

COMMUNICATION FROM THE CHAIR

ANNUAL GENERAL MEETING 2017

HELD ON

WEDNESDAY 06TH JUNE 2018

AT

STATELLITE HOTEL, KISAASI

BY

MOSES MATOVU

**CHAIRMAN
UGANDA PERFORMING RIGHT SOCIETY**

COMMUNICATION FROM
THE CHAIRMAN

1. WELCOME

Dear colleagues, it is my pleasure to welcome you all to this Elective Annual General Meeting.

However, before we proceed, please let us all stand and observe a moment of silence to remember our departed brothers and sisters in the industry.

STAND UP PLEASE

– **MAY THEIR SOULS REST IN ETERNAL PEACE** –

Ladies and Gentlemen, once again welcome to this august assembly.

It gives me honour and pleasure to stand before you, to thank you for the confidence extended to me as your Chairman for two terms (2008 – 2018). THANK YOU.

I am also very happy and very excited indeed that we are going to witness yet another peaceful change of leadership in UPRS. Since 1985 UPRS has had Four Chairmen – late Hon. Kafumbe Mukasa; Hon. Sam Kutesa; Mr. Jackson Ndaula; and myself as your Chairmen. Are we likely to see our first woman chairperson this time round?!

I am also happy that am one of the founder-members of UPRS and have seen it grow through the stages. Between 1986 and 1990s we were activists moving from office to office lobbying authorities to enact a new copyright law that would meet the technological advancements. Fortunately, with the support of the World Intellectual Property Organisation (WIPO), the drafting of a new law began in the 1990s. The Copyright and Neighbouring Rights Act was passed by Parliament in 2006, again after lobbying Hon. Jacob Oulanya to table it as a Private Member's Bill, since Government had other pressing legislations they were handling at that time.

We did not start enforcing the law since it had no Regulations! Again, UPRS played a key role in drafting the Regulation which were passed in 2010. It was after then that we started sensitising music users and rights' holders about their rights and obligations. We did this with the assistance of funding from UNESCO through the Uganda National Commission for UNESCO.

Some of the achievements the Board under my chairmanship registered include, creating awareness among artists about copyright issues. Two other CMOs have since been registered by URSB following in our footsteps. We also trained Officer Cadets at Masindi Training wing creating awareness among the Officers in the Police Force. We sensitised music users, some of who started paying for using music at their premises for gain making it possible for us to start distributing royalties to our members.

2. WHERE WE ARE TODAY

Today, UPRS is one of the few CMOs in Africa that holds regular distributions of royalties to its members and meeting our obligations to International Organisation such as the International Confederation of Societies of Authors and Composers (CISAC), where we have to meet their Professional Standards, file our audited annual Income and Expenditure Returns, pay our annual subscription fees and to abide by their Binding Resolutions in order to remain their members; and SUIISA who provide us with professional tools used to identify members' works globally and to give us access to global databases necessary for professional distribution of royalties.

Actually through SUIISA tools, our members' personal information and their works are uploaded onto the international databases for other CMOs worldwide to identify our works and make distributions to us whenever our works are used anywhere in the world.

Our Chief Executive Officer was unanimously elected to the Board of CISAC's African Regional body, while our Licensing Manager, Ms. Lilian Nantume was proclaimed IP Expert by WIPO.

3. THE FUTURE

The two terms you have given me as your Chairman have been very useful to me personally, and to the entire Board and UPRS in general. I thank you. We have been able to study the dynamics of a CMO and to understand the challenges of a young CMO like UPRS and to figure out the potential a CMO has to transform the Music Industry. Now that we are about to elect a new Board, my prayer is, (and in line with the amendments you made during the last AGM) you retain some old members on the Board so that we do not start all over again. There is need for continuity in order to consolidate the gains achieved instead of trying to re-invent the wheel, as the saying goes!

- a) UPRS has the potential to collect on your behalf over Shs.80bn from various users if we walk together. This target can be achieved in two years of concerted sensitisation. In the immediate term, UPRS can collect Shs.2bn with the existing tariffs.

However, in order to achieve these projections, I appeal to you all to give maximum support to the Management so that they can license all licensable music users. We have started talks with key stakeholders like Uganda Communications Commission (UCC); Local Governments (KCCA and others); the National Association of Broadcasters (NAB); DJs Associations; among others to ensure that users pay for using music. These discussions should be carried on to their logical conclusion by the new Board.

- b) Late last year, we started in-house monitoring of some radio stations to improve our distribution system. With this we were able to distribute with statements showing how one has earned what he/she received as royalties. But as I have said, this was only an interim step to improve our distribution system. We have now signed a contract with

FEZAH who have started monitoring the radios and TV Stations to give us a more professional and detailed account of who gets what. The MD of the Company will be given a few minutes to take us through what to expect.

- c) With the assistance of our Internal Auditor (Consultant), and the External Auditors, we have put in place stringent accounting systems that will greatly improve our performance, for example, we now get timely Management Reports and have put in place Risk Management Analysis Tools, among others. We have now moved away from the “Accrual Accounting System” to the “Cash Basis System”. This means that we do not raise Tax Invoices for users, as most of them fail to pay the invoices because of varied reasons ranging from businesses closing to relocation of premises. The effect of this is that we end up with huge balances of unrecoverable debts on the one hand, while on the other we had to pay URA VAT on the invoices – that we never actually received! The Cash basis will save us such risks as a Tax Invoice shall only be raised when the user is actually paying and a receipt issued. This way, we shall not have Debtors nor shall we pay VAT not received.
- d) We have also put in place a Distribution Time Table in accordance with the Professional Rules of the International Confederation of Societies of Authors and Composers (CISAC) to which we are affiliated as full Members. This way, all distributions shall be made at specific intervals and for specific types of use. Our members shall now know when to expect their royalties.
- e) In 2016 the Board tasked Management to engage in Research to improve our income. We reported this last year but for emphasis, and because of its importance, I am reproducing the findings this year for all of us to appreciate. Management established another 13 ways from which we can earn money through UPRS. These include: -

1. Income Type: MECHANICAL ROYALTIES

A royalty generated from the “*Reproduction*” copyright.

2. Income Type: “ANALOG” PUBLIC PERFORMANCE ROYALTIES

A royalty generated from the “*Public Performance*” of the copyright.

3. Income Type: SYNCHRONIZATION LICENSE ROYALTIES

A royalty generated from the “*Distribution*” copyright. A one-time license payment is made to the songwriter, allowing the synchronization and distribution of a song (either the original recording or a cover version) with a moving image (i.e. a song in a movie, TV show, commercial, DVD, video game, etc.).

4. Income Type: MECHANICAL SYNCHRONIZATION ROYALTIES

A royalty generated from the “*Reproduction*” copyright. A per unit royalty payment based on number of units manufactured that includes the song (either the original recording or a cover) in a greeting card, toy, video game, etc.

5. Income Type: PRINT ROYALTIES

A royalty generated from the *“Public Display”* copyright. Either a one-time or per unit payment based on the printing of lyrics, sheet music, etc.

6. Income Type: DIGITAL DOWNLOAD MECHANICAL ROYALTIES

A royalty generated from the *“Reproduction”* and *“Distribution”* copyrights. This royalty is owed to the songwriter for each and every unit downloaded.

7. Income Type: STREAMING MECHANICAL ROYALTIES

A royalty generated from the *“Reproduction”* copyright. This royalty is owed to the songwriter for each and every stream of his/her song via an “interactive” streaming service.

8. Income Type: DIGITAL NON-INTERACTIVE “STREAMING” PUBLIC PERFORMANCE ROYALTIES

A royalty generated from the *“Public Performance”* copyright (also known as the “Right of Communication”).

9. Income Type: INTERACTIVE “STREAMING” PUBLIC PERFORMANCE ROYALTIES

A royalty generated from the *“Public Performance”* copyright (also known as the “Right of Communication”). This royalty is owed to the songwriter from each individual “Public Performance” of a song via the Internet or any other digital source e.g. YouTube, Spotify, Rhapsody, Rdio, Deezer, Simfy, MySpace Music, any other telecom and/or subscription streaming music service anywhere in the world. Also applies to on-line gaming (i.e. Mafia Wars, etc.).

10. Income Type: DIGITAL SYNCHRONIZATION LICENSE

A royalty generated from the *“Distribution”* and *“Reproduction”* copyrights. A per use license payment to synchronize a song (either the original recording or a cover version) with a moving image (e.g. YouTube etc.).

11. Income Type: DIGITAL PRINT

A royalty generated from the *“Public Display”* copyright. Either a one-time or per unit payment based on the display of lyrics, sheet music and tablature on websites, apps, etc.

12. Income Type: MECHANICAL ROYALTY FOR A RINGTONE/RING BACK TONE

A royalty generated from the *“Reproduction”* and *“Distribution”* copyrights. A royalty is owed from the purchase of a ringtone/ring-back tone for mobile devices.

13. Income Type: PUBLIC PERFORMANCE ROYALTY FOR A RINGTONE OR A RING BACK TONE

A royalty generated from the *“Public Performance”* copyright. A royalty owed for the public performance that occurs with the play of a ringtone/ring back tone.

4. CHALLENGES

- a) Acquiring and retaining competent staff is one of the measurable attributes of good management. However, this should not be at a big cost to the primary beneficiaries. I must admit, because of the low compliance rate, our administration cost appears to be big whereas it is actually not, as we explain: The average salary of our staff in Shs.1'238'700/= per month, before taxes. After taxes (Pay As You Earn) the take home salary is about Shs.965'090/=, which is low in real terms.

Secondly, because the take home pay is that low, we decided to motivate our staff by refunding the actual transport money spent on coming to the office and back home. On average, we refund about 4'000/= per day per employee. I have no doubt in my mind that the new Board shall revise our employees' remuneration once our income improves.

- b) Because URSB has not renewed our Inspectors' Certificates of Authority, we have to refer defaulters to our lawyers. In the past, our Inspectors would enforce the law as provided in the Copyright and Neighbouring Rights Act. This has resulted in legal fees going up to Shs.32m/= from 17m/= the previous year. We trust URSB shall review its position and renew the Certificates of Authority.
- c) Low levels of sensitisation to both rights' holders and music users has resulted in low levels of compliance. URSB, as our regulators, should step up awareness creation campaigns in the media like they are doing in respect of their other services such as Civil Marriages, Business Registration, Liquidation of Companies etc.
- d) Not signing contracts relating to your music. This brings about controversies of who owns what in a song. UPRS has templates of all agreements that you may require and gives them out free of charge to members. Unfortunately, most of you do not take advantage of this and end up in controversies.
- e) Rampant piracy.
- f) Some members' inability to meet their medical bills when they fall ill and turn to UPRS for assistance – which is not our mandate.
- g) It is a fact UPRS has not met its primary objective of licensing all users and paying substantial royalties to its members. This is a very big challenge that we have not been able to get over during our term in office.

- h) What has caused this is the fact that we have not moved together as artists with UPRS. Most senior artists prefer to administer their rights individually, yet they complain that UPRS does not pay to them royalties! They go to the extent of signing away their rights to users making UPRS's negotiating power very low.
- i) Whereas there are rights that rights' holders can administer individually, most of the rights are best administered collectively.

We have always given the example of Nigeria where, after artists realised they were not getting what they expected from users, declared a "No Music Week" that opened the eyes and ears of music users. Music users appreciated the value and importance of music to their businesses. They appreciated that although artists needed their services to promote their music, music users needed music to boost their businesses. Consequently, the collections from radios rose from US\$21'283 in 2011 to US\$107'632 in 2016. COSON (UPRS of Nigeria) collected US\$951'418 in 2016 as a result of artists walking together with COSON.

- j) UPRS has the capacity to equal the performance of COSON if we walk together. Basing on the harmony that prevailed within UPRS between 2014 and 2016, we had budget an income of over Shs.1.3 billion. Unfortunately, due to the "infights", we were able to collect only Shs.583 million (less than a half of our projections)!
- k) The phenomenon of Ring Back Tones in the late 1990s had given us hope of making good money from our music, unfortunately, it wasn't to be. Very few of us have benefitted from this line of income. The challenge is that we decided to go individually in this area, thinking that we could manage to negotiate better terms than through UPRS. In the end, it did not work in our favour. Actually, the telecoms now dictate what to give to us! This can be corrected.

5. CONCLUSION

UPRS is the best thing that has ever happened to our industry. As a senior musician, and well exposed at that, I appeal to you young and old; big or small; upstarting or stars, to stop the habit of telling music users not to pay for using your music as some of us are doing today. It is very easy to destroy but very difficult to build. Those of you who have been to various parts of Uganda will agree with me that Masaka is still gripped in the ruins of the 1979 war! Most of you were not even born.

Let us learn to dialogue and correct each other for the betterment of our industry, and to improve our lot – musically and economically.

PLEASE GO IN THESE ELECTIONS WITH A POSITIVE MIND OF CAUSING A PROGRESSIVE CHANGE IN UPRS; NOT JUST A CHANGE FOR THE SAKE OF CHANGE.

On that happy note, I wish you good deliberations.