

**EXAMINATION OF THE ISSUES AND CHALLENGES AFFECTING ADVERTISING IN MEDIA PRACTICE IN NIGERIA\***

**Abstract**

*The paper analysed the meaning of advertising in the context of film media. The paper narrowed advertising to advert placement in Nollywood films as an evolving trend in Nigeria's advertising industry and considered the issues, benefits and challenges associated with advertising in Nollywood films. The paper considered media practice in advert placement and found issues like the plurality of regulatory framework and regulators of advertising in Nigeria among challenges like piracy, devaluation of the naira, compliance with the regulatory framework, and use of intellectual property rights without permission. The benefit of advertising in films has come a long way. Nigerian brands are yet to embrace it in expanding sales abroad and producers are yet to exploit it in reducing production and marketing costs of movies. Perhaps due to its intricacies and confusing regulatory landscape. The paper suggests that intellectual property rights should be woven into media practice in Nigeria, and a body corporate should be established to oversee and regulate advert placement in films while encouraging film producers and brands to seek the services of IP lawyers in their negotiations.*

**Keywords: Advertising, Media Practice, Nigeria, Issues, Challenges**

**1. Introduction**

Media practices are ways we use and interact with different forms of media in our daily lives. These practices encompass activities, from creating content to consuming and sharing it. Media practices include traditional media (print and electronic) and social media practices. Media practices are evolving as new technologies, platforms, and uses emerge. For instance, the media serves as a tool for advertising from the placement of space in newspapers to television advert placements. Advertising is the Latin word *ad vertere*, which means to turn the mind toward a product, service or idea.<sup>1</sup> Advertising promotes brand sales, and product image, helps a brand enter the market and boosts turnover. It builds consumer loyalty, entices new customers, and informs and persuades consumers to patronise the brand.<sup>2</sup> The Nigerian advertising industry has experienced significant growth and expansion into advert placement in films which has become a powerful tool for shaping brand (products, services or ideas) perception and audience or consumer behaviour. Nigerian movies are purchased worldwide across African countries, USA, Europe, India and the Caribbean. A former president Of Nigeria, Goodluck Jonathan once described the worldwide reach and demand of the Nollywood movies as 'our shining light' as he buttressed the need to continue enhancing its influence in the future.<sup>3</sup> Nollywood film impressions, allow Nigerian brands through film advert placement to be known globally for international patronage. This seminar paper examines the issues and challenges of media practice in film advertising, considering its benefits, challenges, and legal and regulatory framework.

**2. Background**

Over the years, media platforms have been used for advert placement. Advertising involves a collection of activities or procedures used to spread knowledge about a product or service to identify, persuade, and motivate a certain audience to utilise it while highlighting, and pointing to the entity or organisation whose wares are on display, using traditional and social media channels to achieve the objectives.<sup>4</sup> The American Marketing Association defined advertising as a paid non-personal presentation of ideas, services or goods by an identified sponsor.<sup>5</sup> It presupposes that products and services identified with a particular entity are the object of advertisement. Such products and services are mostly certified for standard and protected by law as intellectual properties of the entity displaying them to potentially influence and make the discerning viewer more informed for their patronage. Advertisements are messages transmitted to a specified target audience (people and markets) by their sponsors through what they deem to be appropriate channels (media) with the hope that they will utilise their products and services. These practices include the people or experts who craft these messages, bargain with media owners, vendors and contractors like printers, hoarding owners for outdoor advertising, modelling agencies, film producers for commercial shoots, and studios where jingles are made. Without this group of individuals, an overseeing body, compliance and enabling laws, advertising through any media would function

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<sup>1</sup> Godswill O. Okiyi and Chioma Eteng-Martins, 'Professionalism: An Imperative for Ethical Practice of Advertising in Nigeria' (2015) 12 Journal of US-China Public Administration <<http://www.davidpublisher.org/index.php/Home/Article/index?id=7110.html>> accessed 6 July 2024.

<sup>2</sup> Malami E. Mass Media Law

<sup>3</sup> Rebecca Moudio, 'Nigeria's Film Industry: A Potential Gold Mine? With More than 1 Million People, Nollywood Is the Second-Largest Employer' (*Africa REnewal*, May 2013) <<https://www.un.org/africarenewal/magazine/may-2013/nigeria%E2%80%99s-film-industry-potential-gold-mine>>.

<sup>4</sup> Godswill O. Okiyi and Chioma Eteng-Martins (n 1).

<sup>5</sup> Cited in Malami E. Ibid

incoherently without proper coordination.<sup>6</sup> Advert placement in films is not an exception nor are films just about entertaining audiences but are a powerful channel for advertising and generating revenue for film production. Film productions involve the contributions of numerous people, such as scriptwriters, make-up artists, lead artists, composers, directors and actors and the usage of scenes, services and products that may raise intellectual property rights issues. Hence proper consulting, clearance and adherence to laws are essential for an intellectual property infringement-free production, else litigations, awards of damages and in some cases, bans on the release of such movies after time, resources and investment are spent.

### **3. Definition of Terms**

*Advertisement* is a communication in the media, paid for by an identified sponsor and directed at a target audience, to impart correct information about a product, service, idea, or opinion.<sup>7</sup> *Film* also known as audiovisual work is the aggregate of a series of related visual images with or without sound which is capable of being shown as a moving picture using mechanical, electronic or other devices and irrespective of the nature of the material on which the visual images and sounds are carried and includes the sound track but does not include a broadcast.<sup>8</sup> *Intellectual property* refers to creations of the mind which when worked upon gives rise to rights such as copyrights, trademarks, patents, and industrial designs expressed as goods and services.<sup>9</sup> *Media* includes but not be limited to, the newspaper, magazine, radio, television, outdoor, film, the internet, direct mail, and any channel of communication whether physical or electronic.<sup>10</sup> *Product Placement* or ‘embedded marketing or advertising,’ is a type of advertising whereby branded products and services are included in a production intended for a broad viewership. Product placements are frequently seen in motion pictures, TV shows, home videos, and radio, but less in live performances.<sup>11</sup>

### **4. Advert Placement in Nollywood Films**

Nigeria's Nollywood was established in 1992 and has become the world's second most prolific film industry, producing around 2,500 movies annually. With a projected 8.8% CAGR consumer growth rate, it is one of the fastest-growing creative industries globally. Nigeria's film industry contributed 2.3% to GDP in 2021, with projected increased export revenue to over \$1 billion. The television and video market grew 7.49% to \$806 million in 2020, with subscription revenue accounting for 72.26% of total revenue. Subscription-based movie streaming is popular, attracting players like Netflix and Iroko TV.<sup>12</sup> One of the most important commercial techniques in the modern era is advertising to a wide range of consumers, a key advantage of product placement in movies, through a marketing strategy that incorporates brands into motion pictures or television shows.<sup>13</sup> The Nollywood industry is a global market through which advert placements of products and services can transcend national markets. Product placements are a more subtle form of advertising where brands pay to be featured in the film. This can be anything from a character drinking a specific soda drink to a car chase showcasing a particular automobile. It can be verbal or visual and in different forms.<sup>14</sup>

#### **Types of Adverts Placement in Films**

*Verbal Product Placement:* a branded product or service woven into the script or music video's narrative. It helps with brand popularity and market acceptability.

*Visual Product Placement:* a product or service shown visually is a powerful tool for drawing consumer attention to patronise that company.

*Signage Product Placement:* the skilful and smooth incorporation of a brand's logo billboard, or artistic design into a film or music video's background is known as signage. It is recently called retroactive product placement.

Depending on how the advert is featured;

*Pre-Movie Ads:* these are the commercials that are featured before the start of the main movie. They can be trailers for upcoming films, television show promos, or advertisements for various products and services.

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<sup>6</sup> Godswill O. Okiyi and Chioma Eteng-Martins (n 1).

<sup>7</sup> ‘Advertising-Regulatory-Council-of-Nigeria-Act-2022.Pdf’ <<https://placng.org/i/wp-content/uploads/2022/10/Advertising-Regulatory-Council-of-Nigeria-Act-2022.pdf>> accessed 6 July 2024.

<sup>8</sup> ‘Copyright-Act-2022.Pdf’ <<https://placng.org/i/wp-content/uploads/2023/04/Copyright-Act-2022.pdf>> accessed 9 July 2024.

<sup>9</sup> ARENESFRJAPTRUZH, ‘What Is Intellectual Property?’ <<https://www.wipo.int/publications/en/details.jsp?id=4528>> accessed 9 July 2024.

<sup>10</sup> Ibid

<sup>11</sup> ‘Product Placement: Definition, How It Works, Examples’ (*Investopedia*) <<https://www.investopedia.com/terms/p/product-placement.asp>> accessed 9 July 2024.

<sup>12</sup> 75, ‘Nigeria - Media and Entertainment’ (6 June 2023) <<https://www.trade.gov/country-commercial-guides/nigeria-media-and-entertainment>> accessed 6 July 2024.

<sup>13</sup> ‘Nollywood and Brand Synergy: A Product Placement Perspective | IP STARS’ <<https://www.ipstars.com/NewsAndAnalysis/Nollywood-and-Brand-Synergy-A-Product-Placement-Perspective/Index/9408>> accessed 6 July 2024.

<sup>14</sup> ‘TYPES OF PRODUCT PLACEMENT’ (*Product Placement*) <<https://productplacement.marketing/types-of-product-placement/>> accessed 9 July 2024.

*Embedded Marketing:* This goes beyond product placement and involves integrating a brand's message or storyline into the film's narrative. For example, a character might use a specific app or wear clothing from a particular brand that plays a role in the plot.

### **Benefits of Advert Placement in Films**

Product placement or marketing aims to use entertainment media to draw in viewers and consumers to increase brand or product awareness.

*Subtle Delivery:* Product placement currently has an advantage over other traditional forms of advertising because of its subtle way of showcasing different brands without drawing attention to itself, in contrast to the more mainstream methods like television commercials or ads, which frequently disrupt the attention and flow of the show.<sup>15</sup>

*Mitigates Production and Marketing Costs:* Movie production is reported to be expensive and can be broadly categorised into three areas: licensing fees or big-name players pay (the producer, director, and famous actors or actresses), script and development fees (about 5% of the budget). Then there are the real costs of production, which comprise the salaries of all the employees required to carry out services such as make-up artists, errand staff and cooks, devouring about 25% of the production cost. Depending on the kind of film, special effects could be expensive, and music needs to be written and played. After the entire film is completed, marketing takes up a larger sum. For instance, an additional \$75 million was spent on marketing 'Spiderman 2,' which had a \$200 million production cost.<sup>16</sup> These amounts vary depending on the type or rank of film, the target market and the degree of artists and directors to be featured.<sup>17</sup> To cut down production and marketing costs, movie producers collaborate with brands. Companies provide additional funding for filmmakers by paying them to include their goods, emblems, or services in the plot or sequences of their movies. The first known instance dates back to 1896 when the Lumière brothers decided to include soap in their film 'Washing Day in Switzerland.' The relationship between brands and the movie theatre has only been stronger since then. In Hollywood, for example, the product placement market is currently valued at \$23 billion, up roughly 14% from 2020. Nollywood, the Nigerian film industry, is highly appealing to businesses because it is the world's second-largest film producer and is well-known for its substantial contributions to African cinema.<sup>18</sup> Brand positioning is accomplished and production and marketing costs are mitigated.

*Unpaid Collaborations:* Product placements are not always sponsored advertisements because brands occasionally give their goods or services to video productions for use in screen settings without paying a product placement fee or the producer paying to use. In contrast to being done for payment, most product placement in films and television shows is done on a quid pro quo basis. For example, an automobile business might give a pricey car to a set in exchange for an appearance in the show. Often, negotiating loan-and-trade deals lowers production costs, especially with major streaming services like Netflix and HBO.<sup>19</sup> Unpaid collaboration gives rise to a win-win approach for the film production and the brand thereby lowering the expenses of film production while increasing brand value.

*Brand Awareness:* Film advertising can generate significant brand awareness, especially for products aimed at a broad audience. Seeing a product used by a relatable character or in a visually appealing setting can leave a lasting impression. Different research indicates that a product's affiliation with a movie that frequently stars a certain celebrity may improve its reputation and, in some cases, boost sales. Building brand loyalty is facilitated by the celebrity's presence. According to an experimental study, it is common for consumers and the public to believe that a celebrity or movie star is the one who chose the product for themselves, and this strategy has shown to be highly successful. Brand memory is aided by the connection between a movie's main character and the brand.<sup>20</sup> In a study that was published in the Journal of the International Institute of Academic Research and Development, Oyinkepreye examined some popular Nigerian films: 'The Wedding Party' (2016), 'King of Boys' (2018), 'Chief Daddy' (2018), and 'Merry Men 2' (2019). Comparing this to Nigerian brands, the analysis indicated a notable predominance of foreign-owned brands. For example, of the six brands displayed in 'The Wedding Party,' only one was a Nigerian brand and none of the five prominent placements, in 'King of Boys'. The study also reveals that within the visible Nigerian brands, the banking and hospitality industries are leading in product placement strategy, leading the researcher to conclude that Nigerian brands in other sectors have not

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<sup>15</sup> Brisibe Oyinkepreye, 'An X-Ray of Product Placement in the Nigerian Movie Industry' (2020) 6.

<sup>16</sup> 'Why Movies Cost So Much To Make' (*Investopedia*) <<https://www.investopedia.com/financial-edge/0611/why-movies-cost-so-much-to-make.aspx>> accessed 9 July 2024.

<sup>17</sup> *ibid.*

<sup>18</sup> 'Nollywood and Brand Synergy: A Product Placement Perspective | IP STARS' (n 13).

<sup>19</sup> Sophie Haigney, 'Anatomy of a Product Placement' *The New York Times* (23 June 2022) <<https://www.nytimes.com/interactive/2022/06/23/arts/product-placement.html>> accessed 9 July 2024.

<sup>20</sup> Oyinkepreye (n 15).

yet fully harnessed the growing potential of product placement.<sup>21</sup> Local brands might not have fully appreciated the significance of supporting this kind of sponsored entertainment perhaps due to a lack of awareness of its many benefits.

**Targeted Audience:** Films can be chosen for advertising based on their target audience, ensuring the message reaches the right demographic. It exposes brands to a large audience, frequently within the framework of well-liked entertainment material, increasing their visibility and notoriety. Brands can establish a good relationship with their brand and win over viewers who, after seeing a film, have a favourable opinion of a product by being woven into the narrative. Studies show that the audience's favourable perceptions of the content also apply to the brand that appears in it. Furthermore, when exhibited inside the organic framework of a scene, it can enhance the brand's legitimacy and genuineness. Additionally, it enables brands to connect with particular demographics that match the movie's target audience. It is noteworthy that product placement influences long-term brand memory by fostering memorable associations.<sup>22</sup> Product placement in films has become popular for companies to reach target audiences at comparatively reduced costs and for filmmakers to generate money but proves challenging; non-compliance with rules, and infringing on the intellectual property rights of individuals, companies, services and products.

### **5. The Challenges of Product Placement in Films**

Film advert placement is subject to legal, regulatory, and compliance issues, including corporate and intellectual property issues. Noticeable is the majority of errors caused by either a failure to follow applicable laws or regulations, the terms and obligations of contracts, inadequate management of intellectual property assets, or a combination thereof.<sup>23</sup>

**Regulatory Framework:** The legal framework captures laws on advertisements, regulatory agencies and their guiding rules. Advertising law relates to laws on disseminating persuasive information about products and services on the mass media, usually paid for by identified sponsors.<sup>24</sup> In Nigeria, the Advertising Regulatory Council of Nigeria Act, 2022 sets the standard for advertising across all media. The Advertising Regulatory Council of Nigeria (ARCON) formerly the Advertising Practitioners Council of Nigeria (APCON) aims to create a regulatory framework for the advertising, advertisement, and marketing communications industry in Nigeria, ensuring legal, decent, and honest, advertising that promotes local content, encourages investments, fair competition and innovative services while preventing misleading or offensive advertisements.<sup>25</sup> Although the Council claims to be established 'to control and regulate advertising in all aspects.'<sup>26</sup> The Court of Appeal in *MIC ROYAL LTD v. APCON*<sup>27</sup> held that the scope and extent of the APCON Act are limited to the regulation and control of advertising practitioners. The Nigerian Code of Advertising Practice and Sales Promotion, approved by APCON's (ARCON) Governing Board, requires all categories of advertisements to be vetted by the Advertising Standards Panel.<sup>28</sup> While the Nigerian Communications Commission (NCC), is empowered by the Nigerian Communications Act and the Nigerian Communications (Enforcement Processes, etc.) Regulations 2005 to publish guidelines specifying minimum standards and requirements in respect of advertisements and promotions of products and services by licensees; to protect consumers and ensure ethical marketing and promotional standards by licensees and to place appropriate sanctions on defaulting licensees including fines in several millions of Naira, withdrawal or suspension of operator's license. The Consumer Protection Council through its (Sales Promotions) Regulations 2005 states that promotional sales that have prizes above N250, 000 need to be registered. Failing may result in fines or the inability to continue the sales promotion indefinitely or for a predetermined period. Also, the Lagos State Signage and Advertisement Agency (LASAA) like its sister agencies in other states is responsible for managing and controlling all forms of signage and outdoor branding opportunities in Lagos State.<sup>29</sup> Again, Alhaji Lai Mohammed, former Minister of Information and Culture, introduced on August 4, 2020, the updated sixth edition of the National Broadcasting Commission's (NBC) Code, prohibiting exclusivity and compelling content sharing thereby making the market less appealing to major players.<sup>30</sup> However, a Federal High Court in Lagos ruled that the NBC acted beyond its powers in regulating advertising, violating the Advertising Practitioners (Regulation) Act of 2004 because it lacked the power to prohibit exclusivity on privately acquired intellectual property rights in program content and allowing such would hinder business and development.<sup>31</sup> Hence, there is uncertainty around the regulatory landscape due to the duplicity

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<sup>21</sup> 'Nollywood and Brand Synergy: A Product Placement Perspective | IP STARS' (n 13).

<sup>22</sup> *ibid.*

<sup>23</sup> 'Advertising Law in Nigeria and What Advertising Companies Have to Keep in Mind. - Creativelegal' (15 February 2022) <<https://creativelegal.com.ng/2022/02/15/advertising-law-in-nigeria-and-what-advertising-companies-have-to-keep-in-mind/>> accessed 6 July 2024.

<sup>24</sup> Malami E. Mass Media Law

<sup>25</sup> Section 2 'Advertising-Regulatory-Council-of-Nigeria-Act-2022.Pdf' (n 7).

<sup>26</sup> 'Advertising Law in Nigeria and What Advertising Companies Have to Keep in Mind. - Creativelegal' (n 23).

<sup>27</sup> (2018) LPELR-45314(CA)

<sup>28</sup> 'Advertising Law in Nigeria and What Advertising Companies Have to Keep in Mind. - Creativelegal' (n 23).

<sup>29</sup> *ibid.*

<sup>30</sup> 75 (n 12).

<sup>31</sup> 'NBC Cannot Regulate Advertising In Nigeria, Court Says - Brand Communicator' (27 May 2022) <<https://brandcom.ng/2022/05/nbc-cannot-regulate-advertising-in-nigeria-court-says/>> accessed 17 July 2024.

of regulatory frameworks, the proliferation of advertising agencies and the functions of advertising regulators in Nigeria. Not to mention that the Copyright and Trademark Acts among others, provide penalties for intellectual property infringement.

**Compliance Issues:** Product placement is a commercial arrangement between the movie producers and the company to conspicuously place products in the film except tobacco and alcohol that require regulatory compliance.<sup>32</sup> These contracts should provide all necessary information to minimise loss-making partnerships or may limit the flexibility to make decisions. Crucial details like the duration of the screenplay in seconds, the context in which it will be displayed, how often it will be displayed, and the cost must all be included in the contract.<sup>33</sup> With the coming into force in 2015 of the First Schedule of the National Tobacco Control Act, tobacco ‘product placement, such as the inclusion of a trademark in the context of communication in return for payment or other consideration’ is explicitly prohibited.<sup>34</sup> NAFDAC regulations in Nigeria require approval for food and drug advertisements, including abridged prescribing information, warnings, and precautions. Advertising materials for alcoholic beverages must include phrases, ‘18+’ and ‘*Drink responsibly.*’ Over-the-counter (OTC) medicines contain the Caveat ‘*If Symptoms Persists after 3 Days, Consult Your Doctor/Physician,*’ and Herbal medicinal products (without established clinical studies) labels and advert materials shall include the caveat, ‘*NAFDAC has not evaluated these claims.*’<sup>35</sup> More often than not these regulatory rules are not complied with.

**Intellectual Property Issues:** A film comprises a bundle of rights encapsulating the creative ideas of writers, artists, directors, and producers, bringing to life innovative films safeguarded by intellectual property (IP) rights.<sup>36</sup> Likewise, IP rights are created in advertising. Therefore, maintaining and reviewing records on IP ownership to prevent infringement requires royalties and expensive legal services.<sup>37</sup> Moreover, the financial viability of filmmakers' projects and their creative integrity depend heavily on the efficient management and protection of IP.<sup>38</sup> IP infringement lawsuits or compensations can be too expensive and impact the producer's profits. The Federal High Court sitting in Lagos in *Zain Nigeria Limited and NUC V TV Xtra Production* ordered the NUC and Zain to pay seven hundred and three (703) million naira as damages to TV Xtra Production for infringing its copyright. As a general principle, IP protection guarantees rights holder's protection from third-party use without consent or royalty. Unfortunately, brands regularly appear in films without the owners' permission, arousing whether the owner's authorisation is required. Fair use in principle allows incidental use of brands for artistic expression different from advertising products or services or supporting commercial activity.<sup>39</sup> In *Kelley v. Morning Bee, Inc.*,<sup>40</sup> a federal judge in the Southern District of New York dismissed an art photographer's copyright claim, holding that the incidental use of his photographs in a documentary film was fair use and a non-actionable de minimis use. In this case, Morning Bee produced a documentary film about pop singer Billie Eilish in 2021, ‘*Billie Eilish: The World's A Little Blurry.*’ The lawsuit involved a 43-second scene of Eilish and her family arriving at Auckland Airport, where the Māori musical group Hātea Kapa Haka performed a song in the same room as the Photographs with the film focusing on the performers and not the artwork. The court ruled that the film's use of photographs was closer to de minimis use, similar to *Gottlieb Dev. LLC v. Paramount Pictures Corp.*, where the plaintiff claimed copyright infringement by including a pinball machine in the scene's background of the movie *What Women Want*. *Id.* at 629 was visible for a few seconds, never appeared by itself or in a close-up, was never mentioned, and played no role in the plot. However, when there is a chance that the public may infer a relationship between the movie and the brand and believe that the brand has approved the movie, brands have the right to file a ‘passing off’ lawsuit, or harm to their goodwill and reputation.<sup>41</sup> In *Films of Distinction, Inc. v. Allegro Film Productions, Inc.*, the plaintiff owned the service mark ‘The Crime Channel’ exclusively devoted to crime. It was used in a film about a young boy who commits murders. The defendant used the mark and slogan, ‘America's first and only channel devoted exclusively to crime,’ causing irreparable injury to the plaintiff. Several characters in the film including the boy's mother urged him not to watch the channel. The court found that such injury was possible and upheld the case of The Crime Channel stating a dilution claim.<sup>42</sup> It is necessary to have a clear boundary between fair use or incidental uses and actual advert placement.

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<sup>32</sup> Lauren P Smith, ‘Trademarks and the Movies: An Af-’ fair Use to Remember’ (2000) 48 CLEVELAND STATE LAW REVIEW.

<sup>33</sup> ‘Nollywood and Brand Synergy: A Product Placement Perspective | IP STARS’ (n 13).

<sup>34</sup> *ibid.*

<sup>35</sup> ‘Advertising Law in Nigeria and What Advertising Companies Have to Keep in Mind. - Creativelegal’ (n 23).

<sup>36</sup> ‘Protecting Intellectual Property in the Film Industry’ (12 February 2024) <<https://lawdit.co.uk/readingroom/intellectual-property-law-film-industry>> accessed 6 July 2024.

<sup>37</sup> {Citation}

<sup>38</sup> ‘Protecting Intellectual Property in the Film Industry’ (n 36).

<sup>39</sup> ‘Nollywood and Brand Synergy: A Product Placement Perspective | IP STARS’ (n 13).

<sup>40</sup> 1:21-cv-8420-GHW, 2023 WL 6276690, at \*10 (S.D.N.Y. Sept. 26, 2023).

<sup>41</sup> Cited in ‘Nollywood and Brand Synergy: A Product Placement Perspective | IP STARS’ (n 13).

<sup>42</sup> 12 F. Supp.2d 1068, 1073 (C.D. Cal. 1998) at 1078-79.

Naira Devaluation: Value-added tax (VAT) and naira devaluation pose further challenges to advert placement in films because subscription service providers find it challenging to complete their obligations due to the weak naira and scarcity of foreign exchange. In September 2020, MultiChoice Nigeria, the nation's most popular subscription provider and the owner of DStv and GOtv, increased the price of several of its DStv packages by 13%. In April 2022, prices increased by an additional 17% on average. The second-largest subscription service provider in the nation, StarTimes, also increased subscription costs, with an average increase of 22% in August 2020 and an additional 31.6% in 2021 for the classic package.<sup>43</sup> With an impact on its viewership and by extension viewership and patronage of advertised goods and services in films.

Piracy: Nigeria grapples with copyright piracy, hindering monetisation of services, and preventing the development of intellectual property rights, despite efforts to strengthen these rights, thereby affecting the media and entertainment industry.<sup>44</sup> According to the World Bank estimates for every legitimate copy sold, nine others are pirated because few legal channels for exporting movies exist, leaving little return on investment to the filmmakers and practically no revenue for the government.<sup>45</sup> Nigeria is included in the list of African nations where piracy is common. According to Business Software Alliance (2011), it was 82% in 2007, 83% in 2008, 83% in 2009, 82% in 2010 and 82% in 2011. According to the NCC Director-General, Alaba is the centre of Nigerian piracy.<sup>46</sup> This has whittled down the quality and grading of films to movies that are best for local consumption reducing the interest of brands to advertise for failure to reach the target market.

## **6. Conclusion and Recommendations**

Advert placement in films is crucial for the global visibility of the Nigerian market. Its patronage by Nigerian brands is minimal, perhaps due to a lack of awareness of its benefits, piracy, value for intellectual property rules or difficulties navigating the confusion and duplicity of the legal framework. From the conception of plots woven around products or services to the negotiation between movie producers and brand owners to the delivery and distribution of movies to the target market, every stage of advert placement in film requires the guidance and expertise of an entertainment or intellectual property lawyer. The limitation of this work is the non-inclusion of issues and challenges surrounding the featuring characters such as children, animals, public or famous personalities, songs and merchandising in films. The following recommendations are suggested following the challenges and issues enveloping advert placement in films in Nigerian Nollywood. Intellectual property rights awareness is necessary for brands, film producers, advertising agencies and media organisations to respect IP rights and its embodiments in films. Movie producers are reminded to engage the services of intellectual property lawyers in IP rights clearance, secure permissions for third-party content, draft agreements, negotiate contracts, provide guidance on royalties and rights management and distribution and licensing agreements for wider audience reach. Indigenous brands are encouraged to use Nollywood's visibility in advertising products and services in films to promote Nigerian brands and markets by taking advantage of the opportunity to showcase their goods and services in motion pictures to preserve brand recall and loyalty. Due to the intricacies of film advert placement, an autonomous body for advert placement in the film industry should be established to regulate the business of advert placement in film. With the proliferation of advertising regulatory bodies and laws, there is a need to establish an advertising regulatory agency to oversee and regulate the business of advert placement in films.

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<sup>43</sup> 75 (n 12).

<sup>44</sup> *ibid.*

<sup>45</sup> Moudio (n 3).

<sup>46</sup> Cited in Oludayo Tade and Babatunde Akinleye, "'We Are Promoters Not Pirates': A Qualitative Analysis of Artistes and Pirates on Music Piracy in Nigeria' (2012) 6.