

COPYRIGHT LEGISLATION AND THE PREVALENCE OF BOOK PIRACY: A CASE STUDY OF CALABAR METROPOLIS IN NIGERIA

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ABSTRACT

The study was conducted in Calabar Metropolis, Nigeria. Survey research design was used in the study whose population consisted of book vendors in Calabar Metropolis, the staff of the Nigeria Copyright Commission at the Federal Secretariat Complex Calabar and members of the general public who accidentally granted interview with the researcher. The respondents' level of awareness of copyright legislation and the consequences of copyright infringement is reasonably high. Though there were some vendors who had no idea of copyright legislation as well as those who knew about it but do not understand the consequences of copyright violation. The finding shows that 52.5 % of the respondents' are conversant with copyright issues and the consequences of copyright violations. Moreover, On the reasons why book piracy has continue to thrive, quick turn over, affordability and a source of livelihood were identified as major reasons. The finding of the study further showed that 29% of pirated books found in Nigeria were imported from overseas. This implies that the books were either carried into the country through the ports whether sea or air. The study recommends that government should look inwards, purge its agencies in the fight against piracy and carry out advocacy campaign against piracy and its products. It is also advisable to subsidise stationeries, other printing materials and remove import duties on books to reduce the cost of books in the country. The multiplier effect of this policy will translate into low prices of books and making books more affordable thereby discouraging the activities of pirates.

Keywords: Copyright, Copyright legislation, Pirated Books, Calabar Metropolis.

INTRODUCTION

Legislations are laws meant to guard against acts, actions, behaviours or tendencies considered to be morally, ethically, socially or economically unacceptable. Thus, legislations are instruments to guard against deviations from acceptable norms. It is imperative that such legislation should emanate from a constituted authority with legislative backing for it to be enforceable. Copyright legislations therefore, are a set of laws designed to protect originality and creativity by preventing unauthorised reproduction of the creative work of others. Where such legislations do not exist or where there are violations of copyright legislations, the originators of the reproduced works suffer economic losses while the copyright offender (pirate) enjoys unearned dividends.

Creative works in the form of books and other printed resources are some of the resources covered by copyright legislation. The author of a creative work expects, among other things, economic reward for hard work. He/she is invariably contributing to national development, creating and bequeathing to humanity a long lasting legacy that reflects his ideas, thoughts and imaginative ability. The author expects to reap maximum economic benefit from the

work of his creative ability by being the sole determinant of how the said work is produced and distributed. If the said work of creative ability is to be produced and distributed by someone other than the originator, it must be by the consent of the creator of the work or whoever has the copyright on such work at the time.

Piracy is a wilful theft of intellectual and creative efforts of others. It is a social and economic menace that involves the outright reproduction and distribution of the creative works of others, for commercial purposes, without the consent of the copyright owner. According to Bankole, cited in Isiakpona (2012), piracy is the theft of copyright which occurs for reasons of want, scarcity and inaccessibility of books. Consequently, Thomas, cited by Okwilagwe (2001), submits that piracy is the unauthorised or illegal reproduction of the work of an author for sale without payment of royalty or other compensation to the owner of the intellectual property so exploited. This, indeed, is an aberration that amounts to infringement of the copyright of others. It not only reduces the standard and quality of the original work, it also denies creators the desired earnings that should accrue to them. Book piracy is the illegal trading that involves the unauthorised production and distribution of books without the knowledge of the author. Such books share certain characteristics that distinguish them from the original books: poor quality paper, blurred prints, poor picture quality and weak binding. In spite of the poor physical characteristics of pirated books; they remain the most common in the market and the most patronised in Nigeria.

Books are information resources whose value derives not only from their contents, scope and treatment, but also from their relevance to educational curriculum and national development. Books are essential learning resources that support research, teaching and learning. They are complimentary learning resources to the knowledge acquired in the class room setting. Every learner in a school system requires books to maximise their potentials and meet up the challenges associated with their level of learning. Such books are carefully presented to address the learning needs of the intended audience based on the approved curriculum. Because of the importance of books to the learners, the school and educational objectives, every child or learner requires books as basic necessities of education and learning.

In developing countries like Nigeria, books are commodities for children of the rich, as a large number of parents cannot afford the books needed in schools by their children. Studies have shown that only 5% of students in higher institutions in Nigeria can afford to purchase textbooks needed for learning and research, (Oguronbi and Bello, quoted in Isiakpona, 2012). Different countries have and operate different copyright legislations. In Nigeria, copyright law and practice is governed by the Nigeria Copyright Acts of 1970, 1988 and 2004. There have been some amendments to these Acts in line with contemporary realities. The Acts specifies all items that enjoy copyright protection. These items are categorised broadly as literary works, musical works, artistic works, cinematograph films, sound recordings, broadcasts and other ancillary matters. The Act makes provisions for the definition, protection, transfer, infringement of, remedy and penalty thereof of the copyright in literary works, musical works, artistic works, cinematograph films, sound recordings, broadcast and other ancillary matters. The necessary machinery for the administration, regulation and enforcement of copyright in Nigerian is the Nigerian Copyright Commission (NCC), Section 34 of the 1988 Copyright Act created the Nigerian Copyright Commission (NCC) The Commission came into existence on 19th August, 1989 as the Nigerian Copyright Council. On the 19th April, 1996, it metamorphosed into the Nigerian Copyright Commission (NCC), with permanent administrative and operational status of a Commission.

The Commission is a statutory body with perpetual succession and a common seal. Base on its status, the commission may sue and it can be sued in its corporate name. Section 34(3) of the Act provides for the statutory functions of the Commission as follows:

(3) *The Commission shall:*

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

The statutory provision above is indicative of the enormous responsibilities of the Commission, and by implication its functions and powers. This gives the Commission a comprehensive legal apparatus or framework with which it can efficiently carry out its mandate.

According to the Nigeria Copyright ACT, Copyright in a work shall be exclusive right to control the doing in Nigeria of any of the following acts, that is, (a) in the case of a literary or musical work, to do and authorise the doing of any of the following acts, (i) reproduce the work in any material form;(ii) publish the work;(iii) perform the work in public;(iv) produce, reproduce, perform or publish any translation of the work;(v) make any cinematograph film or a record in respect of the work;(vi) distribute to the public for commercial purposes, copies of the work, by way of rental, lease, hire, loan or similar arrangement;(vii) broadcast or communicate the work to the public by a loud speaker or any other similar device;(viii) make an adaptation of the work;(ix) do in relation to a translation or an adaptation of the work, any of the acts specified in relation to the work in sub-paragraphs (i) to (vii) of this paragraph.

Schechter (2005) is of the opinion that a very important exception to the rule of copyright infringement is the concept known as fair use. Under this principle, the law permits the use of portions of copyrighted works for such purposes as criticism, comment, teaching, and research, even without permission of the copyright owner. In deciding whether a use is a fair use, courts consider such factors as the purpose of the use, the nature of the work, the amount of the work taken, and the effect it will have on the value of the original work.

There are several treaties and international conventions on copyright to which Nigeria is a signatory, such as: the Paris Convention, 1963; the Berne Convention, 1986; the Rome Convention, 1993; the patent law treaty, 2005 and the World Intellectual Property Organization (WIPO). This is an indication of Nigeria's commitment, internally and globally, towards the fight against piracy in all its ramifications.

The concept of copyright was devised for the society for two main purposes: To serve as a positive force for creative people to produce works of culture and to provide incentives for the effective dissemination of these works (Okwilagwe, 2001). It is important to note that copyright protects the expression of idea and not the idea itself. Any idea expressed in physical form and is the result of human creativity can enjoy copyright protection. The object that enjoys copyright protection is the expression of an idea in its physical and unique form. Copyright is all about the particular expression of an idea, which can be personalised, not the

idea itself which belongs to the entirety of human consciousness and awareness. It is the physical manifestation of idea packaged and expressed in a definitive format that gives copyright protection to a work.

There has been increasing concern from authors, publishing associations, government and the general public over the last decade regarding the persistent and thriving activities of book pirates. The growing illegal book trade, both in print and electronic formats, in Nigeria, appears to be soaring. It is hardly any surprise that black market activities thrive so predominately in developing countries; especially Africa and Latin America given that commodities like books are luxury priced. Latin America has a literacy and poverty problem, both of which are alleviated by book piracy (Petrovich, 2001). Supporters of book piracy claim that buying original copies is too expensive (Kuntz, 2001). The purveyors of this illicit crime have outlined their reasoning by the following means: "Information wants to be free". That is, writers produce information which benefits humankind best if shared selflessly. Violation of such natural principle justifies breach of copyright and theft. The problem inherent in this view is that writers will not continue to produce without incentive because they believe that their works contain legitimate value in the physical world and deserve compensation for their time and effort.

Statement of the problem

In Nigeria, there is the Nigeria Copyright Act and the Nigeria Copyright Commission as the legal framework to combat piracy and other forms of deprivations experienced by creator of works that fall under copyright protection. While the Nigeria Copyright Act specified the different categories of works that enjoy Copyright protection, the Nigeria Copyright Commission has the responsibility of enforcing the provisions of the Nigeria Copyright Act where there are violations. In terms of legislation to protect the right of creators, the Nigeria Government has clearly established a comprehensive legal framework in the Nigeria Copyright Act. The basic challenge appears to be in the modalities for invoking and enforcing the relevant provisions of the Act whenever there is infringement. With the prevalence of pirated books in Nigerian markets and the ease and comfort with which they are displayed and sold openly, it appears there is lack of preparedness on the part of the enforcement agency to combat piracy.

Despite the legal framework and appropriate agency saddled with the responsibility to fight piracy in Nigeria, the illegal act in all its ramifications has continued to persist. Authors, publishers, government and the general public in Nigeria appear to be overwhelmed by the magnitude and level of sophistication in the reproduction and distribution of pirated books and other products. In the markets, these products appear to be the most preferred and most patronised. Supporters of book piracy claim that buying original copies is too expensive (Kuntz, 41). Nevertheless, the contradiction is that even some wealthy people in Nigeria buy pirated books, which implies that the reason behind book piracy is probably not the issue of poverty. With a comprehensive legal framework put in place to fight piracy, coupled with the various agencies of government empowered to enforce breaches of Copyright legislations in Nigeria, one would expect to see an end to the activities of pirates in Nigeria. However, the reverse appears to be the case. The illegal and unwholesome act has remained persistently on the increase. It becomes imperative therefore to conduct this study to ascertain why the illicit trade continues to persist despite appropriate legislation to eliminate it.

Objectives of the study

This study was conceived with the objective to ascertain why the book piracy has continued to thrive in Nigeria despite appropriate legislations and agencies of government to fight against it. The specific objectives were:

1. To ascertain the level and sources of awareness of copyright legislations by book vendors in Calabar metropolis.
2. To determine why pirated book trade persists in Nigeria irrespective of the legal framework put in place to combat piracy.
3. To ascertain buyers' opinion and their preference between original copies and pirated copies of books.
4. To ascertain the challenges of the Nigeria Copyright Commission in the fight against piracy.
5. To identify channels of distribution of pirated book in Nigeria.

REVIEW OF LITERATURE

Piracy according to Obianuju (2014), 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. Kunle (2012) 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 2012. Onyeje (2012) 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.

In a study on the effect of book piracy, Enang and Umoh (2013) noted that books have suffered from piracy for centuries; it is nothing new rather the question is how can we curb this biting problem? Piracy has remained a massive problem in the developing world and it is thriving very high (Cohen, 2009). In a country like Nigeria, primary and secondary school students are expected to purchase their textbooks, so it is common place to see quite sophisticated and good quality printed and bounded copies available for purchase. Interestingly, even wealthy and financially capable citizens still buy pirated books. It could therefore be deduced that book piracy is not an issue of poverty but an option to spend more on other commodities (Anctil, 2002)

Available literature on the subject of piracy favoured the proposal to intensify police investigations and legal jurisdiction as the overwhelming approach to combat piracy, (Petrovich, 2001; Kuntz, 2001; Stackpole, 2000). Moahi (2004), noted that, an understanding of copyright is particularly important in an academic, scholarly and artistic environment where creators are continuously using the works of others to build and shape their own thoughts, opinions, and indeed produce their own works. Intellectual property thieves (pirates) are digging the grave of the industry and that piracy could kill creativity by stifling investments, growth, development and progress in the cultural and artistic industry" (James, 2007).

The essence of copyright laws was to prevent unauthorised reproduction and distribution of works already published by other publishing companies thereby robbing the authors of profit (Black, 2012). Ever since, the law has moved from only regulating publishers and other

commercial entities to a law that no longer distinguishes between republishing someone's work on the one hand and building upon or transforming that work on the other (Lessig, 2004). According to Schweidler and Constanza-Chock (2006), the battle against piracy is being fought in the realm of commoditized knowledge and the law and rhetoric of illegitimate use, distribution, and production of goods revolves around increasingly protectionist policies governing intangibles, such as trademarks, patents, and copyright.

According to Nwogu, (2014), 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. According to Okiko, (2014) some of the causes of book piracy are poverty, book scarcity, ignorance of the copyright laws by the public and the uncooperative attitude of some countries in endorsing international treaties on intellectual property rights. Some other studies on copyright and piracy included Adelaye (2000), and Vaidhyanathan (2001).

METHODOLOGY

The study was conducted in Calabar Metropolis in Cross River State, Nigeria. Survey research design was used in the study whose population consisted of book vendors in Calabar Metropolis, the staff of the Nigeria Copyright Commission at the Federal Secretariat Complex Calabar and members of the general public who accidentally granted interview with the researchers. Simple random sampling technique was used to select 122 book vendors out of a total of 151 identified within Calabar Metropolis. The senior staff of the Nigeria Copyright Commission in Calabar, 11 in number, willingly responded to the questionnaire, and 147 members of the public were used for the study. The sample size is 280 respondents.

Questionnaire and interview were the instruments used for data collection. The questionnaire has two sections: one section for book vendors and another section for members of staff of the Nigeria Copyright Commission, while unstructured interview session was conducted with members of the public who willingly granted the interview. The data derived from the instruments were analysed using simple percentage (%).

Presentation of Data

The data on the level and sources of awareness of Copyright legislation by book sellers in Nigeria is presented in table 1 below:

Table 1: Showing the level and sources of awareness of Copyright legislation by book vendors in Calabar Metropolis, Nigeria

Level of awareness of copyright legislation			Sources of awareness of copyright Legislation		
Items	Respondents	%	Items	Respondents	%
Those who have no idea of copyright law at all	8	6.6	Through the print media.	19	15.6
Have heard about copyright, but don't understand it	11	9.0	Through electronic media	25	20.5

Have no idea of the effects of copyright infringement	18	14.7	Through book vendors association	31	25.4
No idea that copyright infringement is an offence	21	17.2	Through fellow book vendors	28	22.9
Those who have good knowledge of copyright law	60	49.2	Through the law enforcement agencies	11	9.0
Those educate other vendors against copyright violation	4	3.3	No knowledge of such legislation	8	6.5
Total.	122	100	Total.	122	100

As shown in table 1 above, 6.6% of the respondents have no idea of copyright legislation, 9.0 % have heard about copyright but do not understand much about it, 14.7 % have no idea of the effects of copyright infringement, 17.2 do not know that copyright infringement is an offence, 49.2 % have good knowledge of copyright and the consequences of copyright infringement while 3.3% are in the fore-front in the advocacy against copyright infringement. Similarly, 15.6 % knew about copyright legislation through the print media, 20.5 % through electronic media, 25.4 % through book vendors' association, 22.9 % through fellow book vendors, 9.0 % through the law enforcement agencies and 8% had no knowledge of copyright legislations.

Table 2: Why pirated book trade persists in Nigeria

Items	Respondents	%
It is a major source of livelihood	43	15.4
Inadequate enforcement of copyright legislations	48	17.1
Enforcement agents compromise their duty	36	12.8
Pirated books have a quick turn over	56	20.0
Pirated books are more affordable	50	17.9
Book Pirates operate unhindered	23	8.2
Nigeria's borders are porous	24	8.6
Total	280	100

Table 2 above, presents the identified reasons why pirated book trade has continued to persist in Nigeria. It shows that piracy and trading in pirated books is a source of livelihood (15.5%), inadequate enforcement of copyright legislations (17.1%), enforcement agents compromise the duty (12.8%), pirated books have a quick turnover (20%), pirated books are more affordable, (17.9 %), book pirates operate unhindered (8.2%), and Nigeria's borders are porous (8.6%).

Table 3: Showing buyers' preference for original copies or pirated copies of books

Items	Respondents	%
Those who prefer original copies	54	36.7
Those who prefer Pirated copies	72	49.0
Those who cannot differentiate original and pirated copies	21	14.3
Total	147	100

As shown in table 3 above, 36.7 % Of the respondents can afford the cost of original copies of books, 49 % can afford the cost of pirated copies of books while 14.3 % cannot not distinguish between original and pirated copies of books.

Table 4: Showing the challenges of the Nigeria Copyright Commission in the fight against Piracy

Items	Respondents	%
Inadequate funds to fight piracy	6	54.5
Poor staff strength	2	18.2
Sabotage by some members of the enforcement agencies	3	27.3
Total	11	100

As shown in table 4 above, inadequate funding (54.5%) ranked highest in the challenges of the Nigeria Copyright Commission in the fight against piracy in Nigeria. This was followed by sabotage by some members of the enforcement agencies (27.3%) and poor staff strength (18.2%).

Table 5: Showing the channels of distribution of pirated books

Channels of distribution	Respondents	%
I buy from importers who trade on pirated books	36	29.5
I rely on book pirates within Nigeria to buy pirated books	32	26.2
I buy from pirate agents who supply the books to bookshops	24	19.7
I know several black markets within Nigeria where pirated books are sold.	30	24.6
Total	122	100

The finding revealed that 29.5 % of pirated books found in Nigeria were imported from overseas and supplied to book vendors, while 26.2 % of the vendors rely on pirates who reproduced other peoples' work within Nigeria. 19.9 % rely on pirate agents who supply the books to their shops.

DISCUSSION OF FINDINGS

The respondents' level of awareness of copyright legislation and the consequences of copyright infringement is reasonably high. Though there were some vendors who have no idea of copyright legislation as well as those who knew about it but do not understand the consequences of copyright violation. The finding shows that 52.5 % of the respondents' are very much conversant with copyright issues and the consequences of copyright violations. Moreover, 3.3 % of the respondents' were found to be indirectly in support of the fight against book piracy in Nigeria. This group of respondents vowed never to get involved in the sale or distribution of pirated books irrespective of the huge profit made in the sales of such books. Similarly, 15.6 % knew about copyright legislation through the print media, 20.5 % through electronic media, 25.4 % through book vendors' association, 22.9 % through fellow book vendors, 9.0 % through the law enforcement agencies and 8% had no knowledge of copyright legislations.

On the reasons why the illicit trade has continue to thrive, quick turn over, affordability and piracy being a source of livelihood were identified as major reasons for the persistent growth in pirate activities, Table 2 above, present the identified reasons why pirated book trade has continued to persist in Nigeria. It shows that piracy and trading in pirated books is a source of livelihood (15.5%), inadequate enforcement of copyright legislations (17.1%), enforcement agents compromise the duty (12.8%), pirated books have a quick turnover (20%), pirated books are more affordable, (17.9 %), book pirates operate unhindered (8.2%), and Nigeria's

borders are porous (8.6%). The study showed that those who cannot afford original copies of books, and so relied on pirated copies (49%) were more than those who can afford the cost of original copies (36.7%). There were those who could not distinguish between original copies and pirated copies of books (14.3%). This result agrees with Kuntz (2001), who reported that the low income earners argued that original books are expensive to purchase. The result is also at variance with Anctil, (2002), who reported that, even wealthy and financially capable citizens still buy pirated books. It could therefore be deduced that preference of pirated book is not an issue of poverty but an option to spend more on other commodities.

Inadequate funding of its agencies appears to be major characteristic of the Federal Government of Nigeria. A country that has placed itself in the forefront of the fight against piracy, as evident in its ratification and membership of various treaties, conventions and organization that are anti-piracy, should adequately fund the agency saddled with the responsibility to fight piracy. Sabotage among some members of the enforcement agencies is a product of corruption that has engulfed the Nigeria polity in contemporary time. The consequences of corruption manifested in poor staff strength and logistic challenges facing the Nigeria Copyright Commission.

The finding of the study showed that 29% of pirated books found in Nigeria were imported from overseas. This implies that the books were either carried into the country through the ports or through the Airports. It is certain that there is heavy Police presence and the Nigeria Custom Service at the various Ports and Air Ports in the Country to be able to track down pirated books as contra banned goods. Besides, 26.2% of the pirated books were from within Nigeria and were distributed across various parts of the country unhindered. To reasonable extent, one could see sabotage and compromise on the part of some members of the enforcement agencies as one the reasons for the persisted growth in book piracy in Nigeria.

CONCLUSION AND RECOMMENDATIONS

Book piracy remains the biggest challenge to the publishing industry and intellectual creativity in Nigeria. There seems to be no end of it in sight. The pirates are becoming more and more sophisticated in carrying out their unwholesome acts while publishers, authors and government live in frustration and bewilderment. As it is, the pirates are not ready to give up their nefarious activity. It is their source of livelihood and they will continue to exploit the loopholes in the enforcement of copyright violations to their advantage. For instance, copyright as a private right abandons the prerogative to challenge a copyright offender to the copyright owner. An author whose book is pirated will have to bear the cost of litigation alone. When you consider how long the matter could be in court coupled with the level corruption in Nigeria, many authors will not be willing to try litigation as a means of stopping the offender, rather, the police will be invited into the matter and how much the offender is willing to give the police will determine the end of the case.

It has become imperative for government to look inwards, purges its agencies in the fight against piracy and carry out advocacy campaign against piracy and its products. It is also advisable to subsidise stationeries, other printing materials and remove import duties on imported books to reduce the cost of books in the country. The multiplier effect of this policy will translate into lower prices of books and making books more affordable thereby discouraging the activities of pirates.

