

COMPARATIVE ANALYSIS OF ADVERTISING RULES FOR LEGAL SERVICES IN ONTARIO, CANADA AND NIGERIA

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INTRODUCTION

In many legal jurisdictions, the advertising of legal services is regulated. This has had the effect of distinguishing the legal market from other service markets. Advertising of legal services afford clients the opportunity to make informed choices while retaining the services of a lawyer. It also assists the public understand their legal needs and create an enabling environment for accessibility. It is the source of business, clients and revenue for law firm¹ and it is susceptible to abuse if left unregulated.²

The rules of professional conduct of the law society of Ontario, sets out guidelines for regulating the advertising of legal services in Ontario, placing limited restrictions aimed at protecting the public interest, and the integrity of the profession. It is pertinent to note that, while the advertising rules in Canada have remained effective in the face of evolving advertising trends, reflecting the current realities in the digital age, The Nigeria rules of professional conduct is more restrictive in scope, and has been severely criticized as detrimental to the development of legal practice in Nigeria.

Although some scholars suggest that advertising will undermine the legal profession's sense of dignity,³ this article argues that adopting a less regulated legal advertising rules will enhance public access to legal representation, boost a robust legal development, and increase competition in the legal market.

This article will examine the provisions of the Rules of Professional Conduct of the Law society of Ontario, on advertising of legal services and the provisions of the rules of professional conduct for legal practitioners relating to advertising in Nigeria, pointing out the similarities and differences between the rules, with a view to gaining more insight into the regulation of legal advertising practices in both jurisdictions. Consequently, this work shall examine the differences and similarities in the practices and approaches in Ontario, Canada and Nigeria and make case

¹Law Firm Marketing: The Ultimate Guide for 2023", (2023), online: <www.practicepanther.com>; Chester N. Mitchell, "The Impact, Regulation and Efficacy of Lawyer Advertising", (1982), 20:1 *Osgoode Hall Law Journal* 124.

²Efobi Ngozi& Ofagbor Raymond, "Regulation of the Legal Profession in Nigeria: Overview", (2023), online: <<https://uk.practicallaw.thomsonreuters.com>>.

³*Ibid*

for the need to strike a balance between ethical considerations and the freedom for legal practitioners to advertise their legal services. This work is predominantly a comparative one and as such it adopts proceeds from the doctrinal research perspective. Thus, the study relies on the primary sources of the law on advertising of legal services for the two jurisdictions, the Rules of Professional Conduct⁴ of the Law Society of Ontario, Canada and the Rules of Professional Conduct⁵ in Nigeria.

ANALYSIS OF THE RULES ON ADVERTISING OF LEGAL SERVICES UNDER THE LAW SOCIETY OF ONTARIO'S RULES OF PROFESSIONAL CONDUCT

The Rules of Professional Conduct of the Law Society of Ontario, Canada contains laudable provisions with respect to advertising of legal services.

By virtue of Section 4.2.1 of the Rules,⁶ a lawyer is permitted to advertise and market his legal services provided that some conditions are satisfied namely:

- (a) That the advertising and marketing is demonstrably true, accurate and verifiable.
- (b) That the advertising and marketing is not misleading, conflicting or deceptive.
- (c) The advertising and marketing are not likely to mislead, confuse or deceive.
- (d) The advertising and marketing are consistent with a high standard of professionalism.

Misleading advertising may be seen as any information that is capable of misleading the public as to the true nature of a lawyer's practice or gives them an unrealistic expectation or suggestion as to what will happen in the case or the outcome of the case.⁷

In *Law Society of Alberta v. Hansen*,⁸ the Law Society of Alberta's disciplinary tribunal formally reprimanded a lawyer for advertising that they were an expert in immigration law without formal certification to substantiate their claim

In *Law Society of Ontario v. D'Alimonte*⁹, the Law Society of Ontario's disciplinary tribunal disciplined a member for misleading advertising for referencing his past success without a disclaimer and specialization in the absence of certification. The Tribunal stated as follows:

The website was misleading, confusing, deceptive and inaccurate because it marketed to clients on the basis that Mr. D'Alimonte's firm was a substantial experienced firm when the truth was that the firm was comprised of a relatively inexperienced sole practitioner. This is a particularly egregious breach because clients seek lawyers, and lawyers market to clients, based on skill and expertise.

In a similar case, Law Society Tribunal disciplinary panel disciplined one of its members by name Jeremy Diamond and prohibited him from practicing law for three months as well as ordered him to pay a fine of \$100,000 - after being found guilty of professional misconduct for

⁴, Rules of Professional Conduct of Law Society of Ontario, Canada.

⁶Section 4.2.1, Rules of Professional Conduct of Law Society of Ontario, Canada.

⁷Sally J. Schmidt, *Marketing the Law Firm: Business Development Techniques* (New York: Law Journal Press 2004)

⁸(2013) ABLs 5

⁹(2018) ONLSTH 86 at paras 45-46

misleading advertising.¹⁰

Jabour v. Law Society of British Columbia,¹¹ Jabour, a lawyer, advertised prices for his services wherein he invited people to his “legal clinic”. He had evening and weekend hours and mounted a large illuminated sign above his office. The advertising consisted of four advertisements in local newspapers in and around Vancouver and the installation of an illuminated sign measuring three feet in height by sixteen feet in length on the exterior of the office building in which his office is located.¹² The newspaper advert took the following form:

DONALD E. JABOUR, Barrister & Solicitor wishes to announce the opening of a new concept of law office. LEGAL SERVICES AT PRICES MIDDLE INCOME FAMILIE Scan afford, Buying or selling a home. Writing a will. Motor vehicle accidents or offences. Landlord/ tenant problems. Family matters. Incorporations. Estates. Court appearances. These are the kinds of situations where middle income families need legal assistance. Now it is available at moderate cost, with pre-set fees for many services. Some sample fees (excluding out-of-pocket expenses):...INITIAL CONSULTATION FREE, Opening February 1st, 1978, The North Shore 142A W. 15th St., NEIGHBOURHOOD North Vancouver. LEGAL CLINIC 936-4225, HOURS: 9 a.m. to 5 p.m. ...The sign on the building displayed the words "The North Shore Neighbourhood Legal Clinic, Donald E. Jabour, Barrister and Solicitor".¹³

The Law Society's Disciplinary Committee found Jabour guilty of misleading advertising and recommended suspension of his licence to practice for conduct unbecoming of a lawyer.¹⁴ The decision of the disciplinary committee was upheld on appeal.

A perusal of the afore stated provisions of the Rules of Professional Conduct of the law society of Ontario reveals that it allows legal practitioners the freedom and opportunity to advertise their legal services to the public provided he satisfies the above stated conditions. This being the case, litigants who require the services of a legal practitioner may on a quick glance at the internet see the lawyers or law firms, and the type of services they render and being able to make an informed choice of the particular firm to engage.

However, in marketing his legal services, a lawyer must not engage in such advertisement that will suggest he is superior to other lawyers. Thus, Using comparatives or superlatives in advertising such as “best” or “better, greatest, fastest”, or most skilled, which suggest qualitative superiority over other lawyers or legal service providers, will likely contravene this rule.¹⁵

The essence of the conditions is to maintain the sanctity and ethics of the legal profession which

¹⁰ Zena Olyjnk, ‘Ontario lawyer Jeremy Diamond prohibited from practising for three months, but it's not a suspension’, www.lawtimesnews.com, accessed on 21/1/2024

¹¹ 1978 CanLII 415 (BC CA)

¹² *AG Canada v. Law Society of B. C.* (1982) 2 SCR 307

¹³ *Ibid*

¹⁴ Legal Ethics Case Brief *Jabour v. LSBC*, www.canliiconnects.com, accessed on 21/1/2024

¹⁵ The Canadian Bar Association: Common mistakes in Legal Advertising, www.cba.org/publications/resources, accessed on 21/1/2024

is seen as a noble profession. Consequently, every advertising and marketing carried out by a lawyer who is a member of the Law Society of Ontario of Canada must be consistent with the high standard of professionalism and be in the best interest of the public.

It is important to point out that Section 4.2.1.2 of the Rules in Ontario¹⁶ specifically requires any lawyer who is marketing his legal services to clearly state in all the materials or avenues of advertisement that he is qualified and licensed as a lawyer so that the public upon seeing the advertisement will know that he is so qualified and licensed to practice law.

The rationale behind the provision of *Section 4.2.1.1* of the Rules of Professional Conduct of the Law Society of Ontario, Canada is as a result of the fact that in Ontario, Canada paralegals are allowed to undertake certain non-complex legal services. Therefore, it is important for the public who are seeing the advertisement to know whether they are engaging the services of a lawyer or paralegal in relation to the marketing or advertisement and whether it is a lawyer or a paralegal who is going to provide the legal services to them.¹⁷

Section 4.2.2 of the Rules of Professional Conduct, Law Society of Ontario, Canada allows a lawyer to advertise the fee charged for his legal service provided the following conditions are satisfied:

- a. That the advertisement is precise as to the services offered for each fee (ie the advertising clearly states what each fee covers or entails)
- b. The advert is specific or clearly states whether other amounts such as disbursements and taxes will be charged in addition to the advertised fee or not.
- c. The lawyer strictly adhered to the advertised fee in every case.

Section 4.2.2.1 of the Rules of Professional Conduct of the Law Society of Ontario, Canada permits a lawyer to advertise the price he will use to act on a residential real estate transaction provided that the price advertised by the lawyer satisfy the following condition:

- a. The price is inclusive of all fees for legal services, disbursements, third party charges and other amounts except harmonized sales tax and other similar permitted disbursements like land transfer tax, government document registration fees, the cost of continuum status certificate, etc.
- b. That the advertisement clearly and expressly provides that the harmonized sales tax and other permitted disbursements are not part/included in the advertised price so that the potential client will be aware of what the advertised fee is before deciding whether or not to engage the lawyer or his law office.
- c. The lawyer strictly adheres to the price advertised for every transaction.
- d. Where it is a purchase transaction, the advertised price includes the price for acting on both the purchase and on one mortgage and
- e. Where it is a sale transaction, the price includes the price for acting on the discharge of the first mortgage.

It is pertinent to observe that a lawyer in Ontario, Canada who is engaged to provide legal services in line with an advertised price must perform the legal services diligently and

¹⁶ Rules of Professional Conduct, Law Society of Ontario, Canada

¹⁷ 'The Law Society of Ontario', www.legalline.ca, accessed on 19/1/2024

competently.¹⁸ Furthermore, the essence of allowing lawyers to advertise their prices in residential transactions is to ensure that the prices for such transactions are clear and precise to the client/litigant so that the clients will have the opportunity to compare the prices of various lawyers and make an informed decision of the particular lawyer to engage for such transaction.

With specific reference to contingent fees, section 4.2.2.2 of Rules of Professional Conduct of the Law Society of Ontario, Canada provides that a lawyer who markets or advertises his legal services on a contingent fee arrangement (whether in whole or in part) must comply with Section 3.6.2.2 of the Rules.

Lastly, by virtue of Section 4.3.1 of Rules of the Law Society of Ontario, Canada, a lawyer is prohibited from advertising or marketing himself that he is a specialist or certified specialist in any area of law when he knew or has reason to know that he is not so certified by the Law Society of Ontario, Canada.¹⁹ The essence of Rule or section 4.3.1 is to avoid misleading potential clients or litigants. This is because a lawyer's advertisement serves as a valuable information to a potential client in deciding who to engage for legal service, accordingly, a lawyer should in his advertisement provide potential clients with appropriate information to determine whether a particular lawyer or law office has the requisite skill and specialty to handle his matter.

It is imperative to observe that the construction of the Section 4.3.1 of Rules of the Law Society of Ontario, Canada has created some disagreement or contention. According to Mackenzie Brooke, using the verb "specialize" is a way of informing potential clients that a lawyer concentrates in a particular area of practice such as Immigration law, Corporate law so the clients will know that the lawyer is not dilly-dallying.²⁰ This has made lawyers in Canada to fuzzle at the thought or suggestion that they may likely face the disciplinary committee for using the wrong semantics or synonym to describe the particular area of practice they like.²¹ Fortunately, the correct construction of the said provision of the rule was correctly captured by the Tribunal Appeal Panel of the Law Society of Ontario, Canada where in they unanimously held that a statement by a lawyer or a law office "specializes" in a particular area of law does not breach of *Section 4.3.1* of the Ontario Rules in as much as the lawyer/law office truly and really concentrates in that particular area of law.²²

In *Law Society of Ontario v. Rothman*,²³ the decision of the Tribunal was upheld on appeal by the Appeal Panel where in they lucidly held as follows:

The noun "specialist" describes a lawyer or other professional with special expertise or training in a particular skill or area of practice. It is often accompanied by a certification. The verb "specialized" is not typically associated with a designation. It is

¹⁸Shamil, Shamilov, "Advertising Rules for Lawyers in Canada: Do's and Donts", (2022), online: <http://dnovogroup.com>.

¹⁹Section 4.3.1 of Rules of the Law Society of Ontario, Canada

²⁰ Brooke Mackenzie, ' A Very Special Clarification From Ontario's Law Society Tribunal: Lawyers Can Advertise That They "Specialize" Without Being a "Specialist"', July, 2021, www.slw.ca, accessed on 21/1/2024

²¹*Ibid*

²²*Law Society of Ontario v. Rothman* (2019) ONLSTH 75 at para 149

²³(2021) ONLSTA 13 at para 41

commonly used to indicate an area in which the firm or business does most of the work.

However, where a law office practice in two or more jurisdictions and some members of the law office are certified specialist in one of such jurisdictions, an advertisement by the law office which refers to the member of the law office as a specialist may not offend this rule particularly where the advertisement is circulated concurrently in both jurisdictions (i.e., in Ontario Canada and in the other jurisdiction where the member of the law office is so certified).

Before I conclude the analysis of the provisions of the Law Society of Ontario, Canada on advertising, it is paramount to point out that the marketing and advertisement of second opinion services is highly prohibited.²⁴ Though, second opinion is regarded as a valuable service for clients in Ontario, Canada, its marketing is prohibited no matter in that it is deemed as a “bait and switch” marketing which is unfair.

ANALYSIS OF RULES ON ADVERTISING OF LEGAL SERVICES UNDER THE RULES OF PROFESSIONAL CONDUCT²⁵ FOR LEGAL PRACTITIONERS IN NIGERIA

The Rules of Professional Conduct²⁶ for Legal Practitioners in Nigeria has very slim room for advertisement of legal services by lawyers. A perusal of *Rule 39 (1)* of the Nigerian RPC 2007 reveals that it allows a lawyer the opportunity to engage in any advertising or promotion in connection with his practice of law provided that that the advertising is fair and proper in all the circumstances, and complies with the provisions of the rules.

However, by virtue of *Rule 39 (2)* of the Rules of professional conduct in Nigeria, it prohibits a lawyer from engaging in any advertisement which is inaccurate or likely to mislead the public or that is likely to diminish the public confidence in the legal profession or in the administration of justice. It also prohibits a lawyer from engaging in advertisements which makes a comparison or criticism of other lawyers.²⁷ In addition, the RPC 2007 prohibits lawyers in Nigeria from involving in advertisements that will make statement about the quality of the work of the lawyer or the size of his office or even the success of his practice.²⁸ A lawyer shall not engage in advertisement that causes a nuisance/annoyance to those it is directed as a result of the frequency of the advert.

A clear example of breach of Paragraph 39 (2) of the RPC 2007 played out in the case of *LPDC v Fawhehinmi*²⁹ where Chief Gani Fawehinmi described himself as “the famous reputable and controversial Nigerian lawyer...” in so doing, he had gone contrary to the provisions of rule 33 of the RPC 1979, which provisions are similar to the provisions of the paragraph 39 (2) of the RPC 2007.³⁰

Furthermore, *Rule 39 (3)* of the RPC in Nigeria prohibits lawyers in Nigeria from engaging in

²⁴Section 4.2-1.2 of Rules of the Law Society of Ontario, Canada

²⁵ 2007

²⁶ hereinafter referred to as RPC

²⁷ Rule 39 (2) (c) of RPC, 2007, Nigeria

²⁸ Rule 39 (2) (d) of RPC, 2007

²⁹(1985) 2 NWLR (PT. 7) 300

³⁰Edokwe Bridget, “Advertisement in the Legal Profession: Latitudes and Prohibitions in the RPC”, (2021), online:<www.barristerng.com>

some other forms of advertisement. Consequently, it prohibits lawyers from soliciting professional employment/ retainership directly or indirectly through circulars, handbills, advertisement, touting, personal communication or interview.³¹

It prohibits lawyers from furnishing comments, print or electronic media (Radio, TV, Newspaper) in relation to his practice of the law.³² It equally prohibits lawyers from using or publishing their photograph in connection with matters in which they are handling or engaged or even allowing a sound recording in relation to his practice of law.³³

Section 39 (3) (e) of the RPC in Nigeria reveals that the essence of the prohibitions with respect to advertising contained in Rule 39 (3) (a)-(e) is to prevent self-aggrandizement.

It is important to state that the only permissible advertising for a lawyer in relation to his qualifications or data about himself is only in a reputable law directory.³⁴ The information which may be contained in the law directory include the year of call to bar or admission to practice law, positions held, publications and offices held in the Nigerian bar association.³⁵

However, a lawyer may print or publish his name, address, academic and professional qualifications and any national honors he has on his business cards, business envelopes³⁶ or office sign post. With respect to office sign post, the RPC in Nigeria specifically emphasized that it must be of “reasonable size and sober design.”³⁷

Section 46 (1) of the RPC for lawyers in Nigeria prohibits lawyers from engaging in advertisement in a newspaper, periodical or other publication offering himself as a lawyer to conduct/undertake confidential inquiries. It also prohibits a lawyer from publishing in any other medium except in a legal periodical any particulars of his practice or earning in Court or cases (particularly where the time for appeal has expired).³⁸

Rule 46 (2) (c) of the RPC 2007 reiterates the fact that a lawyer in Nigeria cannot publish or advertise his photograph or take steps to advertise his photograph as a lawyer to the press. However, the RPC allows a lawyer in Nigeria to participate in a Radio or TV Program wherein he can give information about the law provided that he shall not accept employment from any such program.³⁹

COMPARATIVE ANALYSIS OF THE LAW SOCIETY OF ONTARIO RULES ON ADVERTISING WITH THAT OF NIGERIA

Having examined the advertising rules of the Law Society of Ontario, Canada with that of another jurisdiction particularly Nigeria, this work shall in this section compare same with a view to highlighting the similarities and differences in the advertising rules of the two jurisdictions.

³¹ Rule 39 (3) (a), *Ibid*

³² Rule 39 (3) (b), *Ibid*

³³ Rule 39 (3) (c) and (d), *Ibid*

³⁴ Rule 39 (4), *Ibid*

³⁵ Nigerian Bar Association

³⁶ Rule 40, RPC, 2007, Nigeria

³⁷ Rule 41, RPC, 2007, Nigeria

³⁸ Rule 46 (2) (b), *Ibid*

³⁹ Rule 46 (1), *Ibid*

The Law Society of Ontario, Canada permits or allows its members and lawyers to market their legal services provided that the marketing is demonstrably true, accurate and verifiable and not misleading, confusing or deceptive.⁴⁰ While in Nigeria, the RPC only allows lawyers to engage in advertising provided that it complies with the restrictive provisions of the Rules of professional conduct.⁴¹ Therefore, while the provision of the Law Society of Ontario, Canada is wider in scope and allows lawyers to engage in advertising, the RPC in Nigeria is very restricted in scope and does not give Nigerian lawyers the liberty they need in advertising. As a result, the provisions of the rules of professional conduct in Nigeria have been severely criticized as being detrimental to Nigeria's robust development of legal practice.⁴²

While the rules of professional conduct of the Law Society of Ontario, Canada used the phrase "demonstrably true, accurate and verifiable" as one of the conditions to be satisfied by a lawyer engaging in the marketing of his legal services in Canada, the Nigerian RPC used the phrase "fair and proper in all circumstances". It is the view of this work that though the two phrases used by both jurisdictions may look similar, however, they are slightly different from each other. To be demonstrably true connotes that there are indices for ascertaining the truthfulness of the advert while verifiable has to do with proof of the content of the advert.⁴³

One of the conditions to be satisfied by a lawyer engaging in marketing in the Law Society of Ontario, Canada is that he must ensure that the marketing is neither misleading, confusing or deceptive and the marketing is not likely to mislead, confuse or deceive the public. This is similar to the provision of *Rule 39 (2)* of the Nigerian Rules of Professional Conduct which prohibits a lawyer from engaging or being involved in any advertising or promotion of his practice of law which is inaccurate or likely to mislead.

The Rules of Professional Conduct Law Society of Ontario, Canada has "the best interests of the public" as one of the conditions to be satisfied by a lawyer engaging in advertising of his legal service. Accordingly, a lawyer may market his legal services in Ontario, Canada only if same is in the best interest of the public. However, there is no such provision in the Nigerian Rules of professional conduct.

The Rules of professional conduct of the Law Society of Ontario, Canada provides that any marketing by a lawyer in Ontario Canada must be consistent with the high standard of professionalism. The Rules of professional conduct in Nigeria prohibits a lawyer in Nigeria from engaging in any advertising of his practice of law which is likely to diminish the confidence of the public in the profession or the administration of justice or bring the legal profession to disrepute. It is pertinent to observe that though the language, terms and phrase used by the two jurisdictions are different in this regard, however, they both aim towards achieving the same or similar goal which is to maintain the ethics and integrity of the profession. Consequently, any advertising carried out by a Lawyer in Ontario, Canada and in Nigeria which is not consistent

⁴⁰ Section 4.2.1 (a) and (b) of Rules of Professional Conduct of the Law Society of Ontario, Canada

⁴¹ Rule 39 (a) and (b) of RPC, Nigeria

⁴² Abasiangake Akpabio, "Re-engineering Nigeria's rules of professional conduct for legal practitioners to suit 21st century demands" (2022), online: <<http://www.lawtruly.com/the-wig-and-gown-time-to-get-rid-of-our-colonial-conflicts-relics/>>.

⁴³ Eliza Smith & David Whitsett, "Ethics in Advertising, Principles, Issues and Examples", (2023), online: <www.study.com/academy>.

with the dignity and standard of the profession shall be deemed as professional misconduct for violating the rules of professional conduct in the respective jurisdictions.⁴⁴

The Rules of professional conduct of the Law Society of Ontario, Canada allows a lawyer to advertise the size, quality and nature of his practice including awards, rankings and endorsements from third parties. However, this is not obtainable in Nigerian Rules of professional conduct. In fact, the RPC in Nigeria prohibits a lawyer from making any advert about the quality of his work or the size of his office.

In the Rules of professional conduct of the Law Society of Ontario, Canada, a lawyer may in the course of advertising or marketing of his legal services refer to the lawyer's degree of success in past cases, provided that the lawyer clearly stated in the advert that past results are not necessarily indicative of future results (as well as that litigation will vary according to the facts of the individual cases). However, under the RPC in Nigeria, a lawyer is prohibited from advertising about the success of his practice or even past results.

In the Rules of professional conduct of the Law Society of Ontario, Canada, there is no mention as to the frequency of the advertisement or how frequent the advertisement may be. However, the Rules of professional conduct in Nigeria clearly prohibits a lawyer from engaging in an advertisement of his practice of law which is so frequent or obstructive to cause nuisance to those to whom it is directed.

In both the advertising rules of Ontario, Canada and that of Nigeria, lawyers are prohibited from engaging in any advertisement and marketing which is suggesting qualitative superiority to other lawyers or meant to disparage or demean other lawyers or makes comparison with other lawyers or criticizes other lawyers.⁴⁵ Consequently, in both Ontario, Canada and Nigeria, a lawyer who engages in any advert or marketing wherein he suggests/claims qualitative superiority to other lawyers in that jurisdiction or compares himself with other lawyers in that jurisdiction shall be guilty of professional misconduct.

Under the rules of professional conduct of the Law Society of Ontario, Canada, a lawyer marketing his legal services must specifically and expressly state in all his advertising material that he is licensed as a lawyer because both layers and paralegals are licensed to practice by the Law Society of Ontario, Canada.⁴⁶ However, there is no such provision in the Nigerian RPC because in Nigeria, only qualified lawyers who have been called to bar or admitted into the Nigerian Bar Association are licensed to practice law.⁴⁷

The marketing of second opinion services is absolutely prohibited in the rules of professional conduct of the Law Society of Ontario, Canada, the rationale behind this is that the provision of second opinion is considered a valuable service to clients in Ontario, Canada. On the other hand, there is no such similar provision in the Nigerian Rules of profession.

⁴⁴Gregory C. Sisk, "The More things Change, the More They Remain the Same: Lawyer Ethics in the 21st Century" (2019), 9:2 *St Mary's Journal on Legal Practice & Ethics* 342.

⁴⁵ See Rules 4.2.1 (Commentary 2 (b) & (e) of the Rules of Professional Conduct, Law Society of Ontario, Canada and Rule 39 (2) of the Rules of Professional Conduct, Nigeria.

⁴⁶ Rule 4.2.1.1 of the Rules of Professional Conduct, Law Society of Ontario, Canada

⁴⁷ See Section 2 of the Legal Practitioners Act, 2004, Nigeria

The rules of professional conduct of the Law Society of Ontario, Canada, allows lawyers to advertise the fees charged by them for their legal services provided that the advertisement is reasonably precise as to the services offered for each of the quoted fee and the advertising clearly states whether taxes, disbursements and 3rd party charges are included in the quoted fee or not. However, there is no such provision in the Nigerian RPC which implies that the RPC in Nigeria prohibits lawyers in Nigeria from advertising their fees.

Under the rules of professional conduct of the Law Society of Ontario, Canada, a lawyer shall not advertise that he is a certified specialist in a particular area of law when he is not so certified by the Law Society of Ontario, Canada. The rationale behind this is to enable a potential client to choose a lawyer who has the requisite skills and expertise in handling the client's matter. However, such a provision is absent in the rules of professional conduct for lawyers in Nigeria.

IMPLICATIONS OF ADVERTISING RULES FOR LEGAL SERVICES IN ONTARIO, CANADA AND NIGERIA FOR LEGAL PRACTITIONERS, CLIENTS AND REGULATORS

In Nigeria, other professionals are allowed to freely advertise, however and unfortunately, lawyers in Nigeria are restricted from advertising freely. As revealed by the above comparative analysis of Nigeria and Canada rules, there exists some gap with respect to the leverage, permission and allowance given to lawyers of the Law Society of Ontario, Canada compared to what is obtainable in Nigeria. The Law Society of Ontario, Canada allows advertising of legal services to a very great extent while there is minimal allowance for lawyers to advertise legal services in Nigeria. In fact, Olalekan contends that the minimal allowance is tantamount to outright banning of lawyers from advertising their legal services in Nigeria.⁴⁸

The implication of the above is that in Ontario, Canada, legal services will be easily accessible to clients who can at the comfort of their homes check out the various lawyers and law offices in Ontario, Canada and be fully aware the nature of practice, services rendered and quoted fees charged by these law offices for their services.⁴⁹ Unfortunately, in Nigeria, legal services are not easily accessible to clients or clients cannot easily access legal services like their counterparts in Canada.⁵⁰ A client in Nigeria who requires the services of a legal practitioner may not know how to go about it or the particular law office who can handle his work and the amount he may be required to pay as professional fee for such service. A potential client in Nigeria may have to visit several law offices before he can retain the services of a lawyer and access legal services.

Another Incidental implication of this is that clients in Ontario, Canada are well and better informed of the lawyer they may want to engage even before their physical meeting with the lawyer. Consequently, this keeps and equips the clients to make informed choices in relation to the law lawyer they engage to render legal services to them.⁵¹ However, the contrary is the case in Nigeria as most clients in Nigeria know little or nothing about the lawyer or law office they

⁴⁸Olalekan O. Elizabeth, "Rule 39 of the Rules of Professional Conduct and Law Firm Marketing: A Practical Perspective", (2023), online: <www.lawpavilion.com>.

⁴⁹"Futures: Transforming the delivery of Legal Services in Canada", (2016), online: <<http://www.policycommons.net/artifacts/4866041/futures/5703273/>>.

⁵⁰Usman Dahiru, "An Inquiry on the Affordability of Legal Services and the Appropriateness of Regular Courts for Consumer Redress in Nigeria", (2016), 7:2 *Beijing Law Review* 130.

⁵¹Carolyn Meacher, F.G Crane & T. K Clarke, "Lawyers' Attitude Towards Legal Services Advertising in Canada", (2015), 8:1 *International Journal of Advertising* 71.

are engaging. This has rendered many clients vulnerable to inexperienced lawyers and even to quacks or fake lawyers in Nigeria

It is pertinent to observe that due to the allowance given to lawyers by the rules of professional conduct of the Law Society of Ontario, Canada to advertise their legal services, areas of practice and fees, there is nothing like monopoly of legal services⁵² or abuse of dominant position by some law firms in Ontario, Canada⁵³ which is very rampant in Nigeria. It also gives room to competition in the legal sector in Ontario, Canada which has made legal services to be easily affordable to the public.⁵⁴

Sequel to the above, this work makes a case that the Rules of professional conduct in Nigeria be amended to give lawyers in Nigeria the leverage, and allowance to advertise their legal services, practice areas, and fees in line with what is obtainable in Ontario, Canada and international best practices.⁵⁵ It is the considered view of this work that doing so will afford the clients and litigants in Nigeria the advantage of easily accessing legal services⁵⁶ in that a potential client in Nigeria will at a click of the internet see the available law forms within his area, the nature of their practices and areas of specialization as well as the amount of fees charged by the law firms and be able to make an informed choice of the law firm he wants to engage.

Furthermore, it will reduce the monopolization of the legal market by some dominant law firms who are directly or indirectly monopolizing the legal profession in Nigeria. This is because though there is a restriction to advertising in the rules of professional conduct for lawyers in Nigeria, some very few Nigerian law firms are war lords in the profession,⁵⁷ and are acting in disregard to the restrictions on advertising, floating full blown in the websites of their law offices containing their past successes or results.⁵⁸

This being the case, the restriction on advertising is like a shadow of itself and makes a mockery of itself. It has become an instrument of oppression and bully against smaller law firms who do not have the boldness, courage and audacity like the very few law firms in Nigeria. Consequently, it is in the interest of the public, access to justice and fairness that the restriction on advertisement for lawyers in Nigeria repealed so that every lawyer will be on equal footing to advertise. It will also give room for competition in the legal service sector in Nigeria which will make legal services accessible and affordable to clients.

It is paramount to point out that some international clients and corporate organizations would not engage a Nigerian law firm without a website, hence the need for the Rules of Professional Conduct in Nigeria to be amended or repealed to allow every law firm in Nigeria to advertise her

⁵² Gary Goodwin, "The LSO's Rules for Marketing Legal Services", (2018), online: <www.canadianlawyer.com>.

⁵³ Gregory C. Sisk, *Op.cit.*, 342; Nancy Carruthers, "Law Society of Alberta: Ethical and Effective Advertising", (2023), online: <www.lawsociety.ab.ca/resource-centre/key-resources/professional-conduct>.

⁵⁴ James Baxter & Albert Yoon, "No Lawyer for a Hundred Miles? Mapping the New Geography of Access to Justice in Canada", (2015), 52:1 *Osgoode Hall Law Journal* 9.

⁵⁵ Albert Hudec & Michael Trebilcock, "Lawyer Advertising and the Supply of Information in the Market for Legal Services", (1982), 20:1 *University of Western Ontario Law Review* 53.

⁵⁶ Lashet. al., "Equal Access to Civil Justice: Pursuing Solutions beyond the Legal Profession", (2015), 17:20 *Yale Law & Policy review* 130.

⁵⁷ Arthur Marcus, "Law Firm Marketing in Nigeria and the RPC-Rule 39", (2023), online: <www.mondaq.com>

⁵⁸ Edokwe Bridget, "Advertisement in the Legal Profession: Latitudes and Prohibitions in the RPC", (2021), online: <www.barristerng.com>

legal services in a website.⁵⁹

Furthermore, the General Council of the Bar and the Nigerian Bar Association in Nigeria should take a cue from the Law Society of Ontario, Canada and allow lawyers to advertise fees charged for their services in their website. It will also reduce and expunge the practice in Nigeria where a client is confronted with a bill of charges after the lawyer has completed his legal services. This will protect clients particularly vulnerable clients from being charged exploitative fees.⁶⁰

Lastly, lawyers in Nigeria should not be shielded from enjoying the benefits of advertising of legal services in that it helps to boost patronage both locally and internationally as well as a enhance service delivery. Therefore, the Nigerian Bar Association and other stakeholders in the justice sector must brace up and develop a workable legal framework for the regulation of advertising of legal services in Nigeria in line with the Law Society of Ontario, Canada and international best practices in order to afford clients the opportunity to make informed choices while retaining the services of a lawyer.

⁵⁹Akinola O Bukola & Ebum Effiong, “Comparative Perspectives to Advertising by Lawyers in Nigeria”, (2022), 3:9 *international journal of business research and development* 210.

⁶⁰Ogbuka Emmanuel I., “Regulations on Advertising, Remuneration & Fees for Lawyers Under the New Rules of Professional Conduct”, (2023), online:< www.tekadia.com/regulations-on-advertising-remuneration-fees-for-lawyers>.