 148

⁸ Copyright Act, *op. cit.*, S. 35

⁹ *Ibid*, S. 34 (3)

¹⁰ Minister of Culture, Tourism and National Orientation

In addition to the above functions, the commission has power to appoint copyright inspectors.¹¹ The Copyright Inspector shall have power to:¹²

- a. enter, inspect and examine at any reasonable time any building or premises which he reasonably suspects is being used for any activity which is an infringement of copyright under this Act, such as piracy;
- b. arrest any one who he reasonably believes have committed an offence under this Act;
- c. make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act are complied with;
- d. request the production of the register required to be kept under section 14 of this Act and to inspect, examine and copy it;
- e. request any person who he finds in such building or premises to give such information as it is in his power to give in relation to any purpose specified in this Act;
- f. carry out such examinations, test or analysis within or outside the premises as is required to give effect to any provision of the Act; and
- g. exercise such other powers as the commission may delegate to it to give effect to the provision of this Act¹³.

Furthermore, section 38(3) of the Copyright Act empowers the copyright inspector to prosecute, conduct or defend before court any charge, information, complaint or order proceedings arising under the Act. The Act did not expressly in any of its provisions empower the copyright inspector to institute civil proceedings in respect of infringement of copyright. The expression “or other proceedings” in section 38(3) could be interpreted using the *eiusdem generis* rule to include civil proceeding. The Copyright Commission also has power to approve the functioning of a collecting society. A collecting society is an association of copyright owners which has as its principal objectives the negotiation and granting of licenses, collecting and distributing of royalties in respect of copyright works.¹⁴

In addition, the Nigerian Copyright Commission also has the power to grant compulsory licence, for the translation and reproduction of literary or dramatic work for the purposes of teaching, scholarship or research.¹⁵

However, for effective and efficient administration of copyright, enforcement of copyright laws and fight against infringement, the Nigerian Copyright Commission has been divided into various departments, headed by duly appointed officers. Such departments include regulatory department, enforcement department, public affairs department, administrative department, legal unit, governing board, prosecution department and internal audit unit. These departments are saddled with varying functions, including fight against copyright piracy.

¹¹ Copyright Act *op. cit.*, S. 38

¹² *Ibid*, S. 38 (2)

¹³ *Ibid*

¹⁴ *Ibid*, S. 39

¹⁵ *Ibid*, 4th Schedule, Para. 2

Copyright Piracy

Copyright piracy is the illegal reproduction or duplication of copyright works like phonograms, books, paintings, architectural drawings, photographs, films, broadcasts, computer software etc, for commercial purpose. It also includes distribution, whether gratuitous or for sale, and exhibition in public of infringing copies of copyright works. In line with the above, B.A. Garner¹⁶ defines piracy as the unauthorized and illegal reproduction or distribution of materials protected by copyright, patents and trade marks law. To Meurer,¹⁷ piracy is the unauthorized public distribution of literal copies of a copyrighted work, making a pirate in the economic sense a competing supplier of the copyright holder.

Piracy is used to describe infringement of copyright on commercial bases. Hence piracy can be clearly distinguished from plagiarism, which many misconstrue to have the same meaning. But the two concepts are different and distinct from one another. Plagiarism according to the Chambers 21st Century Dictionary,¹⁸ is the act of copying ideas, passages of text etc from someone else's work and then as if they were one's own. It is also the deliberate presentation of another person's original ideas or creative expression as one's own. Wittenberge¹⁹ opines and rightly too, that for one to be liable for plagiarism, unfair use of such work is made by lifting a substantial part of the work thereof, however, an exact counterpart of another's work does not constitute plagiarism if such counterpart was arrived at independently.

Piracy is a cankerworm that has eaten deep into the fabrics of the society. It is a clog in the wheel of the production and growth of copyrighted works, for it has led to counterfeiting and fake products, which has contributed in no small measure to intellectual property theft and this has affected negatively the goodwill of the original creator of a work. Today, several incidences of piracy abound in various subject matter of copyright throughout the whole world, and Nigeria in particular. They include; software piracy, cinematography film piracy, music piracy and book piracy.

Piracy in Nigeria

Piracy as a global cankerworm affects both developed and developing countries of the world. It remains a challenge to law enforcement agencies and the society at large. Kunle stated that Nigeria is ranked among countries where piracy is prevalent, it was 82% in 2007, 83% in 2008, 83% in 2009, 82% in 2011 and still 83 in 2012²⁰.

In Nigeria today, piracy hits all sectors of copyright industry, but the worst hit is the entertainment industry, hence one of the greatest challenges facing the Nigerian entertainment industry is piracy, which has robbed the industry of billions of naira. Kanayo O. Kanayo²¹ condemned piracy and

¹⁶ B.A. Garner, *Black's Law Dictionary* (8th edn, St Paul Minn: Thompson West Publishing Co., (2004) P. 1186

¹⁷ M.J. Meurer, 'Price Discrimination Personal Use and Piracy: Copyright Protection of Digital Works', (1997) 45 *Buffalo Law Review*.

¹⁸ M. Robinson, *Chambers 21st Century Dictionary* (Edinburgh: Chambers Harrap Publisher Ltd, 2004) P. 1059

¹⁹ P. Wittenberg, *The Protection of Literary Property* (1st edn, Boston: The Writer Inc Publishers, 1978) P. 96

²⁰ A Kunle 'Global Software Piracy' *Business Alliance Software Magazine*, May 11, 2012, P. 31

²¹ In J. Alakam, 'Transverse Discs Tech Intensity Fight Against Piracy' *Vanguard Newspaper* 8th Oct., 2014

called it an act of “intellectual terrorism”. He noted that the wealth of Nollywood is judged not only on its past works but on the substance that is coming from the industry in contemporary times. He called for stricter enforcement measures to curb the hydra-headed phenomenon. Ijeware in frowning at the rate of piracy in Nigeria, states that authors and producers in entertainment industry have been impoverished in the last twenty years, as they loose over N81 Billion Naira to piracy²². Kanayo is also agitated by the fact that pirates are feeding fat literarily and figuratively on creative works at the expense of the proposed beneficiaries of the work.²³ Hence, Nigerian Copyright Commission sees piracy as a crime and an act that has made negative impact in Nigeria that must be dealt with.

Impact of Copyright Piracy

Copyright as a lubricant for creativity has assumed a prominent role in the field of commerce and trade globally. It recognizes a creator’s right over his work and therefore ensures through appropriate legislation, the right of the author or creator to authorize the use of such work for a limited period of time.²⁴ Unfortunately, the cold hands of piracy have cut short this rationale of copyright protection leaving the creator in penury. Supporting the above assertion, Onyeje²⁵ states that piracy of intellectual property is Nigeria’s greatest challenge, which cuts across software development, movie production, music production and book publication. Further he states that piracy would put people out of business and drain Nigeria of her economic gains, if it is not put under control. The truth is that several movies produced in Nigeria are being pirated on a daily basis and if not curbed, it will pull down the growth of Nollywood in Nigeria.²⁶

Furthermore, piracy constitutes a serious threat to the sustenance of creative industries. As a result of piracy, the creators who have put their energies, time and money into producing sound recordings, films, books, computer programmes, etc suffer huge losses in revenue. The real impact of piracy can be evaluated from economic, social and political standpoints.²⁷ The losses sustained by the Nigerian Copyright Industry is enormous. To software piracy alone, Nigeria loses N82 billion yearly²⁸ while in US the loss translates into loss of jobs, loss of significant revenues in taxes by the government.²⁹ Aside loss of income, employment, tax revenue and piracy reputation of the country involved, it consequently discourages manufacturers and producers of genuing products from establishing facilities in those countries. Such situation results in loss of Foreign Direct

Available at <http://www.vanguardngr.com/2014/04/transverse-disc-tech-intensify>

²² In S. Osanyintunyi, ‘Effects of Piracy in Nigeria’ Available at <http://www.ccsenet.org/jp/> accessed on 12th February 2013

²³ J. Alakam *op cit*.

²⁴ J.O. Asein and E.S Nwauche (eds) *A Decade of Copyright Law in Nigeria* (2nd edn, Ibadan: Sam Bookman, 2001) P. 45

²⁵ E. Onyeje, ‘Nigeria: Piracy Nigeria’s Greatest Challenge in Business’, *This Day Newspaper*, Sept. 20, 2012 Available at <http://www.allafrica.com/stories/2012> accessed 29th March, 2013.

²⁶ *Ibid*

²⁷ NCC, *Survey of Nigerian Copyright Piracy*, (Abuja: Nigerian Copyright Commission and Food Foundation, 2008) P. 3

²⁸ E. Okwuoke, ‘Nigerian Economy, loses 82b yearly to Software Piracy – Survey’, May 13 2014 Available at <http://www.dailyindependenting.com> accessed 14th Nov. 2014

²⁹ NCC, ‘Survey of Nigerian Copyright Piracy’ *op cit*, P. 4

Investment (FDI), as well as the concomitant technology transfer and know-how which normally accompany FDIs.³⁰ However, this trend continues in a manner which is not only injurious to foreign investors, but also the local industries that might have invested in the production of similar goods but are discouraged by uncertainty resulting from piracy. The social implications of piracy are also worth considering. Local creativity is frustrated by piracy as producers are unable to compete with low priced pirated products which are pushed into the market with poor quality, content and packaging. The country and its citizens are the ultimate losers in this scenario, for indigenous creators suffer loss of reputation and social displacement.³¹

Nigerian Copyright Commission (NCC) and the Fight Against Piracy

The Nigerian Copyright Commission established under the Act³² is the only government agency responsible for copyright administration in Nigeria. The mandate of the Commission (NCC) includes administration, enforcement and regulation of copyright activities in Nigeria, of which fight against piracy is inclusive. The Nigerian government has adopted a zero tolerance for acts of piracy. In line with the zero tolerance for piracy, the copyright Act³³ in its wisdom provides for anti-piracy measures to assist the commission effectively and efficiently carry out its functions. Thus S. 21 of the Act provides that;

the commission shall have power, with the consent of the minister, to prescribe any design, label, mark, impression or any other anti-piracy device for use on, in or in connection with any work in which copyright subsists;³⁴

any person who sells, rents, hires; or offers for sale, rent or hire, any work in contravention of the prescription made pursuant to subsection (1) of this section, commits an offence and is liable on conviction to a fine not exceeding N100,000 or imprisonment for a term not exceeding 12 months or to both such fine and imprisonment;³⁵

any person who without the permission of the commission; imports into Nigeria; or has in his possession any anti-piracy device prescribe under this section or any machine, instrument or other contrivances intended for use in the production of anti-piracy device is guilty of an offence and is liable on conviction to a fine not exceeding N500,000 or imprisonment for a term not exceeding five years or to both such fine and imprisonment;³⁶

any person who without the permission of the commission is in possession of; or reproduces; or counterfeits; any anti-piracy device prescribed under this section is guilty of an offence and is liable on conviction to a fine not exceeding N50,000 or imprisonment to a term not exceeding five years, or to both such fine and imprisonment;³⁷

³⁰ *Ibid*

³¹ *Ibid*

³² Copyright Act *op cit*, S. 34

³³ *Ibid*, S. 21

³⁴ *Ibid*, S. 21 (1)

³⁵ *Ibid*, S. 21 (2)

³⁶ *Ibid*, S. 21 (3)

³⁷ *Ibid*, S. 21 (4)

the commission shall have power, with the consent of the minister to make regulations specifying the conditions necessary to give effect to the purpose of this section.³⁸

Thus by the above provision and that of S. 34 of the Act, the Nigerian Copyright Commission (NCC) is clearly and explicitly empowered to fight and curb piracy in Nigeria.

Since the establishment of the NCC in 1989³⁹, it has worked, (through its enforcement unit) tirelessly to clamp down on piracy and reduce it to the barest minimum. Campaigns such as strategic Actions Against Piracy (STRAP) and the Copyright litigation and mediation programme (CLAMP) launched in 2005 are testimonies to this. Since December 2010, however, the NCC has intensified its copyright fight (enforcement) and anti-piracy activities.⁴⁰

The Prosecution Department of the Nigerian Copyright Commission (NCC) filed seven copyright cases based on the concluded case files of recent nationwide anti-piracy raids conducted in various parts of the country in September 2011. In Lagos four new criminal cases were filed at the Federal High Court, Ikoyi Lagos, and they are *NCC v John Bright*; *NCC v Obisam Ltd & Ors*; *NCC v Tecomy & Ors*; and *NCC v Paragon Technologies Ltd & Ors*.⁴¹ The four accused/defendants were charged for illegal reproduction of musical works cinematography films and sound recordings. The Director, Prosecution Department of NCC Mr. Kohol, added that two criminal charges on broadcast piracy, *NCC v Akhaguayin E. Famous and NCC v Harrison Ugute* were filed at the Federal High Court Asaba and Benin respectively.⁴²

Interestingly the commission has secured many convictions against accused persons through the court system. Such convictions include *NCC v Oba Okechukwu*⁴³ where the accused was charged with the sell and possession of local and foreign musical and cinematography films which is contrary to S. 20(2) (a) and (c) of the Nigerian Copyright Act. The Federal High Court Abuja sentenced the accused to 3 months imprisonment and a fine of N12,600; and the infringing copy handed over to the NCC. Also the same decision was given by the court in *NCC v Dominion Kalu*⁴⁴. In *NCC v Godwin Kadiri*,⁴⁵ the accused was charged with selling and distributing to about 100 subscribers the whole or substantial parts of HiTV broadcast channels in which copyright subsist, without the consent or authorization of the copyright owner in breach of s. 20 (2) (a) and (b) of the Copyright Act, And also having in his possession equipment and contrivances including decoders, smart cards and splitters for the purpose of illegal rebroadcasting of HiTV channels contrary to S. 20(1) (c) of the Copyright Act. The Federal High Court Abuja convicted the accused and sentenced him in accordance with S. 20 (2) (a) of the Copyright Act.

³⁸ *Ibid*, S. 21 (5)

³⁹ Following the implementation of Decree No. 47 of 1988

⁴⁰ A Ezekude, 'Anti Piracy Drive Field Result' (2012) WIPO magazine Available at http://www.wipo.int.wipo_magazine/end/2012/03/article accessed 12th January 2013.

⁴¹ NCC, Notice Board, September 11, Issue No. 2, P. 4, Available at <http://www.copyright.gov.ng/noticeboard>, accessed on 23rd March 2014.

⁴² *Ibid*

⁴³ (2012) 55 NIPJD (FHC)

⁴⁴ (2012) 55 NIPJD (FHC)

⁴⁵ (2010) 53 NIPJD (FHC)

More interestingly, the Director-General of NCC, Mr. Afam Ezekude revealed that during his administration, NCC secured 46 criminal convictions and seized 16 containers of pirated products from China, which included books.⁴⁶ He further stated while declaring open a training workshop on Digital/Internet piracy organized for staff of NCC, that NCC is collaborating with Google Nigeria to fight Internet piracy and cybercrime in Nigeria.⁴⁷ This is really a giant stride by the NCC to fight piracy in Nigeria. This collaboration of NCC with Google is necessitated by the increasing challenge posed by online piracy to creativity.

The NCC in addition to proper implementation of their duty enshrined in the Act, also sets out policy initiatives and strategic plans in their mission and vision of curbing piracy. This can be illustrated in their bid to provide avenue for rebranding the ideology of Nigerians towards the evil called piracy.⁴⁸ This can be achieved through the use of Strategic Action Against Piracy (STRAP). This is a national anti-piracy campaign that employs various tools such as public enlightenment to combat all forms of piracy; empower local industries and attract foreign investment, through a sustained campaign, to restore the image of Nigeria as a country that upholds the ideals of creativity and abhors international crimes; and substantially raise awareness on piracy and other copyright infringements among Nigerians.

There is no gainsaying that the fight against piracy has not been an easy task for the NCC, it has been fraught with various challenges, hence the need for the discourse below.

Challenges of the NCC in the Fight Against Piracy

The NCC like any other body entrusted with some responsibilities, has some challenges. This is seen in its fight against piracy. These challenges include:

a. *Poor Financing*⁴⁹

The NCC by its function and enforcement procedure needs adequate fund to operate and carry out its responsibilities efficiently. Sadly, and surprising too, the NCC is not adequately funded. This automatically hinders necessary and comprehensive investigations and reduces the quantum of information gathered and as a result affects the commission's optimum performance.

b. *Corruption*

Some of the NCC officials who are charged with the responsibility of carrying out raids on infringed works are corrupt, so are compromised by the pirates. The officers at times have private dealings or transactions with the infringers (pirates), and consequently, they deliberately refuse or find it difficult to find them out during their regular raids. By this, these officials close their eyes to the evil being perpetrated by the pirates. This is quite unfortunate and unbecoming of such trusted officials, who were sent on this raid in confidence.

⁴⁶ J. Alakam *op cit*

⁴⁷ Y. Akinsuyi, 'NCC Partners Google to Fight Internet Piracy' *This Day Live*, Available at <http://www.thisdaylive.com/articles/nccpartnersgoogle> accessed on 15th August 2014.

⁴⁸ I Auth, 'Exporting Professional Service Seizing Opportunity' (2012) Available at <http://www.abillionem.com> accessed 14th Nov., 2014.

⁴⁹ A Odoh, 'Factors Militating Against Enforcement and Administration of Copyright and Possible Solutions; A paper Presented at the In-House Training Organized by Enugu zonal office of the NCC on the 11th March, 2013.

c. *Enforcement*

Effective enforcement of intellectual property laws is a key to curbing piracy, consequently, the position and role of law enforcement agencies like the police, army customs and officers of other relevant government agencies is crucial. In most developing countries, like Nigeria, these personnel are faced with various challenges such as, poor understanding of the issues involved; poor training; poor funding of enforcement activities; and absence of good working tools either to aid detection or in the conduct of post arrest operations.⁵⁰

However, a disturbing attitude also exists in the minds of the public and sometimes in the judiciary and in law enforcement agencies, that piracy is a low level of mischief with little real consequence. The members of the International Intellectual Property Alliance (IIPA) reported that the police lack the overall will, and the Economic and Financial Crimes Commission (EFCC) generally considers copyright as a secondary issue in their mandate and will rather assist the NCC to carry out its mandate rather than take the lead.⁵¹

Delays in the judicial system and lack of transparency in the enforcement system discourage copyright litigation and enforcement. This lack of transparency is as it affects right holders, for they are generally in the dark about the cases and ongoing investigations.

d. *Culture*

Culture is the way of life of the people within a given community. Culture of the people is a strong factor/challenge militating against the enforcement of anti-piracy measures, because the way and manner people behave affect their lives and will definitely determine the extent of the behavior of NCC officials who are on anti-piracy raids. For example, in the hinter-lands where the people patronize and are used to buying pirated copies of works at reduced prices, it will definitely be difficult to convince them about the negative impact of piracy and carry out raids.

e. *Mobility of Officials*

This is one of the major and fundamental constraints in the fight against piracy. The NCC departments and units, especially the enforcement departments should have strong, good and mobile vehicles that the officers will use to go on raids. Without these vehicles, effective surveillance and raids will be a mirage and nearly impossible, especially where the officials should cover more than one locations during the raid.

f. *Insecurity*

Importantly, the NCC officials find it difficult to successfully carry out raids without the police, this is because of the fear of the unknown in the field of operation. At times the copyright pirates may be aggressive and armed with different harmful instruments, that the officers need security and protection. Also the issue of insecurity in the country has made it difficult at times for the

⁵⁰ NCC, *Survey of Copyright Piracy in Nigeria, op cit*, P. 5

⁵¹ International Intellectual Property Alliance, (IIPA), *IIPA Report, Published by the Nigerian Copyright Commission*, June 2008, P. 51.

police hierarchies to release their men to NCC, and so they give the excuse that they do not have enough manpower on the ground. This definitely hampers the raid operations, because the officers find it difficult to go alone. This makes the fight against piracy difficult and consequently the pirates flourish and thrive in their businesses.⁵²

g. Language Barrier

This is another challenge facing NCC in its enforcement programs. Nigeria is a multi-lingual state and there are instances where officers are deployed to operate in an area where they do not understand the language of the natives, consequently, they will not understand each other and the raid operations will be practically impossible because of lack of communication.

h. Information and Communication Technology (ICT)

ICT is the world leading technology today, it includes the Internet. The Internet is a global network, it is a network of computer networks and has made the world to become a global village. The Internet by its very nature has vast information in it and various activities take place on the Internet including crimes and torts. Copyrighted works uploaded on the Internet are bastardised and copied with impunity. It is always common to see surfers at the cyber cafes or in their houses or offices, with few clicks on their computer distributing a copyrighted work to the entire world; Some even downloading the works and selling them. This anomaly must be checked.

However, to check the above method of piracy which is global and very vast, the NCC officials must be ICT compliant. The commission should train their officers on ICT, so as to use their expertise to curb piracy on the net. Most of the NCC officials are not computer literate. Each of them should have a functional computer connected to the global network, the Internet, so as to go through the Internet from time to time detecting infringers.

The NCC has also taken a step in the right direction, as stated earlier, in this work, by going into alliance with Google, which is one of the largest search engines on the Internet to fight Internet piracy.

i. Provision on Punishment under the Copyright Act

The penalties on criminal infringement as provided under S. 20(2) of the copyright Act is too small and may not even be a deterrent to an infringer. This also makes it difficult to convince the police that piracy is a crime that needs immediate and maximum attention. Section 20(2) provides thus: Any person who –

- a) sells or lets for hire or for the purpose of trade or business, exposes or offers for sale or hires any infringing copy of any work in which copyright subsists or
- b) distributes for the purposes of trade or business any infringing copy of any such work; or
- c) has in his possession, other than for his private or domestic use, any infringing copy of any such work; or

⁵² O. Odoh *op cit.*

- d) has in his possession, sells or lets for hire or distribution for the purposes of trade or business, or exposes or offers for sale or hire any copy of a work which, if it had been made in Nigeria, would be an infringing copy.

Unless he/she proves innocent infringing, is guilty of an offence and liable on conviction to a fine of ₦100 for each copy dealt with, or to a term of imprisonment not exceeding two years or in the case of an individual, to both such fine and imprisonment.⁵³

j. *Favouritism*

This is a cankerworm that has eaten deep into the fabrics of the Nigerian society. A competent official who is good in a particular area of fighting infringement may be left out and the incompetent official sent, because he/she is related to a high ranking person in the government of Nigeria. This definitely hinders successful raids. Also the pirate may be a well known person, that the NCC officer may find it difficult or impossible to enforce the anti-piracy measures. Hence piracy will continue and remain. The NCC its officers and the government must be firm in this fight and do it without fear or favour.

CONCLUSION AND RECOMMENDATIONS

Copyright piracy has been recognized globally as constituting serious threat to creative arts, and creativity generally. It obstructs genuine investments and corrupt cultural values of a nation. It is one of the greatest challenges facing the creative and entertainment industry and has robbed the industry billions of Naira. The prevalence of piracy in Nigeria is caused by poverty, high cost of original products, greed, excessive profiting and weak law enforcement. The consequences of piracy are multidimensional as it impacts on the economy, social and political foundations of society. However, the overall effect of piracy for a nation were well captured in the address presented by the former Nigerian President, Chief Olusegun Obasanjo during the launching of the Strategic Action Against Piracy (STRAP) initiative in May, 2005,⁵⁴ when he stated thus:

The damaging effect of piracy are visible all around us; the warning zeal for creativity; the dearth of well researched textbooks and reading materials in the education sector; the diminishing of the artistic and literal quality of our stage performance and the increasing colourless and uninspiring products in the visual arts. Expectedly, investors are wary and the younger generation is not encouraged to pursue careers in the arts and entertainment industry. We are all confronted by an attack on our culture and future as a people. We are faced with the reality of a declining economic resource and a source of pride as a nation.⁵⁵

It is in recognition of the importance of creative arts, intellectualism; and the negative and damaging effect of piracy that the Nigerian Copyright Commission (NCC) sought to fight piracy to a stand still/halt.

⁵³ Copyright Act, *op cit*, s. 20(2)

⁵⁴ NCC, Survey of Copyright Piracy in Nigeria *op cit*, p. 4

⁵⁵ *Ibid*, Pp. 4-5

The NCC is a body corporate with the primary function of monitoring, administering and enforcing copyright laws in Nigeria. In fulfilling this responsibility the NCC has taken giant strides in the fight against piracy, by dividing the commission into departments that perform varying functions and also aligning with some organizations like Google for efficient and effective fight. Google is a global search engine, therefore it assists the NCC to fight against Internet piracy. The Nigerian government has advocated and adopted methods to fight piracy, such as providing for the anti-piracy measures under the copyright Act⁵⁶ to assist the NCC in its fight against piracy. Piracy has so much ravaged the creative arts and entertainment industry that there is clarion cry about its effect on the economy. Nigeria has lost so much income, employment, investments and tax revenues to piracy. In summary the negative effect of piracy cannot be overemphasized, it is social, economical and political, hence the need for the fight to curb it.

However, in this war against piracy the NCC has not found it easy, it has been faced with numerous challenges. Such as poor funding, corrupt practices such as bribery, poor enforcement mechanism, insecurity, cultural influence, poor mobility, inadequacy of penalty for infringement, illiteracy in information and communication technology (ICT), favouritism and so on.

Hence, it is my considered opinion and recommendation that the commission should be adequately funded so as to provide facilities for the piracy raid. The copyright Act should be amended to provide for stiffer penalties (punishment) for copyright infringement. NCC officials should be adequately and properly educated on ICT so as to effectively and efficiently fight Internet piracy. Good and functional vehicles should be provided by the government to the commission for carrying out piracy raids. Security men such as police men, the army should be provided to accompany the NCC officials during the raids to protect them from attacks. Appointments by the NCC on who should carry out a particular raid should be done without fear or favour, but on the bases of competence. The officers of the commission should be men of integrity and disciplined citizens of Nigeria. They should also be adequately remunerated, so as not to be deceive or enticed by any gratification that may be offered to them by pirates, because if they are enticed by the gratification, they will fail in their work and consequently find it difficult to call the pirates to order.

REFERENCES

- Akinsuyi, Y., 'NCC Partners Google to Fight Internet Piracy' *This Day Live*, Available at <http://www.thisdaylive.com/articles/nccpartnersgoogle> accessed on 15th August 2014.
- Alakam, J., 'Transverse Discs Tech Intensity Fight Against Piracy' *Vanguard Newspaper* 8th Oct., 2014 Available at <http://www.vanguardngr.com/2014/04/transverse-disc-tech-intensify>.
- Asein J.O.. and E.S Nwauche (eds) *A Decade of Copyright Law in Nigeria* (2nd edn, Ibadan: Sam Bookman, 2001).
- Auth, I., 'Exporting Professional Service Seizing Opportunity' (2012) Available at

⁵⁶ Copyright Act *op cit* S. 21

- <http://www.abillionem.com> accessed 14th Nov., 2014.
- Copyright Act Cap C28. Laws of the Federation of Nigeria 2004
- Ezekude, A., 'Anti Piracy Drive Field Result' (2012) WIPO magazine Available at http://www.wipo.int.wipo_magazine/end/2012/03/article accessed 12th January 2013.
- Garner, B.A., *Black's Law Dictionary* (8th edn, St Paul Minn: Thompson West Publishing Co., (2004).
- International Intellectual Property Alliance, (IIPA), *IIPA Report, Published by the Nigerian Copyright Commission*, June 2008, P. 51.
- Kunle. A 'Global Software Piracy' *Business Alliance Software Magazine*, May 11, 2012, P. 31
- Meurer, M.J., 'Price Discrimination Personal Use and Piracy: Copyright Protection of Digital Works', (1997) 45 *Buffalo Law Review*.
- NCC, Historical Background of NCC, Available at <http://www.copyright.gov.ng/historicalbackground> accessed on 9th Oct. 2014.
- NCC, Notice Board, September 11, Issue No. 2, P. 4 Available at <http://www.copyright.gov.ng/noticeboard> accessed on 23rd March 2014.
- NCC, *Survey of Nigerian Copyright Piracy*, (Abuja: Nigerian Copyright Commission and Food Foundation, 2008).
- Odoh, A., "Factors Militating Against Enforcement and Administration of Copyright and Possible Solutions; A paper Presented at the In-House Training Organized by Enugu zonal office of the NCC on the 11th March, 2013.
- Okwuke, E., 'Nigerian Economy, loses 82b yearly to Software Piracy – Survey', May 13 2014 Available at <http://www.dailyindependenting.com> accessed 14th Nov. 2014.
- Olueze, I.M., *Nigerian Copyright Law* (Lagos: Maghlink International Ltd, 1998).
- Onyeje, E., 'Nigeria: Piracy Nigeria's Greatest Challenge in Business', *This Day Newspaper*, Sept. 20, 2012 Available at <http://www.allafrica.com/stories/2012> accessed 29th March, 2013.
- Osanyintunyi, S., 'Effects of Piracy in Nigeria' Available at <http://www.ccsenet.org/jp/> accessed on 12th February 2013.
- Robinson, M., *Chambers 21st Century Dictionary* (Edinburgh: Chambers Harrap Publisher Ltd, 2004).
- Wittenberg, *The Protection of Literary Property* (1st edn, Boston: The Writer Inc Publishers, 1978).