



## **PRESS RELEASE**

30TH JULY 2021

### **OFFICIAL STATEMENT ISSUED BY THE KENYA ASSOCIATION OF MUSIC PRODUCERS (KAMP) IN RESPONSE TO KENYA COPYRIGHT BOARD'S STATEMENT ON STATUS OF THE COPYRIGHT**

Kenya Association of Music Producers notes with concern the statement issued by Kenya Copyright Board (KECOBO) on the status of public sector on 27th July, 2021.

KAMP would like to inform and assure its members, users of copyrighted works and general public that we execute our mandate of collecting and distributing royalties as per the established laws, regulations and policies. The Association is guided by national values such as rule of law, participation of the people, equity, good governance, integrity, transparency and accountability.

Since the establishment of KAMP we have distributed royalties amounting to Kenya Shillings Three Hundred and Forty-Four Million, One Hundred and Sixty-Six Thousand Five Hundred and Sixty-Nine (KShs. 344,166,569). We wish to inform the public that this milestone has been achieved on extremely strenuous circumstances. Had the circumstances been more favorable, we would have collected and distributed more. In this regard, we would like to set the record straight and rebut the insinuations made by KECOBO in their press statement.

#### **a) Lack of support and good will from KECOBO**

For the last couple of weeks, the Regulator has engaged in a fishing expedition based on untrue statements targeting to maliciously paint KAMP as unresponsive, incompetent and lacks proper management. It has also come to our attention that private and confidential communication with the Regulator is released to the public even before we have the opportunity to respond to the same. This has disparaged our image in the eyes of our members, public, partners and the government alike.

#### **b) ICT Systems**

It has been alleged that KAMP has blatantly failed and ignored to distribute royalties to their members even after being instructed to do so by the Regulator. KAMP has intended to distribute royalties as early as April 2021 but this was not possible because the ICT system that the Regulator imposed on us to use was not ready for the intended purpose of distribution.

The ICT Systems developer, Liberty Afrika Ltd has been non-committal on the timelines for completion of the development of the last two modules namely membership and monitoring, consequently, we are unable to distribute using this system. Nevertheless, KAMP has sent several letters to the Regulator requesting that we distribute using our current system. However, the Regulator has insisted that distribution can only be done using the new ICT system.



According to KECOBO's report, only 17,000 (it's unclear whether the works are musical works and/or sound recordings) have so far been uploaded on the NRR platform that is managed under KECOBO. This is not a true reflection of the local sound recordings that KAMP has on its database of about 80,000. This is a clear indication that running a scientific royalty distribution from monitored logs of a mere 17,000 works cannot be a good basis of fair representation to the rights holders whose works have not been uploaded through no fault of their own making.

On the other hand, the licensing module is currently operational but the initial expectation that it would reduce revenue collection costs through self-licensing by users of recorded music has not been achieved. This can be attributed to several factors including low levels of awareness and general aversion to pay licenses by the users of recorded music. In countries where self-licensing has worked well, the level of awareness by the general public is very high as a result of extensive public education by the copyright offices and associated government authorities. In such circumstances, the CMOs have been forced to use labour intensive approaches in licensing activities to achieve a wider market reach. Most of the users of copyrighted works in our database have only complied after engaging with our licensing staff.

### **c) Enforcement**

As KAMP we have been accused of poor collection of royalties yet the Regulator fails to mention that as an institution they have failed and/or refused to address our concerns of provision of enforcement agencies pursuant to the Copyright Act and other IP regulations such as BERNE Convention and TRIPS Agreement.

Since the withdrawal of enforcement agency from 2019, our collections have dipped. Before withdrawal of the police services, KAMP's licensing revenue for the year 2019 was Kenya Shillings Seventy-Seven Million Two Hundred and Seventy-Four Thousand Eight Hundred and Fifty (KShs. 77,274,850). However, after the withdrawal of enforcement agency, KAMP in the year 2021 collected a total of Kenya Shillings Twenty-Five Million Seven Hundred and Seventy-Two Thousand Five Hundred and Seventy-One (KShs. 25,772,751) this goes against President Uhuru Kenyatta's Big Agenda Four Agenda, the Vision 2030 and other policy pronouncements which seek to create employment opportunities to citizens such as those in the creative industry.

### **d) Covid-19 effects**

COVID-19 has had adverse effects on many businesses and the recording industry has not been spared. Our revenue streams such as bars, hotels, restaurants, to mention a few, have not been fully operational and others have even closed down. The net effect of this is significant reduction in compliance and therefore license fees collected, and therefore distributable amounts.



Arising from this, KAMP and other CMOs have had to significantly adjust their operation budget to fit this difficult environment such as effecting staff salary cut, sending employees on unpaid leave, reducing office space among others all in a bid to save as much as possible to ensure that our members get more royalties

#### **e) Forensic Audit**

KAMP acknowledges that there was a forensic audit carried out last year covering 2017 to 2019. It is instructive to note that the audit did NOT establish financial impropriety or malpractices implicating KAMP. Audit queries that were raised were duly and satisfactorily responded to by Board. It is worth noting that KECOBO has blatantly used the forensic audit report to defame KAMP through blanket condemnation, innuendos and casting aspersions on our ability and capacity to execute our mandate as a CMO.

#### **f) Withdrawal of Kenya Shillings Forty-Four Million (KShs. 44,000,000) Royalty Money**

KAMP wishes to clarify that at the point of the press release by KECOBO, KAMP had not received Kenya Shillings Forty-Four Million (KShs. 44,000,000) that alleged to have been withdrawn. It is worthy to note that based on the share ratio of how royalties collected are distributed amongst the three CMOs, KAMP's share for distribution would be Kenya Shillings Eight Million Six Hundred Thousand (KShs. 8,600,000).

The reason for not accessing the said monies resulted from a letter dated 26th July 2021 in which KECOBO directed our bankers (NCBA) to freeze access to the said funds available without a court order. This affected our earlier plans of distributing royalties on Monday, 26th July 2021 as intended.

#### **g) Petition Filed by KECOBO**

Indeed KECOBO filed a matter at the High Court Constitutional Division case no. E276 of 2021. The matter came up in court for directions on 27th July 2021 where the court declined to issue any interim orders sought by KECOBO. The mention is set for 18th August 2021 and we will keep our members and the public duly informed and updated on the proceedings.

#### **h) The Way Forward**

It is therefore our plea that the Regulator should bring everyone on board to discuss matters affecting the industry in a sober and objective manner, as KAMP we are always ready and willing to engage with all players and stakeholders in the creative sector. We should therefore stop talking at each other and instead aim at talking to each other to create harmony and progress in the creative industry.

**\*ENDS\***

**KAMP BOARD OF DIRECTORS**