



Regulating solicitors' billing in property conveyancing: Comparative legal frameworks and professional oversight in Nigeria and selected jurisdictions

Omoyemen Lucia Odigie Emmanuel

Department of Academics, Nigerian Law School, Kano, Nigeria

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Abstract

The regulation of solicitors' billing in property conveyancing represents a critical intersection between professional ethics, consumer protection, access to justice, and the efficient functioning of property markets. Conveyancing transactions involve the transfer, creation, or extinguishment of proprietary interests in land and typically require specialised legal services, including title investigation, due diligence, drafting of conveyancing instruments, registration of interests, and compliance with statutory requirements. Consequently, the fees charged by legal practitioners constitute a significant component of the overall cost of property transactions and have direct implications for the accessibility and quality of legal representation. Despite the importance of legal remuneration in conveyancing practice, jurisdictions continue to adopt divergent approaches to the regulation of legal fees, reflecting differing conceptions of the legal profession, market competition, and consumer welfare.

This article undertakes a comparative legal analysis of the frameworks governing solicitors' billing in property conveyancing in Nigeria, the United Kingdom, the United States, Australia, Kenya, and Poland. Adopting a comparative doctrinal research methodology, the study examines statutory provisions, professional conduct rules, remuneration regulations, regulatory policies, and judicial decisions relating to legal fees in conveyancing transactions. The article is anchored on Professional Regulation Theory and Economic Theory of Legal Services Markets, which provide competing perspectives on the appropriate balance between professional oversight and market-based pricing.

The study finds that Nigeria and Kenya adopt relatively interventionist approaches through prescribed remuneration frameworks that establish minimum fees for conveyancing and related legal services. In contrast, the United Kingdom, the United States, and Australia generally favour market-oriented systems in which fees are determined through contractual arrangements, subject to transparency requirements, ethical obligations, and professional oversight. Poland adopts a civil law model characterised by statutory tariffs and notarial fee regulation. While regulated fee structures may preserve professional standards and discourage undercutting, they may also increase transaction costs and restrict competition. Conversely, liberalised legal services markets promote consumer choice, innovation, and pricing flexibility but may create concerns regarding information asymmetry, inconsistent service quality, and inadequate consumer protection.

The article argues that neither rigid fee regulation nor unrestricted market competition provides a complete solution to the challenges of legal remuneration in conveyancing practice. It concludes that hybrid regulatory frameworks combining fee transparency, mandatory cost disclosure, professional accountability, consumer protection mechanisms, and effective disciplinary oversight offer the most balanced and sustainable approach to regulating solicitors' billing in property conveyancing.

Keywords: Property Conveyancing, Solicitors' Billing, Legal Fees, Professional Regulation, Consumer Protection, Comparative Law, Legal Services Regulation, Access to Justice.

Introduction

Property ownership remains one of the most important foundations of economic development, wealth creation, and social stability in contemporary societies. Land and interests in land constitute valuable economic assets that facilitate investment, housing development, commercial activities, and intergenerational wealth transfer. Consequently, legal systems across the world have developed elaborate frameworks governing the acquisition, transfer, registration, and protection of property rights. The transfer of proprietary interests through sale, lease, mortgage, assignment, gift, inheritance, or other conveyancing arrangements requires strict compliance with legal procedures designed to ensure certainty of title, prevent fraud, and safeguard the rights of parties to the transaction. Within this framework, legal practitioners play a critical role in facilitating property transactions by conducting due diligence, investigating title, drafting legal instruments, advising clients on legal risks,

and ensuring compliance with statutory registration requirements.

Conveyancing practice has traditionally occupied a central position within property law because of the significant legal and financial consequences associated with land transactions. Errors in title investigation, documentation, registration, or legal advice may result in defective title, loss of property rights, financial losses, protracted litigation, and diminished confidence in property markets. Consequently, conveyancing services require a high degree of professional competence, diligence, and ethical responsibility. Solicitors engaged in property transactions are expected to possess specialized knowledge of land law, registration systems, planning regulations, taxation requirements, and contractual principles applicable to the transfer of interests in land. The professional services rendered by solicitors in this area are therefore indispensable to the integrity and efficiency of property markets.

An important aspect of conveyancing practice concerns the remuneration of legal practitioners for services rendered. Legal fees constitute a substantial component of the overall transaction costs associated with property transfers. In many jurisdictions, the total cost of acquiring or disposing of property includes legal fees, registration charges, stamp duties, taxes, valuation fees, and other administrative expenses. Among these costs, solicitors' fees are often the subject of significant public and professional debate because they directly affect the affordability and accessibility of legal representation. The manner in which legal practitioners charge for conveyancing services therefore has implications not only for members of the legal profession but also for consumers, investors, financial institutions, and the broader economy.

The regulation of solicitors' billing has attracted considerable scholarly attention within legal, economic, and regulatory literature because it lies at the intersection of professional ethics, consumer protection, access to justice, and market efficiency. Legal fees constitute an essential component of the administration of justice and significantly influence the accessibility of legal services. In the context of property conveyancing, the issue assumes even greater importance because conveyancing transactions involve substantial financial commitments, complex legal procedures, and significant risks to property rights. Consequently, scholars have debated the extent to which legal fees should be regulated by professional bodies, determined by market forces, or governed through hybrid regulatory mechanisms that seek to balance professional accountability with consumer welfare.

The literature on legal fee regulation generally revolves around two competing perspectives. The first perspective emphasizes the professional character of legal practice and supports regulatory intervention in legal remuneration. The second perspective views legal services as economic commodities that should be subject to market competition and consumer choice. Contemporary scholarship increasingly recognizes the limitations of both approaches and advocates regulatory frameworks that integrate professional oversight with market-oriented mechanisms.

The regulation of solicitors' billing raises fundamental questions concerning the nature of legal services and the extent to which professional remuneration should be subject to regulatory control. Historically, legal practice was regarded as a profession rather than a commercial enterprise. This perception influenced the development of remuneration systems based on professional fee scales, prescribed tariffs, and ethical restrictions designed to prevent excessive competition among practitioners (Pound, 1953) ^[48]. Such regulatory frameworks were intended to preserve the dignity of the legal profession, ensure adequate compensation for professional services, and discourage practices that might undermine the quality of legal representation. In many common law jurisdictions, bar associations and professional bodies exercised considerable authority in establishing and enforcing fee schedules applicable to various categories of legal work, including conveyancing transactions.

During the latter part of the twentieth century, however, significant changes occurred in the regulation of legal services. Influenced by economic liberalization, competition policy, and consumer protection movements, several jurisdictions began to question the appropriateness of

traditional fee regulation. Critics argued that mandatory fee schedules and restrictions on competition artificially increased the cost of legal services, limited consumer choice, and protected the economic interests of lawyers at the expense of the public (Posner, 2007) ^[47]. These concerns contributed to major reforms in legal services regulation, particularly in jurisdictions such as the United Kingdom and Australia, where policymakers increasingly embraced market-based approaches to determining legal fees.

The liberalization of legal services markets transformed the manner in which solicitors' remuneration is regulated. Instead of relying on prescribed fee schedules, many jurisdictions adopted systems that allow legal practitioners and clients to negotiate fees contractually, subject to ethical obligations and consumer protection safeguards. These reforms were intended to encourage competition, improve efficiency, promote innovation, and enhance access to legal services. In England and Wales, for example, the Legal Services Act 2007 ^[30] introduced a regulatory framework that emphasized competition, consumer welfare, and market efficiency while retaining professional oversight through bodies such as the Solicitors Regulation Authority (Clementi, 2004) ^[9]. Similar trends have been observed in Australia, South Africa, and Ghana, although the specific regulatory mechanisms employed vary considerably among jurisdictions.

Despite the growing influence of market-oriented approaches, the regulation of legal fees remains a contested issue. Proponents of professional regulation argue that legal services differ fundamentally from ordinary commercial products because of the informational imbalance that exists between lawyers and clients. Clients frequently lack the expertise required to evaluate the competence, diligence, or quality of legal representation before engaging a solicitor. Consequently, unrestricted competition may encourage undercutting, reduce professional standards, and expose consumers to inadequate legal services (Freidson, 2001) ^[16]. These concerns are particularly significant in conveyancing transactions, where mistakes may have serious and irreversible consequences for property rights.

Conversely, advocates of market liberalization contend that competition promotes efficiency, innovation, and consumer choice. According to this perspective, legal practitioners should compete on the basis of price, quality, specialization, and service delivery. Market competition is viewed as an effective mechanism for reducing transaction costs and improving access to legal services, particularly for individuals and small businesses that may otherwise be unable to afford legal representation (Susskind, 2017) ^[57]. Technological developments, including online conveyancing platforms, automated document preparation systems, and digital property registration processes, have further strengthened arguments in favour of competitive legal services markets.

The tension between professional regulation and market competition is particularly evident in the context of conveyancing fees. Different jurisdictions have adopted varying approaches to balancing the objectives of professional accountability, consumer protection, and economic efficiency. Nigeria, for example, has recently reinforced a structured approach to legal remuneration through the Legal Practitioners Remuneration Order 2023 ^[7], which prescribes minimum fees for various legal services, including property transactions. The Order was

introduced largely in response to concerns regarding undercutting within the legal profession and the perceived decline in professional standards associated with inadequate remuneration. In contrast, jurisdictions such as the United Kingdom and Australia have largely abandoned mandatory fee scales in favour of transparency obligations, cost disclosure requirements, and market-based pricing mechanisms.

The diversity of regulatory approaches adopted by different jurisdictions raises important questions regarding the most effective means of regulating solicitors' billing in conveyancing practice. Should legal fees be regulated through mandatory scales designed to preserve professional standards, or should market forces determine remuneration subject only to ethical constraints? To what extent should consumer protection considerations influence the regulation of legal fees? How can legal systems balance the need for affordable legal services with the necessity of maintaining professional competence and accountability? These questions have become increasingly significant in an era characterized by globalization, technological innovation, and evolving expectations regarding access to justice.

Against this background, this article undertakes a comparative legal examination of the frameworks governing solicitors' billing in property conveyancing in Nigeria, the United Kingdom, Australia, South Africa, and Ghana. These jurisdictions were selected because they represent diverse approaches to legal services regulation and conveyancing practice while sharing historical connections through the common law tradition. The study examines the legal and institutional mechanisms governing conveyancing fees, the role of professional oversight bodies, and the policy considerations underlying different regulatory models.

The article pursues three principal objectives. First, it analyses the statutory, regulatory, and professional frameworks governing solicitors' remuneration in property transactions within the selected jurisdictions. Second, it evaluates the effectiveness of these frameworks in promoting consumer protection, professional accountability, and access to legal services. Third, it identifies best practices and proposes recommendations for improving the regulation of conveyancing fees, particularly within the Nigerian legal system. Through this comparative analysis, the article contributes to ongoing debates concerning the appropriate balance between professional regulation and market competition in the governance of legal services and offers insights into the future development of conveyancing regulation in both developed and developing jurisdictions.

Conceptual Clarification and Theoretical Framework

1. Conceptual Clarification

A clear understanding of the key concepts used in this study is essential for analysing the regulation of solicitors' billing practices in property transactions.

1.1 Solicitors' Billing

Solicitors' billing refers to the process through which legal practitioners charge clients for professional services rendered. Billing structures may include hourly rates, fixed fees, contingency arrangements, or percentage-based charges calculated in relation to the value of the transaction (Abel, 2020). In property transactions, legal billing typically covers services such as drafting contracts of sale, preparing deeds of assignment, conducting title searches, negotiating

contractual terms, and supervising the registration of property rights.

Conveyancing

Conveyancing refers to the legal process through which ownership or other interests in land are transferred from one party to another. The conveyancing process typically involves several stages including contract formation, investigation of title, preparation of transfer instruments, payment of stamp duties, and registration of the transaction with the appropriate land registry (Schmid 2008)^[54].

Legal Remuneration

Legal remuneration refers to the compensation paid to legal practitioners for services rendered in the course of professional practice. Remuneration may be regulated through statutory provisions, professional conduct rules, or contractual agreements between lawyers and clients. The level of regulation applied to legal remuneration significantly influences the accessibility and affordability of legal services in property transactions.

2. Theoretical Framework

The regulation of solicitors' billing in property conveyancing raises fundamental questions concerning the nature of legal services, the role of professional regulation, the protection of consumers, and the operation of market forces within the legal profession. Legal fees are not merely matters of private contractual agreement between lawyers and clients; they are closely linked to broader concerns regarding access to justice, professional accountability, service quality, and public confidence in the legal system. The manner in which legal practitioners are remunerated significantly influences the affordability of legal services, the incentives that shape professional conduct, and the efficiency of legal service delivery.

The debate concerning legal remuneration has generated two dominant theoretical perspectives. The first is Professional Regulation Theory, which emphasizes the distinctive nature of professional services and supports regulatory intervention to preserve ethical standards, competence, and public trust. The second is Economic Theory of Legal Services Markets, which views legal services as economic goods that should be subject to competition and market forces. These theories often produce contrasting policy prescriptions regarding the regulation of solicitors' fees. While Professional Regulation Theory generally supports regulatory oversight and, in some circumstances, fee controls, Economic Theory advocates competition, consumer choice, and pricing flexibility.

This study adopts an integrative theoretical framework that draws on both perspectives. Such an approach is necessary because neither theory, when applied in isolation, adequately addresses the complexities associated with regulating solicitors' billing in conveyancing transactions. The comparative analysis of Nigeria, the United Kingdom, Australia, South Africa, and Ghana demonstrates that modern legal systems increasingly combine elements of both theories in an attempt to balance professional accountability with market efficiency.

2.1 Professional Regulation Theory

Professional Regulation Theory is one of the most influential frameworks for understanding the governance of

professional services, particularly within the legal profession. The theory is based on the premise that certain occupations possess specialized knowledge, technical expertise, and ethical responsibilities that distinguish them from ordinary commercial enterprises. As a result, these professions require regulatory oversight to protect consumers, maintain standards of competence, and preserve public confidence in the services provided (Freidson, 2001) ^[16].

The origins of Professional Regulation Theory can be traced to classical sociological writings on professionalism. According to Pound, the legal profession occupies a unique position within society because lawyers perform functions that are directly connected to the administration of justice and the protection of legal rights (Pound, 1953) ^[48]. Unlike ordinary traders or service providers, lawyers act as intermediaries between citizens and legal institutions. Consequently, legal practice involves responsibilities that transcend purely commercial considerations.

Freidson argues that professional occupations derive legitimacy from their possession of specialized knowledge that is not readily accessible to the general public (Freidson, 2001) ^[16]. This informational advantage creates a relationship of trust between professionals and clients. Clients are often unable to evaluate the quality of professional services before they are delivered and may lack the expertise necessary to assess whether such services have been competently performed. In the legal profession, this information asymmetry is particularly pronounced because legal advice frequently involves complex statutory provisions, procedural rules, and technical concepts that ordinary consumers do not fully understand.

Professional Regulation Theory therefore maintains that market mechanisms alone are insufficient to regulate legal services effectively. Because consumers cannot easily assess legal quality, competition based solely on price may encourage practitioners to reduce costs at the expense of competence and diligence. Consequently, professional regulation becomes necessary to ensure that legal practitioners maintain acceptable standards of conduct and service delivery (Abel, 1989).

The legal profession has historically responded to these concerns through systems of licensing, ethical codes, disciplinary procedures, continuing professional education, and fee regulation. Such mechanisms are designed to ensure that lawyers possess the qualifications, integrity, and competence required to perform professional duties effectively. In many jurisdictions, professional bodies such as bar associations and law societies are empowered to establish and enforce standards governing legal practice.

One of the central contributions of Professional Regulation Theory to the regulation of legal fees is its emphasis on the relationship between remuneration and professional standards. According to this perspective, adequate remuneration is necessary to enable lawyers to discharge their professional responsibilities competently. Lawyers engaged in conveyancing transactions must undertake extensive due diligence, investigate title, prepare legal documentation, verify ownership rights, and ensure compliance with registration requirements. These activities require time, expertise, and professional judgment.

Professional Regulation Theory suggests that if remuneration falls below sustainable levels, lawyers may be incentivized to reduce the quality of their services in order to

maintain profitability. This concern is particularly significant in property transactions, where inadequate legal representation may result in defective title, fraudulent transfers, financial losses, or prolonged litigation (Hazard and Hodes, 2001) ^[20].

The theory therefore provides an intellectual justification for regulatory measures designed to prevent undercutting within the legal profession. Undercutting occurs when practitioners charge fees that are significantly below prevailing professional standards in order to attract clients. While such practices may appear beneficial to consumers in the short term, supporters of fee regulation argue that they may ultimately undermine service quality and public confidence in legal institutions (Parker, 1999) ^[44].

The Nigerian Legal Practitioners Remuneration Order 2023 ^[27] reflects this regulatory philosophy. The Order establishes minimum fees for various legal services, including conveyancing transactions, with the objective of preventing destructive price competition and preserving professional standards. Proponents argue that the Order strengthens the capacity of lawyers to perform adequate due diligence in property transactions and reduces the risk of fraudulent or defective conveyances (Anushiem, 2025).

Professional Regulation Theory also emphasizes the ethical dimensions of legal practice. Lawyers owe fiduciary duties to their clients and are expected to act with honesty, competence, loyalty, and independence. These ethical obligations distinguish legal services from ordinary commercial transactions and justify the existence of regulatory institutions responsible for monitoring professional conduct (Wilkins, 1992) ^[59].

Despite its strengths, Professional Regulation Theory has been criticized for its potential to encourage excessive regulation. Critics argue that professional bodies may use regulatory powers to protect the economic interests of practitioners rather than consumers. According to this critique, minimum fee schedules and restrictions on competition may function as barriers to entry and mechanisms for maintaining artificially high prices (Gillers, 2015) ^[18]. Such criticisms contributed significantly to legal services reforms in several jurisdictions during the late twentieth and early twenty-first centuries.

2.2 Economic Theory of Legal Services Markets

Economic Theory provides an alternative framework for understanding the regulation of solicitors' billing. Unlike Professional Regulation Theory, which emphasizes ethical obligations and public interest considerations, Economic Theory focuses on competition, consumer choice, and market efficiency.

The central premise of Economic Theory is that legal services should generally be treated as economic goods subject to the operation of market forces. According to this perspective, lawyers compete within a professional services market in which prices are determined by supply, demand, quality, specialization, and consumer preferences (Posner, 2007) ^[47].

Economic theorists argue that competition produces several important benefits. First, competition encourages efficiency by creating incentives for service providers to reduce costs and improve productivity. Second, competition promotes innovation because firms seek to develop new methods of delivering services in order to gain a competitive advantage.

Third, competition enhances consumer welfare by increasing choice and reducing prices (Friedman, 1962)^[17]. Applied to legal services, Economic Theory suggests that clients should be free to choose among competing lawyers based on price, quality, reputation, and specialization. Lawyers, in turn, should be free to negotiate fees with clients without unnecessary regulatory interference.

The influence of Economic Theory became particularly evident in legal services reforms implemented in jurisdictions such as the United Kingdom. The Clementi Review argued that excessive professional regulation restricted competition and reduced consumer welfare (Clementi, 2004)^[9]. These concerns ultimately contributed to the enactment of the Legal Services Act 2007^[30], which identified the promotion of competition as a central regulatory objective.

Economic Theory views competition as a mechanism for enhancing access to legal services. High legal fees may discourage individuals and businesses from obtaining legal representation, thereby limiting access to justice. By encouraging competition among lawyers, market-oriented systems seek to reduce costs and make legal services more affordable (Rhode, 2004)^[9]. According to Rhode, excessive legal fees may exclude low-income individuals and small businesses from obtaining legal representation, thereby undermining the effectiveness of legal systems. In the context of property transactions, high conveyancing costs may discourage compliance with legal procedures, increase reliance on informal transactions, and expose parties to avoidable legal risks. Rhode therefore advocates regulatory measures that enhance affordability while preserving professional competence.

Technological innovation has strengthened the economic case for market liberalization. Susskind argues that digital technologies, automated document preparation systems, online legal platforms, and electronic registration systems have transformed the delivery of legal services (Susskind, 2017)^[57]. In conveyancing practice, technological developments have enabled some providers to offer services more efficiently and at lower cost than traditional law firms. Economic Theory also emphasizes consumer sovereignty. According to this principle, consumers should be free to select legal services that best meet their needs and financial circumstances. Regulatory systems that impose minimum fees may limit consumer choice and prevent clients from negotiating more affordable arrangements.

However, Economic Theory recognizes certain limitations associated with legal services markets. The most significant concern is information asymmetry. Akerlof's theory of market failure demonstrates that markets characterized by unequal information may produce inefficient outcomes (Akerlof, 1970)^[5]. In legal services markets, lawyers possess significantly greater knowledge than their clients, making it difficult for consumers to evaluate service quality accurately.

This information imbalance may encourage clients to choose lawyers based primarily on price rather than competence. Excessive price competition may therefore create incentives for lawyers to reduce service quality in order to attract clients. Such outcomes are particularly problematic in conveyancing transactions because errors may have serious legal and financial consequences.

Consequently, even proponents of market liberalization generally acknowledge the need for some degree of

regulatory oversight. Ethical rules, disclosure obligations, disciplinary procedures, and consumer protection measures are often regarded as necessary safeguards against market failure (Hadfield, 2000)^[19].

2.3 Integrative Perspective

While Professional Regulation Theory and Economic Theory offer contrasting approaches to legal fee regulation, contemporary legal systems increasingly adopt hybrid models that combine elements of both perspectives. This integrative approach recognizes that legal services possess characteristics of both professional services and economic goods.

The comparative experience of Nigeria, the United Kingdom, Australia, South Africa, and Ghana demonstrates that neither unrestricted competition nor rigid fee regulation provides a complete solution to the challenges associated with solicitors' billing. Excessive regulation may increase costs and restrict consumer choice, while excessive reliance on market forces may undermine professional standards and expose consumers to inadequate legal representation.

Australia provides a useful example of an integrative model. Rather than imposing mandatory fee schedules, Australian law emphasizes cost disclosure, transparency, and consumer protection while preserving flexibility in fee determination. This approach seeks to promote informed consumer choice while maintaining professional accountability.

Similarly, the United Kingdom combines market-based pricing with extensive transparency requirements and professional oversight. Solicitors remain free to determine fees contractually, but regulatory rules require clear disclosure of costs and provide mechanisms for consumer complaints and disciplinary enforcement.

From an integrative perspective, the regulation of solicitors' billing should pursue four principal objectives. First, it should promote access to affordable legal services. Second, it should preserve professional competence and ethical standards. Third, it should enhance transparency and consumer protection. Fourth, it should encourage innovation and efficiency within legal services markets.

This study therefore adopts an integrative theoretical framework that draws on both Professional Regulation Theory and Economic Theory. The framework provides a useful basis for evaluating the regulatory approaches adopted in Nigeria, the United Kingdom, Australia, South Africa, and Ghana and for assessing their effectiveness in balancing professional accountability with market efficiency.

The consumer protection dimension of legal fee regulation has also attracted significant scholarly attention. Hadfield argues that legal services markets are characterized by severe information asymmetries because clients often lack the expertise required to evaluate legal quality before purchasing services (Hadfield, 2000)^[19]. Unlike consumers of ordinary goods, legal service consumers frequently cannot determine whether legal advice is competent until after the service has been provided. This informational imbalance creates the potential for exploitation and market failure. Hadfield therefore contends that legal services markets require regulatory interventions that promote transparency and enable consumers to make informed decisions regarding legal representation.

The concept of information asymmetry derives partly from Akerlof's seminal theory of market failure. Akerlof

demonstrated that markets characterized by unequal information between buyers and sellers may experience adverse selection and declining quality (Akerlof, 1970) ^[5]. Applied to legal services, this theory suggests that clients may be unable to distinguish between competent and incompetent lawyers, thereby creating incentives for practitioners to compete primarily on price rather than quality. Several scholars have used Akerlof's framework to explain why legal services cannot be regulated solely through ordinary market mechanisms.

Economic analyses of legal services regulation have challenged traditional professional approaches to fee control. Posner argues that legal services should generally be governed by market principles because competition encourages efficiency, innovation, and consumer welfare (Posner, 2007) ^[47]. According to Posner, restrictions on legal fees may distort market incentives, reduce competition, and increase costs for consumers. He contends that lawyers should be free to negotiate fees with clients subject only to safeguards against fraud, misrepresentation, and unconscionable conduct. This market-oriented perspective has significantly influenced legal services reforms in several jurisdictions.

The relationship between competition and legal services regulation was examined extensively by Clementi in his influential review of the regulatory framework governing legal services in England and Wales (Clementi, 2004) ^[9]. Clementi criticized traditional systems of professional self-regulation and argued that increased competition would improve efficiency, enhance consumer choice, and expand access to legal services. His recommendations formed the basis of the Legal Services Act 2007 ^[30], which transformed the regulatory landscape in the United Kingdom. The Clementi reforms are frequently cited as a significant example of the shift from professional protectionism toward consumer-focused regulation.

Subsequent scholarship has examined the consequences of legal services liberalization. Mayson argues that modern legal services markets increasingly require regulatory frameworks that balance professional values with commercial realities (Mayson, 2010) ^[34]. He notes that legal services are no longer delivered exclusively through traditional law firms but increasingly through alternative business structures, online platforms, and multidisciplinary organizations. This evolution challenges traditional assumptions regarding legal practice and necessitates new approaches to regulating lawyers' remuneration.

Susskind similarly contends that technological innovation is transforming the delivery of legal services and creating opportunities for more efficient and affordable legal representation (Susskind, 2017) ^[57]. According to Susskind, digital technologies, automation, and online service delivery are reducing transaction costs and increasing competition within legal markets. In conveyancing practice, technological developments such as electronic registration systems and online conveyancing platforms have significantly altered the manner in which legal services are delivered. These developments raise important questions regarding the continued relevance of traditional fee structures and professional billing models.

While market-oriented reforms have generated benefits, several scholars caution against excessive commercialization of legal practice. Parker argues that legal professionalism remains essential because lawyers perform

functions that directly affect individual rights and public confidence in legal institutions (Parker, 1999) ^[44]. She contends that competition should not be permitted to undermine ethical obligations or compromise service quality. In her view, regulatory frameworks must ensure that economic incentives do not erode professional values.

Similarly, Wilkins argues that legal services require a distinctive regulatory approach because of the public interest dimensions of legal practice (Wilkins, 1992) ^[59]. He maintains that lawyers are not merely private service providers but participants in the administration of justice. Consequently, regulatory systems must balance market efficiency with broader social objectives such as fairness, accountability, and access to justice.

The literature specifically addressing conveyancing practice highlights the unique characteristics of property transactions. Hazard and Hodes note that conveyancing lawyers assume substantial professional responsibilities because errors in property transactions may have permanent consequences for ownership rights and financial security (Hazard and Hodes, 2001) ^[20]. Conveyancing therefore differs from many other forms of legal practice because of the direct relationship between legal competence and the validity of proprietary interests.

Regulation of Solicitors' Fees in Select Jurisdictions

1. Regulation of Solicitors' Fees in Nigeria

Nigeria maintains one of the most interventionist frameworks for regulating solicitors' remuneration among contemporary common law jurisdictions. The regulation of legal fees is principally governed by the Legal Practitioners Act and the Legal Practitioners Remuneration Order 2023 ^[7], which together establish the legal and institutional framework for determining lawyers' fees in a variety of legal transactions, including property conveyancing (Legal Practitioners Act, 2004 ^[26]; Legal Practitioners Remuneration Order, 2023) ^[7]. Unlike jurisdictions such as the United Kingdom and the United States, where legal fees are largely determined through market negotiation and competition, the Nigerian system adopts a structured remuneration framework that prescribes minimum fees for specified categories of legal services.

The introduction of the Legal Practitioners Remuneration Order 2023 ^[7] marked a significant development in the regulation of legal fees in Nigeria. The Order was introduced against a background of increasing concerns regarding undercutting, unethical competition, declining professional standards, and inadequate remuneration of legal practitioners. The Nigerian Bar Association argued that persistent fee undercutting had contributed to poor professional service delivery, superficial due diligence, and increased vulnerability to fraudulent property transactions (Anushiem, 2025, pp. 45–50). The Order therefore seeks to ensure that legal practitioners receive adequate remuneration commensurate with the professional responsibilities involved in property transactions.

The Nigerian regulatory framework reflects the principles of Professional Regulation Theory, which regards legal services as professional activities requiring regulatory oversight rather than purely commercial transactions. Conveyancing practice involves title investigation, preparation of legal instruments, verification of ownership rights, compliance with statutory requirements, perfection of title, and registration of proprietary interests. These

responsibilities require specialised legal expertise and carry significant legal consequences. Consequently, the regulation of remuneration is viewed as a mechanism for preserving professional standards and protecting consumers from inadequate legal representation.

Legal and Institutional Framework

The Legal Practitioners Act provides the statutory basis for the regulation of legal practice in Nigeria. The Act empowers relevant regulatory authorities to prescribe rules relating to professional conduct and remuneration of legal practitioners (Legal Practitioners Act, 2004)^[26]. Pursuant to this authority, the Legal Practitioners Remuneration Order 2023^[7] establishes minimum fees applicable to a wide range of legal services, including conveyancing transactions, leases, mortgages, powers of attorney, wills, and other property-related instruments.

The Order adopts a value-based remuneration model under which fees are calculated primarily as a percentage of the value of the property involved in the transaction. This approach is based on the premise that the complexity, responsibility, and potential risks associated with conveyancing transactions often increase in proportion to the value of the property. Consequently, higher-value transactions attract higher legal fees.

Institutional oversight of legal remuneration is exercised by the Nigerian Bar Association, disciplinary bodies established under the Legal Practitioners Act, and the courts. Nigerian courts retain supervisory jurisdiction over legal fees and may intervene where disputes arise concerning the reasonableness, recoverability, or legality of professional charges.

Regulation of Conveyancing Transactions

Property conveyancing constitutes one of the most significant areas affected by the Legal Practitioners Remuneration Order 2023^[7]. Conveyancing transactions include sales, assignments, leases, mortgages, gifts, settlements, powers of attorney, and other transfers of proprietary interests in land. The Order prescribes minimum fees for many of these transactions based on the value of the property or the nature of the legal service performed.

In property sales and assignments, solicitors are generally required to conduct due diligence, investigate title, prepare and review contractual documents, obtain necessary governmental approvals, and facilitate registration of the transaction. The prescribed fee structure reflects the professional responsibilities associated with these activities and seeks to ensure that legal practitioners devote adequate attention to the transaction.

The importance of professional diligence in conveyancing has been repeatedly emphasised by Nigerian courts. In *Savannah Bank Ltd v Ajilo* (1989)^[53], the Supreme Court underscored the legal significance of obtaining the Governor's consent under the Land Use Act in transactions involving statutory rights of occupancy. The Court held that failure to comply with statutory consent requirements could affect the validity of property transactions (*Savannah Bank Ltd v Ajilo*, 1989^[53], pp. 320–326). Similarly, in *Ogunleye v Oni* (1990)^[39], the Supreme Court highlighted the importance of proper documentation and compliance with conveyancing procedures in establishing and protecting proprietary interests in land (*Ogunleye v Oni*, 1990^[39], pp. 775–783).

Other Property-Related Legal Services

The Remuneration Order also regulates fees relating to several ancillary property transactions. One such transaction is the preparation of powers of attorney. A power of attorney authorises another person to act on behalf of the donor in relation to property management or disposition. The preparation of such instruments requires careful drafting to ensure that the authority granted accurately reflects the intentions of the parties. Nigerian courts have recognised the legal significance of powers of attorney in property transactions, particularly where agents act on behalf of principals in land transactions (*Ude v Nwara*, 1993^[58], pp. 650–655).

Leases similarly constitute an important category of conveyancing transactions. Solicitors involved in lease transactions advise parties on rights and obligations, prepare lease instruments, ensure compliance with statutory requirements, and facilitate registration where necessary. The complexity of lease transactions may vary depending on factors such as duration, rent review provisions, covenants, and regulatory requirements.

Mortgage transactions also occupy a central place within Nigerian property law. Solicitors play critical roles in preparing mortgage instruments, conducting title verification, ensuring compliance with lending requirements, and perfecting security interests. In *Okonkwo v Cooperative and Commerce Bank Plc* (2003)^[42], the Supreme Court examined important principles relating to mortgages and reaffirmed the significance of compliance with legal requirements governing secured transactions (*Okonkwo v Cooperative and Commerce Bank Plc*, 2003^[42], pp. 360–370).

Property-related legal services further extend to estate planning and investment structures. Solicitors frequently prepare wills involving real property interests and advise clients on succession planning. They also provide legal services relating to Real Estate Investment Trusts (REITs), including the preparation of trust instruments, regulatory compliance, investment structuring, and transaction documentation. Given the complexity of these transactions, remuneration is often determined by reference to the value of the transaction, the scope of work involved, and applicable provisions of the Remuneration Order.

Contemporary Debates and Challenges

Despite its objectives, the Legal Practitioners Remuneration Order 2023^[7] has generated considerable debate within legal and commercial circles. Supporters argue that the framework promotes professionalism, discourages unethical undercutting, improves the quality of legal services, and enhances consumer protection by ensuring that lawyers are adequately compensated for undertaking proper due diligence (Anushiem, 2025, pp. 55–60).

Critics, however, contend that percentage-based fee structures may increase the cost of property transactions and potentially limit access to legal services, particularly for low-income individuals and small-scale property investors. Concerns have also been expressed regarding the compatibility of mandatory minimum fees with modern competition principles and evolving legal services markets. These debates reflect broader tensions between Professional Regulation Theory and Economic Theory in determining the most appropriate framework for regulating legal remuneration.

Notwithstanding these criticisms, Nigeria continues to maintain a regulatory model that prioritises professional oversight, minimum remuneration standards, and protection of the integrity of conveyancing practice. The effectiveness of this approach will depend upon consistent enforcement, periodic review of prescribed fees, and complementary reforms aimed at improving transparency, consumer awareness, and efficiency within the property registration system.

1.2 Regulation of Conveyancing Fees in the United Kingdom

United Kingdom

The United Kingdom has undergone significant transformation in the regulation of solicitors' remuneration and conveyancing practice over the past several decades. Historically, legal fees for conveyancing transactions were regulated through professional fee scales issued by the Law Society. However, modern reforms have shifted the United Kingdom toward a more liberalized and market-oriented system in which legal fees are determined largely through competition and contractual agreement between solicitors and clients (Mayson, 2010^[34], pp. 41–45).

The evolution of conveyancing regulation in the United Kingdom reflects broader changes in legal services policy, particularly the movement away from traditional professional self-regulation toward competition-based regulation emphasizing consumer choice, transparency, and market efficiency (Moorhead, 2009^[36], pp. 987–990). This transformation culminated in the enactment of the Legal Services Act 2007^[30], which fundamentally restructured the regulation of legal services in England and Wales.

Historical Regulation of Conveyancing Fees

Historically, solicitors in England and Wales operated under a system in which conveyancing fees were guided by scales established by the Law Society. These fee scales prescribed recommended charges for property transactions based on the value of the property involved (Abel, 2003^[2], pp. 172–174). The rationale for the fee scales was similar to the reasoning underlying contemporary fee regulation in jurisdictions such as Nigeria and Kenya. The legal profession viewed conveyancing as a specialized area requiring professional expertise, careful documentation, and ethical responsibility. Consequently, fee regulation was intended to preserve professional standards and prevent destructive price competition among solicitors.

The traditional system of regulated fees also reflected the historical structure of the legal profession in England and Wales, where solicitors enjoyed a relatively protected monopoly over conveyancing services. Conveyancing work constituted one of the most important sources of revenue for many solicitors' firms, particularly small and medium-sized practices (Paterson, 1996^[46], pp. 88–90).

However, by the late twentieth century, the fee regulation system increasingly came under criticism from economists, policymakers, and competition authorities. Critics argued that fixed or recommended fee scales restricted competition, increased legal costs, and limited consumer choice (Office of Fair Trading, 2001^[38], pp. 12–15). The legal profession was accused of operating as a restrictive cartel that insulated solicitors from normal market pressures.

These criticisms intensified during the broader wave of economic liberalization that influenced public policy in the

United Kingdom during the 1980s and 1990s. Competition policy reforms sought to reduce professional monopolies and encourage market competition across various sectors of the economy, including legal services (OECD, 2007^[30], pp. 24–28). As a result, the traditional fee scale system was gradually dismantled.

Liberalization of the Legal Services Market

The liberalization of the UK legal services market reached its most significant stage with the enactment of the Legal Services Act 2007^[30]. The Act represented one of the most comprehensive reforms of legal services regulation in modern British legal history (Mayson, 2010^[34], pp. 46–48). The Legal Services Act 2007^[30] was heavily influenced by the findings of the Clementi Review of Legal Services (2004)^[9]. Sir David Clementi criticized the existing framework of legal regulation for being overly fragmented, insufficiently consumer-oriented, and resistant to competition (Clementi, 2004^[9], pp. 8–14). The review recommended substantial reforms aimed at promoting efficiency, competition, and consumer protection within the legal services market.

The resulting legislation established a new regulatory structure designed to encourage market liberalization while preserving professional standards. One of the most important provisions of the Act is section 1, which sets out the regulatory objectives governing legal services in England and Wales. The section provides that one of the principal objectives of legal services regulation is “promoting competition in the provision of services” (Legal Services Act 2007^[30], s.1).

This statutory objective demonstrates the extent to which market competition became central to the modern regulation of legal services in the United Kingdom.

Unlike Nigeria's Legal Practitioners Remuneration Order 2023, the Legal Services Act 2007^[7, 30] does not prescribe minimum fees or percentage-based scales for conveyancing transactions. Instead, the Act creates a framework in which legal fees are determined primarily through market competition subject to consumer protection rules and professional oversight (Legal Services Board, 2020^[31], pp. 10–15).

The Role of the Solicitors Regulation Authority

The Solicitors Regulation Authority (SRA) plays a central role in regulating solicitors' billing practices in the United Kingdom. The SRA operates as the independent regulatory body responsible for supervising solicitors and law firms in England and Wales (Solicitors Regulation Authority, 2019^[56], pp. 2–4).

Although the SRA does not prescribe mandatory fee scales, it imposes extensive obligations relating to transparency, fairness, and professional conduct. Solicitors are required to provide clients with clear and accurate information regarding legal costs before commencing legal work (Solicitors Regulation Authority, 2019^[56], pp. 5–7).

The SRA Transparency Rules require law firms to publish information regarding the pricing of certain legal services, including residential conveyancing. Firms must disclose the basis of their charges, likely disbursements, whether fees are fixed or hourly, VAT implications, and the total estimated cost of the transaction (Solicitors Regulation Authority, 2018^[55], pp. 3–6). These transparency obligations are intended to enable consumers to compare prices among

competing legal service providers and make informed decisions regarding legal representation.

The SRA Code of Conduct also requires solicitors to ensure that clients receive information in a manner they can understand. Lawyers must explain the basis upon which legal fees are calculated and provide updates where costs are likely to exceed initial estimates (Solicitors Regulation Authority, 2019^[56], pp. 8–10).

Legal Fees in Property Transactions in the United States

The United States adopts a predominantly market-based approach to the regulation of legal fees in property transactions. Unlike jurisdictions such as Nigeria and Kenya, which prescribe structured fee schedules for conveyancing transactions, the American legal system generally permits lawyers and clients to negotiate legal fees freely subject to ethical limitations regarding reasonableness and fairness (Hazard, Hodes and Jarvis, 2015^[21], pp. 112–115). The regulation of solicitors' remuneration in the United States therefore reflects the broader influence of economic theory and market liberalization within the legal services sector.

The American legal profession operates within a decentralized regulatory framework in which individual states retain primary authority over the licensing and regulation of attorneys (Rhode, 2000^[51], pp. 53–56). Consequently, there is no single national statute prescribing conveyancing fees or establishing mandatory fee schedules for property transactions across the United States. Instead, legal fees are governed through a combination of contractual principles, professional conduct rules, judicial oversight, and consumer protection mechanisms.

Historical Development of Conveyancing Practice in the United States

Historically, lawyers played a dominant role in property transactions within the United States, particularly in relation to title examination, preparation of conveyancing instruments, and supervision of closing procedures (Cribbet and Johnson, 2002^[10], pp. 421–425). Over time, however, the American real estate market evolved differently from many Commonwealth jurisdictions because specialized non-legal institutions increasingly assumed significant roles in conveyancing transactions.

One of the most important developments in American property practice was the emergence of title insurance companies. Unlike jurisdictions where solicitors bear primary responsibility for investigating title and certifying ownership, title insurance companies in the United States conduct title searches and issue insurance policies protecting purchasers and lenders against defects in title (Palomar, 2012^[43], pp. 31–36).

As a result, many routine residential property transactions in the United States may proceed without direct involvement of lawyers, particularly in states where attorney participation is not legally mandatory. Instead, title companies, escrow agents, and real estate brokers often manage aspects of the closing process traditionally handled by solicitors in other jurisdictions (Joyce, Palomar and Burkhart, 2014^[22], pp. 97–101).

The reduced monopoly enjoyed by lawyers in American conveyancing practice significantly influenced the regulation of legal fees. Because consumers may choose among different service providers for property transactions,

competition within the market exerts substantial influence on legal pricing structures.

The Market-Based Approach to Legal Fees

The United States adopts a strongly market-oriented approach to legal billing. Lawyers generally determine fees through private contractual agreements with clients rather than through statutory fee schedules (Rhode, 2000^[51], pp. 60–64). This approach reflects the broader American commitment to freedom of contract and market competition within professional services markets.

Legal fees in property transactions may therefore vary considerably depending on factors such as the complexity of the transaction, the value of the property, the geographical location, the lawyer's expertise and reputation, the amount of time required, and prevailing market rates within the jurisdiction (American Bar Association, 2020^[6], pp. 14–18). Property lawyers in major commercial centres such as New York, California, and Illinois typically charge significantly higher fees than lawyers practising in smaller or rural jurisdictions.

Regulation through Professional Conduct Rules

Although the American system emphasizes market competition, lawyers' fees remain subject to professional ethical regulation. The principal framework governing legal billing is found in the American Bar Association Model Rules of Professional Conduct (American Bar Association, 2020^[6], pp. 35–39).

The most important provision relating to legal fees is Rule 1.5, which provides that a lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses (American Bar Association, 2020^[6], Rule 1.5, p. 39).

This provision constitutes the primary legal limitation on attorneys' billing practices in the United States. Rather than prescribing fixed fees, the rule establishes a standard of reasonableness.

Regulation of Legal Fees in Australia Australia

Australia operates a sophisticated and largely client-protective framework for the regulation of legal fees, which is characterised by a hybrid regulatory model combining statutory regulation, professional conduct rules, and market-based fee determination. Unlike jurisdictions that adopt fixed tariff systems or rigid fee schedules, the Australian approach relies primarily on transparency, mandatory cost disclosure, and post-billing review mechanisms as the principal tools for controlling legal costs. The regulatory structure reflects an underlying policy commitment to consumer protection through disclosure and accountability rather than direct price regulation (Dal Pont, 2021^[11], pp. 612–615).

The central legislative instrument governing legal costs in several Australian jurisdictions is the Legal Profession Uniform Law (LPUL), which seeks to harmonise legal practice regulation across participating jurisdictions, particularly New South Wales and Victoria (Legal Profession Uniform Law, 2015^[28], Part 4.3). The LPUL represents a significant reform in Australian legal regulation, marking a shift away from fragmented state-based systems and rigid fee regulation toward a more integrated framework grounded in transparency, ethical

billing, and informed client consent (Mark and Cowdroy, 2018^[33], pp. 48–52).

The Australian regulatory model reflects a broader policy equilibrium between competing objectives. These include ensuring access to justice, preserving professional independence in legal practice, and protecting clients from excessive, unclear, or unfair legal costs (Parker and Evans, 2018^[45], pp. 173–177). Within this framework, legal fee regulation is not treated as price control but as a consumer protection mechanism embedded within professional regulation.

Legal and Institutional Framework

The Legal Profession Uniform Law constitutes the principal statutory foundation for modern legal fee regulation in Australia. It was enacted to address inconsistencies across Australian jurisdictions and to promote uniform standards in legal practice regulation (Mark and Cowdroy, 2018^[33], pp. 52–56). Under the LPUL framework, legal practitioners are required to provide clients with timely and adequate disclosure of legal costs either before or as soon as practicable after being retained. The legislation regulates cost disclosure requirements, cost agreements between legal practitioners and clients, billing practices, assessment of legal costs, and mechanisms for resolving cost disputes (Legal Profession Uniform Law, 2015^[28], ss. 174–187).

Not all Australian jurisdictions operate under the Uniform Law Scheme. Jurisdictions such as Queensland and Western Australia retain independent legal profession legislation, although their regulatory frameworks remain broadly consistent with the Uniform Law model. These systems similarly require reasonableness of legal costs, mandatory cost disclosure, consumer protection safeguards, and regulatory oversight by legal services authorities (Queensland Law Society, 2022^[50], pp. 15–18).

The enforcement of legal fee regulation is undertaken through a multi-institutional regulatory structure. Legal Services Commissioners are responsible for investigating complaints and initiating disciplinary proceedings in relation to excessive or improper billing practices. Law Societies and Bar Associations provide professional oversight and ensure compliance with ethical standards. Independent costs assessors or taxing officers are tasked with reviewing disputed legal bills and determining reasonable costs. Courts retain supervisory jurisdiction over legal costs, particularly in litigation contexts, and may intervene where necessary to ensure fairness and compliance with legal principles (Dal Pont, 2021^[11], pp. 630–635).

Core Principles Governing Legal Fees

The regulation of legal fees in Australia is underpinned by a number of fundamental principles that collectively define the legal and ethical framework governing lawyer–client financial relationships.

The first principle is freedom of contract. Australian law recognises that legal practitioners and clients are generally free to negotiate the terms of legal costs, including hourly billing arrangements, fixed-fee structures, conditional fee agreements, and hybrid billing models. However, this contractual freedom is not absolute and is subject to statutory limitations designed to ensure fairness, transparency, and consumer protection (Dal Pont, 2021^[11], pp. 620–622).

The second principle is transparency and informed consent. The regulatory framework is premised on the requirement that clients must be adequately informed about the financial implications of legal services. Lawyers are therefore required to disclose the basis of charging, estimated total legal costs, likely disbursements, billing intervals, and the client’s rights to dispute or negotiate costs (Legal Profession Uniform Law, 2015^[28], ss. 174–178). Failure to comply with these obligations may render legal costs unenforceable or subject them to reduction upon assessment.

A further governing principle is the requirement of reasonableness of costs. Even where disclosure obligations have been satisfied, legal costs must remain fair and reasonable in the circumstances of the matter. In assessing reasonableness, consideration is given to the complexity of the matter, the skill and experience required, the time reasonably expended, prevailing market rates, urgency of the matter, and, where relevant, the outcome achieved (Parker and Evans, 2018^[45], pp. 180–183).

The regulatory framework is also characterised by a consumer protection orientation. This reflects recognition of the inequality of bargaining power between legal practitioners and clients. Accordingly, clients are afforded statutory safeguards including cooling-off periods for cost agreements, rights to independent cost assessment, protection against misleading billing practices, and access to formal complaint mechanisms (Legal Services Commissioner, 2020^[31], pp. 9–13).

Cost Disclosure Obligations

Mandatory cost disclosure constitutes a central feature of the Australian legal fee regulatory regime. Under the Legal Profession Uniform Law and equivalent state legislation, legal practitioners are required to provide written disclosure of costs at the commencement of a retainer or as soon as practicable thereafter. This disclosure must include an estimate of total legal costs or a reasonable range, hourly billing rates of practitioners involved in the matter, anticipated disbursements and information regarding the client’s rights in relation to cost disputes and cost assessments (Legal Profession Uniform Law, 2015^[28], ss. 174–182).

Failure to comply with these obligations may result in disciplinary action, suspension of the right to recover costs until proper disclosure is made, and reduction of costs upon assessment (Dal Pont, 2021^[11], pp. 636–640).

Cost disclosure obligations continue throughout the duration of the legal engagement. Legal practitioners are required to update clients where it becomes apparent that initial estimates are likely to be exceeded, where the scope of work changes materially, or where unforeseen disbursements arise (Queensland Law Society, 2022^[50], pp. 20–23).

In addition to statutory disclosure requirements, legal practitioners may enter into formal cost agreements with clients. Such agreements may provide for fixed-fee arrangements, hourly billing structures, or conditional fee arrangements where permitted by law. However, all cost agreements must comply with statutory fairness requirements and remain subject to judicial or administrative review where challenged (Mark and Cowdroy, 2018^[33], pp. 67–71).

Regulation of Legal Fees in Kenya

The regulation of legal fees in Kenya is governed by a structured and relatively interventionist legal framework anchored primarily in the Advocates Act and the Advocates (Remuneration) Order (Ojienda, 2013^[40], pp. 245–248). This framework places Kenya among jurisdictions that adopt a partially tariff-based system for regulating legal fees, particularly in respect of conveyancing, litigation, and other defined legal services. Unlike liberal market jurisdictions where legal fees are largely determined through private negotiation between advocates and clients, the Kenyan system incorporates statutory minimum fees and scale-based regulation designed to ensure uniformity, professionalism, and predictability in legal charging.

The regulatory philosophy underlying the Kenyan framework is rooted in the need to maintain professional standards within the legal profession while simultaneously protecting clients from exploitative pricing practices and ensuring the sustainability of legal practice (Law Society of Kenya, 2022^[25], pp. 8–12). The system therefore reflects a dual objective: first, the preservation of ethical and professional standards within the Bar; and second, the protection of clients from unfair competition and inconsistent pricing structures that may arise in an unregulated market.

The Advocates (Remuneration) Order plays a central role in this regulatory regime by prescribing minimum fees for specified categories of legal work. These include conveyancing transactions, probate matters, and litigation services. The effect of this structure is that legal costs are not purely negotiable but are instead anchored within a statutory framework that prescribes both minimum and, in some instances, scaled fees based on the value or complexity of the transaction (Advocates (Remuneration) Order, 2014^[4], Schedules 1–7).

This paper critically examines the structure, rationale, and implications of legal fee regulation in Kenya. It considers the statutory framework, institutional enforcement mechanisms, underlying policy justifications, and broader implications for access to justice and professional regulation. It also situates Kenya within comparative regulatory discourse by assessing its tariff-based system against more liberal and disclosure-based models in other jurisdictions.

Legal and Institutional Framework

The regulation of legal fees in Kenya is primarily governed by the Advocates Act (Cap 16), which establishes the legal profession's regulatory structure, and the Advocates (Remuneration) Order, which provides detailed schedules of fees applicable to various legal services (Advocates Act, Cap 16, Laws of Kenya). The Advocates Act confers authority on the Chief Justice to issue remuneration orders that prescribe the scale of fees chargeable by advocates, thereby giving the judiciary a central role in regulating legal costs.

The Advocates (Remuneration) Order is the most significant instrument in determining legal fees in Kenya. It provides detailed tariff structures for different categories of legal work, including conveyancing, litigation, corporate advisory services, and probate administration. In conveyancing transactions, legal fees are typically calculated as a percentage of the value of the property being transferred. This creates a proportional fee structure that increases with

the value of the transaction, thereby ensuring that legal remuneration reflects the economic significance of the matter (Kuloba, 2011^[15], pp. 184–188).

The Kenyan regulatory framework is further supported by judicial interpretation, which has consistently affirmed the binding nature of the Remuneration Order. Courts have held that advocates are generally prohibited from charging below the prescribed minimum fees unless there are exceptional circumstances justifying departure and such departure is authorised under the applicable legal provisions (Machira & Co Advocates v Magugu [2002^[32]] 2 EA 428, pp. 433–435). Institutionally, enforcement of legal fee regulation is undertaken through multiple actors. The Law Society of Kenya plays a central role in professional regulation, while the judiciary exercises supervisory jurisdiction over taxation of costs. Taxation of costs is a judicial process through which disputed legal fees are assessed and determined in accordance with the Remuneration Order. This mechanism ensures that legal fees remain subject to independent scrutiny and prevents arbitrary or excessive billing practices (Ojwang, 2010^[41], pp. 142–145).

Structure of the Advocates (Remuneration) Order

The Advocates (Remuneration) Order constitutes the core instrument for determining legal fees in Kenya. It establishes detailed schedules that prescribe minimum fees for specified legal services. In conveyancing matters, fees are generally calculated on a sliding scale based on the value of the property involved, thereby introducing a structured and predictable method of assessment (Advocates (Remuneration) Order, Schedule 1).

The Order also covers litigation fees, where remuneration may be determined based on the nature of the case, the amount in dispute, or the complexity of proceedings. In certain instances, the Order allows for additional fees based on instruction fees, attendance fees, and other procedural elements of legal work. This comprehensive tariff system ensures that most standard legal services are subject to regulated pricing (Kuloba, 2011^[23], pp. 190–194).

A key feature of the Remuneration Order is its prohibition of fees below the prescribed minimum. Advocates are generally not permitted to charge less than the minimum statutory fee unless special circumstances apply. Such circumstances may include hardship cases or court-authorized reductions. This restriction is intended to prevent price undercutting and maintain professional dignity within the legal profession (Ojienda, 2013^[40], pp. 251–254).

The structured nature of the Remuneration Order provides predictability in legal costs but also limits flexibility in fee negotiation between advocates and clients. While this enhances consistency, it also raises concerns regarding accessibility and affordability of legal services, particularly for low-income clients.

Rationale for Regulating Legal Fees

The regulatory rationale behind Kenya's legal fee framework is grounded in both professional and public interest considerations. First, the system seeks to preserve professional standards within the legal profession by preventing excessive price competition among advocates. Without regulation, there is a risk that advocates may engage in undercutting, which could compromise the quality

of legal services and lead to unethical practice (Law Society of Kenya, 2022^[25], pp. 15–18).

Second, the tariff system ensures that advocates are adequately compensated for their professional services. Legal work, particularly in complex litigation or high-value transactions, requires specialised expertise, and regulated fees ensure that such expertise is fairly remunerated (Ojwang, 2010^[41], pp. 148–151).

Third, the framework serves a consumer protection function by introducing predictability and transparency into legal costs. Clients are able to anticipate legal fees based on statutory scales, particularly in conveyancing transactions where fees are directly linked to property value. This reduces uncertainty and minimises disputes over legal costs (Kuloba, 2011^[23], pp. 195–197).

However, the system also reflects a regulatory preference for structural control over market freedom. Unlike jurisdictions that prioritise disclosure and post-billing assessment, Kenya adopts a more prescriptive approach through mandatory fee schedules, thereby limiting contractual flexibility between lawyers and clients.

Judicial Supervision and Taxation of Costs

Judicial taxation of costs is a central mechanism in the enforcement of legal fee regulation in Kenya. When disputes arise regarding legal fees, courts or taxing officers assess the appropriate amount payable in accordance with the Advocates (Remuneration) Order. This process involves examination of the nature of the legal work performed, the complexity of the matter, and the applicable statutory scale (*Premchand Raichand Ltd v Quarry Services of East Africa Ltd* [1972^[49]] EA 162, pp. 164–166).

The taxation process serves as an important safeguard against excessive billing and ensures that legal fees remain within statutory limits. It also provides a structured dispute resolution mechanism that enhances accountability within the legal profession. Courts have consistently emphasised that taxation must adhere strictly to the Remuneration Order, thereby reinforcing the mandatory nature of the tariff system (*First American Bank of Kenya v Shah & Others* [2002^[14]] 1 EA 64, pp. 68–70).

Judicial oversight also extends to the enforcement of minimum fees. Courts have held that agreements between advocates and clients that fall below the prescribed minimum fees are generally unenforceable unless expressly permitted by law. This reinforces the statutory framework and limits private deviation from prescribed tariffs.

Consumer Protection and Access to Justice

The Kenyan legal fee framework incorporates elements of consumer protection, particularly through the predictability of conveyancing fees and the structured nature of litigation costs. Clients benefit from a system that provides clear statutory guidance on legal costs, thereby reducing the risk of arbitrary billing (Law Society of Kenya, 2022^[25], pp. 20–22).

However, the system also raises concerns regarding access to justice. The imposition of minimum fees may render legal services unaffordable for certain segments of the population, particularly in low-value disputes or rural contexts. This tension between professional regulation and accessibility remains a key policy challenge within the Kenyan legal system (Ojienda, 2013^[40], pp. 258–261).

Despite these concerns, the regulatory framework seeks to balance affordability with professional sustainability. The structured tariff system ensures that legal practitioners remain adequately compensated, thereby supporting the continued provision of legal services.

The regulation of legal fees in Kenya is characterised by a structured, tariff-based framework anchored in the Advocates Act and the Advocates (Remuneration) Order. The system plays a central role in maintaining professional standards, preventing unethical competition, and ensuring predictability in legal costs. While it provides important safeguards for both clients and practitioners, it also raises ongoing questions regarding flexibility, affordability, and access to justice.

Overall, Kenya's approach reflects a regulatory model that prioritises statutory control and professional discipline within the legal profession, thereby ensuring uniformity and stability in legal fee determination while maintaining judicial oversight through taxation mechanisms.

Regulation of Legal Fees in Poland

The regulation of legal fees in Poland is grounded in the civil law tradition, which is characterised by strong statutory control, formal legal certainty, and significant state involvement in regulating professional legal services. Unlike common law jurisdictions where legal fees are largely determined through contractual negotiation and market forces, Poland operates a structured regulatory framework in which legal fees are subject to statutory tariffs and ministerial oversight. This framework is particularly pronounced in property transactions, where notaries play a central and legally constitutive role in the validation of transactions (Law on Notaries 1991^[24] (Poland); Ministry of Justice Poland, Notarial Fee Regulation 2004)^[35].

The Polish legal system treats certain legal transactions, especially those involving immovable property, as matters requiring formal legal authentication by public legal officers. As a result, legal fees are not merely private contractual arrangements but are regulated as part of the broader system of public legal order. This reflects the civil law principle that legal certainty and transactional validity depend on formal compliance with statutory requirements, including notarialisation and regulated fee structures.

Institutional Framework for Legal Fee Regulation

The institutional framework governing legal fees in Poland is primarily established through statutory instruments issued by the Ministry of Justice. The most important regulatory mechanism is the set of regulations governing notarial fees, which prescribe maximum allowable charges for notarial services. These fees apply particularly to property transactions, succession matters, and other legally formalised acts requiring notarialisation (Ministry of Justice Poland, Notarial Fee Regulation 2004)^[35].

Notaries in Poland operate under the Law on Notaries 1991^[24], which defines them as public officials entrusted with the authentication of legal acts. Their role extends beyond advisory functions and includes the legal validation of transactions, thereby making their participation mandatory in many property transfers (Law on Notaries 1991^[24] (Poland)). As a result, notarial fees are not subject to private negotiation but are determined strictly within statutory limits.

In addition to notaries, legal practitioners such as advocates (*adwokaci*) and legal advisers (*radcowie prawni*) are also

subject to regulated fee structures in certain legal contexts. While these professionals may negotiate fees in private advisory matters, litigation and court-related services are subject to minimum fee regulations issued by the Minister of Justice. This dual regulatory structure creates a hybrid system in which both fixed and minimum fee rules coexist within the legal profession (Regulation of the Minister of Justice on Fees for Legal Counsel Services (Poland)).

Role of Notaries in Property Transactions

A defining feature of the Polish legal system is the central role of notaries in property transactions. In civil law jurisdictions such as Poland, the transfer of immovable property is legally ineffective unless executed in the form of a notarised deed. This requirement ensures legal certainty, prevents fraud, and guarantees enforceability of property transfers.

Notaries are responsible for drafting, verifying, and authenticating property transfer agreements. Their certification confers legal validity on transactions, making their role constitutive rather than merely advisory. This institutional design reflects the broader civil law tradition, where formal legal acts are essential for the creation and transfer of legal rights.

The fees charged by notaries for these services are strictly regulated under statutory tariffs. These tariffs establish a sliding scale system in which fees are calculated as a percentage of the value of the property being transferred. However, maximum fee caps are imposed to prevent excessive charging and ensure affordability (Ministry of Justice Poland, Notarial Fee Regulation 2004) ^[35]. This system ensures uniformity in legal costs across the jurisdiction while also providing predictability for clients engaging in property transactions.

Statutory Tariffs and Fee Regulation Mechanisms

The Polish legal fee system relies heavily on statutory tariffs, which are issued and periodically updated by the Ministry of Justice. These tariffs define both minimum and maximum fee thresholds for a range of legal services, particularly those involving notarisation and litigation.

In conveyancing transactions, the tariff structure is based on a proportional system tied to property value. This ensures that legal fees reflect the economic significance of the transaction while maintaining regulatory control over pricing. The system is designed to eliminate uncertainty in legal costs and reduce disputes between legal practitioners and clients.

Legal practitioners are generally prohibited from charging fees outside the statutory framework unless specific exceptions are provided by law. This restriction distinguishes Poland from jurisdictions that allow broad contractual freedom in determining legal fees. Instead, Poland prioritises legal certainty and uniformity through regulatory standardisation (Ministry of Justice Poland, Notarial Fee Regulation 2004) ^[35].

Rationale for Regulation of Legal Fees in Poland

The regulation of legal fees in Poland is driven by several interrelated policy objectives. The first is the promotion of legal certainty. By establishing fixed and maximum fee structures, the system ensures that clients are aware in advance of the cost of legal services, particularly in property transactions.

The second objective is consumer protection. Regulated fees protect clients from excessive or arbitrary charges, especially in high-value transactions such as real estate

transfers. This is particularly important in a system where legal formalities are essential for the validity of transactions. The third objective is professional standardisation. The tariff system ensures that legal practitioners, particularly notaries, are adequately compensated for their services while maintaining consistency across the profession. This reduces disparities in legal pricing and reinforces professional integrity.

Finally, the system reflects the civil law tradition's emphasis on state supervision of legal formalities. Legal transactions are not treated purely as private agreements but as acts requiring public legal validation and oversight (Law on Notaries 1991 ^[24] (Poland)).

Judicial and Administrative Oversight

Although the system is largely statutory, judicial and administrative oversight plays an important role in ensuring compliance with legal fee regulations. Courts may intervene in disputes concerning legal fees, particularly where there is disagreement over the interpretation or application of statutory tariffs.

Taxation of costs is conducted in accordance with ministerial regulations, ensuring that legal fees remain within prescribed limits. Courts have consistently affirmed that deviations from statutory tariffs are not permissible unless expressly authorised by law. This reinforces the mandatory nature of the regulatory framework and limits contractual deviation between legal practitioners and clients (Regulation of the Minister of Justice on Fees for Legal Counsel Services (Poland)).

Consumer Protection and Access to Justice

The Polish legal fee system incorporates strong consumer protection elements through its reliance on statutory tariffs and regulated fee caps. Clients benefit from predictability and transparency in legal costs, particularly in property transactions where fees are predetermined by law.

However, the system has also been criticised for limiting flexibility and potentially restricting access to legal services for low-income individuals. Because fees are not freely negotiable, clients with limited financial resources may face barriers to accessing legal representation in certain contexts. Despite these concerns, the system seeks to balance affordability with professional sustainability by ensuring that legal practitioners receive fair and consistent remuneration for their services (Krzysztof Dębiński, *Civil Law Notarial Practice in Poland* 2019) ^[12].

The regulation of legal fees in Poland reflects a structured civil law system characterised by statutory control, ministerial oversight, and a strong reliance on notarial authentication in property transactions. The system ensures predictability, legal certainty, and consumer protection through regulated tariff structures, particularly in conveyancing matters.

While the framework limits contractual flexibility, it reinforces the integrity of legal transactions and supports the public function of notaries as legal officers of the state. In comparative terms, Poland represents a jurisdiction that prioritises formal legal certainty and institutional regulation over market-based fee determination, consistent with broader civil law traditions.

Computation of Solicitors' Fees in Property Conveyancing in Selected Jurisdictions

The methods used to compute solicitors' fees in property conveyancing vary considerably across jurisdictions. Some

legal systems prescribe mandatory fee scales linked to the value of the property, while others permit fees to be determined through contractual negotiation subject to statutory disclosure obligations, ethical rules, or reasonableness standards. The following discussion examines the specific methods used for calculating conveyancing fees in Nigeria, Kenya, Poland, Australia, the United Kingdom, and the United States.

Nigeria

The Legal Practitioners Remuneration Order 2023 ^[7] establishes mandatory minimum fees for conveyancing transactions and prohibits legal practitioners from charging below the prescribed scale. Under the Schedule to the Order, fees for the sale, purchase, or transfer of interests in land are calculated according to a graduated percentage structure based on the value of the property. The prescribed minimum scale is generally:

Property Value	Minimum Professional Fee
First ₦500,000	10%
Next ₦500,000	7.5%
Above ₦1,000,000	5%

Accordingly, where a property is valued at ₦20,000,000, the solicitor's fee is computed using the applicable percentage scale, resulting in a minimum fee significantly higher than a simple fixed-fee arrangement. The remuneration covers title investigation, preparation of deeds of assignment, contracts of sale, completion documentation, and registration processes.

For leases, the Order generally permits fees ranging between 5% and 10% of the total rental value depending on the duration of the lease. Mortgage transactions similarly attract fees ranging between 5% and 10% of the value of the secured loan. Powers of attorney may be charged either on a fixed-fee basis or according to the value of the property affected, while wills are usually charged as fixed professional fees based on the complexity of the estate.

Kenya

The computation of conveyancing fees in Kenya is governed by the Advocates Act and the Advocates (Remuneration) Order. Schedule I of the Order prescribes fees based on the value of the property being transferred. Although the specific percentages have been amended periodically, the general structure provides for progressive charges whereby advocates receive a percentage of the consideration or value of the property. The fee scale commonly operates as follows:

Property Value	Fee Scale
First KSh 5,000,000	Approximately 1.5%
Next KSh 5,000,000	Approximately 1.25%
Above KSh 10,000,000	Approximately 1%

The Order also prescribes fees for leases, mortgages, charges, debentures, and other conveyancing instruments. Unlike Nigeria, where the percentage rates are relatively high, Kenya adopts lower percentage scales while maintaining mandatory minimum charges.

Poland

Property transfers in Poland are completed through notarial deeds executed before a notary public. The computation of

notarial fees is governed by the Regulation of the Minister of Justice on Maximum Notarial Fees. The tariff is based on the value of the property and follows a graduated structure. For example:

Value of Transaction	Maximum Notarial Fee
Up to PLN 3,000	PLN 100
PLN 3,000 – 10,000	PLN 100 + 3% of excess
PLN 10,000 – 30,000	PLN 310 + 2% of excess
PLN 30,000 – 60,000	PLN 710 + 1% of excess
Above PLN 60,000	Graduated reductions subject to statutory ceilings

The tariff system seeks to ensure predictability and uniformity in property transactions while limiting excessive professional charges.

Australia

Australia does not prescribe statutory fee scales for conveyancing transactions. Under the Legal Profession Uniform Law 2015 ^[28], solicitors are generally free to determine fees through contractual agreements with clients. However, lawyers must provide detailed cost disclosures and estimates before commencing work.

Conveyancing fees are usually calculated through one of four methods: fixed-fee conveyancing packages ranging between AUD 800 and AUD 2,500 depending on transaction complexity; hourly billing rates; value-based commercial transaction fees; and hybrid billing arrangements. Hourly rates commonly range from:

Practitioner Level	Typical Hourly Rate
Junior Solicitor	AUD 250–350
Senior Associate	AUD 350–550
Partner	AUD 550–900+

Although there is no prescribed tariff, the Legal Profession Uniform Law requires fees to be fair, reasonable, and proportionate to the work performed.

United Kingdom

The Legal Services Act 2007 ^[30] does not prescribe any formula for computing conveyancing fees. Instead, legal fees are determined through contractual agreements between solicitors and clients, supported by competition and transparency requirements. The Solicitors Regulation Authority Transparency Rules require firms to disclose pricing information publicly.

In practice, conveyancing fees are generally charged on a fixed-fee basis:

Property Value	Typical Conveyancing Fee
£150,000	£700–£1,200
£300,000	£900–£1,500
£500,000	£1,200–£2,000

Complex commercial transactions are usually billed hourly, with rates ranging from approximately £150 to £500 per hour depending on the seniority of the solicitor. Courts may assess whether fees are reasonable under the Solicitors Act 1974.

United States

The United States does not prescribe statutory conveyancing fee scales. Instead, Rule 1.5(a) of the American Bar

Association Model Rules of Professional Conduct provides that a lawyer shall not charge an unreasonable fee. The Rule identifies several factors relevant to fee determination, including: time and labour required; novelty and difficulty of the issues involved. skill required to perform the legal service; Customary local fees; mount involved and results obtained; experience, reputation, and ability of the lawyer; and whether the fee is fixed or contingent. Property lawyers therefore compute fees through negotiated arrangements. Typical billing structures include:

Billing Method	Typical Range
Residential Fixed Fee	US\$500–US\$2,500
Commercial Transaction Fee	Negotiated
Hourly Rate (Associate)	US\$200–500
Hourly Rate (Partner)	US\$500–1,200+

Unlike Nigeria and Kenya, the American model focuses on reasonableness rather than statutory percentages.

Comparative Significance of Legal Frameworks and Professional Oversight in Nigeria and Selected Jurisdictions

The jurisdictions examined reveal three distinct methods of fee computation. Nigeria and Kenya rely on percentage-based statutory scales linked directly to property value. Poland employs statutory notarial tariffs. Australia, the United Kingdom, and the United States rely primarily on negotiated fees, subject to transparency, disclosure, and reasonableness requirements. The contrast demonstrates the continuing tension between professional fee regulation and market-based pricing in modern conveyancing practice.

The comparative analysis of Nigeria, the United Kingdom, the United States, Australia, Kenya, and Poland reveals significant variations in the regulation of solicitors’ billing in property conveyancing. Although all jurisdictions seek to ensure professional accountability, consumer protection, and the efficient delivery of legal services, they adopt markedly different regulatory strategies regarding the determination, supervision, and enforcement of legal fees. These differences reflect broader legal traditions, regulatory philosophies, and policy choices concerning the relationship between professional regulation and market competition.

At one end of the regulatory spectrum are jurisdictions such as Nigeria, Kenya, and Poland, which adopt relatively interventionist approaches to legal fee regulation. These jurisdictions rely upon statutory instruments, tariff systems, prescribed fee structures, or regulatory oversight mechanisms that directly influence the amount legal practitioners may charge for conveyancing services. At the opposite end are jurisdictions such as the United Kingdom, the United States, and, to a lesser extent, Australia, which permit legal fees to be determined primarily through contractual arrangements and market competition, subject to professional conduct rules, transparency obligations, and consumer protection safeguards.

The Nigerian model, particularly following the introduction of the Legal Practitioners Remuneration Order 2023 ^[7], reflects the continuing influence of Professional Regulation Theory. The underlying assumption is that legal services cannot be treated purely as commercial commodities because conveyancing involves significant legal risks, fiduciary obligations, and public interest considerations. By prescribing minimum fees for property transactions, the

regulatory framework seeks to discourage undercutting, preserve professional standards, and ensure that legal practitioners receive adequate remuneration to undertake thorough due diligence, title investigation, and documentation. Similar regulatory objectives are evident in Kenya's Advocates (Remuneration) Order, which establishes tariff-based fees linked to the value of the property transaction. In both jurisdictions, professional regulation is viewed as a mechanism for protecting not only lawyers but also consumers and the integrity of land administration systems.

Poland represents an even more interventionist model rooted in the civil law tradition. Unlike common law jurisdictions, where conveyancing may be performed by private legal practitioners operating within competitive markets, Polish property transactions require notarial authentication, and legal fees are largely regulated through statutory tariffs issued by the Ministry of Justice. The Polish approach prioritises legal certainty, formal validity, uniformity, and state supervision over contractual freedom. The involvement of notaries as public legal officers reflects a conception of property transfer as a matter of public legal order rather than merely private commercial exchange. Consequently, legal fees are treated as part of a broader regulatory framework designed to ensure transactional security and public confidence in property rights.

In contrast, the United Kingdom illustrates the transition from traditional professional regulation to market-oriented legal services governance. Historically, conveyancing fees were regulated through Law Society fee scales. However, reforms influenced by competition policy and the Clementi Review fundamentally transformed the regulatory landscape. The Legal Services Act 2007 ^[30] established competition, consumer welfare, and market efficiency as central regulatory objectives. Solicitors are now generally free to determine fees through contractual arrangements, provided that they comply with transparency requirements and professional conduct obligations. The emergence of licensed conveyancers and alternative business structures has further expanded competition within the conveyancing market. The United Kingdom therefore exemplifies the application of Economic Theory to legal services regulation, where consumer choice and market competition are regarded as the primary mechanisms for improving efficiency and reducing costs.

The United States adopts an even more market-oriented approach. Unlike Nigeria, Kenya, or Poland, there are generally no statutory fee schedules governing property transactions. Legal fees are determined through private agreements between attorneys and clients, subject principally to ethical constraints requiring reasonableness. The American model is distinctive because conveyancing functions are often shared among lawyers, title insurance companies, escrow agents, and real estate professionals. This diffusion of responsibility reduces the traditional monopoly enjoyed by lawyers and subjects legal services to significant competitive pressures. The American experience demonstrates the extent to which legal services can be integrated into broader commercial markets while retaining professional oversight through disciplinary rules and judicial supervision.

Australia occupies an intermediate position between interventionist and market-oriented models. Rather than imposing mandatory fee scales, Australian law emphasises

transparency, informed consent, cost disclosure, and independent cost assessment. The Legal Profession Uniform Law permits lawyers and clients to negotiate fees freely but requires extensive disclosure of costs and provides mechanisms for reviewing excessive or unreasonable charges. Australia therefore represents a hybrid regulatory model that attempts to reconcile the objectives of Professional Regulation Theory and Economic Theory. Professional accountability is preserved through statutory disclosure obligations, ethical rules, and disciplinary oversight, while market competition remains an important determinant of pricing.

The comparative analysis demonstrates that the central regulatory challenge across jurisdictions is the management of information asymmetry between lawyers and clients. Professional Regulation Theory emphasises that clients generally lack the expertise required to assess the quality of legal services before engagement. This information imbalance provides a strong justification for professional oversight, ethical regulation, and, in some cases, fee controls. Nigeria, Kenya, and Poland respond to this challenge through varying degrees of direct regulation. Conversely, the United Kingdom, United States, and Australia seek to address information asymmetry through transparency requirements, disclosure obligations, consumer education, and complaint mechanisms rather than direct price regulation.

The comparative evidence further demonstrates that each regulatory model involves trade-offs. Structured fee systems promote predictability, professional stability, and consistency but may reduce flexibility, limit competition, and increase transaction costs. Market-based systems encourage innovation, efficiency, and consumer choice but may expose consumers to quality variations, excessive commercialization, and difficulties in evaluating legal competence. Hybrid systems attempt to balance these competing considerations by combining contractual freedom with robust consumer protection mechanisms.

From an access-to-justice perspective, neither model offers a complete solution. While market competition may reduce prices in some contexts, it does not necessarily guarantee affordability for low-income consumers. Similarly, regulated fee structures may preserve professional standards while simultaneously creating financial barriers to legal representation. The comparative experience suggests that affordability depends not only on fee regulation but also on broader institutional factors such as legal aid systems, technological innovation, digital land administration, consumer awareness, and the efficiency of property registration processes.

The analysis also highlights the growing importance of transparency as a regulatory principle. Regardless of whether legal fees are determined by tariffs or market negotiation, modern regulatory systems increasingly recognise that consumers must receive clear information concerning legal costs. The United Kingdom's Transparency Rules, Australia's disclosure regime, and emerging consumer protection initiatives in other jurisdictions demonstrate a convergence toward transparency-based regulation. This suggests that future reforms may focus less on direct fee control and more on ensuring that clients can make informed decisions regarding legal representation.

Ultimately, the comparative study reveals that effective regulation of solicitors' billing in property conveyancing

requires a careful balance between professional independence, consumer protection, access to justice, and market efficiency. The most successful regulatory frameworks are not those that rely exclusively on either fee regulation or market competition but those that integrate professional oversight, transparency, accountability, and consumer safeguards within a coherent regulatory structure. In this regard, Australia provides perhaps the most balanced model, while the experiences of Nigeria, Kenya, the United Kingdom, the United States, and Poland offer important lessons regarding the strengths and limitations of alternative approaches to regulating legal remuneration in property transactions.

Recommendations and Conclusion

The comparative analysis demonstrates that the regulation of solicitors' billing in property conveyancing requires a careful balance between professional accountability, consumer protection, affordability, and market efficiency. In light of the findings of this study, the following recommendations are proposed.

1. Strengthening Transparency and Cost Disclosure

Nigeria and Ghana should adopt mandatory cost disclosure requirements similar to those operating under the United Kingdom's Solicitors Regulation Authority Transparency Rules and Australia's Legal Profession Uniform Law. Solicitors should be required to provide written estimates of legal fees, disbursements, and likely additional costs at the commencement of conveyancing transactions. Such disclosure would reduce information asymmetry and enable clients to make informed decisions regarding legal representation (Hadfield, 2000)^[19].

2. Periodic Review of Remuneration Frameworks

The Legal Practitioners Remuneration Order 2023^[7] should be subject to periodic review to ensure that prescribed fees reflect prevailing economic realities, inflationary pressures, technological developments, and market conditions. Regular review would prevent fee structures from becoming either excessively burdensome to consumers or inadequate for sustaining professional standards.

3. Establishment of Independent Costs Review Mechanisms

Nigeria and Ghana should establish independent legal costs assessment mechanisms similar to those operating in Australia. Such mechanisms would provide consumers with accessible avenues for challenging excessive legal fees while enhancing public confidence in the legal profession.

4. Enhanced Professional Discipline

Professional regulatory bodies should strengthen disciplinary procedures relating to unethical billing practices, undercutting, overcharging, and professional misconduct. Effective enforcement remains essential for preserving public confidence in conveyancing services.

5. Consumer Education and Public Awareness

Bar associations, regulatory authorities, and government agencies should implement public education programmes concerning conveyancing procedures, legal costs, and consumer rights. Increased public awareness would promote informed decision-making and reduce vulnerability to fraudulent property transactions.

6. Digitalisation of Conveyancing Processes

Governments should accelerate reforms aimed at digitising land registration systems, title verification procedures, and conveyancing documentation. Digital systems can reduce transaction costs, improve efficiency, and enhance transparency within property markets (Susskind, 2017) ^[57].

7. Adoption of Hybrid Regulatory Models

Future reforms should avoid excessive reliance on either rigid fee regulation or unrestricted market competition. Instead, policymakers should adopt hybrid regulatory frameworks that combine transparency, professional oversight, consumer protection, and pricing flexibility. The Australian model provides a particularly useful example of such an approach.

8. Adoption of Risk-Based Conveyancing Regulation

Rather than relying exclusively on percentage-based remuneration, regulatory frameworks should increasingly recognize the complexity and risk profile of conveyancing transactions. High-risk transactions involving defective title, complex financing arrangements, multiple ownership interests, or cross-border elements may justify enhanced professional remuneration, while routine transactions may benefit from simplified and more affordable fee structures.

9. Expansion of Technology-Enabled Conveyancing

Lessons from the United Kingdom, United States, and Australia demonstrate that digital conveyancing platforms, electronic title systems, and automated document preparation tools can significantly reduce transaction costs while maintaining professional standards. Nigeria and other developing jurisdictions should accelerate legal technology reforms that improve efficiency without compromising due diligence requirements.

Conclusion

This article has examined the regulation of solicitors' billing in property conveyancing through a comparative analysis of Nigeria and selected jurisdictions, including the United Kingdom, the United States, Australia, Kenya, and Poland. The study was undertaken against the backdrop of increasing debates concerning the appropriate balance between professional regulation, consumer protection, access to justice, and market efficiency in the delivery of legal services. Given that conveyancing transactions involve significant proprietary interests, substantial financial commitments, and complex legal procedures, the regulation of legal remuneration remains a critical aspect of ensuring both the integrity of property markets and public confidence in the legal profession.

The comparative analysis reveals the existence of three broad regulatory models governing solicitors' remuneration in conveyancing transactions. The first is the interventionist or tariff-based model represented by Nigeria, Kenya, and Poland, where legal fees are regulated through statutory instruments, prescribed scales, or tariff systems designed to ensure professional standards, predictability, and adequate remuneration. The second is the market-oriented model exemplified by the United Kingdom and the United States, where legal fees are largely determined through contractual negotiation and competitive market forces, subject to ethical obligations and consumer protection safeguards. The third is the hybrid model represented most clearly by Australia,

which combines contractual freedom with extensive cost disclosure obligations, transparency requirements, and independent mechanisms for reviewing disputed legal fees.

The study demonstrates that each regulatory model reflects distinct assumptions concerning the nature of legal services and the appropriate role of regulation. Jurisdictions favouring tariff-based systems generally proceed on the premise that legal services are professional obligations requiring significant oversight because of the information asymmetry that exists between lawyers and clients. By contrast, market-based systems emphasise competition, consumer choice, innovation, and efficiency as mechanisms for improving legal service delivery. Hybrid systems seek to reconcile these competing objectives by preserving market flexibility while simultaneously protecting consumers through transparency, disclosure, and professional accountability.

Notwithstanding their differences, all jurisdictions examined recognise the continuing importance of professional oversight in the regulation of conveyancing services. The comparative evidence confirms that legal services cannot be treated as ordinary commercial commodities. Clients frequently lack the expertise necessary to assess the quality of legal representation, evaluate the reasonableness of legal fees, or appreciate the legal consequences of inadequate conveyancing services. Consequently, regulatory intervention remains necessary to address information asymmetries, prevent unethical conduct, and preserve public confidence in property transactions. Whether achieved through fee schedules, ethical rules, disclosure obligations, or disciplinary mechanisms, professional oversight remains a central feature of effective legal services regulation.

The study further reveals an emerging international convergence around transparency as a fundamental regulatory principle. Regardless of whether jurisdictions adopt tariff-based or market-based systems, modern legal services regulation increasingly emphasises clear disclosure of legal costs, informed client consent, accountability in billing practices, and accessible mechanisms for challenging excessive fees. Transparency serves as a bridge between professional regulation and market competition by enabling consumers to make informed decisions while preserving lawyers' professional responsibilities.

The findings also demonstrate that neither rigid fee regulation nor unrestricted market liberalisation provides a complete solution to the challenges associated with solicitors' billing in conveyancing practice. Systems that rely exclusively on prescribed fee schedules may reduce flexibility, restrict competition, and increase transaction costs. Conversely, systems that depend solely on market forces may expose consumers to information asymmetries, quality concerns, and inconsistent service standards. The comparative experience therefore suggests that the most effective regulatory frameworks are those that successfully integrate professional accountability, consumer protection, transparency, and reasonable pricing flexibility.

For Nigeria, the Legal Practitioners Remuneration Order 2023 ^[7] represents a significant regulatory intervention aimed at addressing undercutting and strengthening professional standards within the legal profession. While the Order provides an important mechanism for preserving the economic sustainability of legal practice and enhancing the quality of conveyancing services, its long-term effectiveness will depend on complementary reforms. These include

improved transparency in billing practices, enhanced consumer education, effective enforcement of professional standards, accessible dispute resolution mechanisms, and continued modernisation of land administration systems. Without such supporting measures, fee regulation alone may be insufficient to achieve the broader objectives of consumer protection and access to justice.

Ultimately, the future of conveyancing regulation lies not in choosing between professional regulation and market competition, but in developing balanced regulatory frameworks that combine the strengths of both approaches. Effective regulation of solicitors' billing must ensure that legal practitioners are fairly remunerated for specialised professional services while simultaneously protecting consumers from excessive costs, promoting access to legal services, and encouraging innovation within legal markets. In this regard, hybrid regulatory frameworks grounded in transparency, accountability, professional ethics, and consumer protection offer the most sustainable path for the future regulation of solicitors' remuneration in property conveyancing.

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