

Admissibility of Audio-Visual Images: The Nuances of Sections 83 and 84 of the Evidence Act, 2011

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Abstract

Quality and credible evidence, but not quantity is the linchpin of the adversarial legal jurisprudence operational in Nigeria. A break in the nexus of connectivity renders a piece of evidence inadmissible. This paper examines the legal compass on the admissibility of audio-visual images in the course of litigation. It answers fundamental questions as whether video images are categorized as downloaded documents, computer printouts or e-documents; whether downloaded documents from the internet are technically co-terminus with electronically aided documents; and what section of the Evidence Act regulates the admissibility of video films. The tools of investigation to analyse the selected indices are meta-analytical style, doctrinal comparisons, interviews both overt and covert, as well as the utilization of primary and secondary sources of law. This paper observes that Section 83 and not 84 of the Evidence Act regulates the admissibility of video images. Video clips produced and stored in tapes, cassettes, memory cards or compact discs are not computer generated documents but are merely commonplace electronically aided documents without more. It concludes that video magnetic images are mere documentary evidence which do not require special mode of production as computer generated documents. It therefore recommends that sections 83 and 84 of the Evidence Act relate to two distinct set of documents and this difference must be identified in the interpretation and application of these sections.

Keywords: Audio-visual, images, documents, evidence, admissibility, computer.

1. Introduction

Video magnetic images were not automatic documentary evidence in the legal firmament of Nigeria until 2011 when a new Evidence Act was enacted to take the centre stage on the rules and regulations of matters relating to evidence. It was the proposition in some legal quarters that the definition of document in the previous Evidence Act prior to 2011¹ does not accommodate audio-visual images as admissible documents, but concentrate wholesomely on print documents. The penultimate court in buttressing the above assertion in, *Udoro v Governor of AkwaIbom State*², held that:

Video cassette has not been classified as a form of documentary evidence in our evidence rules and, as such, has not been made admissible by our Evidence Act. Since the Evidence Act did not permit its admissibility, it would have been wrong for the trial court to have allowed it in evidence and had a view of it. Until our procedural laws and Evidence Act are amended video cassettes remain inadmissible.³

Howbeit, the development described above did not completely estop the court from admitting audio-visual materials in sporadic circumstances. Some proactive courts belonging to the jurisprudential sphere of judicial activism, successfully stretched the elasticity vestibule of Section 91 of the repealed Evidence Act to allow in evidence audio-visual images,⁴ and thereby expanding the horizon of the law. Those line of cases that admitted video images against all odds before 2011, have no doubt paved the way for the express inclusion of such documentary evidence in the corpus juris of Nigeria. Bravo, to such forward looking umpires for the development of our legal system. The law must grow and ought not to be in perpetual stagnation, genuine inference must be made in appropriate cases to enlarge the fringes and frontiers of the law to assimilate the contemporary reality of the tides and times.

Under the Evidence Act, 2011, the semantics of documents have been drastically expanded to assimilate several classes of computer and electronically aided documents in order to quell any other altercation save

¹Evidence Act 2004 Cap E14, Vol. 6, Laws of the Federation 2004, now repealed by the Evidence Act 2011

² [2010] 11 NWLR (Part 1205) 322 CA, [338, paras. A-B].

³Emphasis supplied

⁴ Instances where audio-visual images were admitted in evidence under the repealed Evidence Act include: *Ekeh v Amaechi* [2010] ALL FWLR (Part 512) 1332 CA; *INEC v Action Congress* [2009] ALL FWLR (Part 480) 732 CA; *Orji v Ugochukwu* [2009] 17 NWLR (Part 1161) 207 CA; *Maduekwe v Okoroafor* [1992] 9 NWLR (Part 263) 69 CA.

procedural sequence. The catalogue of documents under the new dispensation is almost elasticated beyond measure. Accordingly, Section 258 (1) of the Evidence Act 2011, defines a document as follows:

“document” includes-

- (a) books, maps, plans, graphs, drawings, photographs, and also includes any matter expressed or described upon any substance by means of letters, figures or marks or by more than one of these means, intended to be used or which may be used for the purpose of recording that matter;
- (b) any disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced from it, and
- (c) any film, negative, tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced from it; and
- (d) any device by means of which information is recorded, stored or retrievable including computer output.

It is brazenly observed that the Evidence Act, 2011 does not define computer generated documents, downloaded documents, computer printouts or e-documents, but only defines a computer as follows¹:

computer’ means any device for storing and processing information, and any reference to information being derived from other information is a reference to its being derived from it by calculation, comparison or any other process.

In consonance with the above excerpts reproduced from the Evidence Act, particularly paragraph (c) of section 258 subsection (1), audio-visual images, emphatically those embodied with visual images are documents admissible under the Act. The questions that naturally come to mind include: what category of documents are they? How are these classes of documents admitted in evidence? Are there special procedures for their admissibility? Is their admissibility governed by Section 83 or 84 of the Evidence Act, 2011? What was the mischief before the entrenchment of Section 84 of the Evidence Act, 2011? These questions would be answered anon.

2. Audio-Visual Images

In consonance with the name, audio-visual images are electromagnetic motion pictures wherein voices and images can be heard and seen at the same time. The synchronization of mobile images and voices are made possible vide the use of high powered video cameras. The captured mobile images and voices are stored in tapes, compact discs, flash drives, digital video-discs or digital versatile discs (DVDs), memory cards, high technological phones and etcetera. The production of video images via the computer is no different from the normal type setting and print documents in everyday human transaction. It is the same process that pleadings, witness depositions on oath, deeds, memoranda, letters, correspondence of any magnitude are processed and produced in the computer, that video images are produced electronically vide the computer. Thus they are mere common place documentary evidence which admissibility is governed as any other document, save those encapsulated under Section 84².

Documentary evidence which is electronically produced from computers have been admissible in the course of adjudication in Nigeria even before the emergence of the Evidence Act, 2011. The palpable objection being only as to whether or not they were pleaded, relevant to the fact in issue or admissible in law. The intendment of the 2011 Act is not to oust the admissibility of other documentary evidence other than as spelt out under Section 84 of the Evidence Act³. In abhorrence to the incessant spurious and unwarranted objections beamed at stifling the course of justice, it was held in *NBA vKalejaiye*⁴, that:

We do not think that Section 84 of the Evidence Act constitutes an ouster clause against the admissibility of other types of documents which though might have been processed partially through the computer, such as using the computer and its accessories to type, scan, photocopy or print documents, even where such documents may require other processes for completion, such as signing, stamping or franking. Such documents which though may have passed through the computer are admissible under other provisions of the Evidence Act such as under Sections 83, 87, 89, 90 and 104 among others.”

Furthermore, Hon⁵, observes that:

¹ Section 258 (1) of the Evidence Act, 2011.

² Evidence Act, 2011.

³ Ibid

⁴ LPDC, [2016] 6 NWLR (Part 1508) 356, [424-423, paras. H-H].

⁵ S T Hon, Law of Evidence in Nigeria Vol. 1 (Port Harcourt: Pearl Publishers Nigeria Ltd, 2012) p. 472.

The intention was not to do away with other provisions of the Act, especially those dealing with the admissibility of ordinary documentary evidence, otherwise those other provisions would have been deleted under the 2011 Act.

The processing and production of audio-visual materials no doubt involves the use of the computer and its accessories, albeit, the production is as simple as typing a mail into the computer from the long hand written paper and printing same on an opaque paper. Documents are typed into the computer by the user, the same way as the camera man scans or plays back the beamed audio-visual images from the video camera into the computer¹ and burn same into a compact disc plate or Digital Video-Disc (DVD). Burning and printing are synonyms, when the soft copy of a typed or scanned document is produced on an opaque paper it is called printing, whilst if the soft copy of a scanned played back document is produced on a compact disc plate, it is called burning². It then follows, that both paper and compact disc plate are means of extracting and storing information from the computer. It is therefore submitted that since no objection is raised as to the admissibility of contract instruments or deeds to satisfy the conditions provided under subsections (2) and (4), of Section 84³. Trial courts should vehemently resist any attempt to bring video images into the stringent conditions stipulated for downloaded documents under Section 84 of the Evidence Act,⁴ because they are obviously not the same.

The nerve centre of this paper is berthed on the sound quay that video images, though processed and produced electronically vide the computer and mechanically stored in devices as tape, cassette, compact disc, flash drive, memory card, digital versatile disc or digital video-disc (DVD) etcetera are not downloaded documents, computer printouts or e-documents, but are mere commonplace documentary evidence. Being commonplace documents of everyday usage their admissibility in course of trial require no stringent or complex procedure but, the general popular way of admitting documents in evidence. The epicentre for admissibility of most documentary evidence is their relevance to the fact in issue, or whether pleaded by the parties or admissible in law. The Nigerian Supreme Court, per Onnoghen, JSC as he then was, in *Okoye v Obiaso*⁵ held that:

It is settled law that the issue of admissibility of any documentary evidence is governed by the principle as to whether or not the document is pleaded by the party or parties to the proceedings; whether it is relevant to the subject matter of inquiry by the court or tribunal and whether it is admissible in law.⁶

Audio-visual materials that are graphically processed with the aid of the computer as any other correspondence or memoranda, are not for that mere reason qualified as e-documents or downloaded documents, the admissibility of which would be regulated by Section 84 of the Evidence Act⁷. Video films processed and produced electronically through the computer do not leave the computer where they are being produced. Their processing and production started with the computer and ended with the computer as mails and deeds. Consequently, they are ordinary documents processed and printed out of the computer as mere legal letters and pleadings of everyday legal utilization. It is therefore the logical position of the law, that admissibility of audio-visual items is supremely governed by Sections 1 and 83 of the Evidence Act, 2011 and not Section 84 of the same Act. Section 1, of the Act⁸ deals with relevance of the document to the ding-dong in controversy between the parties, and Section 83 of the Act⁹ deals generally on the admissibility of documentary evidence, other than those downloaded from the World Wide Web, www (internet web site).

The distinction of documents admissible under Sections 83 and 84 of the Evidence Act¹⁰, is that the former guides the admissibility of ordinary commonplace documents involving no rigorous and complex means of processing and production (simply put, it deals with documents not posted into the internet). Whereas the latter regulates the admissibility of most complex documents posted into the internet which are more prone and susceptible or vulnerable to manipulation by experts and hackers. E-documents must first be downloaded into a

¹ The play back technique is achieved through audio-visual play in and out, fire wires connecting the video camera and the computer decking system for editing and onward burning into compact discs.

² D.F. Enai, Computer Basic for Junior Secondary Schools (Amuruto: Ebhonic Publishers Ltd, 2009) p. 38.

³ Evidence Act, 2011.

⁴ Ibid

⁵ (2010) 3 SCNJ 220, [236, para. 5]. See also *Okonji v Niokanma* [1999] 14 NWLR (Part 638) 250 SC, where it was held that the three main criteria that governed the admissibility of documents are:

1. Whether the document is pleaded;
2. Whether it is relevant to the inquiry by the court; and
3. Whether it is admissible in law.

⁶ See also *Okonji v Njokanma* (supra).

⁷ Evidence Act, 2011.

⁸ Evidence Act, 2011.

⁹ Ibid

¹⁰ Ibid

local computer from a recognized viable web site domain, and be printed with all the website's inscriptions. Documents admitted under Section 84 of the Act must be independent of the person seeking reliance therefrom. It is independent in that he was not the person that posted the information into the internet. His only responsibility was to access the information from the global satellite images system and generate same through his local computer. The processing and printing of e-documents must involve a tripartite arrangement, first accessing the internet via an active web site domain, secondly downloading same into a local computer, and thirdly printing the accessed information bearing all web site's inscriptions¹. Conversely, the processing and production of audio-visual images do not entail such conjunctive nexus of connectivity. This distinction, the Supreme Court of Nigeria recognizes when it laid the solid foundation on the class differentiation of documents admissible under Section 84 of the Evidence Act, 2011 in the case of *Kubor v Dickson*², where Onnoghen, JSC, puts it succinctly thus:

Exhibits "D" and "L" being computer generated documents or e-documents downloaded from the internet are not public documents ..., then it means that their admissibility is governed by the provisions of Section 84 of the Evidence Act, 2011.³

Another case in point is *NBA v. Kalejaiye*⁴, where the court cited with approval the principle of law established in the case of *Kubor v. Dickson*⁵, and held that:

Exhibits 'D' and 'L' under consideration therein were down loaded documents from the internet and thus fitted properly into the description of computer generated documents.⁶

It is therefore well established principle of law on the admissibility of documentary evidence that documents under Section 84 of the Evidence Act, 2011 must be downloaded documents from the internet, aside this, the intentment of that Section of the Act is defeated.

In another dimension, the admissibility of statement in documents aided by computers under the two sections of the Act⁷ could be conveniently differentiated as follows: Under Section 84, the computer is used as an output device alone. It is output device in that the computer is only used to access and print the information from the World Wide Satellite images system and nothing else. Whilst under Section 83, the computer is used as both input and output device. That is, the information is fed into the computer and produced from that same computer. The implication of this is that, once the computer is used solely as an output device to access, generate, download and print the information, admissibility thereof is within the exclusive confine of Section 84.⁸ Whereas when the computer is used as both input and output device, admissibility of such document is captured within the firm circumference of Section 83 of the Evidence Act.

It is imperative to examine the position before the 2011 Act and the lacuna or vacuum in the Law of Evidence prior to 2011. It would seem that other electronically aided documents were admissible in evidence prior to the 2011 Act. The lacuna that existed prior to 2011 was admissibility of downloaded documents from the internet. Since other categories of computer aided documents of both input and output devices were admissible, it then implies that Section 84 of the Act⁹ intended to co-opt only downloaded documents from the internet and perhaps other documents of output devices into the Law of Evidence in Nigeria.

The independent nature of downloaded documents import the entrenchment of Section 84 (4) (a-c) of the Evidence Act 2011, particularly paragraph (c) requiring a certification of identification and acknowledgement of the document intended to be relied upon, or the management of relevant activities. The required certificate must be issued and signed by a person occupying a responsible position in the outfit. The essence of section 84 subsection (4) paragraphs (a) – (c),¹⁰ is to vivify and strengthen the witness testimony by way of corroboration. This is the touchstone of the law as applicable to Section 65 (B) of the Indian Evidence Act, 1872 as amended and Section 69 of the United Kingdom Police and Criminal Evidence Act, 1984,¹¹ which are in parimateria to Section 84 subsection (4) of the Evidence Act, 2011. In resonance thereto, it was held in *Navjot v Sandhu*¹², by

¹ *NBA v Kalejaiye* LPDC, [2016] 6 NWLR (Part 1508) 356, [426, para. A]; See also Section 84 (5) of the Evidence Act, 2011.

² [2013] 4 NWLR (Part 1345) 534 SC, [577, paras. C-D].

³ Emphasis mine. Citing with approval *Kubor's case* (supra), it was held in *NBA v Kalejaiye* LPDC, (supra) at [425, paras. F-G] "that exhibits 'D' and 'L' under consideration therein were down loaded documents from the internet and thus fitted properly into the description of computer generated documents."

⁴ (Supra), at page [425, paras. F-G].

⁵ (Supra), at [425, paras. F-G].

⁶ Emphasis supplied

⁷ That is, Sections 83 and 84 of the Evidence Act, 2011.

⁸ Evidence Act, 2011.

⁹ Ibid

¹⁰ Ibid

¹¹ S T Hon, *Law of Evidence in Nigeria Vol. 1* (Port Harcourt: Pearl Publishers Nigeria Ltd, 2012) 468-469.

¹² (2005) 11 SCC 600; interpreted from the Indian Evidence Act. See also Section 69 (1) (b) of the Police and Criminal Evidence Act (PACE), 1984 of the United Kingdom.

the Indian Supreme Court that the certification shall be issued and signed by an officer occupying a responsible position in the service provider's company.

The paper wholesomely agrees with the ratio decidendi and the reasoning of the Indian Supreme Court in, the *Navjot case*,¹ that the best and most appropriate person to issue and sign the certificate of identification of the document, mode of production and management of relevant activities is a person occupying a prominent position in the service provider's company. This is premised on the logical streams of consciousness that no other person could do better than an officer of the service provider, issuing the certificate of acknowledgement of receipt of the information in their central server and transmit same to the recipient's database. It is the firm mind of this paper that once the acknowledgement of the information is made by an officer from the service provider's company, subsection (2) of Section 84 of the Act² dealing on laying adequate foundation of accurate functioning of the computer becomes immaterial and of no legal moment, and without any evidential utility. This is predicated on the principle of law from foreign jurisdictions where Section 84 of the Evidence Act, 2011 is knitted upon, presumed the proper and accurate functioning of the computers³ used in the generation of the intended information until the contrary is proved⁴.

The service providers, like Global Communications Nigeria Unlimited and others, no doubt play the interface role of accessing data, information and signals from the global spatial network satellite system and transmit same to their teeming subscribers. Therefore, the service providers which are the kings of the orbital spatial images and signals through which most Nigerians access the global World Wide Web (www) systems are the only veritable source to perfect the provisions of Section 84 (4) of the Evidence Act, 2011. They indeed serve as transit centres of ingress and egress of information and data from the orbital spatial satellite images system and the final recipient. Secrecy does not exist between a subscriber and service provider. All the seemingly secrete and private information initialized into our electronics and other mechanical devices are received by them first before transmitting same to the database of the person wherein the information is sent. On a similar vein the service providers scour for information and signals from the World Wide Web (www) system vide satellites for their numerous subscribers.

3. Admissibility of Video Images

The expository survey in this paper reveals that admissibility of audio-visual aids are governed by the provisions of Section 83 of the Evidence Act, 2011. The conditions precedent for admissibility of documentary evidence under Section 83 of the Act⁵ are catalogued below:

- The document sought to be tendered in evidence shall be the original, Section 83 (1) of the Act;
- It shall be tendered by the maker or a person having personal knowledge thereto, Section 83 (1) (a) and (b) of the Act;
- A copy of the original may be tendered in evidence if it is impracticable to access the original; Section 83 (2) (b) of the Act; and
- Any other person may if and only if, proper foundation is laid before tendering same, Section 83 (1) (b) and; (2) (b) of the Act.⁶

Apart from these conditions, the piece of audio-visual evidence must be relevant, pleaded and allowed by law⁷. The central stream for admissibility of any category of evidence is its relevance to the subject matter of inquiry.

¹Supra

² Evidence Act, 2011.

³S T Hon, *Law of Evidence in Nigeria Vol. 1* (Port Harcourt: Pearl Publishers Nigeria Ltd, 2012) pg. 472-474, where he observed in parts: "There is a presumption, which has now become a presumption of law, that a computer or other electronic evidence from which an output is proposed to be tendered in evidence was operating, at the time of the printout, accurately and correctly." See case law from foreign jurisdictions which are *in parimateria* with Section 84 of the Evidence Act, 2011. In the United Kingdom, *Castle v Cross* (1984) 1 WLR 1372, 1377; in the United States of America, *United States v Vela* 673 F. 2d 86, 90 (5th Cir 1982); *United States of America v Bonallo* 858 F. 2d 1427, 1436 (9th Cir 1988); in Canada, *R vs Good* (2005) DCR 805. The courts have held that there is a presumption that, in the absence of any contrary evidence, a mechanical instrument is working accurately, per Brown, L.J., in *Castle v Cross* (supra).

⁴ Onyechi Ikpeazu, "Admissibility of Electronically Generated Evidence with Reference to Section 84 of the Evidence Act, 2011" (Unpublished Paper)

⁵ Evidence Act, 2011.

⁶ S T Hon, *Law of Evidence in Nigeria Vol. 1* (Port Harcourt: Pearl Publishers Nigeria Ltd, 2012) pg. 521, where the learned author opined: "The rules on admissibility of documentary evidence will, therefore, apply to admissibility of visual and audio tapes."

⁷ (2010) 3 SCNJ 220, [236, para. 5]. See also *Okonji v Niokanma* [1999] 14 NWLR (Part 638) 250 SC, where it was held that the three main criteria that governed the admissibility of documents are:

1. Whether the document is pleaded;
2. Whether it is relevant to the inquiry by the court; and
3. Whether it is admissible in law.

The process or how it is obtained is immaterial, indeed in *Kuruma v R*¹, their Lordships held that:

The test to be applied in considering whether evidence is admissible is whether it is relevant to the matter in issues. If it is admissible the court is not concerned with how the evidence was obtained' Indeed in, *R vLeatham* (1861) 3 LT 777; 8 Cox CC 498, it was held that "it matters not how you get it; if you steal it even, it would be admissible in evidence as long as it is relevant to the facts in issue.

In consonance with the above tenet of law, video clips are ordinary documentary evidence that are admissible under Section 83². The penultimate court perMukhtar, JCA, (as she was then) in, *Maduekwe vOkoroafor*³, held thus:

I am of the view that even if the tape is relevant because it was pleaded, that is not sufficient, the requirements of Section 91 of the Evidence Act [now Section 83] have to be met. Those provisions are important on the admissibility of the document, a class into which exhibit "HS", the video tape falls into.

Furthermore, in *Orji vUgochukwu*⁴, the Court of Appeal held as follows:

The learned senior counsel for the appellants observed that one Dr G.C.Duru who PW5 claimed to be its maker did not come to give evidence about the video tape recording, it is only the said Dr Duru who could give evidence on what he recorded and for what purpose. Furthermore, it is only Dr Duru who can identify the persons he recorded and nobody else.

In foreign jurisdiction where audio-visual images are admissible, it does not require stringent procedure as computer generated documents. Even copies of the original are admissible. Thus in *Kajala v Noble*⁵, the British Broadcasting Corporation sought to tender in evidence a copy of videotape, showing the defendant as one of the persons who took part in a public disturbance. However, the master tape was retained by the Broadcasting Corporation. It was argued that only the original is admissible under the best evidence rules. In rejecting this submission and admitting the copy presented, the Divisional Court held that 'the primary evidence rule was limited and confined to written documents in the strict sense of the term and has no relevance to videotapes and films'.

It is the law in Nigeria traversing through the labyrinth of both statutory and judicial authorities that audio-visual images are not downloaded documents or e-documents, neither are they computer generated documents in concord with the Evidence Act, 2011. Their admissibility is therefore, governed by the general evidential rule of relevance, pleaded for and allowed by law. Stemming from Section 83 (1) of the Evidence Act, 2011 and the judicial authority in *Orji v.Ugochukwu*⁶, the law is well settled that the recorder is the most appropriate person to tender audio-visual image in evidence. If impracticable by the recorder any other person can, provided proper foundation is laid to the satisfaction of the court. It is imperative from the exposition of this paper that video images are admissible where they are relevant to the subject matter of investigation before the court. Their admissibility, for all legal intents and purposes do not, and never require the conditions stipulated under Section 84 (2), (3) and (4) of the Evidence Act, but as simply posited under Section 83 (1) and (2) of the Evidence Act, 2011 on the main.

4.1. Conclusion

The encapsulation of the entire exercise is circumscribed as follows: the classification of audio-visual materials as a special species of primary evidence which admissibility do not require certification; an adventure into the definition of video images as electromagnetic motion pictures wherein voices and images are possible to be heard and seen at the same time; categorization of documents admissible under Sections 83 and 84 of the Evidence Act, 2011 were identified and expatiated; an officer of the service provider's company as the appropriate person to authenticate the compliance of subsection (4), of Section 84 of the Evidence Act; presumption of adequate functionality and accuracy of computers and mechanical instruments used in processing and production of electronically aided documents until the contrary is proved; and derivative deductions as navigational buoy on admissibility of documents under Section 83 of the Evidence Act, 2011.

It is therefore the categorical position of this paper that video magnetic images, even though processed and produced electronically with the aid of computers are ordinary documentary evidence as ubiquitous and common as mails and pleadings. The processing and production of this class of documents do not require special mode of procedure as against computer generated documents, (downloaded documents, computer printouts or e-documents) with the rigorous tripartite process of accessing a viable web site domain from the orbital space,

¹ [1955] 1 ALL ER 236, 239.

² Evidence Act, 2011.

³ [1992] 9 NWLR (Part 263) 69 CA, [81, para. A].

⁴ [2009] 14 NWLR (Part 1161) 207 CA, [308, paras, B-F].

⁵ (1982) 75 Cr App R149.

⁶ (Supra).

download the intended information from the internet with leave thereat into a local computer and thereafter print same with all web site inscriptions. Flowing from this logical reasoning, it can be safely concluded that audio-visual films being commonplace documentary evidence are admissible principally under Section 83 of Evidence Act, 2011 and never under Section 84 of the aforesaid Act.

Assuming, but without necessarily conceding that audio-visual materials are admissible under Section 84 of the Evidence Act, 2011 and Mr A has a video camera and a private computer where he mass produces compact disc (CD) plates for sale. If peradventure Mr. A is a party in a litigation where his compact disc is in issue and as an inevitable piece of evidence, would it be legally sound for Mr A to issue and sign the corroborating certificate of identification of the document, authenticity of the mechanical device, and management of relevant activities as required under Section 84 (4) of the Evidence Act? The response is not in the affirmative. Mr A doing that will be offensive to the rule of natural justice and fairness that posit, one cannot be a judge in his own case. This hypothetical scene should dissuade people from thinking that admissibility of video compact discs should be governed by Section 84 of the Evidence Act. It does appear to contemplate such as inappropriate and grossly illogical, as the procedural steps required by law under Section 84 of the Evidence Act are conjunctive and never disjunctive in character.

4.2. Recommendations

It is recommended that Section 83 and 84 of the Evidence Act, 2011 deal on the admissibility of distinctive class of documents, and corporate bodies clothed with the interpretative jurisdiction of written instruments ought to identify same and appreciate such differential quality in the exercise of their duties.

The head or marginal notes on Section 84 of the Evidence Act, 2011 be altered to read, Admissibility of Statements in Documents Downloaded from the Internet. Perhaps the marginal or head notes drafted as “Admissibility of Statements in Documents Produced by Computers” on Section 84 of the Evidence Act, 2011 might be the ambiguity that warrant most members of the legal firmament to categorize all computer aided documents as downloaded documents, computer printouts or e-documents regulated under the aforesaid Section 84 of the Act¹.

¹ Evidence Act, 2011.