

OVERVIEW OF PIONEER STATUS AS AN INCENTIVE IN THE ENTERTAINMENT SECTOR

On Thursday 11th April 2019, Arterial Network Nigeria, the Committee for Relevant Art (CORA) and the Nigerian Association of Chambers of Commerce, Industry, Mines and Agriculture (NACCIMA), with the support and cooperation of the British Council and the Law Firm of Ajumogobia & Okeke, held a forum on the creative sector's Pioneer Status Incentive with the theme: **“CATALYZING INVESTMENT IN THE CREATIVE SECTOR”**.

According to reports, the global creative economy is a staggering \$2.25trillion, employing about 30million people which is estimated to be 3% of global GDP. Africa's share is estimated to be \$58billion with Nigeria playing a significant part.¹

With regard to Nollywood in particular a major challenge the creative industry continues to face is access to structured financing and the lack of investments in the sector in general. Although, the Federal Government of Nigeria (FGN) has provided some initiatives to enable those in the creative industry access finance, one of which is through the Bank of Industry's (“BOI's”) special facility known as the **“BOI NollyFund”**, the terms and conditions for granting the funds however appear to be rather onerous. A major drawback appears to be the requirement for an assigning of copyright as collateral for receiving funds from the BOI, this being a prime example of some of the conditions that appear to be quite unappealing to practitioners.

Other challenges in relation to financing include poor understanding of the advantages of proper structures (which includes managing the business as potential investment vehicles), having proper accounts and the apparent gap in knowing what would encourage financiers or investors to part with their money by artisans, on the one hand and the lack of understanding of what is required to stimulate the sector on the part of those that have the power to effect change on the other hand.

This is one of the main reasons why the addition of the entertainment sector to the Pioneer Status List is a welcome development indeed.

What is Pioneer Status: the Industrial Development - Income Tax Relief Act (**IDITRA**) provides that, an industry or product is designated “Pioneer” if it is not being carried on in Nigeria on a scale suitable to the economic requirements of Nigeria or at all, or there are favourable prospects of further development in Nigeria or it is expedient and in the public interest to encourage the development or establishment of such industry in Nigeria. In 2017, the FGN included creative industries on the Pioneer List. The **Pioneer Status Incentive** (“PSI”) is a tax holiday provided for under IDITRA, that grants qualifying industries/products relief from the payment of corporate income tax for an initial period of 3 (three) years, renewable for 1 (one) or 2 (two) additional years.

¹ Ambassador Ayoola Olukanni, Director General NACCIMA “NACCIMA Creative Sector Intervention”

PSI for the creative industry covers cameras, motion picture and slide projectors, overhead transparency projectors, laser assemblies, lenses and prisms, optical microscopes, telescopes, magnifying instruments, optical machinist precision tools, optical mirrors, optical measuring and checking devices and instruments (e.g. fire control equipment, photographic light meters, range finders), video and television programme production, distribution, commercials, exhibition and photography, music production, publishing and distribution (“Activities”).

In order to enjoy Pioneer Status, a company engaged in any of the businesses contained in the Pioneer List is required to apply to the Nigerian Investment Promotion Commission (“NIPC”) for a Pioneer Status certificate (“Certificate”).

It is a welcome development for the following reasons, amongst others:

- ✓ PSI grants qualifying industries/products relief from the payment of corporate income tax (at 30%) for an initial period of three (3) years which is renewable for 1 (one) or 2 (two) additional years;
- ✓ It is granted to select industries in order to reduce the cost of doing business and by so doing, stimulate establishment and/or development of those industries;
- ✓ Demonstrates the FG’s commitment to support the entertainment industry with a view to fostering increased participation in the industry and encouraging its growth;
- ✓ It could act as a stimulus to encourage book keeping and accounts within the sector which by extension may attract investments to the sector.

There are however potential drawbacks which include:

- Tardiness in procurement of pioneer certificate – due to the expansion of the Pioneer Status list, the NIPC has been inundated with applications which is bound to slow down the process. Efficiency is bound to be tested for sure and the jury is still out on this.
- Length of application process – New applications take up to 25 (Twenty Five) weeks while an application to extend the PSI takes about 15 (Fifteen) weeks. We are of the view that this process needs to be streamlined to make the process faster.
- Service fees - Applicants for the issuance of a new PSI are required to pay an application fee in the sum ₦200, 000.00 (Two Hundred Thousand Naira), service charge deposit in the sum of ₦2,500,000.00 (Two Million, Five Hundred Thousand Naira), 1% of actual pioneer profits paid annually and due diligence fee in the sum of ₦500,000.00 (Five Hundred Thousand Naira). These service fees appear to be rather high and may end up disenfranchising the smaller players within the sector which surely defeats the purpose of the incentive in the first place.

Conclusion

Ostensibly, the Pioneer Status incentive appears to be a great initiative but with some of the drawbacks enumerated herein, and from feedback received at the CORA and Partners Forum recently, it would appear that the stakeholders in that industry whom ordinarily should derive immense benefits from the incentive are rather reluctant to embrace it on current terms..

Furthermore, the inability to access funding continues to be a huge impediment to the growth of the industry and is likely to continue to stifle growth. Therefore, by extension the value that can be placed on the grant of PSI's to the creative industry may continue to be called into question as the industry participants continue to struggle to fund projects.

We are of the view that in order to maximise the untapped potential that the creative industry holds, stakeholders must invest in capacity building and be prepared to seek proper enlightenment on how to unlock financing options. This can only be achieved by partnering with highly skilled professionals in the legal and accounting spaces amongst others to assist in making them compliant and ready to tap into all the resources and benefits available to them at the right time.

There is no doubt that if some of these impediments are removed, initiatives such as that offered by the PSI which are geared towards the overall development of the sector would be more effective and achieve desired results, sooner rather than later.