



# Media, sports and entertainment

MARKET INSIGHTS FROM NIGERIA – 2021

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# Foreword



**Sandra Oyewole**

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*Asymptomatic, Corona virus, COVID-19, community spread, contact tracing, disruption, lockdown, pandemic, unprecedented, the World Health Organisation, the Lagos State Commissioner for Health, the Nigeria Centre for Disease Control, lives versus livelihood, frustration and force majeure, cancelled events, remote working, accelerated digitization, virtual meetings, conferences and hearings, the new normal, data protection, cybercrime, 5G, fake news, vaccines, clinical trials, herd immunity, self-isolation, social distancing, PPE, health and safety measures, back to work.* For most of 2020 and a good part of 2021, these words and many more, continue to play a major part in our lives.

In the early days of the lockdown, no one was really sure what the future was going to hold. In Nigeria, as 2020 came to an end and we moved into 2021, the media, sports, entertainment and technology sectors have seen significant developments in creativity, innovation, business trends, laws and regulations. These include:

- The receipt and roll out of COVID-19 vaccines across the country;
- Global Citizen live coming to Lagos with a concert held at the New Africa Shrine in September 2021;
- Two of Nigeria's artists, Burna Boy and Wizkid won Grammy's this year;

- The release of a number of films and series including, *Omo Ghetto: The Saga and King of Boys: The Return of the King*;
- The Olympics with Nigeria participating and ranking 74th;
- What was seen as a controversial amendment to the Nigerian Broadcasting Code;
- The Copyright and Data Protection Bills remain before the National Assembly;
- The suspension of Twitter by the Nigerian government in June 2021; and
- Deals in respect of non fungible tokens being floated and negotiated.

With all this in mind, it became clear to the Media Sports Entertainment and Technology Team at DLA Piper Africa, Nigeria (Olajide Oyewole LLP) that a publication on market insights would be very useful. Who better to hear from than the regulators, practitioners, experts, stakeholders etc. all speaking in their own words on the impact of COVID-19, what to expect, business trends and predictions, the laws/regulations and much more.

Ego Boyo, Funmi Onabolu, Iyin Aboyeji, Carol King, Mike Akpan, Oreoluwa Lesi, Ibrahim Waziri, Zainab Saleh, Adeyemi Adetunji, Yinka David-West, Shafiu Adamu Yauri and Dr Funmi Adewara are just some of the contributors that shared their deep insights on a range of issues in the MSET sectors. Their contributions provide a wealth of knowledge and information which we hope you find beneficial.

Stay safe.

Sandra Oyewole  
Editor-in-Chief  
September 2021



## Meet the contributors



**Iyinoluwa Aboyeji**  
General Partner  
Future Africa



**Prof. Olayinka David-West**  
Academic Director  
Lagos Business School



**Shafiu Adamu Yauri**  
Registrar  
Trademark  
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**Abimbola Ilo**  
MD, Integral Sande



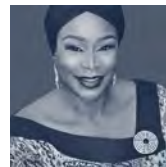
**Adeyemi Adetunji**  
Head of Operations and  
Commercial Partnerships  
Audiomack Africa



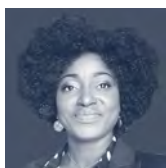
**Maxwell Kalu**  
Founder/CEO  
African Warriors  
Fighting Championship



**Adeyinka Adewale**  
Group Co-founder and CEO  
Kudi



**Carol King**  
Actress and Business Owner



**Dr. Funmi Adewara**  
Founder/CEO  
Mobihealth International



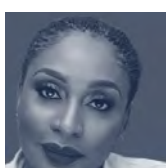
**Femi Kuti**  
Artist  
Composer and Grammy Nominee



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**Oreoluwa Lesi**  
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Women's Technology Empowerment  
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**Ego Boyo**  
Managing Director/CEO  
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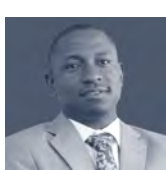
**Oluwatobiloba Moody**  
Nigeria Office/Counsellor  
WIPO



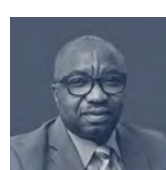
**Mike Conradi**  
Partner  
DLA Piper



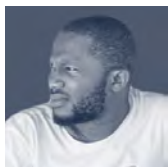
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Founder/CEO  
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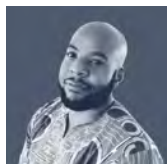
**Funmi Onabolu**  
Group MD  
COSSE



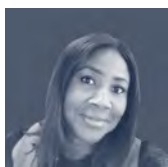
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Chief Digital Officer  
Bank of Kigali



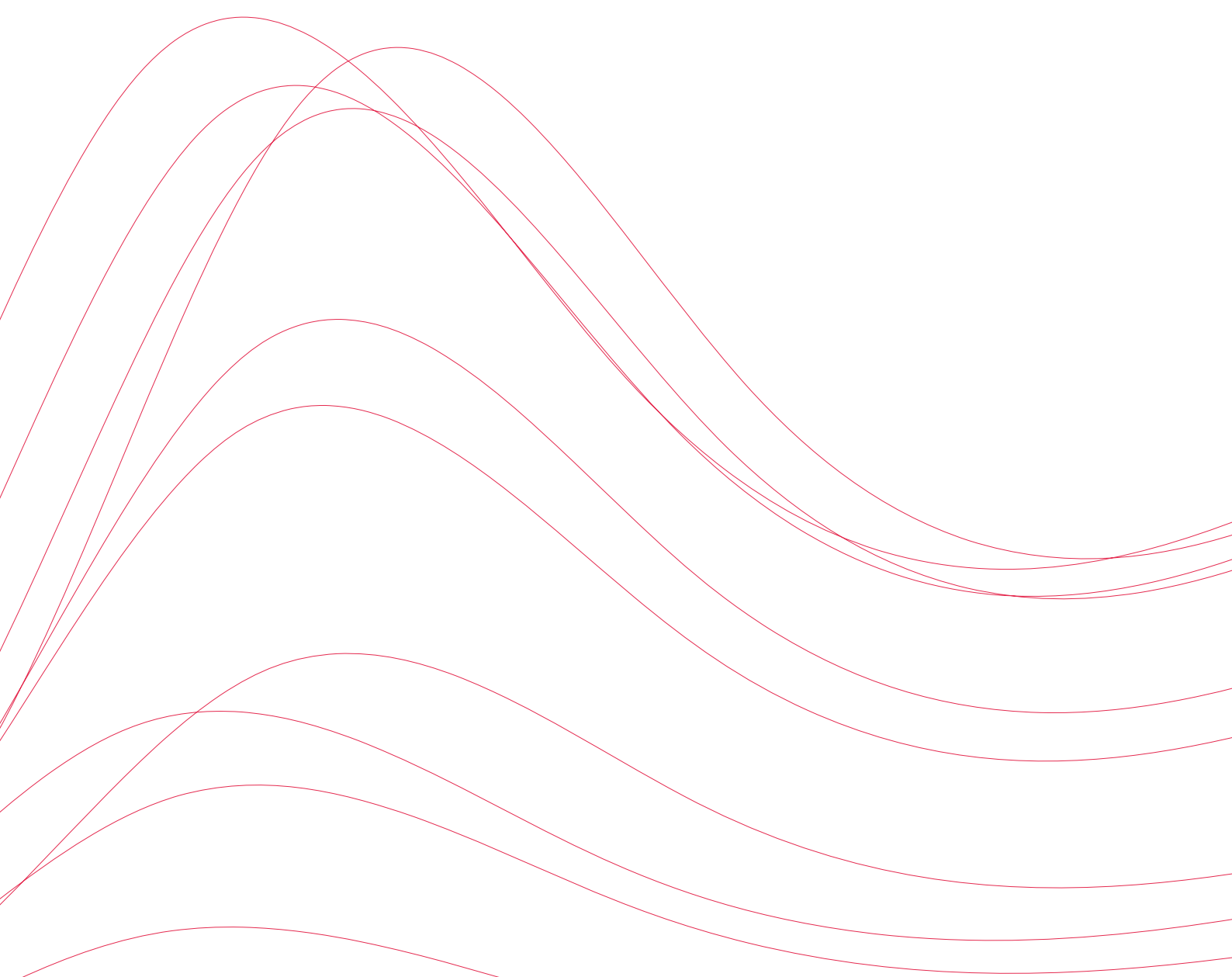
**Oluwasoga Oni**  
CEO  
MDaaS Global



**Ibrahim Waziri**  
Director, BD  
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**Olufunmiso Oyelohunnu**  
CEO  
Accelerex  
Network Limited



# Media




## What's happening in media

Advertising on traditional media certainly took a nosedive in 2020. [The amendments to the sixth edition of the National Broadcasting Code](#) generated a fair bit of controversy and several clients sought advice on provisions such as:

- The legality of the prohibition of exclusive content;
- Compelling sub-licensing of content that enjoys widespread viewership and price regulation;
- Banning the transmission of prime foreign sports content unless the owner of such content has also acquired prime local sports content of the same category with a minimum of 30% of the cost of acquiring the foreign content.

With the increase of fake news, misinformation and disinformation on social media, the debate on the Protection from [Internet Falsehood and Manipulations Bill 2019](#) took centre stage for a while. The bill has now passed its second reading in the Senate of Nigeria and is currently awaiting the report of the Senate Committee.

The [DLA Piper media and sports webinars on social media and music](#) in December 2020 discussed the issue of fake news and key takeaways include:

- A big challenge to the regulation of news on social media is the sheer scale of content uploaded and the speed with which it changes;
  - Due to the prevalence of fake news, the time for self-regulation is over and the need to push for a statutory duty of care has arisen;
  - Holding social media platforms to a duty of care, demanding transparency on the algorithms used in pushing content, age verification, giving users better tools so they can have more control over what they see, may be effective in curbing this menace;
  - The legal regime around social media must allow a balancing of rights and distinguish between harmful and illegal comments.
- 



# Media Insights



**Funmi Onabolu**  
Group MD COSSE

## The Impact of digital technology on traditional advertising

Digital tech has positively impacted traditional advertising in many ways, such as new targeting tools, behavioral profiling and better audience measurement; Personalized ads, enhanced role of content and video marketing; Tech enhanced possibilities with Artificial Intelligence; programmatic media buying allowing for far more precision in messaging and media, resulting in more efficiently targeted campaigns and less wastage.

## COVID-19 and the media and advertising sector

COVID-19 perhaps put more strain on the marketing communications industry in 2020, than it might have done other sectors principally because organisations traditionally tend to cut ad spend once there are constraints on resources. The very nature of COVID-19 and its impact on lives meant that consumers' buying power declined for about 9 months of the year, and when they purchased, they chose cheaper alternatives

as inflation and much lower income had battered the consumer. Not all woe though as COVID-19 conditions gave rise to boost in online sales, logistics business and advertising, higher data consumption and therefore more ad pressure from Telcos and providers of connection services, with the resultant activities positively impacting ad companies associated with such sectors.

## Emerging trends

Cautious optimism as the Nigerian economy is expected to come out of recession possibly by Q2 2021; Reopening of borders is likely to boost economic activities and provide more employment; Availability of COVID-19 vaccines internationally is likely to boost economic activities and the impact should be felt in Nigeria as well; Inflation will likely reduce; All these will positively impact the marketing and communications industry. Trends in the industry will continue to be driven by technology. Artificial Intelligence, digital data, video marketing, chatbots, content marketing; all focused on consumer retention and predicated on good old creativity are some of the trends to watch.

# Media Insights



**Gregory Odutayo**  
Managing Director Royal  
Roots and R2TV

## The Impact of COVID-19

COVID-19 has impacted the creative industry in a lot of ways. For the broadcast industry, a lot of companies stopped advertising, but we were still expected to use our platform by the NBC to sensitize our viewers about COVID-19 and health and safety protocols. Even within the lockdown, we still had to keep going, a strain on the business and the staff with its attendant risk. As a media enterprise, you basically need people to communicate.

## The State of Production in Nigeria

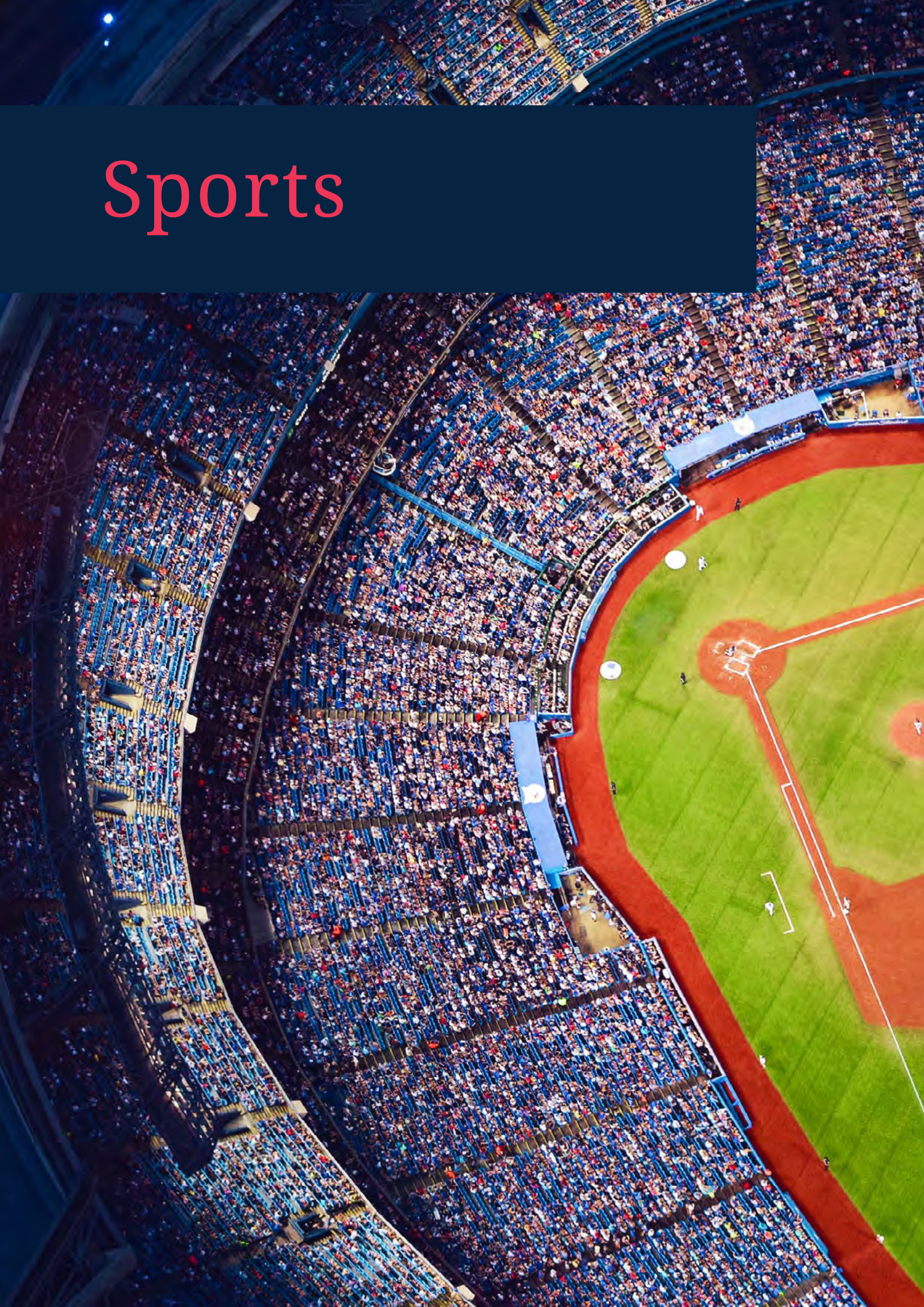
Production has started to pick up post lockdown. For the media sector, things have picked up and we are glad that 2020 is finally over.

## Outlook for 2021

We are very positive about 2021. The outlook is good despite the impact of the global recession. We expect a resurgence within the creative industry. Television hopefully will transit into the digital era with more key states joining the train in 2021. This we believe will be a major event for the industry. The movie and cinema industry worldwide will also, I believe, experience an upward movement for the experience and the fact that we are a social people. We love to hangout and interact. I actually believe that when restrictions are removed from cinemas, there will be a resurgence in the industry. We look forward to an exit from recession by the 2nd quarter and I believe that the industry will end 2021 on a high note. The indices are positive.



# Sports





## What's been happening

The start of 2020 was packed full of activities in the sports sector and really exciting for us at DLA Piper Africa, Nigeria (Olajide Oyewole LLP). We:

- Attended the debut event of the African Warriors Fighting Championships in Lagos;
- Spoke to lawyers and industry stakeholders about intellectual property and sports in a master class on Maximisation of Intellectual Property in Sports organized by Discovery Sports;
- Partnered with Integral Sponsorship and Experiential Marketing and Family and Football in respect of knowledge sharing sessions in the University of Lagos; and
- Hosted Erkut Sogut, Misha Sher, Abimbola Ilo and their crew at a cocktail in our office.

Then on 11 March 2020, the World Health Organisation declared COVID-19 a pandemic. As events were cancelled and sponsorships pulled, there was panic and dismay. There was no blueprint for the situation and the ability of businesses to survive the crisis was questioned.

Urgent advice was needed on frustration, force majeure, consideration due, validity of broadcasting rights for cancelled or postponed sports events, limitation of liability, health and safety matters, labour and employment and other contractual terms all seemingly requiring renegotiation.

As webinars increased in popularity, on 7 May 2020 the Ministry of Sports in conjunction with the Nigeria Economic Summit Group (NESG), held one on Post COVID-19 Nigeria: Impact and Opportunities for the Sports Sector, with speakers including the Minister of Sports, Mr. Sunday Dare, the CEO of the Nigerian Investment Promotion Corporation, Ms. Yewande Sadiku and more.

In July 2020 the Sports Industry Working Group<sup>1</sup> presented the Draft 2020 National Sports Policy<sup>2</sup> to the Minister. The Draft Policy will go through validation processes before receiving final approval from the Federal Executive Council.

With the easing of lockdown and opening of the borders, organisers of events in the sports sector have slowly begun again. Indeed in April 2021, the Access Bank Lagos City Marathon took place. In the same month, the 20th National Sports Festival was also held in Edo State.

Online sports betting in Nigeria, remains a growing area, as there has been an influx of international players into the Nigerian market. Some of the elements driving the uptick include: a largely youth-driven population, strong national interest in sports, increasing adoption of technology, etc.

Despite these growth indicators, hindrances such as broadband speed, cost of data, underage betting, money laundering risks, data privacy concerns, infrastructural issues, stigma and religious limitations, remain a concern. Online sports betting is governed by a plethora of laws at both the federal and state level. At the time of publication of this Market Insight, Lagos State had just signed into law the Lagos State Lotteries and Gaming Authority Law, to consolidate and harmonize all gaming activities and related laws in Lagos State.

In other climes, e-sports has been a big winner. In Nigeria however, growth has been hampered by the problems outlined above. Despite these challenges, activities in e-sports continue and in December 2020, there was an e-sports tournament organized by League of Extraordinary Gamers in Lagos.

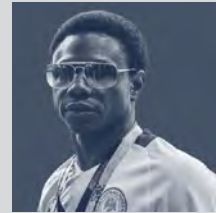
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<sup>1</sup>The Sports Industry Working Group consists of the Nigerian Economic Summit Group, the Federal Ministry of Youth and Sports Development and critical sector stakeholders.

<sup>2</sup><https://www.nesgroup.org/nsip>



# Media Rights Insights



**Abimbola Ilo**

Managing Director,  
Integral Sponsorship  
and Experiential  
Marketing

## The Impact of COVID-19 on Media Rights and Sports

The uncertainty that COVID-19 came with literally shook the foundations of the industry particularly as matches were totally suspended in the major leagues and competitions globally. Subsisting contracts had to be reviewed extensively with a number of implications on media rights fees and obligations – naturally the most important element was that rights owners and federations alike could not deliver the product as various lockdown measures continued for months. I believe that things will settle down a little and we are very delighted to see the first signs now of even having spectators back in stadiums, for instance in the Premier League.

## The Outlook for 2021 and beyond

From all indications 2021 will be hinged primarily on the vaccine roll out and the acceptability or uptake of “new” normal whatever that looks like. To my mind, we remain cautious but optimistic that the sports economy can recover and in particular that the Tokyo Olympic Games proceeds uneventfully. I believe that a successful Olympics then fully opens the door for our industry to know we are firmly back on track.

## Trends/opportunities in E-sports and Nigeria

We have seen much talk and speculation regarding the explosion of e-sports but I think that we have a few hurdles to cross over in Nigeria before the conditions for a sustainable esports industry is truly birthed. The infrastructure required in terms of connectivity, bandwidth speed and pinpointing nuances in the specificities of the diverse stakeholders in the e-sports ecosystem will be the real clincher to achieve a sustainable e-sports sector.

# Traditional wrestling insights

## The African Warriors Fighting championship

We produce content showcasing indigenous African fighting sports. We are Nigeria's first traditional sports brand. We are aiming to raise standards in the space, improve the lives of athletes, and offer brands and broadcasters the opportunity to participate in promoting themselves alongside traditional sports. We currently feature Dambe, a form of boxing native to Northern Nigeria, and wrestling which is practiced across the country. Despite possessing huge local following, as with sports generally in Nigeria, traditional Nigerian sports have long suffered from under investment. Driven by content like ours, traditional African sports is growing in popularity worldwide and have secured over 250 million views on YouTube. With more people at home consuming content, COVID-19 accelerated interest in our brand. We were able to convert this to our first broadcast deal in the UK and now show weekly on Yanga TV, the UK's leading channel for black entertainment content. We've also seen a significant uptick in our social media following and now have a combined following of over 30k on our social media channels (Instagram @africanwarriorsfc and Facebook 'African Warriors Fighting Championship').

## Impact of COVID-19

COVID-19 initially impacted us as we had to cancel several events we had planned in Lagos and Abuja. It did, however, force us to rethink our approach and led to us establishing our first permanent location, the African Warriors camp, which now serves as our base for producing content.

## Outlook for 2021

I think the outlook for African Warriors Fighting championship and Dambe and Wrestling in 2021 is bright. Eye-catching, high-quality content has never been more valuable and online and TV audiences have never been bigger. Our approach will be to continue refining our product, expanding our fan base, and partnering with brands who recognise the traditional sports opportunity.

# Karate and women in sports

## The Zainab Saleh International female open karate championship

The Zainab Saleh International Female Open Karate Championship, as the name states, is a female-only championship. In furtherance of the desire to improve the technical standards of Nigerian karate, I took a decision six years ago, that an exclusively female event should become a major program for the following reasons:

- To encourage female athletes to improve their technical skills in order to be at par with their international counterparts; and
- At the same time portray the fact that learning karate as a form of self-defense due to the rising cases of rape and gender-based violence, a great concern, is paramount.

It is also believed that the benefits of creating an event exclusively for females:

- Encourages growth of female sport in Nigeria;
- Encourages female empowerment;
- Promotes gender equality;
- Develops overall self-confidence;
- Builds self-esteem;
- Boosts physical health; and
- Improves mental health.

## What would help the sport industry to flourish

Nigeria cannot compare itself to most Western nations when it comes to participation in international competitions/championships. Simply put, hardly are we able to attend international events because of lack of funding. This tends to be a common challenge with most African countries except the North African countries. Therefore, we are unable to adequately test our technical skills, leaving Nigerian athletes not as skillful as their international counterparts. What karate needs to flourish is funding and adequate marketing. We are not considered a viewer sport, hence the abysmal lack of funding for this sport we so love.

## Impact of COVID-19 on karate

Karate is a combat sport, the impact of COVID-19 caused all karate sporting activities and championships to be postponed to such a time that it is deemed safe to start. All World Karate Federation (WKF) events that were to take place in 2020 were postponed till next year, 2021. Therefore, in line with the decisions made by the world body, the 7th Edition of the Zainab Saleh International Female Karate Open Championship had to be postponed accordingly and a new date will be circulated in due course.

However, it is worthy to note that most practitioners, like every other business, looked for other means to create alternatives to ensure that training does not suffer. Many karate instructors started training their students online, Zoom being the most popular platform used.

## Outlook for karate in 2021

The outlook for 2021 is looking very bright. Karate will be featured for the first time as a demonstration sport in the Olympics slated for August 2021. Therefore, you can imagine the eagerness for all athletes and referees/judges to go back into active training.

Not wanting to lose the momentum with regards to training referees/judges in preparation for any sporting activity, the African Karate Federation (UFAK), the continental affiliation to the World Karate Federation (WKF), went ahead to organize online training during the pandemic to ensure that African referees/judges remain updated with the rules and regulations and changes if any, with regards to karate competitions/championships.

On a much brighter note, Nigeria has the opportunity to showcase 4 of our athletes, 2 female and 2 male, at the Olympics, provided that they make the qualifiers which will be taking place in June 2021 in Paris, France. The Zainab Saleh Foundation would like to assist in raising funds for these athletes to be able to pursue their dreams and that of Nigerian karate.

# Entertainment



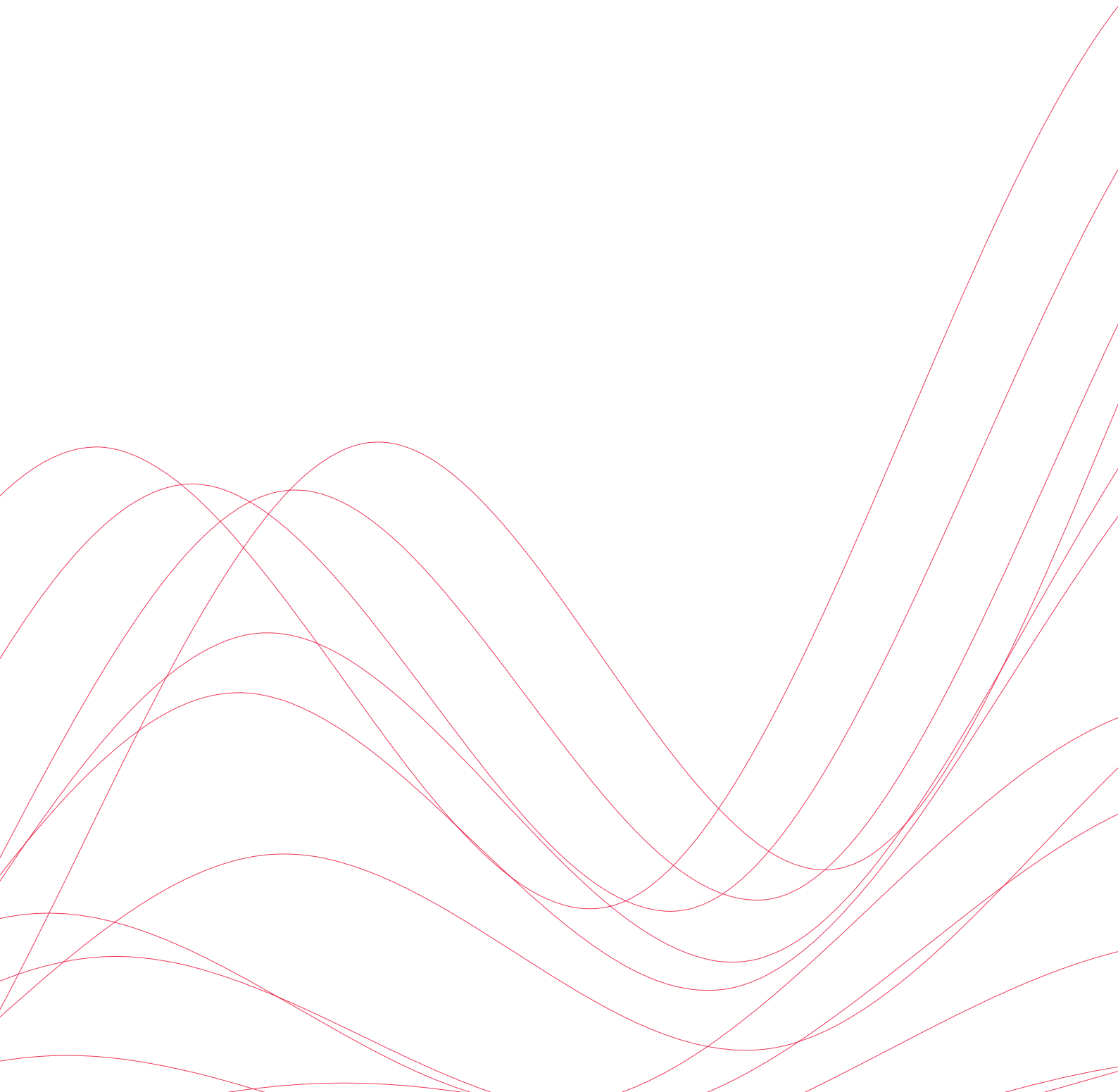


## The Nigerian Animation Industry

Live production was negatively impacted by the lockdown, but this was not the case for the animation industry. There was an upsurge in demand for animated content and a number of distribution deals were signed off on in 2020.

Advertisers and investors took note of the demand for animated content and reacted accordingly leading to increased funding deals. This is a digitized industry, with no shortage of talent and an ecosystem used to working from home supplying content to where there is demand

anywhere in the world. Interest in Nigerian animation companies continues and more coproduction similar to that of Disney and Kugali's Iwaju are expected.



# Film and TV

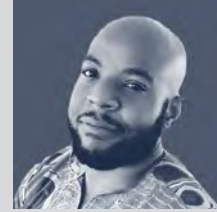
## What's happening in the animation industry

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# Animation: Insights



**Ibrahim Waziri**

Director of Business  
Development at E-Black  
Visuals Concepts Link

## Impact of COVID-19 on Nigeria's Animation industry

COVID-19 has forced many brands and advertisers to look towards animation as a medium to reach multiple audiences digitally. This has translated into more client work for Nigerian studios.

## Outlook for 2021 and Beyond

Very positive. Nigerian animation has come a long way with a series of different projects in the market and full featured animated movies now in Nigerian cinemas. The future looks bright.

## Engaging a New Young Audience

Many of the kids who grew up watching the first few episodes are referring their younger ones and other people to the show. We are excited to see how the next season of the show connects with a new generation of preschoolers.

## The Nigerian Film and TV Industry

In 2019, the Nigerian government identified the creative sector as one of the priority areas in its Economic Recovery and Growth Plan. According to the policy document in this regard, the Federal Government (FG) is targeting a 15% annual increase in film production and USD1 billion in export revenue from Nollywood movies by 2021. With the pandemic, it remains to be seen if this will be achieved. Theatrical releases were not possible for most of 2020, and movies like *Coming from Insanity*,

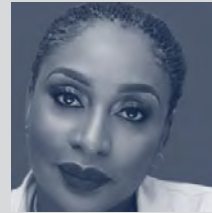
*Your Excellency*, *Oloture*, *Trust Issues* premiered on Netflix, Iroko TV and Ibaka TV etc. Working online became the norm with casting by zoom, use of mobile phones to film scenes and even a movie with just 1 actor.

NiHu Media and other companies like it began producing more talk shows, interviews and documentaries. Cost of data, speed of internet, etc. are now part of production.

As lockdown eased and film sets opened up, advice on regulations and laws pertaining to health and safety measures on set became necessary. Contracts providing for health and safety, express provisions for pandemics as force majeure events, different distribution platforms, adjusted remuneration, full execution, etc. are now more important than ever. DLA Piper Africa, Nigeria took the initiative and published the Global Industry Guide to Resuming Production Post-Pandemic, which featured 20 countries with Nigeria included, and can be found here. As more and more productions have started up, legal services particularly in respect of chain of title, financing and dispute resolution on distribution licenses, are required.

The easing of lockdown also saw cinemas reopen across the country and Funke Akindele-Bello's 'Omo Ghetto: The Saga' became the highest-grossing Nollywood movie of all time after raking in more than N468 million at the box office in one month.

# Lawyers and a fist full of contracts and agreements



**Ego Boyo**  
MD/CEO, Temple  
Productions

*"Film production? First priority, Contracts! contracts! contracts!"*

I recently had a conversation with a couple of young people getting ready to take on the film business and they asked me, what did I regard as an important to have item on my list for the film industry.

Yes, interest and a passion for film is necessary of course, but for the business, and it is a business, I said lawyers and a fist full of contracts and agreements.

They were surprised. Not because they did not know about contracts, but because they did not attach a great deal of priority to them. For anyone in this business, actors, crew, investors, this is crucial.

For me contracts, legal agreements are the main priority before starting any project.

Starting out as an actor, one of the first independent acts I committed to, was engaging a lawyer (at the time a friend) and drafting with him a generic contract to protect my rights, as I had not received one from the production. Then as I was setting up my production company, I retained a reputable legal firm who have represented me from that moment in 1996 to date. From that day, I never looked back and contracts have been the bedrock of my journey in this business.

Contracts and other legal agreements secure you or your project, protect you and your production, and very often turns out to be the most important decision you will take. From taking the legal steps to set up your company, to be regarded as a business entity which is crucial when you are hoping for investors, or to take

advantage of a grant. Most organizations, corporations expect to deal with a registered legal entity and not having that may actually limit or prevent you getting access to funding.

After sorting out company/business registrations, then proceeding on to the production, your business will then sign on all the individuals and companies that will be working with you.

From preparing contracts to cover every single aspect of film production between your business and investors, the script/story commission or purchase agreement, cast and crew contracts, licensing agreements for use of the intellectual property of others (music, books, art, photographs, film or video library footage or clips). Location agreements, craft services contracts, accommodation, transport companies, sponsorship, product placement agreements, distribution (foreign and domestic) agreements, trademark registrations where necessary, are all required. Every single person that works on set with me are signed on before I proceed.

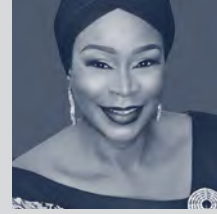
Contracts ARE crucial. The production cannot proceed successfully without legally binding duly signed contracts. There are so many stories about projects that go into litigation because these were not attended to in the first place. Even with contracts there can be problems if the agreements are not clear, or if they are ambiguous, or because people being people, decide they are not happy with a contract they had already signed.

Contracts must be discussed prior and clearly understood before signing (I have learned this over the years) and must clearly state who exactly owns what, who has a right or the rights to what, who gets what, in what percentage, in what time frame, residuals, royalties etc.

A lot of delays, pain and tears are averted, money saved and reputations intact, when everyone knows and understands they are protected and taken into consideration in a contract. I really cannot overstate just how important this protection has been for me in all my productions. Not only for myself and my company, but for the hundreds of individuals I have worked with whose rights have also been protected.



## In brief



**Carol King**

Actress and Business  
Owner

### What has the impact of COVID-19 been on actors?

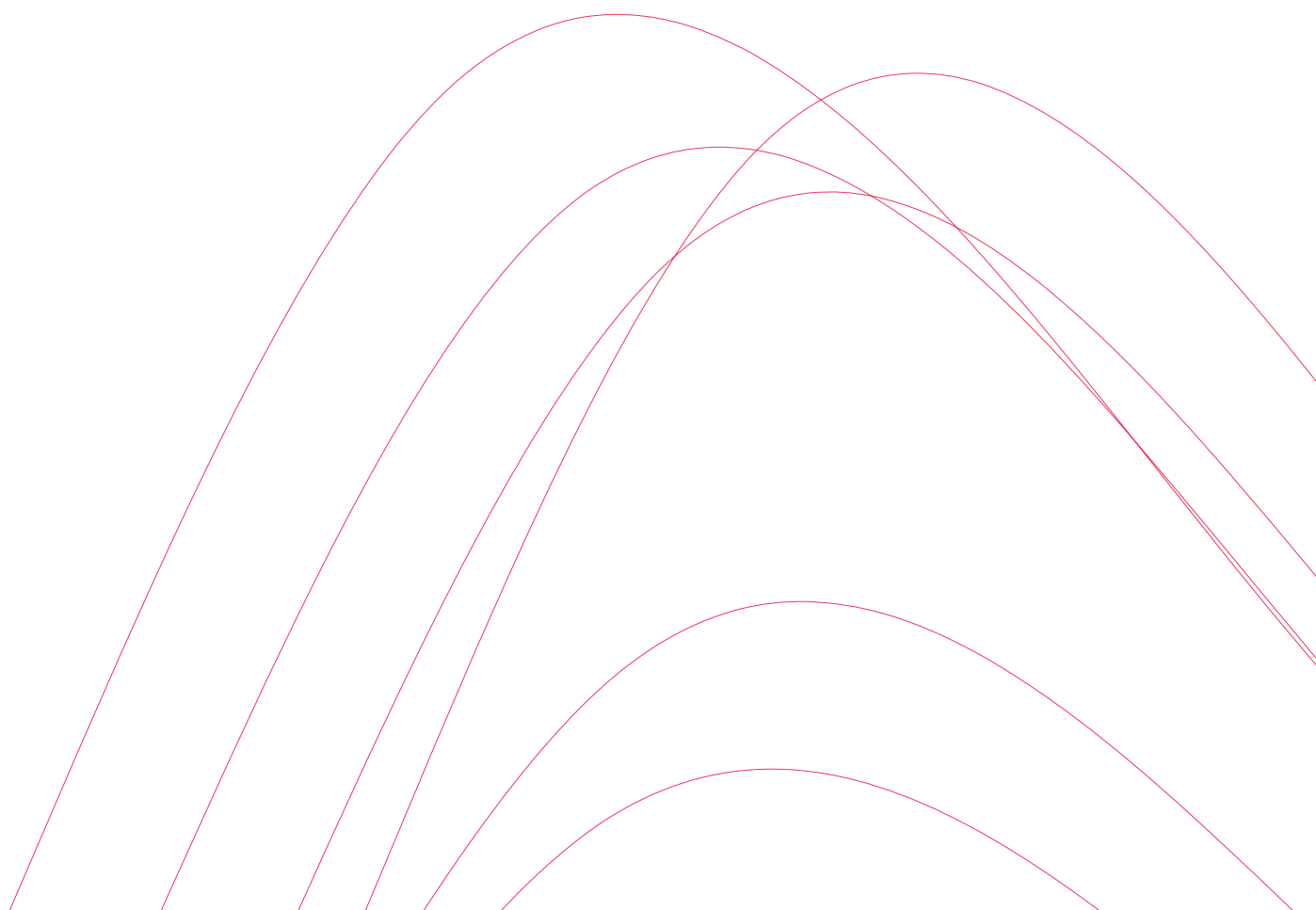
COVID-19 slowed down everything especially the entertainment industry because as you know, the job involves physical contact so it's challenging to maintain social distance per se. However, some measures were put in place such as testing for all members of cast and crew involved in the project, rewriting and limiting the number of cast/crew on any given set, cast/crew especially makeup and wardrobe masked and wearing face shields and the props department wiping surfaces and props at intervals.

### With the shut down or slowdown of production, how have you stayed busy and or earned an income?

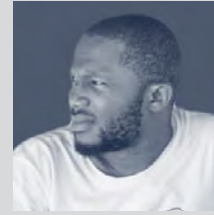
I have been blessed because I have a regular gig (*Tinsel*, a daily soap) and recently a Netflix original project. I also have a small shop where I sell perfumes, jewelry, fabric etc.

### What's your advice to young actors in terms of livelihood at this time?

My advice would be for them to make use of social media to hone their craft, so many young actors are doing skits and getting noticed. They can also learn some skills that will aid their craft and that they can earn money from. For instance, start a small business. Basically...just identify their passion and aim to make money out of it.



# Film, TV and the convergence of tech: insights



**James Omokwe**  
CEO, Feemo Vision

## The Impact of COVID-19 on Nigeria's film and tv industry

COVID-19 has had a major impact on the film industry. With the restrictions that shut down productions across the country cutting jobs, it has been very difficult for film production companies to resume. Even if they do resume, they either have to put into consideration budgets for testing or work with a skeletal crew to achieve the desired results. With an already crippled distribution eco-system, this is almost impossible.

Productions have now devised new ways to hopefully allow them film. COVID-19 protocols are a must. On some productions, a closed set is enforced. This is where actors and crew members are not allowed out of the filming area until the production has wrapped up. On other productions, the writers have to come up with new ways to tell stories – no more crowd, intimate scenes or scenes where a lot of body contact is made.

## Outlook for 2021 and beyond

2021 seems bleak but there is hope that things will look better. More film studios have gone into productions and TV stations have gone on overdrive. Producers are diversifying content especially on the social media front with the likes of Ndani TV, Red TV and the likes. For film studios, I am hoping that alternative distribution will be looked into. A new way to deliver big budget Nollywood films to its audience must be employed.

Producers and film studios can take a cue from Warner Brothers and what they are doing with HBO Max. Maybe not necessarily the same concept and format (which is streaming) but a more local approach.

## The convergence of tech and content distribution in Nigeria

The big question will be; "How do we still feed Nigerians with content in the comfort of their homes?" Film production studios need to make sure the already struggling eco-system does not suffer anymore.

Speaking of alternative distribution, tech has played a major role in helping film distribution globally. See Netflix, Showmax as good examples of this. In 2020 alone, Netflix saw a rise of viewers because everyone was home. The Queens Gambit, a Netflix original show had a record breaking 68 million household viewers in 28 days. This would technically mean revenue from 68 million accounts.

In Nigeria, more people are subscribing to Netflix and Showmax but our major challenge is data prices. There are lot of people who still cannot afford to stream. For MTN users, N6000 will give them 20 gigs of data. That may still be a lot of money for the average user who also wants to be on Tiktok and Instagram. But there is a bright light at the end of the tunnel. Internet costs is dropping. More people are able to have access to films on the go. This also means a surge in demand for films which in turn encourages the big studios to continue to commission films to be made. The good thing is that the possibilities are here. We just have to make the best use of what is available.

# Music



## The Music industry in 2020

From Swizz Beats Verzuz in the US, No Signal Radio 10 v 10 to the UduX organized live concerts for Davido and Asa in Nigeria, artistes have found ways to reach their fans during the pandemic. Felabration 2020 the Virtual Edition took place in October 2020 and in compliance with the laws and regulations a scaled down live event was also held. Now in 2021, we expect artistes to continue to look for more ingenious ways to connect with their fans<sup>3</sup>.

Many artistes became heavily reliant on streaming to maintain relevance and revenue flow during this period. Internet penetration in Nigeria has seen streaming numbers and Music Time now dominate. 2020 saw the expansion of Audiomack into Nigeria. Spotify has also recently announced its re-entry into Nigeria.

Under the World Health Organisation COVAX arrangement, the COVID-19 vaccine has been delivered to Nigeria and inoculation has commenced. However, live performances and the opening of venues are still subject to the existing health and safety protocols.

Despite the good news regarding streaming, artistes' revenues have taken big hits. The state of collection societies in Nigeria's music industry has resulted in little or no revenue being generated from this source at the time of publication of this Market Insight. Reiterating the need for an efficient collective management system in Nigeria, our Sandra Oyewole's article ***Collection Societies in Nigeria's Music Industry: the Case for Change*** can be found [here](#).

Despite the devastating impact of the pandemic the music industry has found ways to be operational and legal services have been required on a range of issues including:

- Health and safety guidelines during video and approved concert productions;
- The organization of virtual concerts;
- Recording and distribution of new albums;
- Acquisition of catalogues;
- Publishing
- Finance for studio construction
- Dispute resolution as regards ownership; and
- Advocacy on the music business at webinars, meetings etc.

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<sup>3</sup>Read Iyin Aboyeji's insights on this.



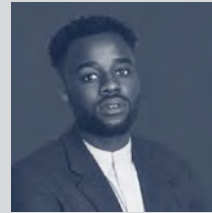


Music: Comment from Femi Kuti

*“On a personal note, COVID-19 destroyed a lot of things in 2020. From the cancellation of my international tours (a big source of revenue) to the New Africa shrine being closed for 8 months, it was a real struggle to survive and make ends meet. This is coupled with the fact that I work with a large entourage; my band and security at the Shrine. I do not see the situation becoming better until middle or late 2021. Whilst we have reopened NAS, we still can’t play at full capacity and that is also not likely to change anytime soon. The fact that I cannot go on tour also affected my streaming numbers as most of my fanbase in Europe and the United States stream more when I’m on tour in their respective countries. A big problem with streaming in Nigeria is that many people still can’t stream through the legal DSPs due to poverty. They will rather try to access/download your projects on free websites and blogs.”*

— Femi Anikulapo  
Kuti, Afrobeat Legend, six-time Grammy Nominee and Co-Owner of the  
New Africa Shrine.

## Streaming insights



**Adeyemi Adetunji**  
Head of Operations  
Audiomack Africa

### The Nigerian Artiste that Blossomed in 2020

When it came to the newer acts I would say no one blossomed more than Omah Lay. He released two EPs (Get Layd and What Have We Done) that took the country by storm. He was consistently played across all the airwaves and was featured as our “Up Now” Artist <https://audiomack.com/world/post/omah-lay-interview> as he was consistently breaking records on the platform. The more established acts like Burna Boy, Wizkid and Davido also released excellent projects and found more unconventional ways to connect to their fan base.

### COVID-19 and streaming

I can't speak for all other platforms but with regards to Audiomack, COVID-19 saw more artistes trying to find ways to partner with us to find ways to not just increase their listenership but to also create experiences that their fans could enjoy. The pandemic forced consumers to be on their screens a lot more and find new routines so artistes have been trying to find more ways to not lose their core audience and hopefully grow.

### Streaming values in Nigeria

Streaming is primarily giving artistes another medium to connect with their fan base. As technology and music are continuously intertwining, artistes are using streaming tools provided by various musical platforms to gain insights to where their songs are being played and using that data to try and connect with their fans and hopefully grow their audience.

*“Every year someone or some new technology comes out of nowhere and dominates the airwaves and streaming charts and sets the pace for the newer artists that are coming”*

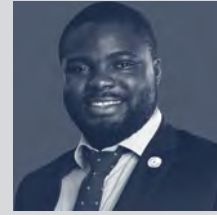
### Piracy in the digital age

Still very much prevalent in our society as there are a lot of unscrupulous people that try to take advantage of artistes' IP. It is becoming easier to detect based on the metadata that is usually given to most digital service providers but efforts are being made to curb and hopefully eradicate it.

### 2021 and beyond

Expect artistes to look for more ingenious ways to connect with their fans. Mr Eazi recently stated he was going to give fans equity in his new music releases. I'm excited to see how that turns out. I'm also excited about the unknown. Every year someone or some new technology comes out of nowhere and dominates the airwaves and streaming charts and sets the pace for the newer artists that are coming.

## Music and the Convergence of tech insights



**Iyinoluwa Aboyeji**  
General Partner,  
Future Africa

There are several opportunities that are showing up for the Nigerian music industry as music and tech converge particularly because of COVID-19. Due to the lack of physical performances due to social distancing concerns, a lot of artistes have had to rely on streaming revenue from digital streaming platforms. A number of opportunities have emerged to distribute and promote artistes records to ensure maximum earnings via streams. Platforms like Ejoya, UduX, Gbedufm, mdundo are local platforms competing with the global platforms like Apple Music, Spotify, Audiomack etc.

As artistes streaming revenue grows and becomes more predictable, platforms like Mr Eazi's African Music Fund have emerged to collateralize the streaming revenue so the artists can take advances on it to develop new projects or simply handle personal expenses.

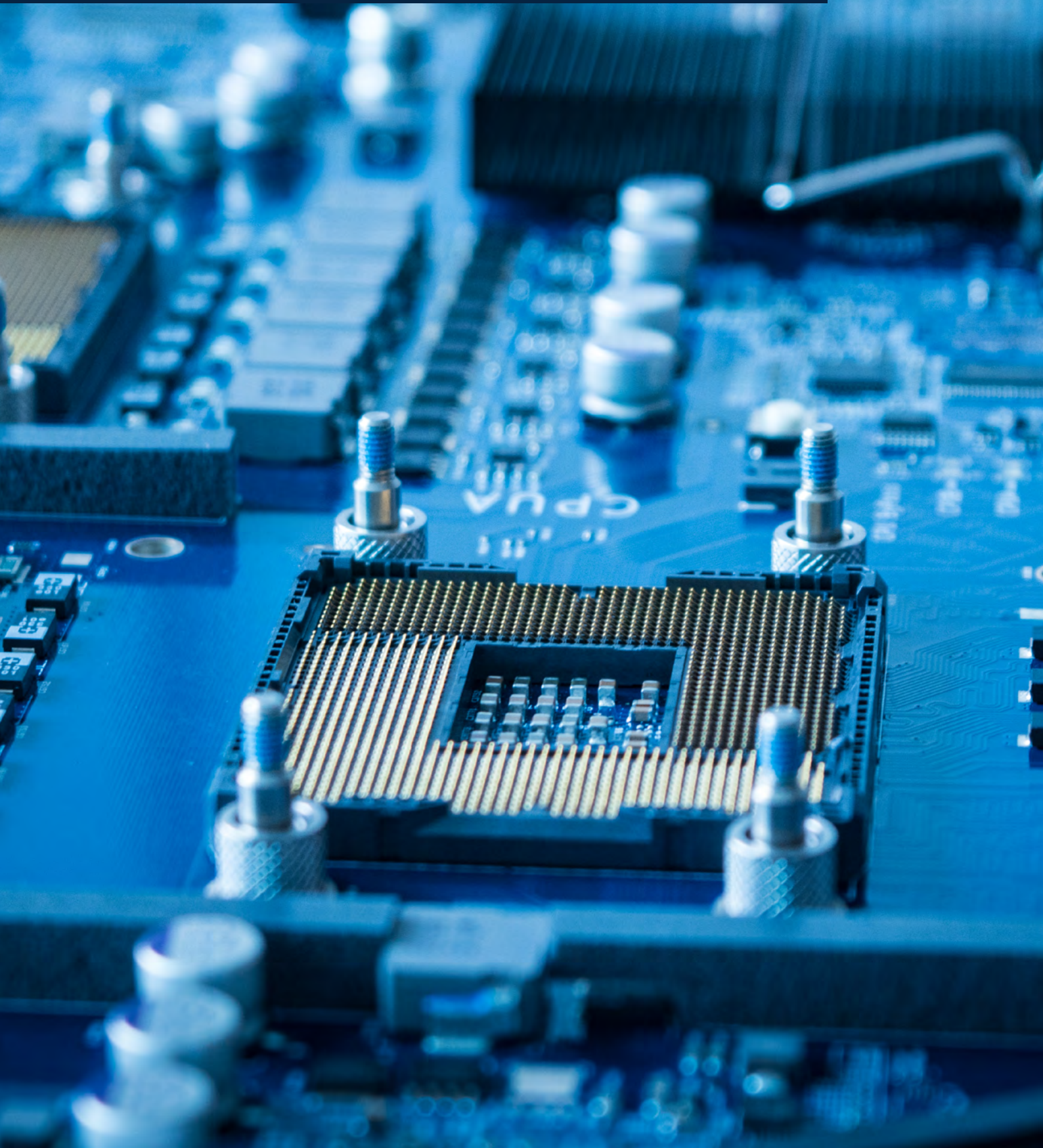
Platforms for distribution and collateralization of streaming revenues have been driven by technology. I believe that this approach to making a true IP asset of music will spur other bolder efforts such as Mr Eazi's Bowie Bonds style effort which plans to reward investors and fans who choose to invest in and listen to his creative works.

I also believe there is a significant opportunity to build more depth on the revenue side of the music business by using data. For example, it isn't yet clear to many brands what kind of customers listen to say Davido, who else they would listen to if they do and what this means for their actual purchasing patterns. More granular taste making data native to Africa could be mined to create an algorithmically driven and more effective ad experience for listening.





# Technology





# Data Protection

## What's happening in data protection

*“If you aren't concerned about cybersecurity, you don't know enough about it”.*

— Raef Meeuwisse

## Data protection in Nigeria

Data protection in Nigeria is governed primarily by the Nigeria Data Protection Regulation (NDPR), the NDPR Implementation Framework and the Cybercrimes Act. Other legislation that form part of the data protection regime include (but is not limited to) the Constitution of the Federal Republic of Nigeria, the National Identity Management Commission Act, the Child Rights Act, the Credit Reporting Act and the National Health Act.

The promulgation of the Nigerian Data Protection Bill is expected to happen soon. It remains to be seen what will happen to the NDPR. Until the promulgation of the bill, the NDPR remains a valid and existing regulation for which compliance is mandatory. For more on Nigeria's data protection laws policies and guidelines [see here](#).

All organisations irrespective of size collect, process and transfer personal data. It is the responsibility of an organization to:

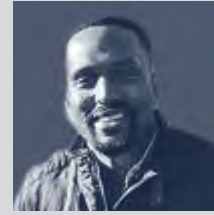
- Have defined structures, policies and teams in place to ensure that it knows what personal data it has, for what purposes, ensure that it is fairly,

- lawfully and in compliance with the data protection regime highlighted above.
- Ensure that personal data is safely secured against damage loss and unauthorized access.
- Be pro-active and compliant rather than reactive when a breach occurs.

For more information on lawful use of data click [here](#). The pandemic contributed to a massive increment in the collection, processing and transfer of personal data. Accelerated digitization arising from remote working has created its own risks, with security reports noting the increase in loss of data, data and cybersecurity breaches. It therefore became even more imperative for organisations to be data protection compliant. The work in data protection for lawyers has only continued to grow.

The National Information Technology Development Agency (NITDA) published its performance report in October, 2020 which can be found [here](#). NITDA has ramped up its awareness activities on data protection. It has also increased the number of investigations into data breaches. Filing of Data Protection Audit reports is scheduled for the 15th of March each year. In response to the impact of the pandemic, NITDA recently announced the extension of the filing date to the 30th of June 2021.

## In Brief



**Obinna J. Ukwuani**  
Founder Makers  
Academy Africa and  
Chief Digital Officer,  
Bank of Kigali

### A data breach

Some months ago, an unfortunate accident resulted in the destruction of many of the devices in our primary data center (PDC). I can't say more than that. This resulted in one of the worst hits to the bank's reputation among customers that has been suffered in over five years. Clients big and small were not able to transact or access funds for days on end, and even now we are just recovering our IT systems stability. As a bank that moves billions of dollars annually and represents 70%+ of the nation's banking sector profits, nearly every citizen was effected. It has been painful.

I would urge organizations that manage their own PDC to be eternally pessimistic about security. The reigning assumption should be that everything can go wrong at once, at any time Plan accordingly. Have strict policies

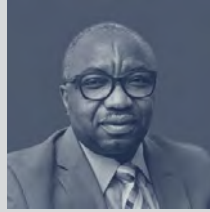
around physical and electronic access, maintain detailed change logs, run drills for fail-over. Leave nothing to chance and eliminate ambiguity. Data is gold in modern age, protect it like such.

### Robotics and AI in Nigeria

This isn't an easy one because these disciplines are on the cutting edge, and Nigeria still has a lot of work to do getting the fundamentals right. Robotics is more difficult as it is physical and Nigeria has plenty of cheap labor, but the large population and increasing number of digital products resulting in an ocean of data make AI quite relevant. In short, I think there are opportunities to use data to organize people and initiatives, improve health and quality of life, and to make intelligent policy decisions.<sup>5</sup>

<sup>5</sup>Drones are probably the most advanced equipment in the field of robotics. See more on the regulatory regime for drones in Nigeria via <https://www.dlapiper africa.com/en/nigeria/insights/2019/the-wonderful-world-of-drones.html>

# Data protection insights



**Dr. Vincent Olatunji**  
Director, eGovernment  
and Regulations, NITDA



**Olufemi Daniel Esq**  
Lead, NDPR Desk, NITDA

## Trends for Data Usage and Protection in 2021

What we have observed over the past 2 years has been developmental for both the regulator and the industry. The first sets of audits have come in and we've analyzed them, we have learned lessons and we have issued a report. So, what we see coming for 2021, which should have started manifesting in 2020 but for the coronavirus, is that there is going to be a higher level of compliance. For example, we expect to see more audits being filed, because we expect that there will be much more compliance and enforcement drives by the regulator. So, the trend is an uptake in data protection enforcement that is what we expect to see.

## NITDA's Enforcement Drive

Whatever comes up in 2021, NITDA is not going to fizzle out of the equation in a jiffy. We still have a transitory role to play. So, having established structures like the Data Breach Investigation Team which is comprised of police team from the Inspector General's office and some NITDA staff. What we see is that NITDA would be enforcing the NDPR to the extent that we have the opportunity to. Currently, there is a lot of enforcement activity going on, though they are still below the radar until we have definitive statements to make. For those who did not file audit report last year (2020) and have not made any attempts to file this year (2021), there is going to be much more stringent enforcement actions, which we are currently working on. For 2021, general awareness would improve. We are now going to be focused on specific sectors, especially the high impact sectors such as health and financial services. We have issued an Implementation Framework but there will also be Sectoral Toolkits which will guide how people implement data protection in various sectors. By us providing more clarity and improving on enforcement, we expect more compliance.

## NITDA's Role when the Data Protection Bill is Passed

NITDA is the agency that has the deepest institutional knowledge when it comes to data protection practices in Nigeria. And we say that with all sense of modesty. NITDA has had more interactions with more data controllers, we have answered thousands of questions on data protection issues. NITDA is the Vice chair of the African Union Project on harmonization of Data Protection Laws in Africa and we are a very strong proponent of harmonization initiatives at the African Union (AU) level.

Our contributions have been highly commended by the AU commission. NITDA is now a member of the Commonwealth Data Protection Authorities. NITDA has worked on all the Bills that have come through for data protection. So, in terms of institutional knowledge we have a track-record.

On legal issues, NITDA has been involved in over 13 cases. The NDPR Performance Report, is the only report of its kind for 2020 in the whole of Africa. This shows that NITDA's role for data protection is not going to fizzle out anytime soon. We want to have a very smooth and sustainable transition to the Data Protection Commission. Because the idea for us at NITDA is to ensure that what we have built continues. So, whatever we need to do in terms of providing advisory, guidance, knowledge, documents and all that, we are happy to give to the Commission. So that is what we see the role of NITDA will be when the Commission comes on board.

## Plans to Revive the Malabo Convention

That is a very important question. So, the first question to ask is “why has the Malabo Convention not been as effective as the EU GDPR? The Malabo Convention deals with cybersecurity, data protection and some other issues. So that bifurcation of vision has its impacts. But the other more important thing that we are seeing with the Malabo Convention is that, it’s not as communicated as much as it ought to. There is an African Union EU collaboration on data protection laws harmonization in Africa. We have already developed a framework which has been tested in 5 countries i.e. Ghana, Morocco, Gabon, Gambia and Mauritius. After the test, we had a meeting in early December to discuss the outcome. The next thing to happen in 2021 is that

the Harmonization Framework Questionnaire is going to be applied across all the African countries. One of the things we expect to see is, how compliant are your data protection laws with the Malabo Convention and other international conventions. Some countries, like Nigeria, have not acceded to the Malabo’s Convention. This harmonization work will help bring up the issues and give the necessary advice to those that will make the relevant decisions where this is concerned. The harmonization work will bring up the Convention and will ultimately feed into the Malabo’s 2.0 version. We have made some observations about the Malabo convention and by the end of this exercise in 2021, we should have a new convention or an addendum to the current convention.





# Fintech



## Some Fintech facts

Despite the devastating effects of COVID-19 on the global economy, the global fintech landscape experienced growth in 2020. According to the Global COVID-19 fintech Market Rapid Assessment Report<sup>6</sup> fintech companies reported a year-on-year increase in their transaction numbers and volumes of 13% and 11% respectively in Q1-Q2, except digital lending which experienced a dip in loans issued and rise in loan defaults.

The economic impact of the increased activity in the Nigerian fintech sector is however, low with fintech activities accounting for only 1.25% of total retail banking revenues in 2019. Lagos remains the epicenter for fintech growth with growing usage in the East and adoption still at a nascent stage in the North. Payments, retail lending and wealth management appeared to be the leading sectors in 2020.

Market figures ranked Nigeria as the 2nd largest bitcoin market in the world after the USA. The growth experienced in the space was further exemplified during the ENDSARS protests which were largely funded through bitcoins.

Key developments within the Fintech regulatory framework include the enactment of the Banks and Other Financial Institutions Act (BOFIA) 2020<sup>7</sup> which repealed the BOFIA 1991; new license categorizations for the Nigerian payments system by CBN; new IMTO licensing guidelines by CBN; the Securities and Exchange Commission's (SEC's) classification of crypto assets as securities; the CBN's directive prohibiting deposit money banks, non-bank financial institutions and other financial institutions from dealing in cryptocurrency and/or facilitating payments for cryptocurrency exchanges; and the SEC's statement effectively aligning with the CBN's position. For more on fintech in Nigeria, click [here](#).

The increased reliance on digital products caused an exponential growth in our work in the Fintech industry. Advice on the regulatory requirements, processing of licenses, legal structure, intellectual property rights, employment matters, data protection, contractual terms and financing have kept the Olajide Oyewole Fintech Team busy.

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<sup>6</sup>Global COVID-19 FinTech Market Rapid Assessment Study | World Economic Forum ([weforum.org](https://www.weforum.org))

<sup>7</sup><https://www.cbn.gov.ng/Out/2021/CCD/BOFIA%202020.pdf>

# Fintech Insights



**Adeyinka Adewale**  
Co-founder and CEO  
Cosmic Intelligent Labs

## Fintech and ease of doing business

I think it's easier to get partnerships with Nigerian banks than other banks in Africa, especially as a Nigerian, but the regulatory requirements of getting your own license in those other markets are a bit clearer and could be out in 3 to 6 months. In Nigeria, the framework is clear but the process could take 3 years and you still don't have a license.

## Key Indicators for the viability of Nigeria's Fintech

**Capital efficiency and exits:** I think this also drives the exit, when you see a business like Paystack that has raised USD10m exiting for USD200m in 5 years, that's a good return for all investors, founders, and the team. I think capital efficiency is key.

**Addressable market:** Opportunities in fintech are quite vast but not all companies have a big enough addressable market.

## COVID-19 – the good, the bad and ugly

I think it's the good, the bad, and the ugly.

**Good** – Acceleration of digital payment adoptions, I have seen stores that stopped taking cash payments.

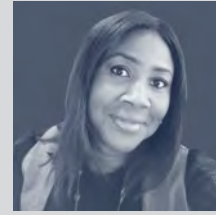
**Bad** – The economy took a hit as the lockdown halted commercial activity, with an 85% employment rate in the informal sector, which means no income for millions of adults and households. If there is no income, you'll see fewer payments for goods and services.

**Ugly** – Some fintech companies had to slash salaries or lay off some of their staff as their revenues took massive hits.

## 2021 and beyond

I think we will see more layers coming into fintech, largely driven by the Paystack exit. Everyone wants to have a piece of the action. This could drive up the quality of service and drive down fees on transactions.

# Fintech Insights



**Olufunmiso  
Oyelohunnu**  
COO, Accelerex Network  
Cosmic Intelligent Labs

## Impact of COVID-19 on the Fintech industry in Nigeria

We had the good and the bad and a lot of learnings in planning for the future. We experienced growth in the usage of digital channels with a boost in e-commerce and e-logistics.

However, Nigeria fell into a 2nd recession and the impact will be the risk of more Nigerians becoming financially excluded because of increase in the unemployment rate. This was the case following the last recession as confirmed by EFInA's Access to Financial Services Report.

The decline in global fintech investments also had an impact on capital inflow required for local players for physical upgrade or expansion of digital infrastructure and services. Issues of non-performing loans due to customers' inability to repay loans also increased but thank God for the targets credit facilities from Government and extensions to cushion this impact.

## What to expect in 2021

I believe that we will see more innovations and collaboration in the financial services sector to respond to the impact of COVID-19 upon us.

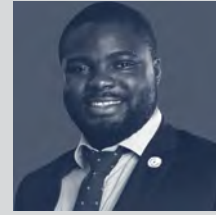
With more consumers turning to digital options during the now, I expect this to be sustained and the untapped opportunities converted to serve the underbanked in order to unlock the economic and social benefits of the various solutions. The business case here will require support from regulators on the issue of pricing so that the unbanked and the low-income customers can be adequately served.

This may however put more pressure on the current digital infrastructure and therefore we need Government and other stakeholders to pay more attention to that expansion.

I also expect that we would see more investment in digital health to create more access for Nigerians in healthcare.



# Fintech Insights



**Iyinoluwa Aboyeji**  
General Partner,  
Future Africa

## Impact of COVID-19 on Fintech

There have been quite a number of positive impact of COVID-19 on fintech in Nigeria – particularly on the investment side of things. Given the nature of the virus' spread through physical touch, COVID-19 mandated a necessary shift to digital financial services that has inspired incredible growth in the fintech sectors with companies like Flutterwave and Piggy Bank being big winners, some acquisitions from global players (such as Paystack's acquisition by Stripe) and global attention from investors (such as Kuda Banks' USD10m round and Chipper Cash's USD30m investment round).

Secondly, the pandemic has forced fintech startups to evolve from just payment to include services that can be built on top of payment rails. Companies like Rise Capital, Bamboo, Trove and Chaka have built global wealth management for Nigerians on the back of payment rails from 1st generation fintechs. Others like Kuda Bank, V-Bank, Brass and Wallet among others, who have built amazing digital banking platforms also emerged or grew very strongly during the pandemic as banks were not able to deliver those services as seamlessly to their customers. There was also an incredible growth in agency banking through platforms like Opay and financial data through platforms like Mono, Okra and Stitch, amongst others. While lending took a serious hit, new platforms like Fairmoney and Palmpay were able to break new ground alongside older veterans like Carbon, Okash and Branch. However, it was also great to see new asset backed financing approaches to lending pick up steam especially in the mobility space with players like Moove.Africa and MAX. Even older fintech players like Paystack and Flutterwave evolved to build products to address a newer audience of small business but less tech savvy customers with storefronts.

*"Overall, the coronavirus forced an unbundling of financial services for the average Nigerian creating a plethora of opportunities that will only grow into the new year enabling consumers to be better served with several fintechs rather than the bouquet of limited options they had been used to with their banks."*

## Trends for Fintech in 2021 and Beyond

2021 promises to be an important and interesting year for fintech on a number of levels. The first and most vital will be on the regulatory level. While lots of funds have poured into the fintech space, it remains to be seen if the regulators particularly the Central Bank of Nigeria (CBN) and the Security Exchange Commission (SEC) are welcoming of this incursion of fintech into the space. Some recent regulations particularly the new payment licensing regime, and the new IMTO licensing guidelines as well as recent reported sanctions against fintech Chaka by the SEC call to question where the regulators in these industries are welcoming of these new players. *"What must be understood by all parties however is that regulatory uncertainty may have a chilling effect on the flow of investment into the space."* Another big trend to watch for fintech in 2021 is how the banks leverage their powers under the newly signed BOFIA Act to invest up to 10% of their assets under management in venture capital companies or fintech companies. Some of them have also decided to go the route of building a financial services group in a bid to give themselves more options. Some of these options may include buying or building fintechs that can help accelerate their digital transformation. Finally, I believe given some of the CBN's recent directives, we should watch the crypto space particularly the US dollar stable coins and bitcoin market very closely as I expect accelerated adoption of these if regulatory uncertainty grows. This will have real impact on the fintech ecosystem.

# Financial Inclusion and other matters



**Prof. Olayinka David  
– West**

Academic Director,  
Lagos Business School

## How has the financial inclusion drive fared during COVID-19?

Financial inclusion refers to the access, usage, quality and impact of formal financial services. The COVID-19 pandemic and lockdowns had various effects on the ecosystem. Nigeria's National Financial Inclusion Strategy aimed to reduce financial exclusion to 20% by 2020; unfortunately, we shall not attain this target. But the impacts of COVID-19 have had diverse effects on the ecosystem.

My analysis shall review financial inclusion performance from the 4 dimensions of access, usage, quality and impact.

**Access:** Limited access to physical facilities and COVID-19 transmission risks via bank notes increased demand for digital payments and transactions. FSPs having to increase health and safety precautions to prevent/minimise person-to-person transmission risk. Limited mobility warranting higher demand for financial services within communities.

The impacts of the recession on the vulnerable warranted increasing the beneficiaries on the National Social Register and the payment of conditional cash transfers; however, the distribution and payments were done via cash! This missed opportunity could have accelerated the onboarding and use of digital financial services.

**Use:** Shortage of cash at agent locations especially during lockdown when the physical branches were unavailable for rebalancing. This increased liquidity pressures and pricing, altering the price of cash out. Though digital payments utilisation increased, some FSPs reduced transaction fees or provided waivers.

**Quality:** The fragilities in banking system exposed with the surge on bank branches after the lifting of lockdown raises questions about the quality of financial services. The lower the perceived quality of financial services, the higher the impact on the adoption and use of financial services by the underserved.

**Impact:** The economic impacts of COVID-19 warranted the restructuring of loan repayments offered by some financial institutions. The limited mobility shifted commerce from the traditional marketplaces to digital market space. Fintech marketplaces and social media platforms like Instagram played a role in this push towards e-commerce and ancillary industries like third party logistics (3PL).

## What trends have you seen as regards women in tech over the last 12 to 18 months?

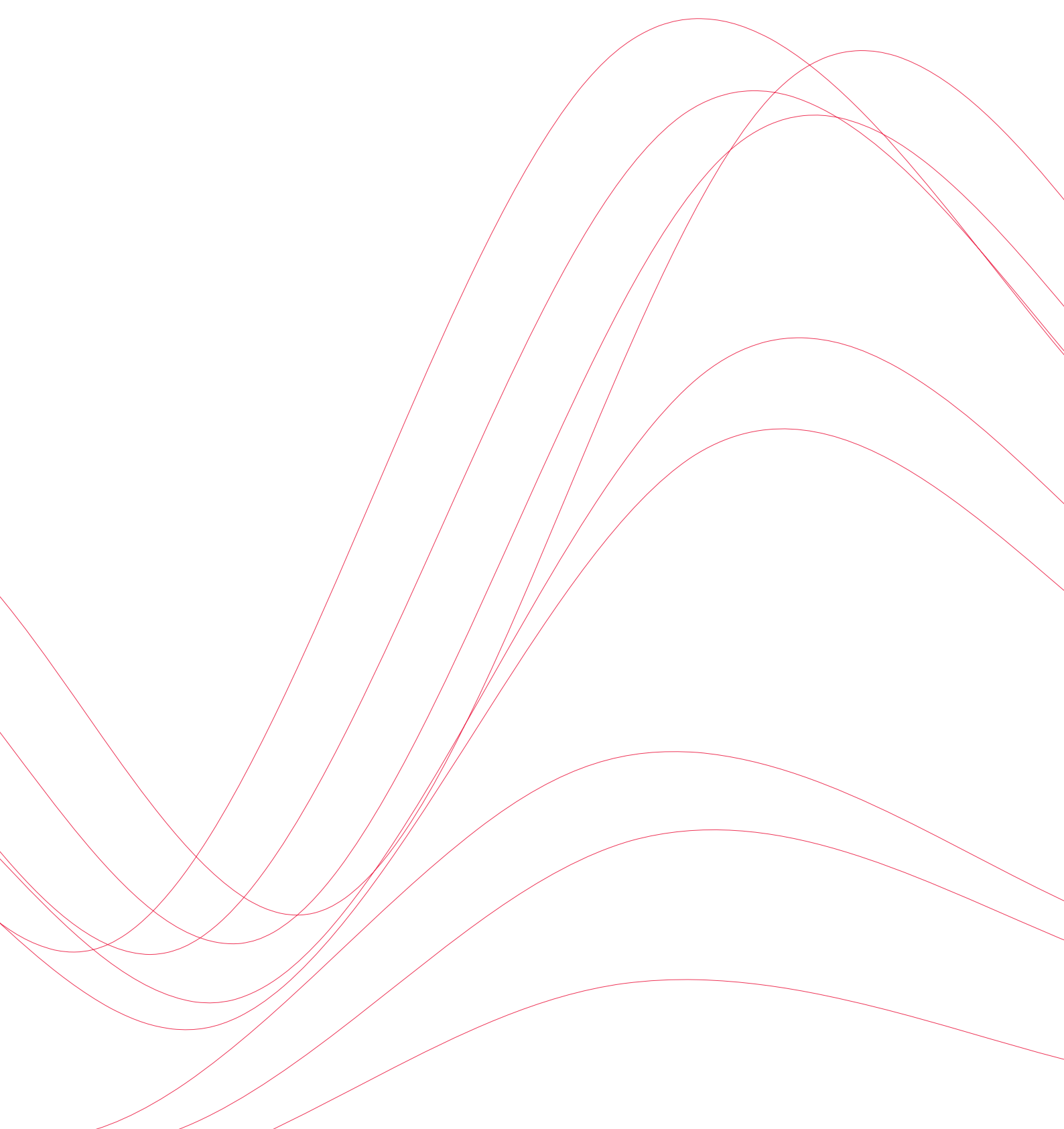
The main trends regarding women in tech are focused on increasing tech knowledge and access through programmes that either promote women in STEM or developing coding skills among women and girls.

Alongside building the participation of women in STEM, Co-Creation Hub (cc-Hub) run a Women in Business Programme specifically for female founders. The 6-month accelerator programme supports women-led technology and non-technology businesses with skills to better leverage technology to scale their solutions in the African market. The second cohort launched in October 2020 with 15 women-led businesses. Finally, to enhance women's participation in financial services (both the demand and supply), the Central Bank of Nigeria launched the Framework for Advancing Women's Financial Inclusion in Nigeria. A component of the Framework involves Communities of Practice of stakeholders that will work alongside the CBN in addressing the gaps.

**If there is one thing in the tech space that is not being discussed, what would that be?**

Tech is an enabler and not an end to itself. My take on the big elephant in the room is how do we mainstream technology and build a truly digital economy? And this is not just about increasing the contribution of tech companies, but includes enhancing the performance of value chains using tech.

We have some of the ingredients but need to design and implement national policies that yield results such as job creation, efficiency and productivity. Such holistic national policies are not impossible and should have commenced in an economy like Nigeria that is dependent on declining streams from the extractive sectors. To fully leverage digital and build a digital economy may require a new economic model and perhaps even an alternative national structure.



# Women in Tech





# Women in Tech Insights



**Oreoluwa Lesi**

Executive Director,  
Women's Technology  
Empowerment Centre

## The Growth of W.TEC

Over the last twelve years, W.TEC has evolved into an evidence-based social enterprise that has equipped over 31,000 girls and women across Nigeria with computing technology and science skills and knowledge, with close to 40% now studying or working in science and technology and alumnae returning to volunteer as instructors. 57% of our alumnae have been able to earn an income with the skills and knowledge they received from W.TEC.

W.TEC's steady progress has been recognised in Nigeria and beyond. In 2013, the Federal Ministry of Communication Technology selected W.TEC to design pilot technology clubs for girls across Nigeria, which reached over 1,200 girls attending 12 Federal Government Colleges across the 6 geo-political zones of the country. In 2017, the Lagos State government invited W.TEC to help deliver programming education as a delivery partner to 1 million citizens across the state as part of the CodeLagos initiative.

## Trends for Women in Tech

Encouraged by more visible female role models in technology, more girls and young women appear to be inspired to pursue technology careers. W.TEC, along with a rising number of other gender and technology-focused organisations, have helped increase the awareness of the gender digital divide and more companies appear to be making concerted efforts to recruit women.

There are a small but growing number of accelerators and programmes aimed at growing the numbers of female technology professionals and entrepreneurs.

Technology is now ubiquitous across intersecting aspects of our daily lives and so women and girls are using and encouraged to learn about digital tools more than ever, even if they are not considering careers in technology.

## COVID-19 and Women in Tech

COVID-19 forced many businesses online and increased the acceptance of remote working. This has forced female entrepreneurs to adopt the use of technology in their businesses (if they were not already using them) or increase the degree to which their businesses are transformed by using digital tools. It has also emphasized the wider importance of technology now and in the future, which has increased the attractiveness of related careers.

The flipside is the challenge that comes from an "always on" society, where technology has enabled professionals and entrepreneurs to always be connected and therefore available. Women, who have family and other responsibilities, face the very present risk of work-related burnout.

## Outlook for Women in Tech in 2021 and Beyond

With the developments in artificial intelligence, virtual reality, robotics, automation and data science and their increasing application to business, there is more demand for these skills with the promise of interesting and lucrative jobs. Therefore, we will see more women opting for careers in technology and especially in these fields. Women will also benefit from the rise in remote working across many companies, which enables them better combine work and their personal responsibilities.

# Health Tech



## What's happening in health tech

As a result of the pandemic, we saw a rise in video and telephone consults between doctors and patients. A number of companies began manufacturing health and safety equipment. Clothes designers began making face masks, hospital gowns, PPE and so much more. One beverage company saw the need and opportunity and developed its own line of sanitizers. Fumigation and cleaning companies added COVID-19 disinfecting to their bouquet of services. The COVID-19 testing centres and laboratories have been kept very busy. With the arrival of the vaccine in the country, the gathering of data for purposes of registration only increased.

The health sector has been at the forefront of this pandemic and consequently required legal services in respect of:

- The rules, regulations and policies pertaining to what was described as essential services and products during lockdown;
- Funding, importation, permits for laboratories; and
- Regulatory compliance with Nigeria's data protection regulations.

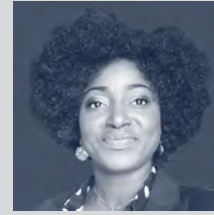
Nigeria's health and safety laws, regulations and guidelines on both a federal and state level took front and centre stage. We liaised with policy makers with a view to establishing practical health and safety protocols under the circumstances and provided legal advice

in this regard to the ecosystem of the health sector.

As lockdown rules were eased, organizations needed advice on applicable health and safety policies, IT and confidentiality issues arising from remote working and, occupational hazards, liability and employment contracts.

Our COVID-19 resource centre which can be found [here](#) includes various health related laws in Nigeria, regulations, directives and protocols of the Nigerian government on COVID-19 and the lockdown measures imposed. It also includes detailed discussions on key issues arising from COVID-19.

# Health Tech Insights



**Dr. Funmi Adewara**  
 Founder, Mobihealth  
 International

## How Mobihealth is delivering telemedicine

The pandemic saw an increase in the reliance on digital products and services. In a country like Nigeria. One of the goals of Mobihealth is to make quality health care services accessible at affordable cost to everyone in Nigeria, Africa and other parts of the world. Telemedicine provides an opportunity for Nigeria to leapfrog her healthcare challenges and Mobihealth has developed a solution that addresses multiple challenges and that will ensure delivery to the last mile through our three main delivery channels on the Mobihealth platform. Our core product is an electronic medical record with teleconsultation software that mitigates long distance travel, shortage of doctors, exposure to counterfeit medicines and unqualified personnel.

## The logistics of delivery in a country with the current levels of literacy and poverty

The Mobihealth's platform is accessible to everyone through mobile app, toll free lines and telehealth clinics that are satcom and solar powered. These ensure accessibility to everyone including those at the bottom of the pyramid. For those without smart phones and money for data subscription, we have toll free lines where people can call at any point in time from wherever. You just put a call across to a doctor and you get the health care service you need. Then the Telehealth clinic will complement our virtual platform and can be easily deployed to the rural areas, with poor topography and lack internet access. They can also be deployed to public institutions and places such as schools, markets and farmlands.

No special digital skills are required as there will be someone onsite to assist the clients. Our prices are very pocket friendly at NGN5,000 per annum for a family for 1 year to mitigate the issue of poverty and illiteracy.

## The ease of doing business and the regulatory landscape

Nigeria is still a struggling economy and telemedicine is also a new innovation in both developed and undeveloped countries. In Nigeria, we have little or no awareness about telemedicine. In developed countries the level of adoption is high unlike Nigeria. If not for COVID-19, people would still be resistant to this new innovation.

Even though telemedicine is part of the Medical and Dental Council of Nigeria (MDCN) curriculum, there are still no guidelines, or regulations to guide activities on use of telemedicine. In other jurisdictions like the USA, Health Insurance Portability and Accountability Act (HIPAA) and General Data Protection Regulation (GDPR) compliance are important regulatory requirements for providers to ensure proper licensing and appraisal of telehealth. The vacuum in Nigeria leaves room for agitation and reluctance on the use of telemedicine both on demand and supply side.

We have engaged proactively with relevant stake holders to bring policy formulation to the front burner.

It is usually not easy for startup businesses in Nigeria. Usually we have to build the solution and infrastructure from ground zero. This increases startup cost and completion timeline. The lack of cohesive digital health strategies slows down investment.

The government has a critical role to play in creating an enabling environment for startups and businesses to thrive. It is the responsibility of the government to create incentives, digital infrastructure and help drive innovative frontier solutions to the last mile. Telemedicine is still new in the market and a lot still needs to be done to increase awareness on the benefits to all stakeholders with closely through PPP with private firms.



## Corporate social responsibility

Mobihealth has been involved in a number of corporate social responsibility initiatives since inception in November 2017 to date.

We have provided health education and free teleconsultation touching over 100,000 lives. We have also provided physical health screening and education throughout Nigeria for hypertension, diabetes, and malaria, and through online platform, for breast and cervical screening.

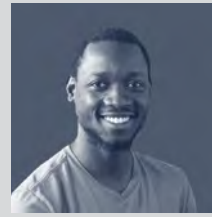
Recently through the support of SANOFI and 9Mobile, we provided free diabetes screening for over 2,000 beneficiaries across Lagos, Adamawa, Kaduna, and Rivers State. Recently, we partnered with Tony Okpe Foundation to provide free meals and medical screening at the Kirikiri correctional facility in Lagos State.

Mobihealth supported the National pandemic response to COVID-19 by providing free online screening, free teleconsultation and COVID-19 tests in partnership with the Nigerian Institute for Medical Research (NIMR). We launched the first teleguided self-swab test to reduce PPE consumption, risk of spread of infection, stigmatization and improve turnaround time for results to 24 hours. We also provided our platform for free mental health support to Nigerians, and our mental health experts through webinars raised awareness to address the impact of the pandemic on the mental health of children.

During the ENDSARS protest Mobihealth donated free medical supplies to hospitals and provided free mental health support to Nigerians.



# Health Tech Insights



**Oluwasoga Oni**  
CEO, MDaaS Global

## Impact of COVID-19 on Lab Testing

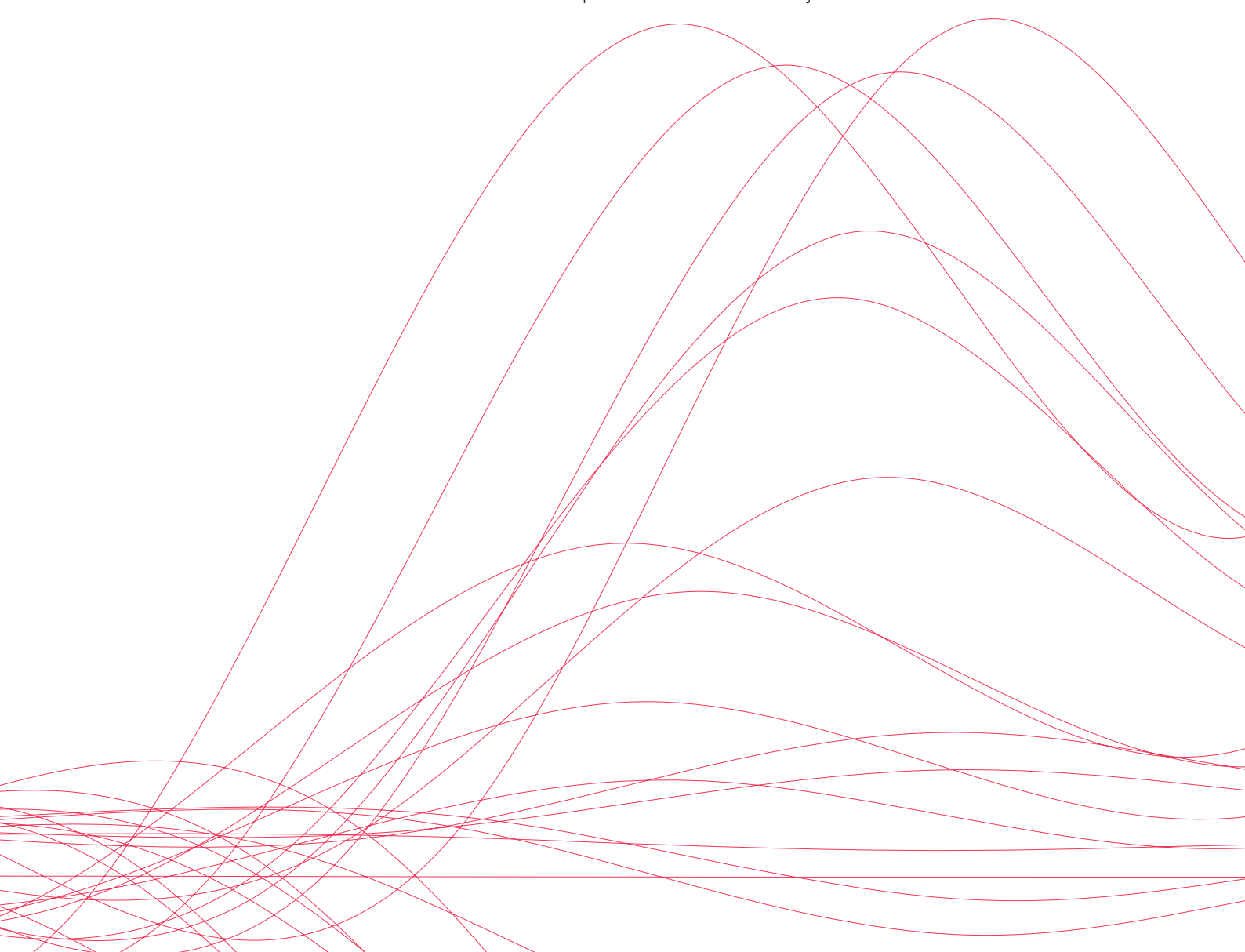
The impact of COVID-19 has been huge in lab testing, particularly in the molecular diagnostics space. Nigeria went from having 4 molecular diagnostic laboratories to over 60 in a relatively short period of time.

The effort of the Nigeria Centre for Disease Control (NCDC) in driving this cannot be overestimated. Overall, this current pandemic has shifted the interest of the government both at the federal and state level in building and/revamping critical diagnostics infrastructure.

## Trends for the Health Sector for 2021 and Beyond

In 2020, patients started accessing care remotely via telemedicine app or via a call and as a result, we have seen more digital health platforms springing up to fill this need.

Beyond 2020, I believe more patients will be more comfortable accessing a portion of their care via these telemedicine platforms (via apps and by phone). Another trend is that people are now more conscious and proactive about their health status and underlying conditions, therefore there will be a lot of renewed focus on preventative care rather than just sick care.







# Intellectual Property



## What's happening in Copyright

Copyright remains a critical area of law in the MSET sectors. Copyright in Nigeria is governed by the Copyright Act of 1988 and 6th Edition of the Nigerian Broadcasting Code. Despite concerted efforts by stakeholders, a 2015 executive copyright Bill that sought to bring our copyright laws up to date is yet to be passed into law. Michael Akpan, Director, Nigerian Copyright Academy discusses at length the potential impact of the Bill in this Market Insights. It also worthy of note that just before we went to press, a copyright bill passed its first reading in the National Assembly. This is the start of the long legislative process of a bill's passage into law.

Nigeria's intellectual property ecosystem received a huge boost when in January 2020, the World Intellectual Property Organization (WIPO) established its Nigeria office in Abuja. The WIPO has since then partnered with the Nigeria Copyright Commission (NCC) and other IP regulators in respect of knowledge share webinars.

Given the number of disputes and general lack of knowledge in the areas of law that is applicable to the emerging creative and innovative sectors these webinars, etc are very necessary. Furthermore, WIPO has made dispute resolution a focal point of its objectives and has now established the WIPO Arbitration and Mediation Centre.

It is no longer news that piracy of physical products has decreased and online piracy has increased. The NCC has launched a number of initiatives to combat this. It recently received 50 laptops and other gadgets from the US Embassy to help in the war against piracy. In the campaign against piracy, we have advocated for and facilitated partnerships with tech companies, owners of copyright works, the regulators and security agencies. Our Anti-Piracy Project (@ANTIPIRACYNG on twitter) continues to create awareness about piracy, its effects on the industry and shared recommendations on how to tackle it.



# WIPO Insights



**Oluwatobiloba Moody**  
Nigeria Office/  
Counsellor WIPO

## The WIPO Office in Nigeria

Following a decision of the Member States of WIPO, an External Office was established in Nigeria in 2020 to promote awareness raising, training and capacity building in the field of IP and across WIPO's Global IP Services in the country. Through close engagement with the Nigerian Government and IP stakeholders in Nigeria, the office will expand the knowledge, accessibility, awareness and strategic use of IP for economic, social and cultural development in Nigeria.

## The Advantages of the WIPO Mediation and Arbitration

WIPO mediation and arbitration offers a number of important advantages for the creative and innovative sectors. For example, the confidentiality of the processes enables parties to focus on the merits of the dispute without concerns over the public reputational impact of such disputes or the disclosure of business confidential information, including trade secrets. Furthermore, the private nature of such disputes gives greater control to the parties in the manner and processes with which such procedures are handled.

This includes parties agreeing to resolve through a single procedure, disputes that involve different countries, thereby avoiding the expense and complexity of multi-jurisdictional litigation. The disputes are handled by subject matter experts which supports speedy and effective resolution of disputes. Overall, WIPO ADR is specialized, flexible and confidential.

Its consensual nature often results in a less adversarial process, allowing the parties to begin, continue, or enhance profitable business relationships with each other. Its effective management can also help save time and money.

## The Mediation and Arbitration Mechanisms

A number of mechanisms are available under the WIPO dispute resolution system. Through mediation, for instance, the mediator assists the parties in reaching a settlement of their disputes, based on the parties' respective interests. Under arbitration, parties submit their dispute to one or more arbitrators for a binding and final decision (award). Sometimes, a specific issue is the subject of contention, and for this, Expert determination could be invoked for parties to submit such specific matter (e.g. technical question, valuation of IP assets, establishment of royalty rates) to one or more experts who make a determination on the matter.

Taking advantage of the above three requires a consensus of the parties to the dispute. Further information on submitting a request is available at <https://www.wipo.int/amc/en/>.

Another important aspect of the ADR options, relates to domain name disputes which seek to resolve disputes related to the bad-faith registration of domain names corresponding to third-party trademarks. Further information is available at <https://www.wipo.int/amc/en/domains/complainant/>.

# Copyright Insights



**Michael O. Akpan**  
 Director, Nigerian  
 Copyright Commission

## The Potential Impact of the Copyright Bill

As you may be aware, one of the key objectives of our copyright reforms, which led to the preparation of the draft Copyright bill, was to ensure that Nigeria fulfils her International Obligations in the area of copyright, with respect to treaties which it had ratified. The enactment of the Copyright Bill into law will enable Nigeria to domesticate the International treaties it ratified in 2017, which includes the:

- World Intellectual Property Organization (WIPO) Copyright Treaty 1996;
- WIPO Performances and Phonograms Treaty 1996;
- Beijing Treaty on Audiovisual Performances 2012;
- Marrakesh Treaty for Access to Printed Materials for Visually Impaired Persons; and
- WCT and the WPPT (which are often referred to as Internet Treaties).

*It is worthy of note that the Internet Treaties are crucial to enhancing copyright protection in the digital environment. Enforcement of rights when it comes to online exploitation of creative content will be easier and comparable to what obtains in other parts of the World.*

Secondly, the new law will provide enhanced penal provisions, to deter the spiraling rate of copyright piracy. Engaging in piracy would no longer be as profitable as the pirates now find it. Also, we are hoping that the new law when enacted will facilitate greater effectiveness in promoting rights management, in terms of collective management and other licensing practices. Not forgetting that part of the essence of the copyright system is to also preserve public interest use of creative content, the bill will make greater

allowance for non-commercial use of works through more realistic exceptions, especially in the context of education and promoting the rights of those who are challenged visually and otherwise. We are looking at a regime of balanced exceptions, that will be favorable to public interest but at the same time not prejudicing the realization of the rights of authors and copyright owners.

## ADR in Improving IPR Enforcement

Alternative dispute resolution in the context of IP management and enforcement is becoming globally relevant. As our creative industry becomes more active with International Participation, we cannot but begin to see how to leverage on such facilities as ADR to ensure that disputes arising from processes of exploitation of creative works are speedily resolved. The NCC has just signed a memorandum of understanding with WIPO Arbitration and Mediation Center (WIPO AMC) to promote the use of ADR in resolving disputes in entertainment and copyright fields. As part of that collaboration, a Virtual Workshop was held on December 16, 2020, to create awareness for stakeholders on the available ADR mechanism of resolving disputes within the WIPO system. Going forward, we are looking at working closely with Intellectual Property lawyers and other practitioners in the sector to make ADR of greater relevance in the entertainment and copyright industries.

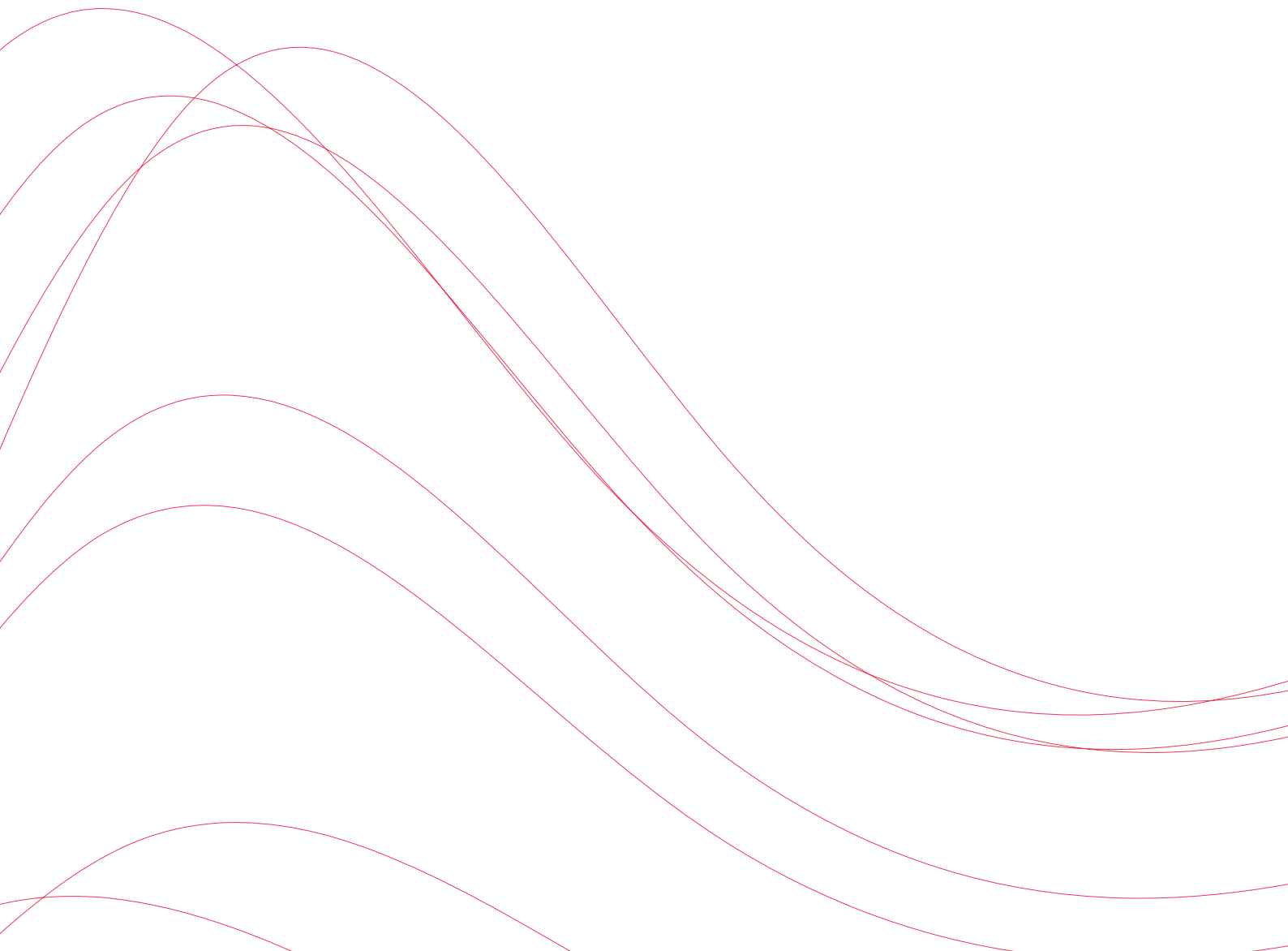
Besides ADR, the NCC is also considering an initiative that will enlist lawyers who can provide certain pro bono services to creative industry practitioners. The scheme comes under the tag of “Lawyers for the Arts (LAFTA)” We are currently working out the framework of operations of the scheme, and we will encourage as many IP Practitioners as possible to support this initiative.

## Copyright Training

Another important area of intervention is our specialized training for people who want to have more knowledge of copyright and Intellectual Property. The management of the NCC recently rebranded its training arm which hitherto went by the name National Copyright Institute. It is now known as the Nigerian Copyright Academy. The Academy has a number of long term and short term training programmes that could be deployed for various needs.

*“We have developed training modules to serve the interest of practitioners in the music industry, the film industry; and publishing; enforcement officials; Copyright Administrators including collective management societies, and of course young lawyers.”*

We look forward to collaborating with some institutions to run certificate courses on IP that will reflect the cross-cutting nature of IP. Already we have an understanding in principle with Bingham University to strengthen the teaching of IP in its faculties and also help to train members of the IP Management Committee of the University. From a broad policy perspective, we are also collaborating with the Association of Vice-Chancellors of Nigerian Universities to come up with a standard IP Policy for Nigerian Universities. When published, universities will be encouraged to adapt it to their specific needs and priorities. These are just a few of the programmes of the NCC that I think should be highlighted to the public.



# Brand Protection

## What's happening in brand protection

In spite of the challenges of the pandemic, the Trademarks Registry and Patent and Designs Registry have continued to process applications filed both manually and electronically. Significant strides were made in publication of Trademark Journals and issuance of trademarks, designs and patents registration certificates. The health sector was of course an essential service during the lockdowns but so also was the fast moving consumer goods sector. Therefore manufacturing, distribution and sales continued. The reliance on e-commerce and online markets grew exponentially. Applications to register trademarks in health increased and instructions with respect to sponsorship and marketing agreements also grew. Legal services regarding the use of the WIPO Arbitration and Mediation Center for the recovery of domain names from unauthorized 3<sup>rd</sup> parties were also in demand.

The impact of the Trade-Related Aspects of Intellectual Property Rights Agreement (TRIPS) and its flexibilities on access to medicines has sparked intense debate both within the trade community, as well as among public health experts, civil society groups, and intergovernmental agencies. In October 2020, India and South Africa petitioned the World Trade Organisation to allow its members to bypass the granting or enforcement of patents, trade secrets, industrial

designs, and copyrights on COVID-19 related drugs, vaccines, diagnostics and other medical technologies for the duration of the pandemic. The proposal was initially opposed by the EU and US, as well as a number of developed and developing economies. While more than two-thirds of WTO's 164 members supported the temporary waiver.

However, in May 2021, the US reversed its position and announced a policy supporting the temporary lifting of patent protections for coronavirus vaccines.

Nigeria is a signatory to TRIPS and other IP international conventions such as the Paris Convention for the protection of industrial property and the Convention establishing the World Intellectual Property Organisation (WIPO). Application of these conventions in Nigeria is fettered because of the failure to promulgate same as national laws, a requirement under our Constitution. The advocacy for the domestication of these treaties continues and is ongoing. There is also a significant effort to promulgate the following bills into law; Industrial Property Commission Bill, Trademark Bill 2019, and Patent and Designs Bill 2020.



# Intellectual Property Insights



**Shafiu Adamu Yauri**  
Registrar, Trademarks

## Objective of the IP Policy

The importance of having a National IP policy and strategy for a nation like Nigeria cannot be over emphasized. The idea is intended to provide better coordination and consultation between all the IP related Ministries, Departments and Agencies in order to maximize the benefits of the IP system in the country. This is in accordance with global best practice, where countries craft national IP policies in order to give direction on how best to utilize, protect and enforce IP rights in their economies.

On a general note, it will provide a forum for stock taking, reviews and national audit including providing policy direction on new and emerging issues in the field of intellectual property and their implication for the Nigerian economy. In this light, we shall be reviewing and updating the country's IP legislation in the light of the WTO/TRIPS Agreement, an important exercise vital to assess the effect of the level of compliance to the TRIPS Agreement by Nigeria. This is to enable the proper formulation of laws that could empower sustainable development. Taking into consideration that TRIPS Agreement presents a declaration of the minimum standards of IPR protection to which all member countries of WTO have made a commitment to, this commitment deserves some focus from a developing country's perspective. The issues of focus will however depend from country to country, and in particular, their levels of development. Gaps will therefore be filled and advantages fully utilized.

## Stage of Development and Roll Out of Policy

We are still putting the building blocks in place. It is such a big issue for a big economy like ours. Nigeria's intellectual property architecture mainly comprises of three instruments; the Trademarks Act of 1965, the Patents and Design Act of 1970 and the Copyright Act

of 1988, as amended in 1992 and 1999, and re-codified in 2004. We need to create synergy amongst these institutions, then setup a National working committee, then a National drafting committee (a body that will be charged with the actual drafting of the policy document). This body will involve all stakeholders, both public and private.

The good news is that we are getting the firm commitment and support of the Federal Government on this, and also our development partners. WIPO has already penciled down the issue of Nigeria's IP policy and strategy in its 2021 work programme, with Professor Tom Ogada (an IP and Development Expert) identified as the consultant.

## Trademark Registry Challenges

COVID-19 pandemic has forced a lot of changes and new ways of doing things at the Registry, as it did in many areas of day to day life around the world.

The importance of automation and digitization of operations has now become the reality of everyday life. The Registry is fast catching up on this. We are already 60% automated and we hope to complete the exercise in 2021. Despite this, and with limited resources at our disposal we have been able to achieve the following within the period:

- Clear back logs of unpublished marks for over 25 years, so much so that we now have to wait in order to generate new applications for the next batch of journal publications;
- Establish 5 opposition panels, working day and night to clear all outstanding opposition cases;
- The publishing of our trademarks rulings, in what is called a compendium of opposition cases (5th publication now);

- Improve our processing time in examination and reexamination, and introduced quality examination techniques in order to reduce oppositions through training and retraining;
- Improve response time to various correspondence, mails and letters, which are now promptly replied and or attended to;
- Establish a strong M&E (monitoring & evaluation) network, through stronger collaboration with our stakeholders and brand owners, through quarterly stakeholders meetings, where we engage stakeholders and get feedback on our operations;
- Started working on a new practice direction, given clear directives on our activities and how we engage the public on certain matters;
- Launch the PEAR project, a transformation plan to change the Registry and enshrine a new focus that will turn the Registry into a Professional, Efficient, Automated and Responsive Organization that delivers on its mandate; and
- Established new and improved collaboration with development partners and international IP Organizations, such as WIPO, USPTO, CIPO and INTA, and we are working hand in hand with them as can be testified by our various training engagements over the years since I came into office in March, 2018.

For this and more, we strongly believe that we have earned the confidence of our stakeholders in our operations and services over the past few years. We are committed to do even more with review of laws and the issue of the establishment of an Industrial Property Commission of Nigeria!

### **The Africa Continental Free Trade Area Agreement**

There is growing interest in intellectual property rights in Nigeria, as can be seen in the increased number of filings and annual revenue generated by the trademarks

Registry. Since trademarks are crucial to the promotion of trade and economic development, and Nigeria happens to be one of the hubs of trade in Africa, being the continent's biggest economy, it is no surprise that it has attracted the World IP governing body, WIPO, which decided to site one of its only two WIPO External Offices in Africa, in Nigeria (the other bring in North Africa-Algeria). As a country, we must make conscious effort to tap from this advantage. This will speak directly to the issue of our membership to the Madrid System of international registration of marks.

Another point worthy to note, is the creation of Africa Common Market, through the Africa Continental Free Trade Area Agreement. The AfCFTA was signed on 21 March 2018 and entered into force on 30 May 2019. IP is scheduled for phase II negotiations of the AfCFTA it is expected that a regional intellectual property organisation will play a significant role in the AfCFTA's IP Protocol. Although Nigeria is a member of the African Union, it is not a party to either the African Intellectual Property Organisation (OAPI) or the African Regional Intellectual Property Organisation (ARIPO). Meanwhile, the proposed Pan African Intellectual Property Organisation (PAIPO) is not yet in force.

***“We need to start effective engagements with the IP Protocol of the AfCFTA”.***

I have always maintained, it is in the strategic interest of Africa that the continent should and ought to have a single Africa wide regional organization. Our continent needs to speak with one voice, in unity as one body, when it comes to negotiating IPR issues. Thank God, with the signing of AfCFTA and the growing interest by all AU members the current division and proliferation of Regional IP Organisations on the continent will be a thing of the past. When that happens, you will see Nigeria playing its legitimate leadership role, as it is expected!



# DLA Piper Africa, Nigeria





# Doing Business in Nigeria: A Legal guide



**Olufunke Fawehinmi**  
Legal Director, Corporate,  
DLA Piper Africa, Nigeria  
(Olajide Oyewole)

## Starting Operations in Nigeria:

Any foreign company that wishes to carry on business in Nigeria (except for companies exempted upon the grant of the assent of the President) must be incorporated as a separate entity in Nigeria. Until incorporation, such foreign company cannot have a place of business in Nigeria, save for the purpose of receipt of notices and other documents as matters preliminary to incorporation.

Under the law, companies may be registered with the Corporate Affairs Commission (**CAC**) as private or public, and a company, whether private or public, may be limited by shares, limited by guarantee or unlimited. Entities established to carry on profitable business will usually be registered as a private company limited by shares.

It is also worthy of mention, that where a foreign entity is not physically present in Nigeria but is seen to derive income and economic interest from Nigeria, same may be liable to Companies Income Tax where it meets the parameters set out in the Companies Income Tax (Significant Economic Presence Order 2020).

## Business Permit

Upon registration with the CAC and prior to the commencement of business, the new company (which has foreign investments) is required to register with the Nigerian Investment Promotion Commission (**NIPC**) and to obtain a Business Permit as the local subsidiary of a foreign company.

The NIPC is the governmental body charged with the responsibility of monitoring and coordinating foreign investments in Nigeria and ensuring that such entities benefit from any incentives available to foreign investors. A Business Permit is a permanent authorisation granted by the Ministry of Interior Affairs to a local business with foreign investments, or subsidiaries of foreign companies.

## Expatriate Quota

If it intends to employ expatriates for its operations, the company will need to procure an Expatriate Quota. Expatriates require work permit and resident permit to live and work in Nigeria. As such, the Combined Expatriate Residence Permit and Aliens Card (CERPAC) should be procured. CERPAC dispenses with the need for separate applications for work permits and resident permits. With the exception of ECOWAS citizens, accredited diplomats and children below the age of 15, who live with their parents CERPAC is compulsory for expatriates staying in Nigeria for more than 56 days.

## Capital Importation

The Foreign Exchange (Monitoring and Miscellaneous Provisions) Act provides for the ease of capital importation in relation to the foreign investment in the Nigerian entity. Foreign currency may be imported into Nigeria through an authorized dealer by telegraphic transfer, cheques or other negotiable instruments converted into Naira. Upon such importation of foreign investment capital, within 24 hours of receipt of the imported funds, the Certificate of Capital Importation (CCI) will be issued. A CCI assures the foreign investor of unhindered remittance of investment capital and yields thereon, in any convertible currency.

## Technology Transfer

If the Nigerian business venture requires the inflow of foreign technology into Nigeria, it must register the technology transfer agreements with its foreign technical partners with the National Office for Technology Acquisition and Promotion (NOTAP), for the purpose of evaluating and monitoring the legal, economic and technical merits of the arrangement to the Nigerian economy.

A digital content provider or a platform sharing digital content may be considered to be doing business in Nigeria if it has subscribers in Nigeria, especially if it offers paid subscription services and is required to incorporate a separate business entity in Nigeria.



## Foreign Investment in Telemedicine business:

Foreign participation in the Nigerian economy may be achieved through the direct establishment of a business entity in Nigeria or through the purchase of equity or debt securities in existing enterprises.

Whilst we note that there are no specific requirements guiding investment in telemedicine business under Nigerian law, any such investment must align with the provisions of the following investment laws:

- Companies and Allied Matters Act 2020;
- Investment and Securities Act 2007; and
- Federal Competition and Consumer Protection Act 2018.

The regulations of the National Information Technology Development Agency (NITDA) may also impact the business operation.

## Fundraising

Based on the mode of registration of an entity with the CAC, there are various ways of raising funds in Nigeria. A business entity may raise funds through debt or equity financing and the choice of source of funding is largely dependent on the nature of the business enterprise, the developmental stage and size of the business. For instance, early stage and startups may secure funding through:

- Saved up funds or family and friends on flexible terms;
- Business incubators, venture capital which not only provide financing but also seek to nurture or accelerate the business for growth depending on the timing of the returns on investment;
- Angel investors who are willing to invest large sums in businesses with potential for growth
- Participating and winning contests organized for startup in business specific sectors sometimes create visibility and opportunities to meet the top players and investors in that industry; and
- Crowdfunding which mops up the funds from diverse investors in the public space and at the same time publicizes the business.

The Securities and Exchange Commission has released regulations binding on crowd funding platforms and transactions that meet the criteria set in the regulations.

More developed businesses seek working capital and massive business project funding through bank loans which take the form of term loans, debt securities and project syndicated financing.

An Incorporated Trustee may raise funds through charitable donations. The association must ensure the donations are used for the purpose for which it was formed.

## Mergers and Acquisitions of FinTech

There is no single legislation on the regulation of FinTech in Nigeria, however the Central Bank of Nigeria, being the principal regulator responsible for maintaining financial stability in Nigeria, has released several circulars and guidelines which govern licensing and operations that affects the market. Mergers and acquisition in Nigeria are governed by the Federal Competition and Consumer Protection Act 2018 (FCCPA). The Federal Competition and Consumer Protection Commission (FCCPC) was established by the FCCPA and is responsible for preventing anti-competitive practices and regulating mergers and acquisitions. Under the FCCPA, mergers are categorized as small or large mergers with the latter always subject to the approval of the FCCPC. A large merger is that in which (i) the combined annual turnover of the target and the acquiring entity amounts to at least One Billion Naira (NGN1,000,000,000.00) or (ii) where the annual turnover of the target equals or exceeds Five Hundred Million Naira (NGN500,000,000.00).

Though there is no mandatory approval required for small mergers, parties are encouraged to notify the FCCPC of their transactions via a pre-notification consultation process, as the FCCPC has the power to compel notification based on certain predetermined factors. FCCPC may require a notification where it considers the transaction may substantially prevent or lessen competition. The FCCPC may come to this decision on its own or based on the complaints or information from competitors, consumers or suppliers of any of the merging entities.

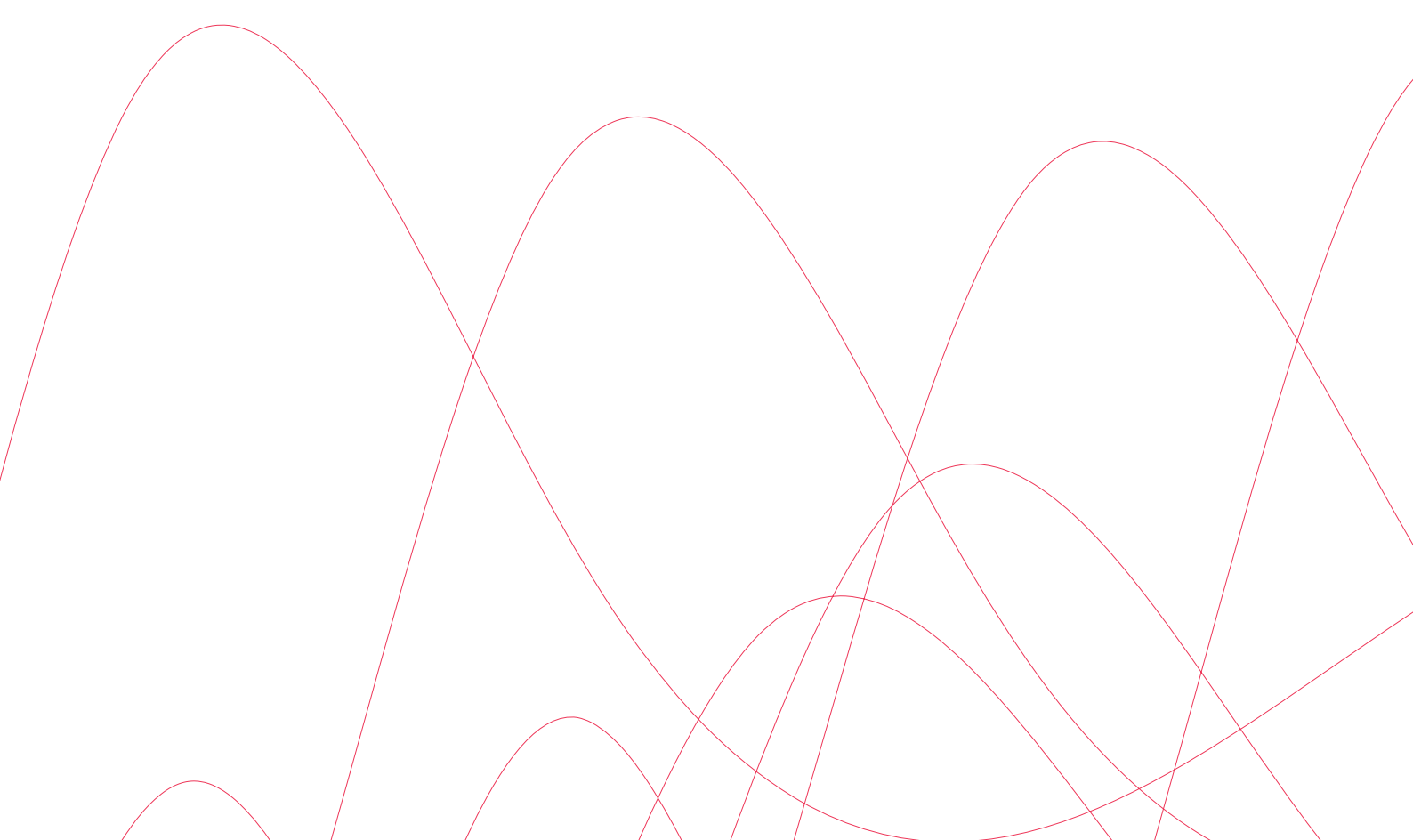
FinTechs, like other business entities are, required to comply with other laws such as Companies and Allied Matters Act 2020 and other sector specific regulations like the Banks and Other Financial Institutions Act.



Comment from Mike Conradi

*“The telecoms sector is crucial to the development of any country’s economy but because of the need to invest in infrastructure and to use (scarce) spectrum it can tend towards the success of just a few larger players. This means that effective regulation is essential to moderate the behavior of network operators in order to encourage competition, foster innovation and protect consumers. Effective regulation can support economic development very successfully so long as it is clear, based on appropriate statutory obligations and so long as open processes are followed.”*

— Mike Conradi, Co-Chair of international telecoms at DLA Piper



# The Need for Regulations



**Solape Peters**  
Partner,  
DLA Piper Africa, Nigeria  
(Olajide Oyewole)

## Why are Regulations needed?

Regulations are subsidiary legislation, which are made by the Executive arm of Government or by a governmental agency, while an Act is a Law made by the Legislative arm of Government. In simple terms, a Regulation is an official rule, having the force of Law and is aimed at prescribing sets of rules and processes to control the conduct of parties subject to a particular Act. Although subordinate to an Act, they are framed under the powers derived from the Act so are key to the implementation of an Act.

They also provide greater clarity with respect to processes, guidelines and procedures provided for under the substantive Law. Some Regulations also prescribe forms, which are helpful procedurally.

## What should a good Regulation seek to achieve?

A good Regulation must seek to expand the provisions of an Act, as well as remove any ambiguity in its application. Regulations must always be clear in their objectives, while flexible enough to allow for future developments or innovation in the sector it regulates.

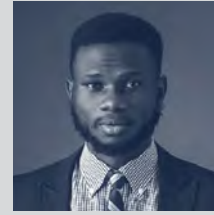
They also provide greater clarity with respect to processes, guidelines and procedures provided for under the substantive Law. Some Regulations also prescribe forms, which are helpful procedurally. The consequences of breaching the provisions of a Regulation must be clearly articulated, so as to act as a deterrent to non-compliance.

## What in your opinion, is an example of a good Regulation?

The Competition Practices Regulations, 2007 meets the criteria of a good Regulation. The objectives are expressly stated in Regulation 2, which is to provide guidance on the standards and procedures for the Nigerian Communications Commission (the "Commission") to apply in determining whether a particular conduct amounts to "substantial lessening of competition" under the Nigerian Communications Act, 2003 (the "Act"). It also clarifies what agreements or practices the Commission will regard as being 'anti-competitive'. The Regulation provides standards for determining whether a licensee is in a dominant position, clarifies what conduct the Commission would consider abuse of dominance. Regulation 9 allows the Commission to expand the scope of what constitutes substantial lessening of competition, whilst Regulation 33 provides for fines, sanctions or penalties for any person who contravenes any of the provisions of the Regulations.

There is the recently enacted Federal Competition and Consumer Protection Act, 2019 (the 'FCCPA') which repealed the Consumer Protection Council Act and seeks to have oversight over all matters relating to consumer protection and competition across all business sectors and entities as well as commercial activities in Nigeria. As a number of the newly introduced and far-reaching provisions have not been tested, it remains to be seen how effective the FCCPA will be.

# Contracts and the MSET sectors



**Adewumi Salami**  
Associate,  
DLA Piper Africa, Nigeria  
(Olajide Oyewole)

Consider the following scenarios:

- Founders' disagreement over ownership of the tech;
- The tech for which the business was premised is declared unlawful;
- Invasion of privacy claim over use of photographs of a minor;
- The lead actress in a commissioned television series in production walks off the set and refuses to return;
- The licensed distribution company fails to distribute and exploit the film during the term of agreement;
- Producer produces a poor quality music video.

Unfortunately, these are fairly common scenarios in the MSET sectors in Nigeria. In some of these scenarios there were no contracts. In others, the contracts were downloaded from the internet or an existing template from another deal was copied and pasted. In many of these scenarios the absence of experienced, intellectual property and business lawyers is primarily to blame. Advice on critical terms is not sought, leading to disastrous consequences including:

- Loss of jobs
- Loss of IP
- Breach of contract
- Litigation
- Loss of money
- Delays
- Break down in relationships
- Shutdown of production

In the MSET sectors, there are a myriad of contracts required for different stages of production; from concept/development to financing, production and distribution/exploitation.

Some key contractual terms to note include:

- Ownership of intellectual property
- Equity
- Reversion
- Rights granted
- Obligations: release commitments, timelines for completion
- Territory
- Media
- Fees, royalties, consideration
- Term/duration
- Assignment
- Limitation of rights
- *And many more.*

These terms are drafted in language that requires legal and business expertise to advise on. An understanding of the applicable laws, sometimes from other jurisdictions, is also required. Any case law on the terms of the contract must also be considered. Engagement of the right lawyers ensures that parties have a full understanding of the laws and contractual terms, and confidence that their rights and interests are duly protected to the extent possible.

Through sustained advocacy and education, there has been an increasing reliance on lawyers and law firms by founders, producers and stakeholders in Nigeria's MSET sectors. With the continued and growing interest by foreign entities in the MSET sectors, advice on Nigerian laws and regulations as it pertains to intellectual property, establishing a business, tech, fintech, data protection and other pertinent issues are routinely being sought. Suffice to say, lawyers form a critical part of the ecosystem of the creative and innovative industries.



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## Highlight photo reel



Mark Ihimoyan (Microsoft), Henri Nyakarundi (ARED), Sandra Oyewole (DLA Piper Africa, Nigeria (Olajide Oyewole)), Patricia Obozuwa (GE Africa), William Maema (DLA Piper Africa, Kenya (IKM Advocates)) and Boko Inyundo (DLA Piper) on a panel session at the Africa Tech Summit 2020 Kigali, Rwanda.



Abisodun Adewale (DLA Piper Africa, Nigeria (Olajide Oyewole)), speaking at the Entertainment Conference 2019, Entertainment Law Connect.



Otu-Ekong Ukoyen (DLA Piper Africa, Nigeria (Olajide Oyewole)) speaking at the Discovery Sports Conference 2020.



DLA Piper Africa, Nigeria (Olajide Oyewole) Sports Team (Funmi Binuyo, Ada Aguocha, Adewumi Salami and Ebunoluwa Akintola), Misha Sher (Mediacom), Dr. Erkut Sogut (Football Agent Institute) and Abimbola Ilo (Integral) at the knowledge share session at the University of Lagos 2020.



Misha Sher (Mediacom), Sandra Oyewole (DLA Piper Africa, Nigeria (Olajide Oyewole)) and Dr. Erkut Sogut (Football Agent Institute) at a cocktail hosted by Integral and OOLLP 2020.



The Intellectual Property Lawyers Association of Nigeria (IPLAN) at its end of year soiree hosted in our Lagos office in 2019.



Roundtable discussion between the Vice President and members of key IP associations in Nigeria (IPLAN and IP First) to discuss the IP regime in Nigeria 2020.



Sandra Oyewole (DLA Piper Africa, Nigeria (Olajide Oyewole)) and Prof. Olayinka David-West (Lagos Business School) on the DLA Piper TechLaw Podcast 2020.



The DLA Piper Africa, Nigeria (Olajide Oyewole) Team (Otu-Ekong Ukoyen, Egunoluwa Akintola and Nnamdi Mbanefo) and Maxwell Kalu at the African Warriors Fighting Championship 2019.



Abisodun Adewale (DLA Piper Africa, Nigeria (Olajide Oyewole)), Lala Akindoju (Actor and Producer), Bode Asiyanni (Scriptwriter) and Adewumi Oni (LSETF) at the Film Lab Event 2020 organized by Biola Alabi Media and the British Council.

