Perchstone & Graeys
SOLICITORS ADVOCATES & ARBITRATORS

THE HOSPITALITY BRIEF

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INTRODUCTION

Welcome to the maiden edition of the 'Hospitality Brief', a monthly newsletter of Perchstone and Graeys LP's Leisure Industries Practice Group. This edition reviews a recent decision of the Federal High Court of Nigeria whereat the court reaffirmed the statutory obligation of hotels, resorts, lounges, and similar hospitality establishments to obtain proper licences before transmitting or exhibiting audio-visual content to their patrons. The judgment underscores that the public performance, broadcast, or communication of films, music videos, and other audio-visual works within such venues constitutes a use of copyright-protected material that requires the authorisation of the relevant rights owners or collecting societies. By clarifying the scope of "public performance" under Nigerian copyright law, the Court has sent a clear signal to operators in the hospitality sector that the provision of unlicensed audio-visual entertainment — whether through television screens, projectors, or other digital platforms — can attract legal liability and significant penalties. For hotels, resorts, and lounges that offer television or other audiovisual entertainment to guests, this judgment is a wake-up call on the need for proper licensing under Nigerian copyright law.

THE SUIT AND COURT'S DECISION

On 24 July 2025, the Federal High Court sitting in Abuja delivered its judgment in *Reiz Continental Hotel Limited v Audiovisual Rights Society of Nigeria (AVRS)*. The claimant, Reiz Continental Hotel Limited, operates in Abuja, while the defendant, AVRS, is a Collective Management Organisation (CMO) licensed under Section 88 of the Nigerian Copyright Act 2022 to collect and distribute royalties to audiovisual content creators when their works are used publicly or commercially. "Commercial use" under the Act extends beyond cinemas to include hotels, restaurants, clubs, salons, airlines, transport hubs, and other contexts where works are used to generate profit.

Reiz sought a declaration that AVRS could not compel payment of copyright fees for audiovisual works accessed through subscription-based broadcasting such as DSTV, GOTV, and Startimes. The hotel argued that its subscription already covered any necessary rights. The court, presided over by Honourable Justice Egwuatu, rejected this position. It held that broadcasting audiovisual works to guests falls squarely within the acts listed under Section 11 of the Copyright Act.[1] The court further relied on Section 36(1)(g) of the Act, which states that a person infringes copyright when they "*performs or*

[1] Specifically, Section 11(b) which provides "*cause the audiovisual work that consists of visual images to be seen in public and of sounds to be heard in public",* section 11(c) "*communicate the audiovisual work to the public"* and Section 11(f) "*make the work available to the public by wire or wireless means in such a way that members of the public are able to access the work from a place and at a time independently chosen by them*".

causes to be performed for the purposes of trade or business or the promotion of a trade or business, any work in which copyright subsists" without the appropriate licence.

It also noted that the Hotel Owners Forum of Abuja (HOFA), of which Reiz is a member, had previously negotiated and signed a collective licensing agreement with AVRS, binding all member hotels. As such, Reiz could not disown the obligations that arose from HOFA's agreement. The court concluded that the hotel's operations, being profit-driven and involving multiple television sets transmitting audiovisual content, contravened the Act. The decision resolves a long-standing debate within the hospitality and audiovisual sectors: commercial use of copyrighted audiovisual content, even though paid TV subscriptions, requires licensing from AVRS.

WHAT THIS MEANS FOR THE HOSPITALITY SECTOR

This judgement leaves little ambiguity for operators in Nigeria's hospitality industry. Providing audiovisual content to guests in public or semi-public areas, such as lobbies, lounges, bars, conference rooms, and even guest rooms, can constitute a *"public performance"* under the Act. A Pay-TV subscription alone does not remove the need for an AVRS licence when such content is communicated to guests in the course of business. Non-compliance carries the risk of legal action, damages, and reputational harm, making proactive compliance the safer and more strategic choice.

A COMPARATIVE ANALYSIS OF ENGLISH CASE LAW VIZ-A-VIZ THE NIGERIAN STATUTORY REGIME

Under **English law**, hotel, resort, bar, and lounge owners are generally under a **statutory and contractual obligation** to obtain proper licences before broadcasting audio-visual content (music, films, TV programmes) to guests or patrons. These obligations arise from a combination of **copyright law**, **performers' rights**, and licensing agreements with relevant collecting societies. Accordingly, the obligation is both statutory and contractual. While Nigeria has no single codified instrument embodying public performance rights as is the case under English law, Section 6(1)(b) of the Copyright Act grants a copyright owner the exclusive right to perform the work in public, or cause it to be performed in public. This applies to literary, musical, artistic, cinematographic, sound recording and broadcast works. 'Performance' covers not only live performance but also playing or showing recordings or broadcasts to an audience outside the private/domestic sphere.

English case law supports strict enforcement of public performance rights: A review of some of the case is pertinent at this point. In ***PRS for Music Ltd v Harlequin Leisure Ltd [2011] EWPCC 27*** - A nightclub was found liable for unlicensed public performance of music. The court equally awarded damages and stressed that ignorance of the need for a licence is no defence.

In ***Football Association Premier League Ltd v QC Leisure [2012] EWHC 108 (Ch)*** *and* ***[2012] EUECJ C-403/08 (Murphy case)*** the court held that Bars showing

Premier League matches via unauthorised foreign decoder cards breached copyright in the broadcasts. This decision further re-enforced the principle that *communication to the public* includes transmissions to patrons in commercial premises.

In ***PRS for Music Ltd v Kavanagh [2018] EWHC 1982 (IPEC)***- Bar owners were held liable for playing music without licence; damages plus injunction granted. This case further rreinforced the principle that playing background music counts as a public performance.

Under English law, it is not enough to have a TV licence; you must also secure copyright licences for any *public communication* of protected works.

"Guests" in hotels or *"patrons"* in bars are legally considered *the public* – not a private circle –so public performance rules apply. Liability is strict: the owner/operator of the premises is responsible even if the performance is by employees, DJs, or third-party entertainers.

Remedies for infringement include:

i. Injunctions stopping the performance
ii. Damages or an account of profits. And
iii. Costs

The foregoing English authorities align with established case law in Nigeria as can be gleaned from the following cases:

1. **Musical Copyright Society of Nigeria Ltd/Gte v. Details Nigeria Ltd & Ors [2013] 5 NWLR (Pt. 1348) 65 (CA)**

- **Facts:** The defendants, who ran a hotel, were playing music in their premises without a licence from MCSN (a CMO for music works).
- **Decision:** The Court of Appeal held that *public performance* includes the playing of recorded music in a commercial environment such as a hotel.

Key principle: Payment for a satellite subscription or owning the physical media does **not** grant the right to perform the works in public. A separate copyright licence is required.

2. **Copyright Society of Nigeria (COSON) v. Nigerian Breweries Plc (Unreported - FHC/L/CS/1230/2015, judgment delivered 2017)**

- **Facts:** Nigerian Breweries organised events and played music without a COSON licence.
- **Holding:** The Federal High Court upheld COSON's right to collect royalties for public performance.
- **Key principle:** Commercial gain is not a prerequisite — the mere fact that the music is made available to the public outside a private setting is enough to trigger the need for a licence.

Audio Visual Rights Society of Nigeria (AVRS) v. Hotel Presidential Ltd (Unreported- (FHC/PH/CS/154/2016)

- **Facts:** Hotel Presidential publicly exhibited films and TV broadcasts in guest rooms and common areas without obtaining an AVRS licence.
- **Holding:** The court affirmed that screening audio-visual works in a hotel, whether in rooms or common lounges, is a *public performance* within the meaning of the Copyright Act.
- **Key principle:** Even "private" hotel rooms are part of a commercial hospitality service — making the use "public" for copyright purposes.

NEXT STEPS FOR HOSPITALITY BUSINESSES

Hospitality operators should begin by auditing their audiovisual use across all areas of their premises. Where such content is being communicated to guests, they should seek legal advice on whether this falls within Sections 11(b), 11(c), and 11(f) of the Copyright Act. Operators should also engage directly with AVRS to understand their licensing requirements and negotiate terms, thereby minimizing the risk of disputes or enforcement action.

CONCLUSION

From the foregoing analysis Nigeria's courts consistently interpret *"public performance"* broadly. Hotels, resorts, bars, lounges, restaurants, and event venues **must** get licences from CMOs (e.g., COSON for music, AVRS for audiovisual content). Having a DSTV/GoTV or Netflix subscription **DOES NOT** obviate the need for a public performance licence. Additionally, both injunctions and monetary damages are commonly granted.

The *Reiz* decision follows established case law/precedent on this issue and should be viewed not just as a compliance obligation but as an opportunity to strengthen the relationship between hospitality operators and content rights holders. By aligning with licensing requirements, businesses support the growth of Nigeria's creative industry while protecting themselves from costly legal challenges. Staying ahead of these legal requirements ensures that operators can focus on delivering exceptional guest experiences while operating within the law.

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