

## User of Non-Music Works (Literary, visual arts)

### a) Sale of Artistic Works

Craft shops, any business entity or individual that displays artistic works for the purpose of sale, shall provide COSBOTS with a list of works for sale and the authors thereof.

### b) Public Display / Exhibitors of Works

Business entities, organizations or individuals who exhibit or display artistic works to the public for a fee shall inform COSBOTS of its intention at least 2 weeks prior to the exhibition and provide a list of artistic works to be exhibited.

## Value Added Tax

Every Licensee under these tariffs shall pay to COSBOTS, in addition to the licence fee due under the tariff, a sum in respect of Value Added Tax calculated at the relevant statutory rate on the annual licence fee payable, and COSBOTS shall provide the Licensee with a Tax Invoice in relation to the fee payable.

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## Business Licensing

Every business that uses music/ non music copyrighted works as envisaged by the Copyright and Neighbouring Rights Act CAP 68:02 must apply for a license

# COPYRIGHT SOCIETY OF BOTSWANA

## Protected Works and Intellectual Property (IP)

### User Information

The Copyright Society of Botswana (COSBOTS) is the Collective Management Organization in Botswana, incorporated in 2008 as a Private Company Limited by guarantee. COSBOTS is mandated by the Copyright and Neighbouring Rights Act CAP 68:02 to among others, license and collect royalties from users of copyright works to distribute to copyright owners.

#### • Copyright/ Protected Works

Copyright in relation to a work means the exclusive right, by virtue and subject to the provisions of the Act, to do, and authorise other persons to do, certain acts in relation to the protected work.

It is a form of intellectual property that protects original works of authorship such as literary and artistic works such as books, pamphlets, articles, computer programmes e.t.c, musical works, audio visual works, works of architecture, works of drawing, photographic works, works of applied art e.t.c

#### • Users of Copyright/protected works

These are business entities, organizations or individuals who use copyright or protected works for various works purposes, e.g:

- Essential
- Important
- Incidental.

### BACKGROUND

By virtue of representing copyright owners or owners of protected works, i.e. music, photography, film and video, visual arts, literary, dramatic.; through legislation by the Copyright and Neighbouring Rights Act CAP 68:02,

- The Copyright Society of Botswana (COSBOTS) controls, in Botswana, the right to diffuse or play both local and foreign music by individuals and/or business establishments and shall grant licenses to those

needing to exploit/use protected works in any manner as envisaged by the Act.

- COSBOTS controls, in Botswana, the right to publicly display or use non-music protected works such as paintings, sculptures, engravings and works of applied art by business establishments.

### The license

A license with respect to copyright, issued by COSBOTS, is permission, authorization or consent given by the owner of the copyright works/s to another person to exercise the rights belonging to the copyright owner. The owner of the copyright is known as the Licensor, while the beneficiary of the license is known as the Licensee. COSBOTS acts on behalf of owners of copyright.

COSBOTS can issue a blanket license which authorises the broadcast, public performance or "diffusion" of any of the million musical works that COSBOTS controls on behalf of both local members and those of its affiliated societies worldwide.

The licence is a contract, that runs annually, or per event; and due to the many ways in which musical or non-musical works are performed/displayed, the fees payable under COSBOTS's licence and/or the type of licence can vary.

### Users of Protected Works - Music

Users of Music are broken down into different categories:

**Essential Users:** refers to Instances where music is indispensable to the business establishment; the business cannot operate without music, it is integral to the business processes of the establishment.

**Important Users:** refers to Instances in which music provides significant entertainment to customers and can lure them to the business.

**Incidental Users:** refers to instances where music is incidental to the business; it adds value to the business through provision of passive background entertainment.

### List/Category of Users (non-exhaustive)

Notwithstanding the list below, every business that uses music as envisaged by the Copyright and Neighbouring Rights Act CAP 68:02 must apply for a licence as envisaged by the Act.

ESSENTIAL USERS	IMPORTANT USERS	INCIDENTAL USERS
<ul style="list-style-type: none"> <li>• Television and Radio Broadcasters</li> <li>• Live performance at concerts, and festivals</li> <li>• Night Clubs</li> <li>• Dancing and Singing Shows</li> <li>• Juke box</li> <li>• Beer Festivals</li> <li>• Cable Operators (cable casters) and distributors of encrypted satellite signals</li> </ul>	<ul style="list-style-type: none"> <li>• Bars and liquor restaurants</li> <li>• Cabaret/Dinner Dance,</li> <li>• Gala Events, Awards Functions</li> <li>• Music Tutors</li> <li>• Gymnasia</li> <li>• Restaurants</li> <li>• Circus</li> <li>• Music Theatre</li> <li>• Beauty Pageants and Fashion- shows</li> <li>• Advertising Jingles</li> <li>• Music Shops</li> </ul>	<ul style="list-style-type: none"> <li>• Trade Fairs, exhibitions</li> <li>• Shops/Franchises/ chain stores</li> <li>• Public Transport Providers</li> <li>• Music on hold</li> <li>• Corporate Institutions with waiting halls</li> <li>• Interval music in cinemas</li> <li>• Beauty &amp; Hair Saloon and Boutiques,</li> <li>Hotels &amp; Lodges</li> </ul>

### TARIFFS FOR USE OF PROTECTED WORKS

Tariffs refer to royalty fees, and in the context of copyright is an amount of money that a user of copyright work must pay for the exploitation/use of the said work/s. The fees cover the privilege of using the copyright owner's work/s.

The rate of royalty payable by the Licensee (Users) to the Society is determined by the information provided by specific users on the COSBOTS Application Form, which will inform the music usage agreement that will list all obligations and shall be signed by both the User and COSBOTS.