

Legal Service Advertising in Indonesia: The Hurdles in Digital Marketing Rules and Ethical Limits

Bobby R. Manalu¹, Amalia Kurni Putri²
{ bobby.manalu@ssmp.co¹, amalia.kurni.putri@ssmp.co² }

Siregar Setiawan Manalu Partnership, Indonesia ^{1,2}

Abstract. The utilisation of digital marketing in advertising is pivotal to the entrepreneurial and managerial practices of the legal industry. In the fiercely competitive legal industry, external reputation and recognition may serve as a mark of quality and assurance—and digital marketing strategies play a role in achieving this. Nevertheless, digital marketing implementation in the Indonesian legal industry generally encountered obstacles due to the restrictions and ethical boundaries set by the existing Indonesian Advocate Ethical Codes, notwithstanding the absence of such regulation. This article examines the detrimental effects the existing ethical code's limitations and the absence of regulation have on the Indonesian legal industry's business practices and how to encounter such issues through a multidisciplinary approach. In analysing the issue, the historical context along with the business practices and legal comparisons with several countries, including the Netherlands and the United States, will be considered to provide a comprehensive illustration in this paper.

Keywords: Legal advertising, digital marketing, legal profession, law firm, legal ethics.

1 Introduction

Being on top of mind has the potential to revolutionise the way law firms do business. In doing so, a considerable degree of business reputation is involved. The significance of business reputation in shaping the lasting and sustained growth of firms has been emphasised by Hanna Kovalova and other scholars.[1] This is because it functions as a form of credit of trust for its clients. The development of reputations can occur primarily through earning and manufacturing[2] In the context of earned reputation, it can be obtained through impartial reporting of performance or through the observation and recollection of individuals who are qualified to evaluate the performance—for example, referrals and client testimonials. On the other hand, even if earned reputation exists, it is not accessible or sought by clients. Thus, in an effort to establish a positive reputation, lawyers and law firms might use the opportunity to leverage and capitalise their information through manufactured reputation. A lawyer or law firm may cultivate a manufactured reputation through advertisement (e.g. self-promotion) or by engaging third-party with a vested interest, financial or otherwise, in publicising specific perceptions.[2] The execution of self-promotion can be pursued through an abundance of formats, including digital marketing.

Consumer-advertiser interactions have been notably transformed by the internet, and social media in particular. Law firms and lawyers are not exempt from the current inevitability and acceleration of digital marketing.[3] The advent of digital marketing has allowed the exploration of novel and inventive methods for conveying messages about the legal services offered, enhancing the reputation of the law firm, and promoting the employee-lawyers within, thereby fostering the development of the business. Based on Gitnux Marketdata Report 2024, it was found that 77% of consumers search for lawyers start with online information, with 78% of clients deciding on a legal provider based on online reputation.[2] A survey conducted by Vizibility and LexisNexis revealed that lawyers from firms of all sizes acknowledge the tangible business benefits that social media can produce in the legal industry—from lead generation to client nurturing.[4] In addition, American Bar Association (ABA) Marketing Survey 2023 reported that 35% of people who use social media channels for professional purposes gained clients. The results go even further for smaller firms, with 42% of people using socials gaining new clients through social channels. [5]Further, the advertising strategy was extended to cover legal directories and third-party rankings, including Benchmark Litigation, Chambers, Legal500, IFLR1000, and others. Having a presence in such directories has several advantages for law firms.[6] For one, it may boost their online presence, which in turn generates leads. Secondly, it showcases their experience, awards, and client reviews, which helps develop trust and credibility.

At this time, there is an absence of research investigating the correlation between legal services advertising and client or business volume growth for law firms in Indonesia. Although there is a lack of statistical data on Indonesian law firms' use of digital marketing for legal service advertising, many of them can be found and researched online, and they employ digital marketing strategies to reach prospective clients. The inclusion of Indonesian law firms in the legal directories platform is one example. Whilst Indonesian Advocate Law does not prohibit advertisement for lawyers and law firms, the Indonesian Advocates Code of Ethics does, nevertheless, establish an ethical boundary concerning the publicity and advertising activities of an advocate. The issue at hand is that there is an absence of a definitive and precise definition regarding the boundaries of acceptable advertising and the types of media that ought to be prohibited in advertising legal services. At the same time, traditional forms of advertising like billboards, television, and newspapers are no longer the exclusive means of reaching consumers. Such regulations appear apathetic to the rise of the digital domain, whereas the evolution of marketing has paralleled technological progress. The lack of distinct boundaries creates uncertainty regarding the permissibility of digital marketing. Irrespective of the nature of the advocate as a profession, a law firm remains a business entity.

Drawing from the aforementioned explanation, the central research question may be formulated as follows:

“What approach may improve Indonesia’s legal services advertising practices in the digital marketing realm, based on the comparison with the Netherlands and the United States?”

This paper will commence by addressing the concept of legal service advertising and digital marketing tools in the legal industry. Then, through the lens of historical context, this study examines the rules that restrict advertising for legal services in Indonesia, with a focus on digital marketing, and evaluates how these rules are interpreted today in terms of ethical considerations. This paper will also compare the legal service advertising practises in Indonesia, the Netherlands, and the United States in an effort to discern similarities and distinctions. By comparing the practices of those three countries, this paper aims to identify the best approach

for ensuring that Indonesia's legal service advertising practices remain abreast of the latest developments and trends, both legally and ethically.

2 Research Methods

The methodology of this paper will consist of comparative legal research,[7] focusing on the substructural forces that influence the law, ethics, and its implementation as they pertain to the legal service advertising practices of Indonesia, the Netherlands, and the United States. Irrespective of the distinctions in the legal systems of each country, this research will not analyse the legal systems of those three countries. In contrast, this research will use legal analysis to compare and juxtapose the ethical and legal framework in relation to legal service advertising issues, with particular emphasis on digital marketing practices.

The objectives outlined in this comparative legal research paper encompass normative research related to regulatory concerns as well as evaluative purposes that seek to identify an improved set of solutions to legal and ethical quandaries concerning legal service advertising, whilst taking into account the historical and societal context.[8] Along with proposing the best possible solution, this paper will also delineate its implementation within the system that necessitates legal reform—specifically, the reform of Indonesian practices.[8] In employing the comparative legal research explained above, this paper will follow the approach established by Örucü and Oderkerk.[8][9] This will involve several phases, including preparatory, descriptive, comparative identification, as well as explanatory and evaluative.

Thus, in support of this paper, sources will be derived from the following: First, the *lex scripta*, such as main laws (including but not limited to national and international laws, acts, decrees, statutes, regulations, and case laws), as well as legally enforceable agreements and an organisational legal framework related to legal service advertising. Second, all sorts of official documentation relating to primary sources. Third and last is the analysis of pertinent literature, online sources, and other relevant publications. The sources consist of written texts in both Indonesian, English, and Dutch.

3 Discussion

3.1 Legal Services Advertising and its Tools in the Digital Age

Advertising in the digital age contributes not only to the growth of legal services marketing but also to its pervasiveness throughout the profession. It profoundly altered client-lawyer engagement as well; therefore, effective marketing strategies necessitate a nuanced understanding of the changing digital client behaviours and expectations. To begin, legal advertising refers to the promotion of legal services offered by a law firm or lawyers with the intention of attracting prospective clients.[10] Marketing encompasses all activities associated with pricing, sales, advertising, and promotion, whereas digital marketing incorporates those efforts through the utilisation of digital technology.[11] Effective marketing strategies are essential for the implementation of advertising campaigns. Kartson and Miriam[12] argue in the general marketing principles—which also serve as the foundation for digital marketing—that the essence of legal marketing is branding, a concept they define as a form of identification for

a service, product, or organisation (in this case, a law firm). Thus, in order to accomplish commercial objectives of legal services through advertising with digital technologies, digital marketing strategies should serve as the cornerstone and underpinning of the marketing effort.

Law firms and lawyers may find digital marketing simpler to implement compared to traditional marketing due to the greater accessibility and generally lower cost.[13] Furthermore, digital technology facilitates the immediate and more direct dissemination of information pertaining to the firms and lawyers to a greater number of audiences—thereby expanding the reach of advertisement while retaining the target market.[14] A study conducted by the ALPMA's 2022 Legal Industry Report reveals, for instance, that Australian law firms have elevated marketing and digital marketing to the status of top priorities.[15] According to the results of the survey, formal enterprise-wide strategies have been established primarily in the following two areas: information technologies (63%), and marketing (62%). In light of the current competitive landscape, the aforementioned report further asserts that organisations have come to regard digital marketing as indispensable.

Digital marketing generates specific marketing tools that law firms and lawyers utilise to augment their exposure through a manufactured reputation approach. In pursuit of illustrative purposes, this paper will provide an extensive look at three digital marketing tools that are predominantly employed within the legal services industry; websites, social media platforms, and legal directories.

3.1.1 Websites

Businesses increasingly rely on websites as a means to boost their connectedness and competitiveness; in fact, websites have become an integral component of any company on the internet. [16] [17] According to Lucas Guerreito,[18] 87% of law firms have website, while only 59% solo practitioners have a website. On top of that, Search Engine Optimisation (SEO), such as Google, has intersected with websites appearance. By that means, website might appear organically on search engines based on certain keywords. The presence of their websites can boost featured law firms' SEO, strategically enhancing visibility and overall digital presence of the law firms to support their own websites.

3.1.2 Social Media Platforms

Now the law firms and lawyers are changing their attitude about the viability of social media and starting to leverage it as a marketing tool.[19] In the legal profession, social media platforms can serve various functions, including but not limited to attracting new clients, professional connections building, sharing information, and promoting the firm and its services. Based on Katherine and L. Murphy,[20] it was found that 86% law firm are using social media, with LinkedIn as the most commonly used. With over than 550 million global users, LinkedIn is commonly known as the platform that targets people in professional occupations. The ABA TechReport 2023 revealed that the vast majority of law firms use social media as a means to promote their legal services, while a mere 16% of the respondents said that their firms had no internet presence.[4] Furthermore, a significant majority of lawyers, comprising 81% of the profession, actively engage in social media platforms for professional reasons.[4] Moreover, it was found that legal professionals and law firms that are not capitalising on social media marketing opportunities are missing out on gaining competitive edge over others in the field.[18]

3.1.3 Legal Directories

Cultivating positive word-of-mouth is crucial, as clients frequently consider testimonials when selecting a service. Although it may fall under the earned reputation category, it is possible to obtain it through a manufactured reputation.[11] One way to achieve this is through the use of third-party rankings and legal directories. Nowadays, it is a standard practice in the legal industry for the majority of law firms to collaborate with legal directories in some capacity for the purpose of soft-promoting their practices broadly. This advertising medium is distinct from the aforementioned two in the way that: (1) it is not managed directly by the firm or lawyers; (2) regardless of also employs internet tools such as websites and social media, however, it is under the auspices of a third-party entity; and (3) it appears to be unbiased, as ranking and featuring in the directories requires examination and assessment.

To be featured, several procedures must be completed. As an illustration, Chambers and Partners employs a submission process in which law firms and lawyers furnish a compilation of factual information about their respective areas of practice.[21] In addition to the submissions made by them, there will be an interview process in which selected clients/referees will be interviewed in order to provide testimonials regarding their experiences receiving services from the aforementioned law firms and lawyers. Once all procedures have been completed, the research team will be able to utilise the data to rank the law firms and lawyers, and then publicly feature them in their directories as the same holds for Benchmark Litigation.[22] For which the methodology employed for using the data supplied by law firms and clients is more explicitly specified: case evidence, the firm must provide recent case highlights and its explanation of the case's significance and the firm's capabilities; peer feedback, obtained through an online survey of law firm partners regarding their perspectives and evaluations of the current law firm rankings and leading lawyers as reported by Benchmark Litigation, and; client feedback, obtained through interviews with a diverse group of corporate and in-house contacts to acquire their evaluations of the law firms and lawyers they hire.

Nonetheless, the data analysis conducted by the research team is merely pre-advertising; advertising itself begins as soon as the feature becomes available. The legal directories will feature comprehensive profiles of law firms and lawyers, which will comprise details such as profiles, contact, information, photographs and logos, case histories, hyperlinks to social media profiles, and rankings. The rankings themselves exhibit variations of rankings contingent upon the practice areas and jurisdictions of the firms and lawyers.

The adoption of these three examples as digital marketing tools of legal services shapes the brand identity of law firms and lawyers. And a strong brand identity is key to standing out in a crowded legal market. Especially in Indonesia, the digital marketing potential is rather appealing. In 2022, research suggests that out of Indonesia's entire population, 73.3% are internet users, with 60.6% of that number purchasing goods and services online.[23] On the other hand, for some countries—including Indonesia—advertising blurs an ethical line between conducting business and adhering to professional ethics, despite the fact that the opportunities and commercial reach are significant. The subsequent section will assess the ethical implications of the regulations that restrict advertising for legal services in Indonesia, including digital marketing, through the lens of historical context. Additionally, considerable emphasis

will be placed on the utilisation of websites, social media platforms, and legal directories as digital marketing tools within Indonesian legal service practices.

3.2 The Left Behind: Indonesian Advocates Code of Ethics' Silence with the Progression of Digital Marketing

Taking into account the digital marketing tool that is stated in Section 3.1., websites and social media platforms are frequently utilised within Indonesian law firms. Even more so are the annually updated legal directories. For example, legal directories such as Legal 500, Asialaw, IFLR1000, Chambers, and Hukumonline have designated directories for law firms and lawyers in Indonesia's jurisdiction. Despite legal services advertising and legal digital marketing practices having become prevalent among law firms and lawyers, advertising and marketing in the legal profession remain restricted in some nations, including Indonesia. This is due to the fact that there is a reasoning that the legal profession is not a business entity but rather a profession.[24] It is distinct from business, which is motivated solely by the pursuit of financial gain, whereas the legal profession is driven by a responsibility to serve the public.[25] Hence, a clear differentiation must be established between the two by prohibiting practices that are focused on business.[26] Interestingly, the business model of law firms demonstrates otherwise. In Indonesia, legal services are commonly administered through the framework of civil partnerships or firms, for which both primary objectives are to generate a profit that may be divided among those in the entity structure.[27] [28] Aside from its contribution to commercial viability, publicity and advertising also serve to expand and improve public access to legal assistance or aid. In light of the limitless accessibility of the digital domain, the legal profession must optimise its utilisation of technology to deliver legal assistance, including advertising and delivery of services, to meet the public's needs more efficiently.[29]

Historically, advertising in the field of law has been a contentious issue with strict regulations on the way lawyers can sell their services. The historical basis for the customary prohibition on lawyers promoting their services and pricing may be traced back to English history, where it is closely associated with the perceived negative correlation of solicitation.[30] In the past, solicitation and advertising have been derided as unwelcome efforts to 'incite litigation.'[31] As a result, the first English restrictions in these fields were created to prohibit barratry, champerty, and upkeep.[30] Given the origin of these restrictions, it is improbable that the justification is adequate to be applied nowadays. Nonetheless, there has been a growing awareness among the public regarding the importance of court access as a mechanism for resolving disputes,[32] which necessitates information regarding the person who may provide legal assistance.

Until today, Indonesia has not made any revisions or changes to the rule regarding how legal professionals may market themselves. Prohibiting law firm and lawyer advertisements remains the same rules in Indonesia to this day. The regulations that pertain to the practice of advocates in Indonesia are regulated by the Indonesian Advocates Law and the Indonesian Advocates Code of Ethics. The advertisement is not covered by any provision of the Indonesian Advocates Law. Inversely, the Indonesian Advocates Code of Ethics establishes regulations pertaining to the advertisement of lawyers, which generally proscribe such conduct. Two articles mention about prohibition of publicity and advertising in the Indonesian Advocates Code of Ethics; Article 8 (b) and (f). First, Article 8 (b) Indonesian Advocates Code of Ethics prohibits the placement of advertisements for the primary purpose of attracting people's

attention; this includes the placement of signboards in any size, shape, or ostentatious form.[33] Furthermore, according to Article 8 (f) Indonesian Advocates Code of Ethics, it is strictly forbidden for advocates to use mass media to gain publicity or draw public attention to their conduct as an advocate concerning cases they are currently or have previously handled, unless the information they disseminate is intended to promote the application of legal principles that are foundation of advocacy as a profession.[33] Ethical repercussions will be ensured for any breach of these articles. Regardless of the awareness of the social media progression, since its enactment on May 23, 2002, the code of ethics in question has not undergone any revisions or advancements. Conversely, those two articles contain not a single explanation about advertising, which consequently introduced ambiguity into the implementation.

While legal services advertising in Indonesia is not regulated by the Indonesian Advocates Law, online advertising is generally governed by the Ministry of Trade Regulation of the Republic of Indonesia No. 50 of 2020 on Business Licencing, Advertising, Guidance, and Supervision of Business in Trade through Electronic Systems. Its stipulations are universally applicable to all forms of electronic advertising, irrespective of sector. That is, the legal services sector is obligated to comply with these regulations. Generally, online advertising must not promote products and services through the dissemination of fraudulent, misleading, or deceptive information.[34] By means, the legal services industry, in its capacity as a provider of services, ought to have the capability to engage in digital marketing activities, provided that such activities adhere to the prevailing regulations.

Now, in the modern era, societies have predominantly relied on the law as a mechanism to regulate their progress and address conflicts; thus, for societies to advance, laws must also evolve with the times.[35] However, the ethical boundaries seem to fail to advance with the passage of time, resulting in the stagnation of legal services practice development and progression. Despite the advertisement prohibition being meant for consumer protection and to maintain the professional integrity of a lawyer, it is important to recognise that advertisements are also consumers' basic rights—as they influence the rights of consumers to be informed and to make choices.[36] The following section will provide comparisons between the regulations and practices of Indonesia, the Netherlands, and the United States in order to identify an ideal approach to address Indonesia's left-behind state in instituting legal services advertising, in particular through digital marketing.

3.3 Comparison of Legal Services Advertising and Legal Digital Marketing Rules in the Netherlands, the United States, and Indonesia

Increasing numbers of jurisdictions are gradually accepting the practices of legal service advertising—whether explicitly or implicitly—including those performed digitally. Whilst such activities are not yet legal in Indonesia, other jurisdictions' practices can serve as a point of reference for Indonesia to examine and potentially emulate.

First, the practice in the Netherlands. In the Netherlands, there is an absence of any provision pertaining to advertisement in the *Nederlandse Orde van Advocaten* (NOvA) Rules of Conduct 2018, much less digital marketing.[37] Advertising, conversely, is governed by the Dutch Advertising Code. In general, Article 1(2) of the Dutch Advertising Code mentioned that the general principle of advertising must be in accordance with the law, the truth, and decency. Aside from that, advertising under the Code also should not be dishonest—misleading and/or aggressive advertising is considered to be by any means dishonest. Engaging in comparative

advertising, which involves mentioning another lawyer, is prohibited. Albeit subject to limitation, lawyers are generally permitted to participate in the production of advertisements to generate commercial interest in their profession. One limitation of this would be the lawyer's advertising campaign which could not include client names. Besides, law firms and lawyers with jurisdictions in the Netherlands are required to also comply with the Code of Conduct for European Lawyers and Charter of Core Principles of the European Legal Profession, given that the Netherlands is a member state of the European Union (EU).[38] According to Article 2.6, a lawyer has the right to disclose information regarding his or her services to the public, so long as the disclosure is truthful, non-misleading, and in adherence to the confidentiality obligation and other fundamental principles of the attorney profession. Furthermore, it is acceptable for a lawyer to engage in personal publicity through any variety of media platforms, including the press, radio, television, and electronic commercial communications. Unless their respective member states' codes of conduct specify otherwise, the article in question makes it plain that there is no significant objection to self-promotion, including through digital marketing.

Second, the practice in the United States. Lawyers are permitted to advertise in the United States with certain limits, in contrast to Indonesia, where such conduct is prohibited. Restrictions on advertising and other types of marketing were first determined by the U.S. Supreme Court in the case of *Bates v. State Bar of Arizona* to be antiquated etiquette norms that violated the First Amendment.[39] In addition, the Court determined that the purported link between advertising and the deterioration of true professionalism was severely tenuous, and noted that the lack of legal advertising might be perceived as the profession's failure to reach out and serve the community.[39] The regulation of advertising in the United States varies by state. The practice of legal services advertising must still adhere to the ethical standards set forth by each state bar association. Nevertheless, one standard of conduct remains uniform across all jurisdictions; the American Bar Association (ABA) Model Code of Professional Responsibility. As stated on Rule 7.1 of the ABA Model Code of Professional Responsibility, the fundamental principle in advertising is to refrain from conveying false or misleading information regarding the lawyer or the services offered by lawyers.[40] If the communication contains a material misrepresentation of fact or law, or if it omits a fact that is essential for the statement as a whole to be considered non-materially misleading, then it is deemed false or misleading. Furthermore, advertising across all media platforms, including conventional and digital formats, is permitted by the ABA.[40] As long as they comply with the ABA Model Code of Professional Responsibility, paid advertising through third-party rankings or legal directories, as well as in newspapers, on television, or online, is acceptable.[40] Then, the ABA Ethics 20/20 Commission Report expands the reference of the advertising medium to "new marketing services—such as law firm websites, blogs, social and professional networking sites, pay-per-click ads, pay-per-lead services, and online videos.[41]

While the ABA Model Code of Professional Responsibility does not explicitly address digital marketing or online advertising of legal services, a number of state bar associations have established such regulations. One example is the New York State Bar Association that established "Social Media Ethics Guidelines of the Commercial and Federal Litigation Section." [42] The guidelines comprise multiple sections to which the attorney is obligated to comply in regard to digital marketing practices with social media. To begin with, the first section mentioned on how the attorney must possess technological and social media competence. In this regard, a lawyer is obligated to comprehend the benefits, risks, and ethical implications that are linked to social media platforms. This includes their utilisation for research, advertising,

communication, and investigation. The second section concerns attorney communications and advertising regarding the services of an attorney. Several guiding principles govern this section, including adherence to advertising rules, prohibition of employing the term “specialist” on social media unless the lawyer in question holds certification from the relevant accrediting body, obligation of lawyers to monitor and remove social media posted by others on their personal pages, endorsement of attorneys, and positional conflicts in advertising where attorneys are involved. The third section is guidelines providing legal advice via social media. This section contains provisions prohibiting public solicitation through live communications, allowing attorneys to provide general responses to legal inquiries posted on social media, and the retention of social media communications involving clients. The final section of the guidelines that relate to digital marketing strategies addresses client communication through social media. This includes duties such as monitoring client-related cases on social media to safeguarding client confidences and confidential information on social media.

Drawing upon the description provided in Section 3.2. and the aforementioned comparison between the Netherlands and the United States, this paper is going to centre on two discernible attributes that distinguish these countries: the scope of advertising provision and the incorporation of advertisement medium.

3.3.1 The Scope of Advertising Provisions

To begin with, the United States is the only nation that has comprehensive rules on advertising, and digital marketing in particular, when compared to the other two countries. The incorporation of the advertising rules was not only evident in the ABA but also the state bar associations across the nation—despite the rules being different in each and every state in the United States.

On the contrary, it was discovered that the rules about legal services advertising in Indonesia are limited to merely prohibiting advertising altogether, with no further elucidation provided regarding the parameters of advertising in the context of legal services or self-promotion., the advertising practices that are strictly prohibited according to the Indonesian Code of Ethics predominantly involve traditional advertising methods. Consequently, any form of advertising on a digital platform is considered silent. Notwithstanding the regulatory control of online advertising by the Ministry of Trade Regulation that includes all kinds of industry, said provisions fail to apply to advertising in a specific profession. Whereas advocates is distinguished as an honourable profession (*officium nobile*).[33]

In turn, the Netherlands has no rules or regulations pertaining to legal services advertising in the NOvA Code of Conducts 2018. Nevertheless, the absence was supplanted by the Charter of Core Principles of the European Legal Profession and the Code of Conduct for European Lawyers, which authorised advertisement or publicity using any platform. Thus, it may be inferred that Indonesia is the only country in this study that forbids legal services advertising using any medium, compared to the Netherlands and the United States.

Next, the comparison then demonstrates that the avoidance of false, misleading, or deceptive information in advertising appears to be self-explanatory in all nations. The code of ethics of professional associations and the general advertising regulation of all countries shares identical principles regarding the preservation of truthful and transparent advertising when it comes to promoting the services of law firms and

lawyers. Thus, it can be inferred that the advertising rules of legal services within the countries examined in this research have been uniform in securing the interests of both the practitioner and the client.

3.3.2 The Incorporation of Legal Digital Marketing Activities

The promotion of law firms and lawyer participation in advertising activities, including those in the digital sphere, to generate commercial interest for their profession is a practice shared by both the Netherlands and the United States. In the context of rules, the United States is the only jurisdiction that extensively incorporates legal digital marketing activities into its ethical guidelines and codes of conduct, both in the ABA and the state bar association. This is particularly evident in the inclusion of new marketing tools (including websites and social media platforms) under Rule 7.2. of the ABA Model Code of Responsibility, as explained above. As opposed to the Netherlands' rules of permitting advertisement across all platforms, no explicit guidelines are established to govern the conduct of legal digital marketing activities. Yet Indonesia is conspicuously absent in this context.

With regard to third-party features such as legal directories, comprise provisions are only available to the United States. Rule 7.2. (2) and (3) of the ABA Model Code of Responsibility permit law firms and lawyers to be featured in third-party directories. In alignment with the ABA, the New York State Bar Association similarly permitted law firms and lawyers to list in third-party directories under Guidelines No. 2.D. of the Social Media Ethics Guidelines of the Commercial and Federal Litigation Section. The guidelines in question state that a lawyer is obligated to ensure the veracity of third-party legal endorsements, recommendations, or online reviews published on his or her social media profile, to prevent such content from disseminating false or misleading information. On the contrary, neither Indonesia nor the Netherlands possess any provision concerning third-party endorsement.

4 Closing

4.1 Conclusion

Advertising for legal services has significantly transformed the business practices of law firms in light of the advent of digital technology. This study defines legal services advertising and explains how the emergence of digital marketing in the legal services industry has transformed the field. It provides three examples of advertising channels that are predominantly utilised by legal services: websites, social media platforms, and legal directories. Although the prospects and possibilities appear boundless, Indonesia encounters challenges in the form of ethical hurdles and rules that govern digital marketing. This is a result of the prohibition on advertising in Indonesia, which applies to all forms, without considering the evolution of time and societies. The stagnation of the development and profession of legal services advertising practice appears to be the consequence of an absence of progress in legal ethics as time passes. Hence, drawing from a comparative analysis of Indonesia, the United States, and the Netherlands, this research concludes that granting advertising privileges to law firms and lawyers in Indonesia is essential for sustaining the competitiveness of legal services and expanding the dissemination of market information. The initial suggestion is to introduce a

revision to the Indonesian Code of Ethics. An alternative course of action would be to establish ethical guidelines that govern legal digital marketing. By adopting this approach, law firms and lawyers can delicately balance effective promotion with upholding the utmost integrity and professionalism.

4.2 Recommendations

Advertising restrictions placed law firms and lawyers at risk of entrepreneurial and managerial risk. The market analysis of legal services performed by Jeffrey W. Stempel identifies a number of justifications for permitting lawyers to engage in advertising.[43] First, the advertising restrictions reduce market competition, which ultimately leads to a lower volume of business. Meanwhile, marketing has the potential to enhance the market's lead by facilitating reduced pricing without comprising service quality as a result of standardised and competitive offerings. Also, consumers may be unable to compare the prices of legal services if advertising restrictions are implemented. Second, advertising has the potential to enhance the quality of legal services by increasing market information dissemination through firm promotion—which facilitates consumer recall of specific firm information—and by generating latent demand—which improves access to reputation information. Equipped with this information, consumers will be able to evade below-par firms and endorse reputable ones.

An identical assertion can be made regarding the research undertaken by Smith and Smith,[44] which demonstrates an enormously positive correlation between the firm's esteemed reputation and its digital marketing activity. On the other hand, numerous facets of the legal profession have been profoundly affected by the introduction of novelty marketing perspectives made possible by digital technology, thereby representing a complex array of challenges to the conventional frameworks that regulate legal ethics, as demonstrated by these studies.[44] This is due to the fact that digital technology has enabled instantaneous communication and seamless connectivity, which consequently obscured geographical and jurisdictional boundaries. Within an industry characterised by rigorous professional conduct standards and ethical codes, law firms encounter distinct challenges and prospects in the realm of digital marketing. Further, the relaxation of limitations pertaining to advertising in numerous nations signifies a shift in sentiment concerning the concept of advertising in legal services, and thus should not be outright prohibited. It is imperative to strive for a harmonious fusion of conventional ethical standards and modern expectations to preserve the legal profession's position in upholding justice and societal trust in an era of rapid transformation. Therefore, in order for legal services in Indonesia to remain competitive, an effort should be made to revise the Indonesian Code of Ethics. With this in mind, the Indonesian Code of Ethics should be broad and inclusive in its approach to business conduct, rather than focusing solely on the profession's perspective. In other words, advertising should be permitted across all media platforms, similar to how it is permitted in the Netherlands and the United States, so long as it adheres to prevailing standards of conduct and professional obligations.

The alternative is to establish ethical guidelines similar to those of the New York State Bar Association. By establishing precise guidelines, law firms and lawyers can finally have a definitive standard for conducting advertising as a commercial endeavour, specifically in regard to digital marketing. The guidelines may be implemented to address a regulatory absence associated with advertising for legal services. Furthermore, law firms and lawyers can impose limitations on the versatility of digital marketing strategies through the establishment of

specified guidelines; that way, law firms and lawyers may navigate an impeccable balance between effective marketing and upholding their highest standards of ethics and professionalism.

References

- [1] H. Kavalova, A. M. A. S. Al Ali, and V. Zamlynskyi, “Business reputation of the company as one of the most important components of the company’s success,” *Economics. Finances. Law*, no. 6/2, pp. 29–32, Jun. 2021, doi: 10.37634/efp.2021.6(2).6.
- [2] F. C. Zacharias, “Effects of Reputation on the Legal Profession,” *SSRN Electronic Journal*, 2007, doi: 10.2139/ssrn.962138.
- [3] J. Rogers and A. Song, “Digital Marketing in The Legal Profession: What’s Going On and Does It Matter?,” *Law, Technology and Humans*, Jul. 2023, doi: 10.5204/lthj.2828.
- [4] A. M. Ramohlola and J. Kinghorn, “Information and Knowledge Management in South African Law firms-A Case Study,” 2017. [Online]. Available: <https://scholar.sun.ac.za>
- [5] M. L. Cheung, G. Pires, and P. J. Rosenberger, “The influence of perceived social media marketing elements on consumer–brand engagement and brand knowledge,” *Asia Pacific Journal of Marketing and Logistics*, vol. 32, no. 3, pp. 695–720, Mar. 2020, doi: 10.1108/APJML-04-2019-0262.
- [6] Tier One Rankings, “Tier One Rankings: Legal Directory Submission Guide,” *Legal Directory Submission Guide*. Tier One Rankings, London, 2023.
- [7] J. P. Lomio, H. S. Spang-Hanssen, and G. D. Wilson, *Legal Research Methods in a Modern World: A Coursebook*. Chicago: DJØF Publishing, 2011.
- [8] M. Oderkerk, “The Need for a Methodological Framework for Comparative Legal Research: Sense and Nonsense of ‘Methodological Pluralism’ in Comparative Law,” *Rabels Zeitschrift Für Ausländisches Und Internationales Privatrecht / The Rabel Journal of Comparative and International Private Law*, vol. 79, no. 3, pp. 589–623, 2015, [Online]. Available: <http://www.jstor.org/stable/24541465>
- [9] E. Örücü, “Methodologies for Comparative Law,” in *Elgar Encyclopedia of Comparative Law*, Edward Elgar Publishing Limited, 2023, pp. 42–50. doi: 10.4337/9781839105609.methodologies.comp.law.
- [10] S. Macaulay, “Lawyer Advertising: ‘Yes, But ...,’” in *Stewart Macaulay: Selected Works*, D. Campbell, Ed., Cham: Springer International Publishing, 2020, pp. 115–152. doi: 10.1007/978-3-030-33930-2_7.
- [11] Dr. Mrs. V. Desai, “Digital Marketing: A Review,” *International Journal of Trend in Scientific Research and Development*, vol. Special Issue, no. Special Issue-FIIIPM2019, pp. 196–200, Mar. 2019, doi: 10.31142/ijtsrd23100.
- [12] D. Kartson and T. Mariam, “The Future of Legal Marketing: Law Firm Marketers Will Be Increasingly Important Communicators with a Firm’s Clients, Prospects and Lawyers.,” *Law Practice 48*, Chicago, Mar. 01, 2022.
- [13] A. Charlesworth, *Absolute Essentials of Digital Marketing*, 1st Edition. New York: Routledge, 2020.
- [14] R. Susskind and D. Susskind, *The Future of the Professions: How Technology Will Transform the Work of Human Experts*. Oxford University Press, 2015. doi: 10.1093/oso/9780198713395.001.0001.
- [15] Dye & Durham and The Australasian Legal Practice Management Association (ALPMA), “2022 DYE & DURHAM + ALPMA LEGAL INDUSTRY REPORT: Reaching New Heights An understanding of current Legal Industry Trends,” Australia, Aug. 2020.
- [16] J. Falcicola, M. Jansen, and V. Rollo, “Defining firm competitiveness: A multidimensional framework,” *World Dev*, vol. 129, p. 104857, May 2020, doi: 10.1016/j.worlddev.2019.104857.

- [17] J. Paul and M. Rosenbaum, "Retailing and consumer services at a tipping point: New conceptual frameworks and theoretical models," *Journal of Retailing and Consumer Services*, vol. 54, p. 101977, May 2020, doi: 10.1016/j.jretconser.2019.101977.
- [18] L. Guerreiro, "Comparison between Legal Marketing in Brazil and the United States – Ethical Foundations and Evolution Due to Internet and Globalization," *SSRN Electronic Journal*, 2023, doi: 10.2139/ssrn.4472681.
- [19] A. Mentkowski, "Law Firm Marketing in the Age of Social Media: A Toolbox for Attorneys," *North Ill Univ Law Rev*, vol. 36, no. 3, pp. 1–27, 2016.
- [20] K. Taken Smith and L. M. Smith, "Social Media Usage by Law Firms: Correlation to Revenue, Reputation, and Practice Areas," *Services Marketing Quarterly*, vol. 40, no. 1, pp. 66–81, Jan. 2019, doi: 10.1080/15332969.2019.1587867.
- [21] R. J. Chambers, *Securities and Obscurities: a Case for Reform of the Law of Company Accounts*. Camperdown: Sydney University Press, 2006.
- [22] B. M. Goodson, J. H. Grenier, and E. Maksymov, "When law students think like audit litigation attorneys: Implications for experimental research," *Accounting, Organizations and Society*, vol. 104, p. 101399, Jan. 2023, doi: 10.1016/j.aos.2022.101399.
- [23] Alfonsius, "DIGITAL MARKETING POTENTIAL IN INDONESIA," *JIM UPB (Jurnal Ilmiah Manajemen Universitas Putera Batam)*, vol. 11, no. 2, pp. 233–243, Jul. 2023, doi: 10.33884/jimupb.v11i2.7231.
- [24] D. B. Wilkins, D. M. Trubek, and B. Fong, "Globalization, Lawyers, and Emerging Economies: The Rise, Transformation, and Significance of the New Corporate Legal Ecosystem in India, Brazil, and China," *SSRN Electronic Journal*, 2019, doi: 10.2139/ssrn.3453908.
- [25] J. Bagust, "The Legal Profession and the Business of Law," *Syd Law Rev*, vol. 35, p. 27, Mar. 2013.
- [26] A. Abdullah, Y. Kamarulzaman, and A. Farinda, "Legal services and marketing limitations: a focus on SME in Malaysia," *International Review of Business Research Papers*, vol. 4, no. 5, pp. 308–319, Jan. 2008.
- [27] *Civil Code*.
- [28] *The Law Of The Republic Of Indonesia Number 40 Of 2007 Concerning Limited Liability Company*.
- [29] K. E. Vinson, K. Elliott Vinson, and S. A. Moppett, "Legal Studies Research Paper Series Digital Pro Bono: Leveraging Technology to Provide Access to Justice," *St Johns Law Rev*, vol. 92, pp. 551–571, 2018, [Online]. Available: <http://ssrn.com/abstract=3347381> Electronic copy available at: <https://ssrn.com/abstract=3347381>
- [30] D. R. Taggart, "The Traditional Ban on Advertising by Attorneys and the Expanding Scope of the First Amendment," *Louisiana Law Review*, vol. 38, no. 1, pp. 259–278, 1977.
- [31] A. Abdi and F. Santiago, "Analysis Of the Legal Impact Before and After the Making of a Post Marriage Agreement on Joint Property (Case Study of Marriage Agreement Deed Dated February 8, 2021 Number 25)," in *Proceedings of the 2nd International Conference on Law, Social Science, Economics, and Education, ICLSSEE 2022, 16 April 2022, Semarang, Indonesia*, EAI, 2022. doi: 10.4108/eai.16-4-2022.2319784.
- [32] A. J. Schmitz, "Expanding Access to Remedies through E-Court Initiatives," Missouri, 2019. [Online]. Available: <http://ssrn.com/abstract=3374465> Electronic copy available at: <https://ssrn.com/abstract=3374465>
- [33] IKATAN ADVOKAT INDONESIA (IKADIN), ASOSIASI ADVOKAT INDONESIA (AAI), IKATAN PENASEHAT HUKUM INDONESIA (IPHI), HIMPUNAN ADVOKAT & PENGACARA INDONESIA (HAPI) SERIKAT PENGACARA INDONESIA (SPI) ASOSIASI KONSULTAN HUKUM INDONESIA (AKHI), and HIMPUNAN KONSULTAN HUKUM PASAR MODAL (HKHPM), *KODE ETIK ADVOKAT*. 2002.
- [34] *Ministry of Trade Regulation of the Republic of Indonesia No. 50 of 2020 on Business Licencing, Advertising, Guidance, and Supervision of Business in Trade through Electronic Systems*.
- [35] D. M. Katz, C. Coupette, J. Beckedorf, and D. Hartung, "Complex societies and the growth of the law," *Sci Rep*, vol. 10, no. 1, p. 18737, Oct. 2020, doi: 10.1038/s41598-020-73623-x.

- [36] *Law Number 8 of 1999 concerning Consumer Protection.*
- [37] Nederlandse Orde van Advocaten, *Gedrageregels (Code of Conduct)*. 2018.
- [38] Council of Bars & Law Societies of Europe, *Charter of Core Principles of the European Legal Profession and Code of Conduct for European Lawyers*. 2019.
- [39] U.S Supreme Court, *Bates v. State Bar of Arizona*, 433 U.S. 350. 1977, pp. 76–316.
- [40] American Bar Association, *American Bar Association (ABA) Model Rules of Professional Conduct*, 2021st Edition. American Bar Association, Center for Professional Responsibility, 2021.
- [41] American Bar Association, “Commission on Ethics 20/20 Report,” 2012.
- [42] R. N. Holtzman, M. A. Berman, I. A. Grande, and R. J. Hedges, “Social Media Ethics Guidelines of the Commercial and Federal Litigation Section of the New York State Bar Association,” New York, Apr. 2019.
- [43] J. W. Stempel, “Why Lawyers Should Be Allowed to Advertise: A Market Analysis of Legal Services,” *Scholarly Works*, vol. 189, 1983, Accessed: May 05, 2024. [Online]. Available: <https://scholars.law.unlv.edu/facpub/189>
- [44] J. Xu, Z. Li, and S. Li, “Legal Ethics and Professional Responsibility in the Legal Profession,” *SHS Web of Conferences*, vol. 190, p. 02006, Apr. 2024, doi: 10.1051/shsconf/202419002006.