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THE COPYRIGHT AND RELATED RIGHTS BILL, 2026

On 11th March 2026, the Kenya Copyright Board Board (KECOBO) published for public comment the draft Copyright and Related Rights Bill, 2026**("the Bill")**, a legislative proposal intended to modernize Kenya's copyright framework. If enacted, the Bill would repeal the Copyright Act, Cap 130**("the Copyright Act")**. This analysis examines the key reforms proposed in the Bill, compares them with the current framework under the Copyright Act and highlights the practical implications for creators and businesses operating in Kenya.

KEY UPDATES IN THE BILL

The major updates under the Bill include:

1.Institutional reform

Part II of the Bill proposes a restructuring of Kenya's copyright administration framework. In place of the Kenya Copyright Board **("KECOBO")**, the Bill establishes the Kenya Copyright Authority **("KCA")**, which will function as the primary administrative body responsible for overseeing copyright and related rights in Kenya.

Alongside the KCA, the Bill establishes the Copyright Disputes Tribunal **("the Tribunal")**, creating a separation between regulatory and adjudicative functions. The Tribunal is intended to serve as a specialized forum for resolving copyright disputes that would otherwise be handled by the courts.

Further, the Tribunal is granted original jurisdiction to hear and determine disputes relating to ownership and infringement of copyright and related rights, disputes involving collective management organizations, including refusal to grant user licences, as well as claims of fair dealing and equitable remuneration. The Tribunal may also hear applications to block infringing online locations, issue preservation orders (including Anton Piller orders) and determine disputes concerning orphan works licences.

1.Originality test

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3.Duration of protection

Under the Copyright Act, the duration of protection is generally the life of the author plus 50 years for literary, musical, dramatic and artistic works. Photographs are protected for 50 years from the date the photograph is taken, while sound recordings and broadcasts are protected for 50 years from the year of fixation or broadcast respectively.

Clause 22 of the Bill extends the protection period of photographs, audiovisual works and sound recordings, which would now be protected for 70 years from the end of the calendar year in which the work is first published, made available to the public, created or fixed, as applicable.

4.The private copying remuneration levy

Clause 62 of the Bill introduces a private copying remuneration levy which applies both to the importation and manufacture of devices and media capable of reproducing works, and to online platforms or digital services in Kenya that enable users to make private copies. Importers and manufacturers shall be required to pay the levy at the point of entry or production.

5.Related rights and moral rights

The Bill strengthens protections relating to related rights and moral rights. It recognizes the rights of performers, producers of sound recordings and broadcasting organizations, granting them control over the fixation, reproduction, distribution and communication of performances, sound recordings and broadcasts. It further introduces equitable remuneration, ensuring that performers and producers share in revenues arising from the commercial exploitation of sound recordings.

The Bill also affirms moral rights, including the right of attribution, the right to integrity and protection against false attribution.

6.Online intermediaries and safe harbors

Part X of the Bill introduces a clearer framework governing online intermediary liability, while providing safe harbour protections for intermediaries that comply with statutory obligations. An online intermediary is defined in the Bill as any entity providing services in Kenya that hosts, transmits or caches copyright content, including internet service providers, social media platforms, online marketplaces, search engines and video-sharing platforms.

Under the Bill, intermediaries may benefit from safe harbour protection from liability for copyright infringement where they act as neutral service providers and comply with prescribed requirements, including responding to takedown notices and disabling access to infringing content.

7.Notice-and-takedown process

Clause 82 and 83 of the Bill maintain the notice-and-takedown framework for online copyright infringement. Rights-holders can seek blocking orders through the Tribunal in urgent cases, such as stopping an unauthorized livestream. For routine online infringements, the process is triggered by a written takedown notice, which requires intermediaries to remove or disable access to infringing content within 48 hours and notify the person responsible for the content within 24 hours.

While these procedures build on the Copyright Act's notice-and-takedown process, the Bill streamlines the process, clarifies timelines and explicitly requires uploader notification, improving transparency and accountability in online enforcement.

8.Stricter remedies and penalties

Part IX of the Bill strengthens both civil and criminal enforcement for copyright infringement. It introduces statutory damages ranging from Kshs. 200,000 to Kshs. 1.5 million. Criminal penalties are also revised with first-time commercial infringers facing up to 7 years' imprisonment or fines of up to five times the market value of the work, compared to the period of 10 years under the Copyright Act. The Bill further provides for additional fines and enhanced sanctions, including penalties for false or malicious takedown notices, reinforcing accountability for both infringers and intermediaries.

9.Fair dealing

Clause 29 of the Bill expounds on the concept of fair dealing, permitting uses for non-commercial teaching, quotation, parody and criticism.

Educational institutions benefit from broader reprographic exceptions, making classroom copying and digitization more flexible. Provisions for disability access are also reaffirmed, allowing the creation and sharing of "accessible format" copies.

Conclusion

While the Bill strengthens many aspects of copyright protection in Kenya, certain emerging issues remain unaddressed. The Copyright Act implicitly requires human authorship, yet the Bill does not explicitly address AI-generated works nor does it clarify ownership of such works.

Similarly, it does not provide explicit recognition of image or personality rights, leaving individuals and public figures without clear statutory protection against unauthorized use of their likenesses.

Addressing these gaps will be important to ensure the law is comprehensive, future-ready and adaptable to technological and societal developments.

The draft Bill is open for public comments until 31st March 2026. Stakeholders including artists, publishers, platforms, collective management organizations and other stakeholders are encouraged to review the draft Bill and provide feedback, particularly on originality standards, AI-generated works and other emerging issues, to help shape a final law that effectively balances protection, innovation and access.

How Can We Help?

For further clarification or legal support on compliance with the proposed Copyright and Related Rights Bill, 2026, please contact our Corporate Commercial team on corporate.commercial@cmadvocates.com or tmtpractice@cmadvocates.com

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