

## 7 COMBATING PIRACY THROUGH EFFECTIVE REGULATION OF THE PRINTING INDUSTRY IN NIGERIA: PROSPECTS AND CHALLENGES

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### ABSTRACT

Book piracy in Nigeria has reached an alarming rate, resulting in huge personal and national economic losses. Many printers and publishers are directly implicated in this criminal activity, perhaps encouraged by a gaping lax in the provisions and enforcement of extant copyright law in the country as well as an unfriendly environment in the printing industry. This paper critically evaluates some of the causes and effects of piracy in the printing and publishing industry, focusing particularly on the provisions of the Copyright (Printing of Works) Regulation 2012. Although laudable, this policy initiative of the Nigerian Government, through the Nigerian Copyright Commission (NCC), requires dogged and strategic enforcement for it to be effective and make a meaningful and appreciable impact on curbing piracy in the country. The paper posits that the overall impact of the Regulation will only be felt over a reasonable period of time because the years of neglect have been long, and the results of piracy and recklessness in the printing industry have been far-reaching. It also suggests that policymakers, stakeholders and law enforcement agencies, at national and international levels, must collaborate and continue to engage in other measures that may be complementary to the proposed Regulation to enhance its effectiveness.

*Keywords:* copyright, printing, piracy, regulation, enforcement, books

### I. INTRODUCTION

Piracy in the printing and publishing industry in Nigeria has reached such an alarming rate that the consequences have been devastating, and appear to have spiralled out of control. In the 1970s and 1980s, the industry experienced robust development and growth, making a positive impact on the country's economy by providing employment, attracting significant foreign direct investment and ensuring technology transfer through subsidiaries of many multinational printing companies. Thus, the industry made modest contributions towards Nigeria's gross domestic product (GDP). However, from the 1990s onwards, the industry has witnessed a serious downturn, having lost its vibrancy mainly as a result of piracy which has emerged as the greatest threat to Nigeria's copyright-based industry.<sup>1</sup>

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<sup>1</sup> This view is corroborated by the opinions of two book publishers: Adebayo Lateef (the Longman Educational Books Head of Sales), 'Piracy, Threat to Book Publishing', available online at: <<http://www.nigerianbestforum.com/generaltopics/?p=8228>> accessed 5 October 2012 and Henry Udogun, (Managing Director and CEO of Metropolitan Publisher), available online at: <<http://www.dailyindependentnig.com/2012/09/book-piracy-fraudulent-frustrating/>> accessed 29 October 2012).

The Government of Nigeria, through the Nigerian Copyright Commission (NCC), recognized the urgency and imperative of regulating the printing industry in the country. It acknowledged the need to check the menace of piracy in the industry and create an environment conducive for the printing industry's robust development and integration into the Government's national planning and economic development agenda. The NCC has prepared a draft regulation for the printing industry. The proposed Regulation, which has been applauded by many stakeholders in the Nigerian printing industry in spite of certain reservations, is presently awaiting the assent of the Federal Attorney-General and Minister of Justice before coming into effect.

This paper highlights the debilitating impacts of piracy in the Nigerian printing industry and critically evaluates the specific provisions of the Copyright Act and the draft proposal for the regulation of the printing industry. The paper seeks to examine the prospects of the Regulation, identify its probable challenges and proffer suggestions that can enhance its effectiveness.

## II. PIRACY IN THE PRINTING INDUSTRY

The debilitating role of pirates in the printing industry in the reckless infringement of copyright works, especially literary works, is generally known.<sup>2</sup> Book printers flagrantly infringe and facilitate infringement of protected works in two notable ways:

- (i) Unauthorized reproduction of protected works for commercial purposes; and
- (ii) printing copyright works in excess of the quantity authorized by authors and right owners.

Printers engage in unauthorized reproduction of protected works for commercial purposes, either on their own volition or at the behest of other primary infringers. Furthermore, printers print an excess of the quantity authorized by authors and right owners with the aim of making gains for which no account will be rendered to authors and right owners.<sup>3</sup> The losses incurred in these unscrupulous industry felonies are huge.

Other minor ways in which the printing industry actively or indirectly infringes copyrighted works is by the reproduction of works apparently protected by copyright for and on behalf of pirates. In addition, small-scale poorly equipped printers contribute to significant loss

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<sup>2</sup> According to Remi Raji, a university teacher of creative writing at the University of Ibadan in Nigeria, pirates should be treated as armed robbers. See Patrick Akpuh, 'Book Piracy: Publishers are Culpable-Don', available online at: <<http://www.thenigerianvoice.com/nvnews/59289/i/book-piracy-publishers-are-culpable-don.html>> accessed 29 October 2012. This perception was echoed by the Managing Director of Macmillan Nigeria Publishers Limited, Adesanya Adelekan, when he argued that piracy should be seen as a heinous crime against intellectual property and their owners. See 'Tackling Book Piracy', available online at: <<http://www.nigerianbestforum.com/blog/?p=76484>> accessed 5 October 2012. Piracy has also been described as an 'endemic disease' from which Nigeria's publishers, authors and other stakeholders have yet to recover. See Yemi Adebisi and Rukayat Atanda, 'Book Piracy: Fraudulent, Frustrating', available online at: <<http://www.dailyindependentnig.com/2012/09/book-piracy-fraudulent-frustrating/>> accessed 29 October 2012.

<sup>3</sup> Some publishers, according to Remi Raji, *ibid*, are also pirates because they will print and sell 20,000 copies, while telling authors and right owners that they have sold only 5,000.

of revenue to authors by making substandard or poor quality reproduction of works. Such poor quality versions exist alongside standard quality ones, but are far cheaper. In most developing countries, admittedly many people live below poverty lines, and original copy of works are usually costly or priced above the average income. However, even where individuals can afford the cover price of original works, many have an aversion to acquiring or investing in (more expensive) original works. The greater challenge perhaps is that even when publishers offer their books at the same price as the pirated copies, pirates do not desist in their criminal activities.<sup>4</sup> This is because many consumers are already accustomed to purchasing pirated materials, and pirates' distribution networks are quite extensive; thus, pirates have a ready market. This underscores the imperative of eliminating piracy or crippling pirates' activities as much as possible. The loss in revenue resulting from a breach or infringement of authors' moral and exploitation rights is significant.

As Ekpo puts it 'The fight against piracy has not been made any easier by the emergence of new technologies that offer state-of-the-art devices for the reproduction of works.'<sup>5</sup> As is the case in the music and sound-recording industry, where millions of pirated works are put in circulation, piracy in the printing industry extends to local and foreign works and has been greatly aided by the availability of electronic devices that may be surreptitiously used behind closed doors. A single original foreign work imported for private, personal or institutional use may be reproduced or reprinted for commercial distribution locally without authority. This expectedly results in huge losses for right owners who may never be aware of the breach. This is of course in contravention of international copyright obligations of the country as well as the extant copyright law in the country. Piracy has perhaps reached this stage also because of the sporadic and uncontrolled growth in the printing industry in Nigeria.

#### A. SPORADIC GROWTH OF THE PRINTING INDUSTRY IN NIGERIA

The printing industry grew rapidly in Nigeria to meet expanding demand in the market for printed works. This is partly a response to a slight increase in literacy level, improved adult literacy and education programmes, and government policies at local, state and federal levels promoting universal and in some cases, free basic education. Growth in the printing industry is also a result of translation and printing of protected works, with or without authority, in the indigenous languages of many local readers. There has also been astronomical growth in the establishment of private schools, at the primary, secondary and tertiary levels, resulting in an increase in enrolment and demand for printed educational materials.<sup>6</sup> This ultimately

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<sup>4</sup> Yemi Adebisi and Rukayat Atanda (n 2).

<sup>5</sup> M F Ekpo, 'End of Year Address by the Director General, Nigerian Copyright Commission' in J O Asein and E S Nwauche (eds), *A Decade of Copyright Law in Nigeria* (Nigerian Copyright Commission 2002) 19.

<sup>6</sup> Although book publishing and printing go beyond educational or 'prescribed school texts', the poor reading culture and low level of literacy in the country means that only a fraction of the populace read for leisure, general education and edification. See L Sanusi, 'Copyright in the Book Industry' in J O Asein and E S Nwauche (eds), *A Decade of Copyright Law in Nigeria* (Nigerian Copyright Commission 2002) 32. Consequently, the most profitable venture in the book printing industry in Nigeria is educational materials. This explains why a significant percentage of piracy in the printing industry, as well as seizures of pirated books, is of educational texts and similar school materials. See 'Copyright Commission Impounds 10,000 Cartons of Pirated Books Worth N1.5billion', available online at: <<http://www.copyright.gov.ng/index.php/83-featured-articles/85-nigerian-copyright-commission->

encourages the growth of the printing industry in the country, but unfortunately the growth has not been in the right manner nor has it taken the right direction.

The sporadic growth of the printing industry has been mostly in the quantity of printing outfits, not in their quality or the quality of their works. There are several poorly managed, ill-equipped, unorganized emergency printers and publishers in Nigeria. Without doubt, the financial base required for setting up modern, well-equipped, adequately staffed, registered and properly managed printing and publishing outfits is huge. Outfits, which cannot afford the capital or investment required, inevitably cannot compete with the well-established and well-managed ones. Expectedly they have lower patronage and market share from those seeking quality, albeit expensive, printing production. The result is that these poorly established printing outfits engage in sharp practices<sup>7</sup> and reckless infringement of copyright works. They thus become places of choice for pirates and other infringers of copyright works because their charges are definitely lower. They are also unlikely to scrutinize or ask questions of those bringing printing works to them in a bid to break even or make profits for themselves. The survival instinct is thus one of the major reasons for the proliferation of pirates and the printers who cater to their whims.<sup>8</sup>

#### B. EFFECTS OF PIRACY ON THE PRINTING INDUSTRY

The figures of pirated works in circulation in the country are astonishing. Book piracy in Nigeria has in fact assumed the dimension of organized crime. Pirates not only print unauthorized copies of books in the country, but also order printers outside Nigeria to print pirated copies of books that are later imported into Nigeria for commercial distribution. Asia, especially China and Chinese Taipei, is the destination of choice for importers of pirated books in Nigeria.<sup>9</sup> The few legitimate printers and publishers struggle to break even, while many are forced to close.<sup>10</sup> Unregistered and poorly managed printing outlets, where copyright works are recklessly and wantonly infringed, continue to proliferate. The economic consequences have been devastating. Some of the consequences include progressive loss of employment of those who work in printing outfits which had to close<sup>11</sup>, leading to poverty and the attractiveness of

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[impounds-pirated-books-worthN1.5billion](#)> accessed 5 October 2012. See also Amidu Arije 'Commission Impounds Pirated Books', available online at:

<<http://www.thenationonline.net/2011/index.php/news/53181-commission-impounds-pirated-books.html>> accessed 29 October 2012. Another seizure by the NCC was also reported to be pirated books belonging to educational materials publishers in the Nigerian printing industry such as Learn Africa (formerly Longman Educational Publishers), Macmillan, University Press, Africana First, Heinemann, and so on. See 'NCC Impounds Three Containers of Pirated Books', available online at: <<http://www.copyright.gov.ng/index.php/news-and-events/120-ncc-impounds-three-containers-of-pirated-books>> accessed 29 October 2012.

<sup>7</sup> Practices that circumvent the law, and relevant ethical rules, to make ends meet.

<sup>8</sup> This position is consistent with the result of research recently conducted among book pirates by the Daily Independent in Lagos State, the commercial capital of Nigeria and a major international business centre in Africa. See Yemi Adebisi and Rukayat Atanda 'Book Piracy: Fraudulent, Frustrating', (n 2).

<sup>9</sup> See 'Tackling Piracy' (n 2), 'Copyright Commission Impounds 10,000 Cartons of Pirated Books Worth N1.5billion' (n 6) and Yemi Adebisi and Rukayat Atanda (n 2).

<sup>10</sup> *ibid* Yemi Adebisi and Rukayat Atanda (n 2).

<sup>11</sup> See 'Lantern Books Campaign against Piracy', available online at: <http://www.punchng.com/business/capital-market/lantern-books-campaign-against-piracy/> accessed 29 October 2012.

criminal activity; divestment and loss of foreign direct investment of multinational corporations in the printing business; and brain drain of authors and capital flight of investors seeking places that are more conducive for profit.<sup>12</sup> Furthermore, as a result of loss of income that should have accrued to authors had piracy of their works not occurred, the interest and productivity of authors have waned, and this has ultimately been a strong disincentive of creativity in the country.<sup>13</sup> The overall impact has been a drastic decline in Nigeria's gross domestic product and worsening of the prevailing economic trauma due to the global economic recession.

It would be wrong to focus on the main economic consequences of piracy in the printing industry without examining the moral and social repercussions. It is indisputable that pirates do not pay taxes to the government and they do not pay royalties to writers and authors, but reap the fruit of other peoples' labour. This is not only criminal but also immoral. Their activities discourage prolific writers from writing, leading to a dearth of necessary books and instructional materials prepared within the cultural and social contexts of Nigeria. This in turn forces the country to depend on expatriate authors to feed the education sector.<sup>14</sup> Foreign educational materials, especially those for use in pre-primary, primary and secondary levels, are not bad if only they are written in a context that is relevant to the social and cultural understanding and consciousness of pupils and learners.

Furthermore, it is well known that pirated materials are generally of poor quality, but society is not accustomed to reacting to pirated books the same way it reacts to counterfeit drugs, food or drink which threatens health, life or general well-being. Yet, piracy in the book printing industry poses its own peculiar harm to consumers. With the myriad of misprints, omitted pages, pages printed upside down, blurry, faint or illegible lettering, loose binding making the book vulnerable to a short lifespan, the intellectual, psychological and educational health of consumers is greatly imperilled. The jeopardy may not be as immediate or as apparent, but piracy in the book printing industry poses nonetheless a clear and present danger in Nigeria. As noted by Sheik Hafizur Rahman Karzon and Farhana Helal Mehtab, 'Intellectual Property Rights (IPRs) are legal mechanisms to protect the right of inventors, and the interest of consumers. (...) A strong system of IP protection (...) ensures that consumers are getting genuine goods and services'.<sup>15</sup>

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<sup>12</sup> Copyright piracy not only constitutes a hindrance to creativity and productivity, but also undermines personal and national economic development. Authors and right owners who are unable to endure successive losses arising from piracy of their books might migrate to a more conducive environment to continue their work. This is what is referred to as 'brain drain'. The situation is worsened for some writers, who obtain bank loans to finance publication of their works and then lose the opportunity to recoup on investment or pay back the loan facility. See 'Nigerian Copyright Commission Takes Piracy Zero-Tolerance Policy to Alaba Market', available online at: <<http://www.copyright.gov.ng/index.php/news-and-events/105-nigerian-copyright-commission-takes-piracy-zero-tolerance-policy-to-alaba-market>> accessed 29 October 2012.

<sup>13</sup> In the words of M F Ekpo, erstwhile Director General of the Nigerian Copyright Commission, 'Piracy remains one of the most pervasive abuses to copyright in the world today. It leads in the first instance to a destruction of the incentives for creativity, and ultimately damages the economy.' See Ekpo (n 5).

<sup>14</sup> See 'Piracy, Threat to Book Publishing' (n 1).

<sup>15</sup> Sheik Hafizur Rahman Karzon and Farhana Helal Mehtab, 'Intellectual Property Rights Enforcement in Bangladesh: An Overview and Determination of the Extent of Its Becoming TRIPS-Compliant' (2010) 21 Dhaka U L J 59.

The Nigerian Government until recently appeared to have resigned itself to fate, perhaps because of the magnitude of the problem.<sup>16</sup> However, the NCC has prepared a draft regulation directed at bringing some order to the prevailing atmosphere of lawlessness and chaos in the printing industry and at the same time arresting the wanton piracy in the industry in the country.

### III. REGULATORY INTERVENTION IN THE PRINTING INDUSTRY

The proposed Regulation for the printing industry is one of the steps being taken to drastically reduce infringement of protected works through illegal and unauthorized reproduction. The Regulation is expected to complement and tighten existing statutory provisions in the Copyright Act.

#### A. HIGHLIGHT OF THE COPYRIGHT ACT

Under the Copyright Act of Nigeria<sup>17</sup>:

Copyright is infringed by any person who without the licence or authorization of the owner of copyright:

- (a) does, or causes any other person to do an act the doing of which is controlled by copyright;
- (b) imports or causes to be imported into Nigeria any copy of a work which, if it had been made in Nigeria, would be an infringing copy (...);
- (c) exhibits in public any article in respect of which copyright is infringed (...);
- (d) distributes by way of trade, offers for sale, hire or otherwise or for any purpose prejudicial to the owner of the copyright, any article in respect of which copyright is infringed (...);
- (e) makes or has in his possession plates, master tapes, machines, equipment or contrivances used for the purpose of making infringed copies of the work; (...)<sup>18</sup>

It is clear from these provisions that book piracy in all its manifestations, production in the country and the importation of pirated versions of protected work, exhibition in public or offer for sale or distribution of pirated copies, as well as maintenance of premises equipped with machines and contrivances for making infringed copies of protected works, are illegal under the law. Thus bookstores, booksellers and even libraries, where pirated printed materials are displayed or sold, are within the ambit of the law.

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<sup>16</sup> The Government at different levels in Nigeria, local, state and federal, is perceived as contributing to the problem in the printing industry in Nigeria. See the Newspaper interview with Wahab Lawal, President, Chartered Institute of Professional Printers of Nigeria by Okechukwu Nnodim, 'Govt Under-Utilizing Local Printing Capacity' *Saturday Punch* (Nigeria October 20, 2012) 49.

<sup>17</sup> Copyright Act, 2004.

<sup>18</sup> *ibid* section 15 (1) (a)-(e).

Categorically, the Copyright Act provides that publishers, printers, producers or manufacturers of works in which copyright subsists shall keep a register of all works produced by them showing the name of the author, the title, year of production and the quantity of the work produced.<sup>19</sup>

The shortcoming of this provision is that it requires the keeping of certain information in a register without more. The provision requires dogged enforcement for it to be meaningful. The Draft Regulation for the Printing Industry<sup>20</sup> is a marked improvement of the provisions of the Copyright Act.

#### B. HIGHLIGHT OF THE DRAFT REGULATION FOR THE PRINTING INDUSTRY

The Regulation is made pursuant to the powers vested in the NCC to make regulations under Section 45(4) of the Copyright Act. It has six main sections covering approval for printing of certain works, the obligation to keep records, the inspection of premises, offences, fees and interpretation:

**Section 1 Approval for printing of certain works:** All persons engaged in the business of printing of works in which copyright subsists, shall unless exempted, obtain approval from the NCC for:

- printing of jackets, sleeves, inlays, and other packaging meant for sound recordings, films, and other copyright works; reproduction of artistic works in print; and printing of fiction and non-fiction books for commercial distribution;
- approval shall also be required for importation of above items.

**Section 2 Obligation to keep records:**

- Further to the provisions of Section 14 of the Copyright Act, all persons carrying on the business of printing works in which copyright subsists shall keep records of:
  - (a) a copy of the job order;
  - (b) a production register indicating-Title of work, Type of work, Author of the work, Date of production and Quantity produced;
  - (c) evidence of authorization of the owner of copyright in the work;
  - (d) sample of work printed or reproduced to be kept for a period of 6 months from date of production.
- Records must be made available to Copyright Inspectors at any time.

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<sup>19</sup> *ibid* section 14.

<sup>20</sup> Copyright (Printing of Works) Regulations 2012.

**Section 3 Inspection of premises:** All persons carrying on the business of printing works in which copyright subsists shall grant access to Copyright Inspectors to carry out inspection of their premises. Security agencies, right owners, experts, professional organizations etc. may accompany the Copyright Inspectors.

**Section 4 Offences:** Failure to obtain approval, keep or produce records on demand, falsification of records or giving misleading information open to civil and criminal liabilities. Liabilities may be imposition of fines or terms of imprisonment or both.

**Sections 5 and 6: Fees and interpretation.**

The Regulation is quite broad in scope and certainly extends to printers of actual works in which copyright subsists or items of packaging of the works. The first section is clear on the point that those engaged in the business of printing works in which copyright subsist must be permitted or granted approval by the NCC. The clear inference is that the onus is on businesses to scrutinize or examine whether copyright subsists in the work they are to print.

It is unclear from this provision if this approval is a way of licensing through the NCC. If this is so, one wonders what role, if any, the actual owners of rights in the works are assigned in the approval process, especially since the approval is to be paid for. Will the NCC become a collecting entity on the behalf of right owners or be obliged to pay a certain percentage or royalty on charges for approval? This question arises because the necessity for approval to print works in which copyright subsists should primarily be to protect right owners by minimizing infringement of their rights through illegal printing. The basis of the Regulation ought not to be primarily to raise revenue for the NCC.

Section 2 of the Regulation requires that records must be properly kept by the printing businesses. The expected records to be kept include a copy of the job order, a production register, evidence of authorization of the owner of copyright in the work (permitting reprint or reproduction) and a sample of each work printed or reproduced to be kept for a period of not less than six months from the date of production. Importantly, the production register must indicate stated items such as title of the work, type of the work, author of the work, date of production and quantity of the work produced.

The requirement to keep records of the job order and production register targets printers who take orders to print work from those who have no rights at all in the works. It also could minimize sharp practices whereby printers produce an excess of the quantity ordered or declared to clients. Failure to produce the records or the production of inaccurate or inconsistent records raises a clear presumption of infringement. Lofty as these provisions are, the major challenge will be enforcement of these provisions, especially how to discover whether records have been deliberately falsified. Another issue also concerns the requirement to keep a sample of the work produced for a period of six months. A longer period may be necessary to afford more meaningful scrutiny, verification or opportunity for challenge by right owners or those who place an order for the printing. Right owners may not be aware of the infringement of their works by the printers within six months. A period of a year or more may thus be more appropriate.

Section 3 mandates all persons carrying on the business of printing of works in which copyright subsists to grant access to copyright inspectors empowered to enter any premises used



for printing and inspect their records. The key challenge here is that many of the implicated businesses are in non-descript premises and tucked away in street corners or even in private homes. It might thus be difficult, if not impossible, to know of their existence. Besides, inspectors may not be able to catch sharp crooked printers, who in addition to falsifying records, may have destroyed evidence of infringing reproduction.

Section 4 of the Regulation contains important provisions for the prosecution and punishment of those who breach its provisions. If adequately enforced, the prescribed penalties should drastically reduce the damage done to copyright works and right owners by unscrupulous printers in the printing industry.

#### **IV. PROSPECTS AND CHALLENGES OF THE REGULATION**

The Copyright (Printing of Works) Regulation 2012 is a welcome intervention from the NCC. The Regulation has the potential to tackle piracy in the printing industry at the production stage. It will also enhance restructuring in the printing industry with the possibility of compelling those carrying on the business of printing works in which copyright subsists to undertake internal reorganization to ensure compliance with the Regulation. Equally, the Regulation will most likely facilitate enforcement of rights by authors and right owners. Once they know the provisions put in place to protect their interests, they can easily demand accountability from their printers and publishers. As observed earlier, penalties provided for in the Regulation would have a deterrent effect. The Regulation will also facilitate the creation of a database for the purpose of planning, research and statistics in the industry as printers seek approval for their job orders.

The major challenge of the Regulation is perhaps its inadequate capacity for its enforcement. The existence of several printing outfits, many of which are substandard and poorly managed, constitutes a major hindrance to formal control or regulation of the printing industry. A major challenge thus faces the Government through the NCC to ensure appropriate or adequate regulation of the industry's activities, especially the small one-man outfits where the most significant copyright infringement occurs.

Another challenge is how to tackle fraud, corruption and collusion among management and staff of printing and publishing firms. This can be aligned with how to overcome the challenge of ignorance and non-cooperation on the part of authors, owners of copyright and licensees in following procedures and formalities for placing printing orders. As a matter of fact, many so-called stakeholders and right owners are accomplices in piracy of protected works. For instance, Literamed Publications, a foremost leader in African book publishing, especially children's book publications, issued a statement recently. The statement observed that some parents, school administrators, bookshops and other stakeholders in the book publishing market, who should be partners in fighting against book piracy, have joined in the onslaught against protection of copyright in books by unwittingly or deliberately buying and circulating pirated books.<sup>21</sup> Some of these stakeholders purchase pirated versions of

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<sup>21</sup> See 'Lantern Books Campaign against Piracy', available online at: <http://www.punchng.com/business/capital-market/lantern-books-campaign-against-piracy/> accessed 29 October 2012.

recommended texts and patronize unregistered printers, whose charges are likely to be reduced, instead of approaching reputable printers and publishers.

Enforcement of the Regulation is also prone to loss of focus. The Regulation and its enforcement must primarily be directed at arresting pirates in the printing industry and must not become purely a means to generate funds for the Government.

Besides, the huge demand for pirated materials must be addressed through poverty alleviation programmes and public enlightenment. The general misconception and misunderstanding that counterfeiting and piracy are innocent infractions must be dispelled, so that people realize the danger and the harmful effects of piracy on social welfare and economic well-being.<sup>22</sup> To serve as a good example, governments at the local, state and federal levels in Nigeria must patronize reputable, registered local printers and publishers. Cross border piracy of copyright works or illegal importation of protected works must also be urgently addressed.

## V. ENHANCING EFFECTIVENESS OF THE REGULATION TO CURB PIRACY

It seems clear from the arguments and observations above that it is not enough to have the Regulation in place; for the Regulation to achieve its goals, challenges to its effective enforcement must be addressed. As rightly noted by a former Minister of Justice and Attorney-General of Nigeria, 'the mere provision of a vibrant legal framework for the protection of copyright may not in itself guarantee a successful regime. The hallmark of an effective regulatory system is its ability to enforce compliance'.<sup>23</sup> It is therefore high time that matters provided for in the Copyright Act and the Printing of Works Regulation are 'accorded practical expression within the administrative and legal framework of the copyright system'.<sup>24</sup> To this end a number of suggestions are offered below.

- (a) In the first instance, there is a need to improve infrastructural development and power supply in the country. The cost of running average printing outfits, especially the cost incurred in generating power and procuring printing raw materials, is prohibitive and directly contributes to the high cost of genuine books.<sup>25</sup> It is equally necessary to create an enabling environment in which printing and publishing firms, small, medium and large, can thrive and compete. This is likely to result in a drastic reduction of production cost and consequently, the cover prices of books. Lower prices of original books of better quality will encourage patronage, which might drive substantial numbers of book pirates out of business. In a similar vein, it might be necessary to provide incentives to printers and publishers to make low-priced editions of educational materials as a disincentive to piracy of standard books.

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<sup>22</sup> Karzon and Mehtab (n 15) 64.

<sup>23</sup> Abdulahi Ibrahim, 'Keynote address by the Hon. Attorney General of the Federation and Minister of Justice' in J O Asein and E S Nwauche (eds) (n 5) 27.

<sup>24</sup> *ibid.*

<sup>25</sup> This is the view of Olu Obafemi, Chairman of the Reproduction Rights Society of Nigeria (REPRONIG), see Yemi Adebisi and Rukayat Atanda (n 2).

- (b) As observed by Karzon and Mehtab, 'In most developing countries public consultation on IP issues, and local expert and business community engagement are either absent or underdeveloped'.<sup>26</sup> Campaigns and enlightenment must thus be undertaken to sensitize users, printers and distributors of 'checklists' and indices they must look out for in properly reproduced books and printed material. This can be likened to labels on consumable items such as ingredients, components etc. The campaigns must also be used as a strategy to secure public sympathy against piracy by creating sufficient consciousness on how it can jeopardize the growth and development of the country as a whole or occasion personal losses that can only be realized in the long run.

The NCC and some other stakeholders in the printing industry in Nigeria are making commendable efforts in this regard, but more aggressive publicity against piracy need be done across the country rather than concentrating in Lagos state and a few other big cities. Stakeholders and law enforcement agencies, the police, the Nigerian Custom Service, the Economic and Financial Crimes Commission (EFCC), the Standards Organization of Nigeria (SON) and so on must actively unite and fight together to achieve the goal of eliminating piracy. In fact there is an urgent need among nations to evolve far-reaching strategies and measures against piracy. Nigeria should reach out to authorities in China and Taiwan and other Asian countries involved to tighten and enforce their copyright laws. This is one area where the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO) can be of immense help in facilitating dialogue, reaching of consensus and collaboration in checking international piracy in the book industry, especially as it affects Nigeria. Hence collaboration must not be inter-agency, but must equally be international.

- (c) Authors or anyone who place orders for printing must insist that the outfit obtain approval in compliance with the Regulation and must complain if approval cannot be produced to satisfy them of compliance within a reasonable time. Where authors fail to do so, they will forfeit any protection of the law in case of infringement or fraud committed without prejudice to the power of NCC to prosecute such outfits independently. Wide publicity must be given to the prosecution of errant printers for deterrent effects.<sup>27</sup> This must, however, be without prejudice to the right of authors and owners of intellectual property rights to independently initiate civil or criminal prosecution and seek judicial reliefs against pirates and those who infringe their rights.<sup>28</sup>

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<sup>26</sup> Karzon and Mehtab (n 15) 65.

<sup>27</sup> The NCC started showing some promises in this sense only in the last 12 months. See 'NCC Secures 27 Piracy Convictions', available online at: <<http://www.copyright.gov.ng/index.php/news-and-events/96-ncc-secures-27-piracy-convictions>> accessed 29 October 2012.

<sup>28</sup> Possible relief include order for search/inspection and seizure, application for delivery up or conversion rights, damages and injunction, and accounts for profits. See Sections 18 and 25, Copyright Act (n 16). See also Tanya Aplin and Jennifer Davis, *Intellectual Property Law: Text, Cases and Materials*, (Oxford University Press 2009) 779ff; W R Cornish, *Intellectual Property: Patents, Copyright, Trade Marks and Allied Rights* (3rd ed Sweet and Maxwell 1996) 54ff.

- (d) There is a need to open a complaint desk at NCC to receive complaints against printers accused of short-changing clients. This will be complementary to the NCC carrying out constant unscheduled visits and inspection of records at printing outlets. Covert operations must be carried out as well as surveys of markets to discover, trace and raid printing outlets suspected of operating in contravention of the Regulation.<sup>29</sup> The NCC should attempt to compile, maintain and regularly update a database of registered and reputable printers across the country. Interested persons could check this database before placing a printing job order. The database may also have a section, where printing orders for which approval has been sought or granted by NCC, may be posted. Prospective authors or those who place orders for printing may check if the printing business or outfit to which they contracted their work complied with legal requirements and is susceptible to copyright compliance inspection.
- (e) It may be necessary to throw the net of the Regulation wider to include retailers, distributors and bookshops circulating copies of works believed to have been printed in contravention of the Regulation or in breach of copyright. This will be consistent with the provisions of the Copyright Act which regards as infringement exhibition in public of any article in respect of which copyright is infringed or distribution by way of trade, offer for sale, hire or otherwise or for any purpose prejudicial to the owner of the copyright, any article in respect of which copyright is infringed.<sup>30</sup>

As a long-term strategy it is imperative for the Government to formulate a national intellectual property policy and integrate the same in the national economic planning and the development agenda of the Government in Nigeria.

## VI. CONCLUSION

This paper acknowledges that the printing industry has historically been a lucrative and economically productive sector in Nigeria. The economic downturn in the country, along with uncontrolled piracy following sporadic growth in the printing industry, has been the bane of the sector. The unsavoury economic effects of piracy on the printing industry and its devastating economic consequences necessitate the adoption of drastic measures to arrest the situation. Although belated, the measure was finally included in the proposed Regulation of the printing industry through the Copyright (Printing of Works) Regulation 2012. The paper gives a highlight of the Regulation, pointing out its strength and weaknesses, its prospects and challenges. It finds that with effective implementation, the proposed Regulation has the potential to make measurable positive impact on copyright-based industry in Nigeria, to drastically reduce piracy and to promote the resuscitation of the printing industry as an economic powerhouse of the country.

It must be noted, however, that the overall impact of the Regulation, if effectively enforced, will only be felt over a reasonable period of time because of long years of neglect and the results of piracy and recklessness in the printing industry are far-reaching. Focus on the magnitude of the problem or an attempt to achieve so much within a small space of time will

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<sup>29</sup> See for example Vincent Ujumadu, 'Publishers, Police Raid Book Pirates in Onitsha', *Vanguard* (Nigeria September 14 2012) 14.

<sup>30</sup> See Nnodim (n 16) and Copyright Act (n 17).

have a discouraging effect. The NCC and policymakers in the country must also continue to engage with other measures that may be complementary to the proposed Regulation to enhance its effectiveness, in this particular instance perhaps, public enlightenment and sensitization campaigns.

A couple of years ago the Nigerian Government launched an ambitious economic development plan called Vision 20 2020. The main objective of the plan is to make the Nigerian economy among the world's 20 biggest economies by the year 2020. To realize this objective, the Government has shifted its attention to various sectors of the economy identified as having the potentials to facilitate the realization of the laudable objectives of Vision 20 2020. One of the sectors with this potential in Nigeria is the printing industry. It is compulsory, therefore, for the Government to properly address the problems of piracy and hasten the return of the industry to its vibrant, economically lucrative and GDP boosting position of the 1980s.

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