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I. Legislation

1. Copyright laws

Copyright issues in Papua New Guinea are governed by the Copyright and Neighbouring Rights Act 2000. Works are automatically protected upon creation under the law. The law is compliant with the TRIPS Agreement.

2. Other laws

This Copyright Act was introduced in 2000 together with the Patent and Industrial Designs Act 2000. It was enacted in 2002.

For a complete list of laws see Intellectual Property Office of Papua New Guinea (IPOPNG) website.

3. Latest developments and perspectives

At present, there is substantive review and amendments being undertaken to the Copyright Act to include the creation, administration and regulation of Collective Management Organizations within the country.

4. Summary of legislation

The Copyright Act applies to works, performances, sound recordings and broadcasts existing at the time the Act took effect. The Act applies to a thorough list of literary and artistic works, including specified derivative works, such as translations, adaptations, collections of works and databases, and folklore collections.

Pursuant to Section 30 of the Copyright Act, special protections apply to expressions of folklore.

Exclusive Rights of the authors

Under Section 6 of the Copyright Act, authors have the following exclusive rights:

a) Economic Rights

The author or other owner of a copyrighted work has the exclusive rights to do or authorize the following:

- reproduction of the work;
- translation of the work;
- adaptation, arrangement or other transformation of the work;
- distribution to the public by sale, rental, public lending or otherwise of the original or a copy of the work that has not already been subject to a distribution authorized by the owner;
- rental or public lending of a the original or copy of an audiovisual work, a work embodied in a sound recording, a computer program, a database or a musical work in the form of notation;
- importation of copies of the work;
- public display of the original or copies thereof;
Papua New Guinea

- public performance of the work;
- broadcasting of the work; and
- other communication to the public of the work.

b) Moral Rights

The author of a copyrighted work has the following exclusive rights:
- to have his name indicated prominently (or the right not to) on copies and in connection with any public use of the work;
- to use a pseudonym; and
- to object to any distortion, mutilation or other modification that would prejudice his honor or reputation.

Moral rights apply even if the author no longer owns the rights to the copyrighted work.

Exclusive right of the owners of neighbouring rights

Subject to Section 25 of the Copyright Act (see below), a performer shall have the exclusive right to carry out or to authorize any of the following acts -
(a) the broadcasting or other communication to the public of his performance;
(b) the fixation of his unfixed performance;
(c) the direct or indirect reproduction of a fixation of his performance, in any manner or form;
(d) the first making available to the public of a fixation of his performance, or copies thereof, through sale or other transfer or ownership;
(e) the rental to the public or public lending of a fixation of his performance, or copies thereof, irrespective of the ownership of the copy rented or lent; and
(f) the making available to the public of his fixed performance, by wire or wireless means, in such a way that members of the public may access them from a place or at a time individually chosen by them.

The performer has the right to claim to be identified as the performer of his performances, except where omission is dictated by the manner of the use of the performance. The performer also has the right to object to any distortion, mutilation or other modification of his performances that would be prejudicial to his reputation.

Under Section 22 of the Copyright Act, a producer of a sound recording shall have the exclusive right to carry out or to authorize any of the following acts -
(a) the direct or indirect reproduction of his sound recording in any manner or form;
(b) the importation of copies of his sound recording;
(c) the making available to the public by sale or other transfer of ownership of the original or copies of his sound recording that have not already been subject to a distribution authorized by the producer;
(d) the rental to the public or public lending of a copy of his sound recording irrespective of the owner of the copy rented or lent; and
(e) the making available to the public of his sound recording, by wire of wireless means, in such a way that members of the public may access it from a place or at a time individually chosen by them.

Under Section 23 of the Copyright Act, a single equitable remuneration for the performer or performers and the producer of a sound recording shall be paid by the user where the sound recording is published or performed for commercial purposes.

Under Section 24 of the Copyright Act, a broadcasting organization has the exclusive right to carry out or to authorize any of the following acts –
(a) the re-broadcasting of a broadcast;  
(b) the communication to the public of a broadcast;  
(c) the fixation of a broadcast; and  
(d) the reproduction of a fixation of a broadcast.

- Exceptions and limitations to copyright

Section 25 establishes limits to copyright protection. The following acts do not require authorization of the author:
(a) the use of short excepts for reporting current events to the extent justified by the purpose of providing current information (see Section 13);  
(b) reproduction solely for scientific research; and  
(c) reproduction solely for the purpose of face-to-face teaching activities, except for performances and phonograms which have been published as teaching or instructional materials (see Section 11).

The following uses qualify as fair use under the Copyright Act (see Section 8):
(a) the private reproduction or importation of a published work in a single copy, where the reproduction is made by a person exclusively for his own personal purposes (see Section 15);  
(b) the reproduction of a work of architecture in the form of building or other construction;  
(c) the reprography of the whole or a substantial part of a book or of a musical work in the form of notation;  
(d) the reproduction of the whole or a substantial part of a database in digital form; and  
(e) the reproduction of a computer program (see Section 14).

Under Section 9 of the Copyright Act, the temporary reproduction of a work shall be permitted where all the following conditions are met -
(a) the reproduction is made in the process of a digital transmission or storage of a work;  
(b) the user is entitled to make that transmission or storage; and  
(c) the transmission entails the automatic deletion of the copy without enabling the retrieval of the work for any other purpose.
Similarly, under Section 10 of the Copyright Act, quotations of a short part of a published work may be made without authorization of the author or other owner of the copyright, provided that the reproduction is compatible with fair practices.

Under Section 11 of the Copyright Act, the reproduction of a short part of a published work for teaching purposes by way of illustration, in writings or sound or visual recordings may be made without authorization, provided that such reproduction is compatible with fair practice.

Under Section 13 of the Copyright Act, reproductions, broadcasts and other communication to the public for informative purposes may be made without authorization of the author, except when expressly prohibited.

Lastly, under Section 16 of the Copyright Act, the public display of originals or copies of works may be made without the authorization of the author, provided -

(a) that the display is made other than by means of a film, slide, television image or otherwise on screen or by means of any other device or process; and

(b) that the work has been published or the original or the copy displayed has been sold, given away or otherwise transferred to another person by the author or his successor in title.

- **Protection of foreign works**

The Copyright Act applies to works, performers, producers of sound recordings and broadcasting organizations that are eligible for protection by virtue of, and in accordance with, any international convention or international agreement to which Papua New Guinea is a party.

Generally, protection of literary and artistic works, performances, sound recordings and broadcasts applies where:

(a) the author, producer or performer is a citizen and/or habitual residence of the country;

(b) the work, performance or sound recording was first fixed and/or published in the country; and

(c) transmission occurred from transmitters situated in the country.

- **Period of copyright protection**

Under Section 17 of the Copyright Act, the following terms of protection apply:

1. Subject to this section, the economic and moral rights are protected during the life of the author and for a period of 50 years from the date of his death.

2. In the case of a work of joint authorship, the economic and moral rights of the author shall be protected during the life of the author and for a period of 50 years from the date of his death.

3. In the case of a collective work, other than a work of applied art, and in the case of an audiovisual work, the economic and moral rights shall be protected for a period of 50 years from the date on which the work was made, first made available to the public or first published, whichever occurs last.
(4) In the case of a work published anonymously or under a pseudonym, the economic and moral rights shall be protected for a period of 50 years from the date on which the work was made, first made available to the public or first published, whichever occurs last.

(5) In the case of a work of applied art, the economic and moral rights shall be protected for a period of 25 years from the making of the work.

- **Registration**

Under Section 4 of the Copyright Act, works are eligible for copyright protection irrespective of their mode or form of expression, content, quality or purpose.

5. **International Conventions and Treaties**

Papua New Guinea is a member of:

- WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS)

II. **Measures and Remedies**

1. **Copyright infringement**

Information not available

2. **Remedies to protect copyright holders**

*Civil Remedies*

Under Section 27 of the Copyright Act, the owner of any right protected under this Act that has been infringed shall be entitled to payment of damages by the infringer for the prejudice suffered, including such expenses directly caused by the infringement. However, where the infringer did not or had no justifiable reason to know that he was engaged in an infringing activity, the Court may limit damages to the profits of the infringer attributable to the infringement.

Additionally, the Court shall order the destruction or other reasonable disposition of infringing copies and their packaging in such a manner as to avoid harm to the right holder, unless the owner of the right requests otherwise. Similarly, where there is a danger that implements may be used to commit or continue to commit acts of infringement, the court may order their destruction or other reasonable disposition in such a manner as to minimize the risks of further infringements, including the surrender of the implements to the right owner.

Lastly, an infringer shall be liable, on conviction, to a fine not exceeding K100,000.00, in addition to any other penalty the Court is empowered to impose.
Criminal Sanctions

Under Section 28 of the Copyright Act, an infringer who acts wilfully or by gross negligence and for profit-making purposes, can face a penalty of imprisonment for a term not exceeding ten years, or a fine not exceeding K100,000.00, or both.

3. Provisional measures

In Papua New Guinea the National Court has the authority, under its civil and criminal jurisdiction:

(a) to grant injunctions to prohibit the committing, or continuation of committing, of infringement of any right protected under the Copyright Act;
(b) to order the impounding of copies of works or sound recordings suspected of being made or imported without the authorization of the owner of any right protected under Copyright Act; or
(c) to order the impounding or packaging of the implements that could be used for the making of copies of works and sound recordings, and the documents, accounts or business papers relating to such copies.

Additionally, the provisions of the Criminal Code Act dealing with search and seizure apply to infringements of rights under the Copyright Act.

4. Penalties for copyright infringement

See section on Remedies (II.2).

5. Requirements for foreign persons

Information not available
III. Enforcement

1. Enforcement authorities

a) Authorities responsible for enforcing the copyright law

The authorities responsible for enforcing the copyright law are:
- The Supervisory Ministry
- The Ministry Industrial Property Office (IPOPNG)
- The Copyright Office
- Collective Management Societies
- The Copyright Tribunal
- The Customs Department

b) Enforcement bodies entitled to act ex-officio in copyright infringement cases

c) Courts dealing with copyright infringement cases

The National Court has the authority, under its civil and criminal jurisdiction, to handle copyright infringement cases.

2. Enforcement at the border

The provisions of the Customs Act dealing with illegal goods shall apply to articles and implements used in relation to the infringement of rights protected under the Copyright Act.

IV. Public Awareness

1. Awareness campaigns and actions

In order to educate people, the IPOPNG adopted an IP Awareness program in 2004. Under this program, the Office continues to carry out small workshops and seminars targeting specific audience groups in the main centers of the country.

IPOPNG also organizes national workshops and seminars in collaboration with international partners, like APEC and WIPO.

2. Promotion of legal exploitation

Information not available

3. Associations and organizations with awareness-raising purpose


4. Best practices

Information not available
V. Capacity-building

1. Training
Information not available

2. Establishment of specialized units and intersectoral group

IPOPNG has recognized that it is important at this stage to identify the Key Strategic Result Areas (SRAs) or Core Programs that will drive the organization forward. Under the overall 2008 - 2012 Investment Promotion Authority (IPA) Business Plan, the IPOPNG has adopted five (5) SRAs with clearly defined objectives and key performance indicators.

IPOPNG is also represented in a group set up by the Business Council of PNG (BCPNG) which represents the private sector.

3. Best practices
Information not available

VI. Other

1. TPM/DRM

Pursuant to Section 29 of the Copyright Act, the following acts shall be considered unlawful and are equivalent to the infringement of rights protected under the Copyright Act -

(a) the manufacture or importation for sale or rental of any device or means specifically designed or adapted to circumvent any device or means intended to prevent or restrict reproduction of a work, a sound recording or a broadcast, or to impair the quality of copies made;
(b) the manufacture or importation for sale or rental of any device or means that is susceptible to enable or assist the reception of an encrypted program, which is broadcast or otherwise communicated to the public, including by satellite, by those who are not entitled to receive the program;
(c) the removal or alteration of any electronic rights management information without authority; and
(d) the distribution, importation for distribution, broadcasting, communication to the public or making available to the public, without authority, of works, performances, sound recordings or broadcasts, knowing or having reason to know that electronic rights management information has been removed or altered without authority.

Any illicit act referred to above is treated as an infringement of copyright or neighbouring rights to which the civil remedies and criminal sanctions are applicable.

2. Licensing Schemes
Information not available

3. Optical Discs
Information not available
4. Hotlines
Information not available

5. Contact Details
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