

PROPOSALS TOUCHING ON CMOS

NO	SEC.	TEXT
1	2	“Copyright Tribunal” means the tribunal established under section 48 of the Act
2	48(4)	“collective management organization ” means an organization which has as its main object, or one of its main objects, the negotiating for the collection and distribution of royalties and the granting of licenses in respect of copyright works or related rights;
3	30(8)	Delete full stop and add the words ‘and collection of the compensation shall be through a registered collecting society as designated by the Board from time to time for distribution to Collecting Societies in the music sector registered under section 46 and for ancillary purposes as set out under the Regulations’
4	28(5)	Insert the words ‘a collecting management organization designated by’ after the word BY Insert the words ‘from time to time for distribution to Collective management organizations in the music sector registered under Section 46 and for ancillary purposes as set out under the Regulations’ after the word Board
	46(3)	After the word ‘of’, delete and insert the following words Not more than twelve months from the date of issue. Where the collective Management Organization has not submitted complete documents or there are certain administrative shortfalls, the Board can issue a provisional license for a period of four months. Such provisional license shall be counted as part of the complete license if the license is subsequently.
5	46(7) &(8)	Delete entire section 46(7) and 46(8)
6	28(5)-48 1,2e,3,4	Replace the word ‘Competent Authority ‘ with the words ‘Copyright Tribunal’
7	46 1,2,3,4, 5,6 &9 47 1&2, 48 2A, 2D	Replace the words ‘Collecting society’ with the words ‘Collective Management Organisation’ where ever the words appear in the sections.
8	A new sec.46(7)	Any person who purports to collect royalties from users as provided for under section 46 without authority of the Board commits an offence and shall be liable to a fine not exceeding Kenya shillings Five hundred thousand , or to imprisonment to a term not exceeding four years, or both
9	Proviso to	The Board shall cause the society to be de-registered only after a written notice delivered or sent by registered post to the society at its last known address,

	section 46(9)	<p>requesting the society to make written representations, within a period of 21 days from the date of the notice, with respect to any such failure(s) to be detailed in the notice</p> <p>And after consideration of any written representations made in terms of subsection (1), the Board is of the opinion that the failure in question on the part of the collective Management organization is materially prejudicing or has materially prejudiced its members, the Board may withdraw the registration thereof or otherwise order for specific administrative measures against the Board of Directors or Management of a Collective Management Organization.</p>
10	New section 46(8)	<p>The Board shall require periodic reports to be submitted to it on any matter touching on members' interest including accounts and minutes of all committee and full Board meetings. The Board may also cause a special audit to be undertaken by audit firms appointed by it and paid for from the accounts of the Collective Management Organization. A representative of the Board may from time to time attend Board meetings of a Collective Management Organization to advise its Board where matters affecting member's interests are being discussed.</p>
11	48(2)	<p>Insert new provision</p> <p>e. the collective management organization has refused or neglected to pay due royalties to a member</p> <p>f. An artist has infringed on the Copyright of another artist</p>
12	48(1)A NEW	<p>The Copyright Tribunal so established shall be administered by the Cabinet Secretary for the time being having oversight over Copyright matters</p>

Prepared by

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KECOBO (26th January 2016)