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OFFICE OF THE ATTORNEY-GENERAL  
&  
DEPARTMENT OF JUSTICE

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AG/LDD/89/2/1

25<sup>th</sup> July, 2019

**Mr. Michael Sialai EBS**  
Clerk of the National Assembly  
Clerk's Chambers  
Parliament Buildings  
P.O. Box 43842  
**NAIROBI**

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**RE: THE COPYRIGHT ACT, 2001 - JOINT COLLECTION TARIFFS, 2019  
(LEGAL NOTICE NO. 107 OF 2019)**

29/7/19

The Joint Collection Tariffs, 2019, were published in the *Gazette* on the 1<sup>st</sup> July, 2019. They were made in accordance with section 46A (a) of the Copyright Act, 2001, which requires such tariffs to be published in the *Gazette*.

The purpose of this letter is to transmit the Notice together with its Explanatory Memorandum and record of consultations to your office in order for them to be laid before the Select Committee on Delegated Legislation of the National Assembly in accordance with section 11 of the Statutory Instruments Act, 2013. Annexed hereto are the Joint Collection Tariffs, 2019, the Explanatory Memorandum thereto, and the record of consultations relating to the making of the Tariffs, for your further necessary action.

**P. Kihara Kariuki**  
**ATTORNEY-GENERAL**

③ ML Deal  
MP 29/7/19

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Copy to: **Mr. Kennedy Ogeto EBS**  
Solicitor-General





exempts foreign nationals seeking internship opportunities with United Nations agencies based in Kenya from payment of intern pass fees.

Dated the 28th June, 2019.

FRED MATIANGI,  
Cabinet Secretary for Interior and  
Co-ordination of National Government.

LEGAL NOTICE NO. 106

THE INTERPRETATION AND GENERAL PROVISIONS ACT

(Cap. 2)

DELEGATION OF POWER

IN EXERCISE of the powers conferred by section 38 (1) of the Interpretation and General Provisions Act, the Cabinet Secretary for Lands and Physical Planning delegates to the—

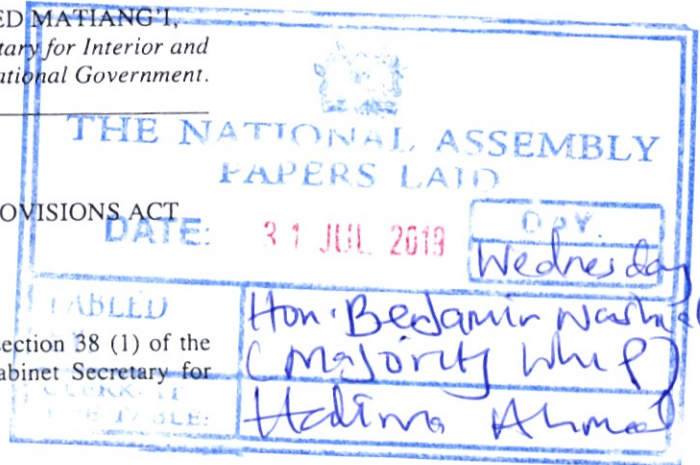
Director -Land Administration,  
Deputy Director- Land Administration,  
Senior Assistant Director- Land Administration,  
Assistant Director, Land Administration,  
Principal Land Administration Officer, and  
Chief Land Administration Officer,

the power to issue leases or licences conferred on the Cabinet Secretary by section 23(2) of the Land Act (No. 6 of 2012).

This Notice shall be deemed to have come into operation on the 18th January, 2019.

Dated the 14th June, 2019.

FARIDA KARONEY,  
Cabinet Secretary for Lands and Physical Planning.



LEGAL NOTICE NO. 107

THE COPYRIGHT ACT

(No. 12 of 2001)

JOINT COLLECTION TARIFFS

IN EXERCISE of the powers conferred by section 46A (a) of the Copyright Act, 2001, the Attorney-General approves the Joint Collection Tariffs set out in the Schedule hereto.

SCHEDULE

Category	Parameters	Sound recording tariff		Audiovisual tariff
Aircraft	Seating capacity	1 – 50 seats	Sh. 974	Sh. 243
		51 – 100	Sh. 650	Sh. 162



Category	Parameters	Sound recording tariff		Audiovisual tariff
		More than 100 seats	Sh. 405	Sh. 100
Aired shows – live music performances (music shows aired on radio, television)	Seating capacity and number of episodes per station		Sh. 450	Sh. 112
Amusement arcades/parks and fairgrounds	Size of space/area in sq. ft. per unit of 25 sq. ft.	Indoor	Sh. 1,250	Sh. 312
		Outdoor	Sh. 626	Sh. 156
		Minimum fee	Sh. 5,250	Sh. 1,312
Professional training programmes, dance schools, DJ academies and music schools	Per size of class	1 – 25 students	Sh. 3,000	Sh. 750
		26 – 50 students	Sh. 5,000	Sh. 1,250
		More than 50 students	Sh. 10,000	Sh. 2,500
Choirs and vocal ensembles	Gross annual income per function subject to a minimum annual fee	Maximum	17%	0.04%
		Per function	Sh. 434	Sh. 108
		Minimum annual fee	Sh. 5,250	Sh. 1,313
Cinemas	Percentage of gross annual income	Annual rate	17%	4%
		Minimum fee	Sh. 32,475	Sh. 8,119
Private members' clubs	Sitting capacity	Class A (More than 5,000 members or the equivalent of a hotel rated higher than three stars)		
		1 – 50 members	Sh. 410	Sh. 102
		51 – 75 members	Sh. 326	Sh. 81
		76 – 100 members	Sh. 273	Sh. 68
		More than 100 members	Sh. 218	Sh. 54
		Class B (Fewer than 5,000 members or the equivalent of a hotel rated three stars or lower)		
		1 – 50 members	Sh. 273	Sh. 68
		51 – 75 members	Sh. 218	Sh. 54.50
		76 – 100 members	Sh. 167	Sh. 41.75
		More than 100 members	Sh. 138	Sh. 34.50
New media services	Percentage per nature of service subject to a minimum	Caller ring back tones, ringtones, downloads, streaming, simulcast and webcasting	50%	12%

Category	Parameters	Sound recording tariff		Audiovisual tariff
		Minimum rate	Sh. 400,000	Sh. 100,000
Discotheques and dancehalls	Capacity per day	License fee as percentage of gross income	6%	2%
		Daily rate per unit of 50 persons	375	94
		Minimum annual fee	90,000	22,500
Elevators and lifts	Per carrying capacity	Fee per person	Sh. 425	Sh. 106
		Minimum fee per car	Sh. 4,250	Sh. 1,313
Exhibition of films or videos	Flat rate	Standard	Sh. 8,775	Sh. 2,194
Shops stores/spaces – Halls, gymnasias and fitness centres, hairdressing salons, barber shops, shops, stores, showrooms, banking halls, waiting rooms, offices and similar premises, industrial premises, factories, staff canteens, engineering/woodwork workshops and similar premises	Per square footage subject to a minimum annual fee	1 – 1,000 sq. ft.	Sh. 10	Sh. 3
		1,001 – 2,000 sq. ft.	Sh. 8	Sh. 2
		2,001 – 4,000 sq. ft.	Sh. 7	Sh. 2
		More than 4,000 sq. ft.	Sh. 6	Sh. 2
		Minimum annual fee	Sh. 5,000	Sh. 1,250
Restaurants, bars and similar establishments	Seating capacity	Class A (High class and similar)		
		1 – 50 persons	Sh. 410	Sh. 102
		51 – 75 persons	Sh. 326	Sh. 82
		76 – 100 persons	Sh. 273	Sh. 68
		More than 100 persons	Sh. 218	Sh. 54
		Class B (Middle class and similar)		
		1 – 50 persons	Sh. 273	Sh. 68
		51 – 75 persons	Sh. 218	Sh. 54
		76 – 100 persons	Sh. 167	Sh. 42
		More than 100 persons	Sh. 138	Sh. 34
		Class C (Low class and similar)		
		1 – 50 persons	Sh. 218	Sh. 55
		51 – 75 persons	Sh. 167	Sh. 42
		76 – 100 persons	Sh. 108	Sh. 27
More than 100 persons	Sh. 84	Sh. 21		
	Minimum fees	Sh. 6,825	Sh. 1,706	

Category	Parameters	Sound recording tariff		Audiovisual tariff	
Hotels and multi-room/accommodation establishments	Per square foot	Class A (High class or similar)			
		Tier 1 (1 – 1,000 sq. ft.)	Sh. 13	Sh. 3	
		Tier 2 (1,001 to 2,000 sq. ft.)	Sh. 11	Sh. 2	
		Tier 3 (2,001 – 4,000 sq. ft.)	Sh. 9.50	Sh. 2	
		Tier 4 (More than 4,000 sq. ft.)	Sh. 8.50	Sh. 2	
		Class B (Middle class and similar)			
		Tier 1 (1 – 1,000 sq. ft.)	Sh. 11	Sh. 2	
		Tier 2 (1,001 to 2,000 sq. ft.)	Sh. 9.50	Sh. 2	
		Tier 3 (2,001 – 4,000 sq. ft.)	Sh. 9.50	Sh. 2	
		Tier 4 (More than 4,000 sq. ft.)	Sh. 6.50	Sh. 2	
		Class C (Low class and similar)			
		Tier 1 (1 – 1,000 sq. ft.)	Sh. 9.20	Sh. 2	
		Tier 2 (1,001 to 2,000 sq. ft.)	Sh. 7.50	Sh. 2	
		Tier 3 (2,001 – 4,000 sq. ft.)	Sh. 5.50	Sh. 2	
		Tier 4 (More than 4,000 sq. ft.)	Sh. 4.50	Sh. 1	
		Minimum fees		Sh. 5,000	
Supermarkets and large shopping areas	Per square footage, audiovisual in non-exempt areas subject to a minimum of Sh. 5,000	1 – 5000 sq. ft.	Sh. 8	25% of the music/sound recording tariff	
		5001 – 10000 sq. ft.	Sh. 6		
		10001 to 20000 sq. ft.	Sh. 5		
		More than 20000 sq. ft.	Sh. 4		
Jukeboxes	Per annum per machine	Sh. 8,750		Sh. 2,183	
Mobile disc jockeys	Flat rate	Per disc jockey	Sh. 32,400	Sh. 8,100	
Motor vehicles – all commercial vehicles, TSVs, PSVs, taxis, car hire, etc.	Per seating capacity	Trucks and similar commercial vehicles		Sh. 4,500	
		1 – 5 passengers		Sh. 4,500	
		6 – 9 passengers		Sh. 5,250	
		10 – 14 passengers		Sh. 5,950	
		15 – 29 passengers		Sh. 12,300	
		30 – 33 passengers		Sh. 14,000	
34 – 38 passengers		Sh. 15,750	Sh. 3,938		



Category	Parameters	Sound recording tariff		Audiovisual tariff
		39 – 46 passengers	Sh. 19,500	Sh. 4,875
		47 – 51 passengers	Sh. 21,700	Sh. 5,419
		52 to 61 passengers	Sh. 25,500	Sh. 6,375
		More than 62 passengers	Sh. 28,500	Sh. 7,125
		Tuk tuks	Sh. 900	—
		Motorcycles	Sh. 600	—
Live music performances	Venue capacity per performance	Fee per day per unit of 50 persons	Sh. 222	Sh. 56
Concerts	Income per event subject to minimum deposit before event	Rate per event	5%	2%
		Minimum deposit	Sh. 50,000	Sh. 12,500
Music on hold	Fee per line subject to a minimum	5 – 10 lines	Sh. 1,275	—
		21 – 50 lines	Sh. 975	
		51 – 100 lines	Sh. 488	
		More than 100 lines	Sh. 251	
		Minimum fees	Sh. 4,875	
Roadshows	Daily rate	Corporate	Sh. 39,975	Sh. 9,994
		Small and medium enterprises	Sh. 20,025	Sh. 5,000
		Individual	Sh. 9,000	Sh. 2,250
	Annual rate	Corporate	Sh. 450,000	Sh. 112,500
		Small and medium enterprises	Sh. 300,000	Sh. 75,000
		Individual	Sh. 99,000	Sh. 24,750
Other promotional activities	Entity per day but not inclusive of audiovisual	Corporate	Sh. 39,975	Sh. 9,995
		Small and medium enterprises	Sh. 20,025	Sh. 5,000
		Individual	Sh. 9,000	Sh. 2,250
Broadcasting (Radio)	Percentage of gross revenue per copyrighted music content subject to minimum annual fees per category	1 % – 29.9% content	2%	
		20% – 69.9% content	4%	
		More than 70% content	6%	
	Minimum annual fees	Commercial broadcasters		
		Multiple regional	Sh. 1,296,000	
		Regional	Sh. 480,000	
Non-commercial broadcasters				
	Multiple regional	Sh. 480,000		

Category	Parameters	Sound recording tariff		Audiovisual tariff	
		Regional	Sh. 360,000		
		Institutional/educational	Sh. 120,000		
		Community	Sh. 120,000		
Broadcasting (Television)	Percentage of gross revenue per copyrighted music content subject to minimum annual fees per category	1% – 29.9% content	0.6%		
		20% – 69.9% content	1.3%		
		More than 70% content	2%		
	Minimum annual fees	Commercial broadcasters			
		Multiple regional	Sh. 432,000		
		Regional	Sh. 160,000		
		Non-commercial broadcasters			
		Multiple regional	Sh. 160,000		
		Regional	Sh. 120,000		
		Institutional/educational	Sh. 40,000		
	Community	Sh. 40,000			
Reproduction	For adaptation, the charge is applicable per song	Flat rate	Sh. 300,000	Sh. 75,000	
Synchronization	Per 30 seconds per slot by number of stations (Duration of movie, programme or documentary)	Radio	Sh. 1,125		
		Television		Sh. 1,400	
		Movies, films and TV programmes		Sh. 2,800	
		Documentaries		Sh. 2,800	

## GENERAL RULES

1. The licenses shall be payable annually (calendar year) with joint invoices being payable within one month of issue.
2. The penalty for non-compliance shall be 5% of the tariff compounded for the period it remains unpaid.
3. Businesses starting within the license term shall pay amounts due on a *pro rata* basis for the remainder of the calendar year.
4. The tariff shall be subject to annual increment pegged on the prevailing rate of inflation.
5. The rates shall not include taxes or other levies.



6. There shall be levy for supermarkets for sections that display visuals without music or for electronics testing.

7. In the case of disc jockeys, the primary liability to pay shall belong to the organization that causes the public performance of music. The tariff shall only include disc jockeys in unlicensed premises and exclude resident disc jockeys, teaching disc jockeys and disc jockeys at church events.

8. The audiovisual tariff shall include actors.

9. Charity and fundraising events shall be exempted from this license.

Dated the 17th June, 2019.

P. K. KARIUKI,  
*Attorney-General.*

**EXPLANATORY MEMORANDUM TO THE COMMITTEE ON DELEGATED  
LEGISLATION OF THE NATIONAL ASSEMBLY ON THE JOINT COLLECTION TARIFFS,  
2019**

(L.N. No. .... of 2019)

**PART I**

**Name of the Statutory Instrument:** The Joint Collection Tariffs, 2019  
**Name of the Principal Act:** The Copyright Act, 2001  
**Enacted Pursuant to:** Section 46A (a) of the Copyright Act, 2001  
**Name of the Ministry/Department:** Office of the Attorney-General and Department  
of Justice

**Gazetted on:**

**Tabled on:**

**PART II**

**1. The purpose of the Statutory Instrument**

1.1. The purpose of the Joint Collection Tariffs, 2019 is to give effect to Section 46A (a) of the Copyright Act (No. 12 of 2001).

1.2. The Joint Collection Tariffs are intended to make it easy to do business in Kenya by requiring Collective Management Organizations (CMOs) to levy a single tariff from users of musical works as opposed to different levies for each class of rights.

**2. Legislative Context**

2.1. Section 46A of the Copyright Act, 2001 empowers the Attorney General to approve and publish Collective Management Tariffs in the *Gazette*.

2.2. The Joint Collection Tariffs are intended to provide for the joint collection of music royalties.

**3. Policy Background**

3.1. The CMOs have been collecting royalties separately. The joint collection tariffs are intended to make it easy to do business in Kenya by requiring CMOs to levy a single tariff as opposed to different levies for each class of rights.

3.2. The primary objective of the Legal Notice is to provide a legal framework to enable the Collective Management Organizations to collect royalties jointly from users of musical works.

3.3. On 24<sup>th</sup> March 2017 the Attorney-General published L.N. No. 57 of 2017 which provided for collecting society tariffs. L.N. No. 57 of 2017 was effective up to 31<sup>st</sup> December 2018. There have been no gazetted tariffs since then.

#### **4. Public Consultations and outcome**

4.1. The Kenya Copyright Board embarked on public stakeholder's consultation starting July 2018 up to February 2019. The public consultations were in the nature of correspondences, meetings and public hearings held at the Kenya Copyright Board's Board Room and NHIF Building Auditorium within this period. A report on this process was duly prepared.

4.2. The consultations and negotiations resulted in the proposed joint music tariffs, 2019 after compromises were made.

#### **5. Financial implications**

5.1. There shall be no financial implications on the Government of Kenya by the tariff and no expenditure of public funds shall be incurred in implementing the tariff.

#### **6. Impact**

6.1. **Impact on Fundamental Rights and Freedoms:** The joint music tariffs are necessary in order to enforce the intellectual property rights of the people of Kenya. The tariffs will ensure that the rights holders are not deprived of interest or benefit in their intellectual property and ensure ease of managing the copyright owner's rights.

6.2. **Impact on private Sector:** The joint music tariffs will ensure that there is ease of conducting business by requiring users of musical works to pay a single license for the public performance of musical works. The tariffs avoid confusion of consumers as to who collects royalties. Further the cost of conducting business in Kenya is lowered as the fee payable in the joint collection framework is lower than in the previous tariff.



**6.3. Impact on Public Sector:** The joint tariffs are an indirect source of revenue for government for licenses issued and taxes. It is expected that there will be higher compliance levels among users of musical works. This translates to higher collections by CMOs who will now be able to pay higher annual license fee and higher taxes.

## **7. Guidance**

7.1. The Office of the Attorney-General and Department of Justice, through the Kenya Copyright Board, shall sensitize key stakeholders including copyright owners, Collective Management Organizations, users, enforcement personnel, and representatives of civil society organizations that play a key role in copyright and related rights on the Joint Collection Tariffs, 2019 and the monitoring and evaluation mechanism, to ensure that the Tariffs serve the purpose for which they have been approved and published.

## **8. Monitoring and review**

8.1. The Office of the Attorney-General and Department of Justice, through the Kenya Copyright Board, shall monitor the implementation of the Joint Collection Tariffs, 2019. This shall be done through impromptu reports submitted by the CMOs as required by the Board.

## **9. Request to the National Assembly**

9.1. The National Assembly is invited to:

- (a) Note the contents of this Memorandum
- (b) Adopt the Joint Music Royalty Collection Tariffs, 2019



**P. Kiara Kariuki**  
**ATTORNEY GENERAL**