



NIGERIAN BAR ASSOCIATION

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20th June 2022

Chief Wole Olanipekun, SAN, OFR

The Chairman

Body of Benchers

31, Lake Chad Crescent

Maitama, Abuja - FCT

Dear Learned Silk,

NIGERIAN BAR ASSOCIATION'S POSITION ON THE PROPOSED LEGAL PRACTITIONERS ACT (AMENDMENT) BILL 2021

1. Permit me to begin by formally extending my felicitations on your recent emergence as the 50th Chairman of the Body of Benchers (**BoB**). I listened to your acceptance speech, following your inauguration, and I was gratified to note your pledge to serve effectively and efficiently. As a critical stakeholder in the legal profession in Nigeria, the Nigerian Bar Association (**NBA**) welcomes your pledge and looks forward to working with you to take the profession to greater heights.
2. Mr. Chairman, it has become imperative to write this letter to reiterate and formally place on record the NBA's position on a lingering issue that has threatened to imperil the harmonious working relationship that exists, or ought to exist, between the NBA and the BoB. This relates to the controversial efforts, by the BoB, to amend the Legal Practitioners Act 1975 (LPA) to, inter alia, overly extend the powers of the BoB and also install the BoB as the regulator of the legal profession in Nigeria. If this issue is not handled with utmost dexterity, the consequences for the entire legal profession in Nigeria will be damaging.
3. It is thus my sincere hope that you will use your good offices and unique position, as a past President of the NBA and the current Chairman of the BoB, to resolve this issue in the interest of the progress of the legal profession in Nigeria. As fully explained below, the NBA's position is premised on two interrelated points.

NATIONAL OFFICERS:

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Joyce Oduah, **General Secretary**; John Aikpokpo Martins, **1st Vice President**; Debo Adeyemo Kazeem, **2nd Vice President**; Omubo Victor Frank-Briggs, **3rd Vice President**; Mercy Ijato Agada, **Treasurer**; Olukunle Edun, **Welfare Secretary**; Raphael Nnamdi Anagor, **Financial Secretary**; Dr. Rapuluchukwu Nduka, **Publicity Secretary**; Uchenna Nwadialo, **Assistant Secretary**; Ferdinand Naza, **Assistant Publicity Secretary**

4. Firstly, it is a well-known fact that the BoB is a body that receives subvention from the Federal Government of Nigeria (**FGN**) and can to that extent be characterised as being sponsored by, involved with, or reliant on the FGN. Secondly, as eloquently articulated by past NBA President, Abubakar Balarabe Mahmoud, SAN, in his speech at the Supreme Court, during the 2016 Opening of the New Legal Year Ceremony, the composition of the BoB raises fundamental questions as to the capability of this august assembly to exercise regulatory oversight over the legal profession in Nigeria.
5. In this regard, it bears repeating that the BoB currently comprises circa two hundred and forty (240) members. Of this number, ninety nine (99) are Life Benchers, majority of whom do not attend the meetings of the Body due to age, official engagements, or other exigencies. Two (2) are sitting State Governors, another two (2) are the Chairmen of the Senate and House of Representatives Committees on Judiciary respectively, seventy-two (72) are State Chief Judges and Attorneys-General, while the NBA has thirty (30) representatives. Other members include, Justices of the Supreme Court, the President of the Court of Appeal and the Presiding Justices of the various divisions of the Court of Appeal. There is no gainsaying the fact that these are extremely busy people who are unlikely to prioritize, or fully focus on, the affairs of the BoB. It is perhaps for this reason that the drafters of the LPA, in their wisdom, deemed it fit to donate only two major responsibilities to the BoB to wit: (i) the responsibility for the formal Call to the Bar of qualified candidates; and (ii) the discipline of the members of the legal profession through the instrumentality of the Legal Practitioners Disciplinary Committee (**LPDC**).
6. In the light of the foregoing, the NBA considers the rationale behind this attempt to amend the LPA as well as the approach adopted by the BoB in doing so, as not only perplexing but also confounding. Kindly recall, Mr. Chairman, that sometime in 2020, at the first meeting of the BoB that I attended after my emergence as the President of the NBA, I was presented with a Bill to amend the LPA (**the Bill**), which purported to be the product of a harmonisation effort between the BoB and the NBA. In view of the fact that: (i) that was my first BoB meeting; (ii) I had not been previously apprised of the existence of, and the circumstances that birthed, the Bill; and (iii) from the records of the BoB, my predecessor, Mr. Paul Usoro, SAN did not sign the Minutes where the harmonisation decision was said to have been taken, I requested on behalf of the NBA,

that we be allowed some time to study the Bill and make inputs if any. The BoB granted the NBA's request.

7. On a cursory review of the provisions of the Bill, we discovered some controversial provisions including the proposal to designate the General Council of the Bar – the body statutorily charged with the general management of the affairs of the NBA – as a Committee of the BoB and therefore indirectly confer on the BoB supervisory powers over the NBA. That is not all. To remove any doubts or uncertainty as to the intentions of its drafters, the Bill contained an express provision seeking to arrogate to the BoB, the power to create a Caretaker Committee to take over the affairs and finances of the NBA whenever a dispute among members of the National Executive Council (**NBA-NEC**) makes it impossible or impractical for the NBA-NEC to manage the affairs of the NBA.
8. Mr Chairman, in the same way that I am reasonably certain that you would have fought to protect and defend the independence of the NBA, had these proposals been introduced in your time as the NBA President, I, on behalf of the NBA, vehemently objected to the Bill in general and the above referenced sections in particular, as being unwittingly or deliberately designed to bring the NBA under the total and effective control of the BoB. Thankfully, the BoB saw reason and deleted these controversial provisions from the Bill.
9. It was against the foregoing setting that sometime in November 2021, the Senate Committee on Judiciary, Human Rights and Legal Matters led by Senator Michael Opeyemi Bamidele, invited the NBA and other critical stakeholders, as well as the members of the general public to a public hearing on the Legal Practitioner's Act CAP, L11 LFN 2004 (Repeal and Re-Enactment) Bill, 2021 (SB. 815).
10. I was, however, stunned beyond words when I reviewed the Bill, which was attached to the invitation, and discovered that after the deletion of the aforementioned controversial provisions of the Bill, additional radical amendments to the LPA were introduced in the Bill without the knowledge or concurrence of the NBA. Chief among these was the definition section of the Bill, where "the Nigerian Bar Association" was defined to include the Incorporated Trustees of the Nigerian Bar Association or **any other Body incorporated for the governance and management of the Legal Profession**. The intended effect of this was

apparently to surreptitiously sneak into the LPA, statutory recognition of other associations of legal practitioners in Nigeria.

11. My Chairman, in view of the very high stakes involved here, it has become necessary to pointedly repeat the question that I asked during my address to the Supreme Court, in December 2021, on the occasion of the 2021 Opening of the New Legal Year Ceremony: “*why are we contemplating the incorporation of another body to govern and manage the legal profession in Nigeria?*” For us at the NBA, the answer lies in the question. When viewed against the backdrop of recent happenings in the legal profession, including the purported unilateral amendments to the Rules of the Professional Conduct 2007 (a matter which is now before the courts) by the Attorney-General of the Federation, it becomes obvious to the discerning that this is a blatant attempt to create a division in the profession and to decimate, if not extinguish the NBA outright. This is not an outcome that anyone who means well for the legal profession should encourage, and as a past president of the NBA, I am sure that you would not allow this under your watch as Chairman of the BoB.
12. The Bill also contains provisions that seek to transfer, from the NBA to the BoB, powers and responsibilities including the issuance of annual practice licenses and stamps and seals to legal practitioners. At this juncture, it again becomes pertinent to reiterate that the Bill seeks to transfer these crucial powers to what is more or less an agent of the FGn.
13. Once again, following our vehement opposition, the Senate Committee on Judiciary, Human Rights and Legal Matters led by Senator Michael Opeyemi Bamidele, graciously stood down further consideration of the Bill to allow the BoB and the NBA to attempt a further harmonisation of their positions. Regrettably, despite our best efforts, it would appear that the differences are irreconcilable, and that the BoB is determined to impose its version of the Bill on the NBA.
14. As Mr Chairman would recall, at the BoB meeting of 24th February 2022, following my opposition to the aforementioned provisions of the Bill, the BoB adjourned proceedings to 31st March 2022, to enable me confer with the generality of the members of the NBA on whether they consent to the radical changes proposed by the BoB. Indeed, I convened an emergency meeting of the NBA-NEC on 18th March 2022 to specifically

discuss this and sundry issues, with a view of providing feedback on our resolutions to the BoB at the meeting scheduled for 31st March 2022.

15. At the said BoB meeting of 31st March 2022, the only item on the agenda was your inauguration as the 50th Chairman of the BoB. Even when the Honourable Justice James Ogebe, JSC (rtd) invited me to provide the aforementioned feedback, His Lordship was informed that the issue could not be discussed until the next BoB meeting slated for July 2022. Subsequently, I received notice of an emergency meeting of the BoB, to be held on the 21st of June 2022, albeit the agenda for the said meeting was only circulated yesterday, 19th June 2022 and one of the items listed for consideration is the Bill. Hence the decision to write this letter.
16. Mr Chairman, it is important to mention at this juncture, that part of the inherent features of every thriving democracy is the presence of (a) viable opposition as well as those that can hold the government to account - including but not limited to, organised labour, civil society organisations and other pressure groups. I can state with all sense of responsibility and without fear of contradiction, that the NBA has, at least in recent times, stood up valiantly be counted amongst this group and has creditably played its part in holding government to account.
17. Putting it starkly, the NBA therefore views the proposals of the BoB as contained in the Bill as part of concerted efforts aimed at whittling down the influence and voice of the NBA from different quarters. While this might not be immediately apparent, conferring on an agency, that derives its primary source of income from the government, the power to issue annual practice licences, stamps and seals and essentially to determine who has the right to practice law in Nigeria, is tantamount to sounding the death knell on the NBA. It would be nothing short of incongruous for such a government-sponsored body to exercise control over an Association like the NBA that is set up to routinely challenge the policies, actions, and activities of the very same government.
18. Once again, I am reasonably certain that you would have strongly opposed this in your time as the NBA President. We do not also want to believe that the members of the BoB would lend their support to any ploy to actualise the decimation of the NBA.
19. It is for the foregoing reasons, that I consider it imperative to formally place on record, the resolution reached at the emergency meeting of

the NBA-NEC on 18th March 2022, wherein the NBA categorically denounced any Bill which seeks to confer on the BoB, whether directly or indirectly, regulatory powers over the legal profession in Nigeria. For the avoidance of doubt, the NBA unequivocally states that the BoB, a body that is funded and sponsored by the FGN and the composition of which is, quite frankly, in need of urgent reform, is not equipped to exercise regulatory and supervisory powers over the NBA, except if the design is to ultimately subjugate the NBA. Indeed, the BoB, as currently set up, lacks the structure, manpower and resources to efficiently or effectively undertake some of the functions in the Bill that affect lawyers on a daily basis without frustrating the practice of lawyers across the country.

20. Lastly, the NBA concedes that reforms in the legal profession in Nigeria are long overdue. We are cognisant of the widespread public concerns about the current state and the direction of the profession in Nigeria and the NBA continues to make efforts towards addressing some of these to the extent that this is within the powers of the Association so to do. It is for this reason that the NBA, as far back as 2017, under the leadership of Abubakar Balarabe Mahmoud, SAN commissioned and undertook very wide consultations which resulted in the most progressive reform proposals yet, for the legal profession in Nigeria aimed at bringing the legal profession in Nigeria in sync with current international best practices vis-à-vis the regulation of the legal profession. My administration is not interested in reinventing the wheel by commencing a fresh round of consultations when the product of the previous exercise remains relevant and continually yearns for adoption and implementation. One would have expected that the starting point for any reforms in the profession would be that said report which was prepared by a committee that consulted widely and was made up of some of the most respected members of the legal profession in Nigeria.
21. Mr. Chairman, let me end in the same way I started by reiterating my sincere wish that you will use your good offices and unique position, as a past President of the NBA and now the Chairman of the BoB, in resolving this issue in the interest of the progress and advancement of the legal profession in Nigeria. The NBA is ever ready and willing to constructively engage with the BoB in this regard. In the meantime, kindly grant me the liberty to share a copy of this correspondence with all relevant stakeholders in the legal profession.

I thank you for your time and I once again congratulate you on your emergence as the 50th Chairman of the BoB.

Yours faithfully,



OLUMIDE AKPATA

President

