



**UNIVERSITY *of* LUSAKA**

*Passion for Quality Education: Our Driving Force*

**SCHOOL OF LAW**

**ANALYZING THE INTERSECTION OF DIGITAL TRADE AND CHILDREN'S  
RIGHTS IN ZAMBIA'S BROADCASTING SECTOR**

**BY**

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**AN OBLIGATORY ESSAY SUBMITTED TO THE UNIVERSITY OF LUSAKA IN PARTIAL  
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## DECLARATION

I, **NAMWABA TOWERA**, do hereby declare that this dissertation entitled, **ANALYZING THE INTERSECTION OF DIGITAL TRADE AND CHILDREN'S RIGHTS IN ZAMBIA'S BROADCASTING SECTOR** which is hereby submitted in partial fulfilment of the requirement for the award of a Bachelor's Degree at the University Of Lusaka is my own original work and it has not, to the best of my knowledge, been previously submitted for a degree at this university or any other university. I understand what plagiarism entails and I am aware of the University's policy in this regard. Thus, other people's works consulted have duly acknowledged.

.....T. Namwaba.....

2025

## **SUPERVISOR RECOMMENDATION**

I, **KETIWE ZIMBA**, do hereby recommend that the dissertation titled **ANALYZING THE INTERSECTION OF DIGITAL TRADE AND CHILDREN'S RIGHTS IN ZAMBIA'S BROADCASTING** authored by **NAMWABA TOWERA, STUDENT NUMBER LLB22113976** was done under my supervision, be admitted by the University of Lusaka. I have checked it carefully and I am satisfied that it meets the requirements related to the format as laid down by the University regulations governing research.

**Ms. KETIWE ZIMBA**



.....

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## **DEDICATION**

This dissertation is dedicated to the Lord Almighty for his grace and favor which have been a great source of strength in the completion of my study. I also dedicate it to myself and I also dedicate it to my niece, who falls within the ambit of the most vulnerable group, being children, in hopes that she might not be a victim of such exposure. To my siblings Taonga Namwaba, Penjani Simwaba and Kondwani Simwaba for their continued love and support and encouragement and my parents for their prayers and belief in me and also to all the children who are victims of exposure to harmful content and those that might potentially be victims.

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## **ABSTRACT**

This thesis is on the need to address the alarming exposure of children to harmful and inappropriate digital content as it continues to raise issues regarding appropriateness, cultural representation, and the overall impact on children's development and well-being. A study conducted by World Vision and other organizations brought to light that the current laws and enforcement mechanisms fall short in adequately and effectively affording the children in Zambia protection in relation to media and the digital environment. In spite of progress made through legislation such as the Children's Code Act of 2022, Independent Broadcasting Act (IBA) and the Zambia National Broadcasting Corporation (ZNBC) which are mandated with the oversight of broadcasting standards and media practices and the United Nations Convention on the rights of the child (UNCRC), particularly, Article 17, which provides that children have the right to access information that is appropriate for their age and development. It also emphasizes the importance of protecting children from harmful content, while also advocating for the enriching media experiences, and the Child Online Protection Strategy initiated in 2020, provided that challenges remain in addressing enforcement gaps, clarity of laws, and lack of practical application. Moreover, while these legal frameworks exist, there is limited understanding of how broadcasting houses in Zambia acknowledge and respond to the presence and protection of children from harmful digital content. Broadcasting houses, as key media entities, are tasked with a significant role. The role provides for the shaping content and influencing public awareness. It is, therefore seen that the current legal frameworks are inadequate, unclear, and potentially ineffective in addressing these challenge. This provides the need for a critical analysis and revision of the existing legal framework to ensure that it is not only thorough, but also applicable and enforceable, thereby providing a more just and effective system that better protects children. Furthermore, there is a need to critically analyze the role of the media authoritative bodies, coordination and cooperation of the key players that regulate broadcasting and the procedural safeguards and content standards set in Zambia and the identification of effective practices from other jurisdictions that could be adopted to safeguard children from exposure to harmful and inappropriate content.

# CHAPTER ONE

## 1.0 INTRODUCTION

In an age characterized by the globalization of digital trade, the proliferation of content accessible through broadcasting houses has transformed the landscape of media consumption. In a policy paper by the OECD, it was stated that, while there is no single definition of digital trade, there is a growing consensus that it encompasses digitally enabled transactions in trade in goods and services which can be either digitally or physically delivered involving consumers, firms and Governments.<sup>1</sup> On the other hand, audio-visual and related services refer to a broad range of industries and activities that create, produce, distribute and exhibit content that combines audio and visual elements, through various media and broadcast platforms. These elements include: film and television programs, streaming content and digital media services *inter alia*.<sup>2</sup>

Nevertheless, the great expansion of digital trade presents both prospects and adversities for states around the globe. In Zambia, as with many other countries, the acquisition and dissemination of digital trade, particularly films, television content and other related digital services, require careful consideration of the rights of vulnerable population, specifically young viewers. As Zambia navigates the challenges of the ever-evolving digital landscape, the intersection of digital trade and children's rights has become increasingly note-worthy. Therefore, this paper seeks to assess the degree to which Zambian broadcasting houses prioritize the protection of children from exposure to harmful and inappropriate content amid the regulatory framework by examining the current laws and policies, their effectiveness and comparative practices from other jurisdictions. Embedded in the principles of the United Nations Convention on the Rights of the child (UNCRC) this study seeks to provide broad insight aimed at improving child safety standards in digital

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<sup>1</sup>OECD Trade Policy Paper: Digital Trade, developing a framework for analysis (2017)  
<https://www.oecd.org/en/publications/digital-trade>

<sup>2</sup> World Trade Report 2019: The future of services trade <https://www.wto-ilibrary.org>

Content.

## **1.1 BACKGROUND OF THE STUDY**

The growth of digital media and technology has rendered the media environment more complex and has opened significant opportunities for children in Zambia to access information, education and also for social interaction, providing for exposure to diverse media content. However, alongside these benefits, recent research reveals alarming exposure of children to harmful and inappropriate digital content thus it raises issues regarding appropriateness, cultural representation, and the overall impact on children's development and well-being.

A study by World Vision accompanied by other entities addressed the fact that current legal framework inadequately protects children in the media and digital environment in Zambia. Despite progress through legal instruments such as the Children's Code Act of 2022, Independent Broadcasting Act (IBA), Films and Cinematograph Act, which are tasked with overseeing broadcasting standards and media practices, and the United Nations Convention on the rights of the child (UNCRC), particularly, Article 17, which provides that children have the right to access information that is appropriate for their age and development. It also emphasizes the importance of protecting children from harmful content, while also advocating for the enriching media experiences<sup>3</sup>, and the Child Online Protection Strategy initiated in 2020, challenges remain in addressing enforcement gaps, clarity of laws, and lack of practical application. Moreover, while these legal frameworks exist, there is limited understanding of how broadcasting houses in Zambia acknowledge and respond to the presence and protection of children from harmful digital content. Broadcasting houses, play a significant role in content production and consumption and the influence of the public in relation to awareness. However, the extent to which they uphold their responsibility in shielding children from such exposure is not well-documented, representing a notable research gap.

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<sup>3</sup>Article 17 of the United Nations convention on the rights of the child

## 1.2 STATEMENT OF THE PROBLEM

Despite the clear risks associated with exposure to harmful and inappropriate content for children, currently, the existing regulations are silent and thus fail to adequately and clearly respond to the difficulties and growing nature digital trade within the broadcasting sector here in Zambia. While legislation exists to regulate the procurement and broadcasting of content, the growth of digital trade and the lack of effectiveness and inadequacy of regulations continue to present challenges in the protection of children's rights.

The Independent Broadcasting Act (IBA) in Zambia is the only piece of legislation that explicitly provides under section 33(e), the protection of the integrity of minors by clearly classifying and distributing programs that could endanger the development of a child in a way with the least possibility for a child to use it<sup>4</sup> and 33(a) to respect human dignity and human rights and freedoms<sup>5</sup>. While Article 17 of the UNCRC, provides for mass media, children's right to access information and protection from harmful content, it states that "state parties recognize the important function performed by the mass media and shall insure that the child has access to information and material from adversity of national and international sources, especially aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health"<sup>6</sup> this then entails that Governments should regulate media to ensure children access appropriate content and take measures to protect children's social, spiritual, moral, physical, and mental well-being.

However, as evidenced by the World Vision research in 2023, children in Zambia continue to be exposed to harmful and inappropriate content in the media and digital landscape<sup>7</sup>, despite existing laws intended to protect them. Current legal frameworks are inadequate, unclear, and potentially ineffective in addressing these challenges, This underscores the need to critically evaluate and revise the existing legal framework to

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<sup>4</sup>Section 33 of the Independent Broadcast Act No. 17 of 2002

<sup>5</sup>Ibid 4

<sup>6</sup>Ibid 3

<sup>7</sup>World Vision Policy Brief, 2023: children's rights in the digital environment

ensure that it is not only comprehensive, but also practical and enforceable, thereby fostering a more just and effective system that better safeguards children. Additionally, there is a lack of understanding regarding how well broadcasting houses recognize and respond to this issue, necessitating an analysis of their role and the identification of effective practices from other jurisdictions that could be adopted to safeguard children.

### **1.3 GENERAL OBJECTIVES**

This study is aimed at critically examining the extent to which Zambian broadcasting houses consider the protection of children from harmful content during procurement and acquisition of digital trade. To evaluate the effectiveness and adequacy of existing laws regulating broadcasting content in Zambia and to identify gaps and challenges in the current legal framework and to analyze the best practices in child protection from other progressive jurisdictions in similar matters or matters incidental to the foregoing.

### **1.4 SPECIFIC OBJECTIVES**

The following are the specific research objectives:

1. To assess the current policies and practices of Zambian broadcasting houses regarding the protection of children.
2. To critically analyze specific existing laws that govern the broadcasting industry in Zambia and their effectiveness and adequacy in protecting children from harmful and inappropriate content.
3. To compare Zambia's regulatory framework with those of Kenya, and the EU, drawing lessons and identifying actionable best practices.

### **1.5 RESEARCH QUESTIONS**

1. What are the current policies and practices of the Zambian broadcasting houses regarding the protection of children?
2. What are the current existing legal frameworks that govern the protection of children from exposure to harmful and inappropriate content in the Zambia Broadcasting

sector and how effective and adequate is the current legal framework?

3. What successful models and best practices can be drawn from approaches taken by Kenya, and the EU countries in protecting children from inappropriate and harmful content?

## **1.6 SIGNIFICANCE OF STUDY**

The study seeks to highlight the intersection between digital trade and children's rights, to add on to the broad debate on child protection, with the addition of a local view on how global digital trends affect vulnerable populations in Zambia. The identification of the gaps in the current legal framework and broadcasting practices. A review and undertaking legislative reform in relation to the topic at hand, thus the findings of the foregoing can serve as catalyst for raising awareness among broadcasters themselves, the legislators and parents about the importance of the protection of children from harmful digital content. The views drawn from the comparative study of practices in other states can provide valuable lessons for Zambia, fostering most effective strategies and policies aimed at protecting children. This study aims at contributing to the existing body of literature on media regulation and child protection in developing countries, filling gaps in research and providing a foundation for further studies in this critical area.

## **1.7 SCOPE OF STUDY**

The study area is Zambia and the study will encompass an investigation of how digital trade standards in films and television content are set and conducted by broadcasting houses in Zambia, with a primary focus on the implications for children's rights. It will be based on the Independent Broadcasting Act (IBA)<sup>8</sup>, Independent Broadcasting Authority. Furthermore, reference will be made to the, Zambia National Broadcasting Corporation Act<sup>9</sup> and the United Nations Conventions on the rights of the Child (UNCRC) 1989.

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<sup>8</sup>Act No. 17 of 2002

<sup>9</sup>Chapter 154 of the laws of Zambia, 1987

## 1.8 LITERATURE REVIEW

Scholarly Pieces and documents have been written on the phenomenon concerning the protection of children in media consumption in Zambia's media and digital landscape. This paper shall look at some scholarly thoughts that influence protection of children from exposure to harmful and inappropriate content.

The media, especially broadcasting houses, are critical intermediaries in shaping public perceptions and raising awareness about children's rights in the digital age. **Save the Children Zambia** emphasizes that media's pivotal role in enforcing protection laws, that media professionals must actively promote the Children's Code Act provisions and hold duty bearers accountable, yet coverage and public engagement remain suboptimal. Broadcasting houses lack clear accountability structures and frequently face capacity constraints that hamper proactive child protection enforcement within their content and platforms. Studies indicate Zambian media coverage of Child Online Protection (COP) is short-of, lacking prominence and child participation, which results in low public visibility of digital child rights issues. **World Vision's 2023 policy brief** reveals that children's exposure to harmful content remains high due to legal and systemic gaps, while broadcasters' recognition and response to these challenges are unclear. There is little research analyzing how digital trade regulations influence broadcasting sector obligations concerning children's protection, marking a significant knowledge gap.<sup>11</sup> Lev Vygotsky and Erik Erikson, it informs us of all forms of media accessible to children, including television, movies, internet content among others and how the age-based restrictions regulate and guide what types of media content are appropriate for children at different development stages. **The Council of Europe** asserted that while Article 17 of the UNCRC provides that it recognizes the "important function performed by the mass media" it also refers to certain culture-dependent concepts such as "spiritual and moral well-being" and "material injurious" to children's well-being, which are left to interpretation of states. While occasionally misconceived as referring only to "mass media" in the sense of "traditional"

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<sup>10</sup> save the children Zambia

<sup>11</sup>world vision policy brief 2023

<sup>12</sup>Council of Europe Recommendation Rec(2002)2

Or ‘legacy’ media, this notion should be conceived broadly, including online media.<sup>12</sup>

In relation to the right to information provided in Article 17. **Authors in an Article on Children’s rights and digital technologies** stated that Article 17 provides a series of challenges in the digital environment. A first challenge is to establish an equilibrium between children’s rights and access to information, on one hand, and the legitimate interest in safeguarding children from accessing potentially harmful material. Restrictions on the publication or distribution of potentially harmful media content are included in most countries’ criminal law as it is considered contrary to public decency, as well as supranational and national media and communications laws<sup>14</sup> Furthermore, in certain instances, a child’s right to access information may run counter to the norms of their parents or wider society, consider for example, children’s need for and right to information about sexual identity, sexual health, sexual expression.<sup>15</sup> Thus, states support for children’s provision in the digital environment should take into account the diverse sources of content produced by both private and public sectors that are likely to be consumed by children and seek to provide the appropriate incentives, investment opportunities, standards and technical guidance for the production of material of social and cultural benefit the child.<sup>16</sup> **The EU audiovisual Media Services Directive (AVMSD)**, regulates audiovisual media services, including traditional television broadcasting and on demand services such as streaming services emphasizes the need to restrict certain types of content and advertising during children’s programming, the directive aims to protect younger audiences from exposure to potentially harmful content<sup>17</sup>.

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<sup>13</sup>European Court of human Rights (MTEV Hungary App) 2016 App. No. 22947/13

<sup>14</sup>Eva Lievens, Sonia Livingstone, Sharon McLaughlin, Brian O’Neil, and Valerie Verdoodt on Children’s digital technologies

<sup>15</sup>Livingstone, Sand Mason, J, Sexual rights and sexual risk among youth online: A review of existing knowledge regarding children and young people’s developing sexuality in relation to new media environments (2015)

<sup>16</sup>ibid 16

<sup>17</sup>The EU Audio-visual Media Services Directive (AVMSD)

In the Guidelines provided by the **International Telecommunication Union Development Sector**, assert that services offering editorially curated content have tremendous opportunities to build safety into their offers for children and young people, addressing both businesses that are creating their own content, and those enabling access to digital content, it refers to *inter alia*, news and multimedia streamlining services, national and public service broadcasting. Furthermore, it goes on to provide guidance for providers of the said services on the policies and actions they can take to enhance child protection and participation.<sup>18</sup> **Nigel Cantwell, Didem Ozkul, Gazal Shekhawat, Beeban Kidron and Sonia Livingstone**, assert that children's best interests must be a primary consideration in the digital world. The criteria and procedures for assessing and determining the best interests of the child are broadly set out by the UN Committee on the rights of the child in its General comments. This determination process is the responsibility of states, and seeks to ensure that decision making complies with international standards set for children under international human rights law. Companies cannot unilaterally invoke best interests of children to validate actions they propose or undertake or to avoid realizing the full gamut of children's rights. Furthermore, they assert to say that digital providers have a responsibility to anticipate, identify, and evaluate when their products and services are likely to be accessed by children, and take appropriate action to respect, protect and remedy children's rights potentially impacted. If their products and services are likely to infringe any children's rights or to promote one right at the expense of another, they should consult and develop proposals to mitigate such situations and lastly that it is important to note that, the specific right to have their best interest taken into account implies compliance with all children's rights when decisions affecting are being made. Specifically, in the context of the digital environment, it is not sufficient for a company in the context of its own commercial interests to determine which child rights are pressing, or imagine that their commercial interests warrants limitations on the respect for the best interests of the child to enjoy all their rights; if a conflict arises between commercial interests and the best interest of children,

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<sup>18</sup>InternationalTelecommunicationUnionDevelopmentSector, Guidelines for industry on child online protection (2002)

companies should prioritize the privacy, safety, and well-being of children over commercial interests. 19

In a 2025 paper by **Eurochild Position**, it is provided that digital services and products are currently designed for and by adults leading to children's presence to go largely unrecognized and untailored for on most of the digital platforms where children spend most of their time. Children are consequently exposed to a wide range of significant risks in the digital environment, relating to content, conduct, contract and contact, with detrimental effects on the exercise of their rights and their overall well-being and mental health. These include, among other things: inappropriate content such as hate speech, violent or radical, including suicide and self-harm, and sexual material, amongst others.<sup>20</sup> The **Policy Brief by World Vision** states that the best interest of the child in the digital space should be primarily considered when promoting the development of policies and plans to ensure children's development, survival, non-discrimination, protection and participation.<sup>21</sup> Critically, the intersection between digital trade regulation and children's protection mandates for Zambian broadcasting houses remains underexplored. There is a lack of empirical data on broadcasters' recognition of child protection issues amid digital trade growth, and insufficient analysis of how regulatory frameworks are enforced within media broadcasting contexts.

## **1.9 METHODOLOGY**

### **1.9.1 RESEARCH APPROACH**

This research will employ a qualitative research methodology. Taking an analytical approach, the research will examine, evaluate, and critique existing legislation, books, articles, journals and other scholarly works. Information will be sourced from both primary and secondary sources.

### **1.9.2 RESEARCH DESIGN**

The research will adopt an integrated approach, primarily focusing on library as well as desk research for data collection, and the data analysis process entails a critical and thorough review and description of applicable legal provisions.

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<sup>19</sup>Report on the best interests of the child in the digital environment, March 2024. <https://digital-futures-for-children.net>

<sup>20</sup>Eurochild Position Paper, the rights of children in the digital environment, (January, 2025)

<sup>21</sup>Policy brief on protecting children in the Digital Environment, World Vision (2023)

### **1.9.3 SAMPLE SIZE**

This research will be targeted to all persons with credible knowledge and expertise on the subject matter.

### **1.9.4 SAMPLING TECHNIQUE**

This research employed a purposive technique as well as snowball technique with the aim of obtaining the most accurate and credible up to date information from reliable and trust worthy institutions and experts.

### **1.9.5 ETHICAL CONSIDERATIONS**

In order to conform to ethical requirements of research, the first permission will be sought from the UNILUS research ethics committee, second, permission will be sought from organizations and institutions and thirdly, permission to be sought from individual research subject and lastly, researcher will endeavor to follow academic writing requirements like referencing and acknowledgments of other people's work.

### **1.10 RESEARCH OUTLINE**

**CHAPTER ONE:** Stands as an introduction for this research, it introduces the research topic and discusses the statement of the problem and the approaches adopted to achieve the purpose of this research.

**CHAPTER TWO:** Will discuss the current policies and practices of Zambian broadcasting houses regarding the protection of children. The extent to which broadcasting houses take into consideration children's rights to protection from harmful content

**CHAPTER THREE:** Will focus on critically analyzing the specific existing laws that govern the broadcasting industry in Zambian and their effectiveness and adequacy in protecting children from harmful and inappropriate content.

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<sup>22</sup>Article 1 of the UNCRC

<sup>23</sup>Article 266 of the Constitution of Zambia (amendment) No.2 of 2016

<sup>24</sup>The Convention on the Rights of the Child: The children's version <https://www.unicef.org>

<sup>25</sup>Ibid

**CHAPTER FOUR:** Will focus on exploring successful models and drawing lessons and identifying actionable best practices from other progressive jurisdictions, namely Kenya, and the EU.

**CHAPTER FIVE:** In light of the preceding paragraphs, it will summarize the discussion. Additionally, it will provide recommendations that will aid in solving the legal problem identified which is the lack of regulatory framework on the continuous evolution of digital trade and the protection of children's rights in Zambia's broadcasting sector.

## **CHAPTER TWO**

### **ASSESSING THE CURRENT POLICIES AND PRACTICES OF THE ZAMBIAN BROADCASTING SECTOR REGARDING THE PROTECTION OF CHILDREN**

#### **2.0 INTRODUCTION**

“The Media, including ZNBC, plays a crucial role in promoting child welfare.” declared by the first deputy speaker of parliament, Malungo Chisangano at the two-day workshop held by UNICEF on children’s rights and child sensitive programming on the 28<sup>th</sup> of June 2025<sup>1</sup>. The protection of children from exposure to harmful content in the media is a critical issue globally, with broadcasting sectors playing a center role in safeguarding young audiences. In Zambia, the broadcasting industry is governed by regulatory frameworks and standard guidelines aimed at monitoring and regulating the activities of media houses.

This chapter focuses on exploring the current practices and policies of the Zambian broadcasting sector regarding child protection. The objective is to provide a comprehensive account of legal mandates, broadcasting standards and the evolving ethical landscape within which Zambian broadcasters operate. Drawing on legal framework such as the Children’s Code Act and the Independent Broadcasting Authority’s regulatory frameworks, this review situates the broadcasting sector’s responsibilities within the context of child rights protection in Zambia, thus understanding these practices is essential not only for regulatory compliance but also for the broader promotion of children’s rights within the media environment. This chapter, therefore, will firstly provide the background and context of child protection in the media, the detail the specific practices and standards in place, followed by an exploration of ethical considerations, and conclude with reflections on the effectiveness and challenges faced in implementation.

#### **2.1 BRIEF BACKGROUND ON ZAMBIA’S BROADCASTING SECTOR**

The broadcasting sector in Zambia is dynamic and evolving industry comprising of a diverse range of television, radio, and internet-based media (online platforms). It encompasses a composite regulatory framework, rapidly growing number broadcasting stations, and increasing digitalization driven by technological and consumer behavior changes. Zambia

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<sup>1</sup> <https://m.facebook.com/znbtoday/videos/chisangano-urges-mps-to-champion-child-protection-laws>

National Broadcasting Corporation (ZNBC) remains the major national broadcaster, complemented by sturdy private media presence and an expanding digital media landscape. This plurality enables varied content offerings and increased access for audiences across the country.<sup>2</sup>

The sector is regulated by the Independent Broadcasting Authority (IBA), by granting, renewing, suspending and cancelling broadcasting licenses. It licenses radio and television stations, promotes pluralism, and works towards modernizing broadcasting laws to keep up with technological advancements<sup>3</sup>. However, The Independent Broadcasting Authority (IBA) has been criticized for inconsistency, especially regarding the control and licensing of public media like ZNBC; that it only provides advisory opinions rather than direct control over licensing or content regulation, leading to an uneven regulatory environment.<sup>4</sup> Currently there are ongoing efforts to repeal and replace the existing IBA act from 2002 to address legal ambiguities and improve responsiveness to technological advancements such as online broadcasting, IBA board chairperson Chikosola Chula, noted that the authority felt that frequent amendments to the 2002 Act have led to confusion and legal ambiguities which the new act seeks to resolve for better clarity and effective regulation<sup>5</sup>. The regulatory framework includes mandates on licensing fees, broadcasting infrastructure standards and content oversight. In 2023, the government's tax waiver on broadcasting equipment encouraged investments and technological improvements, raising quality thus confirming its expansion and evolution.<sup>6</sup>

## **2.3 BACKGROUND AND CONTEXT OF CHILD PROTECTION IN THE MEDIA IN ZAMBIA**

Child protection in the media in Zambia is nested within a national legal and socio-cultural framework that greatly considers the rights and welfare of children ensuring their safety from all forms of harm. The enactment of the Children's Code Act stands as a landmark development in the country's child protection framework. This comprehensive law

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<sup>2</sup> <https://www.rsf.org/en/country/zambia>

<sup>3</sup> IBA 1<sup>st</sup> Edition digest (2015)

<sup>4</sup> K. Chungu, A critical analysis of the 'independence' of the Independent Broadcasting Authority's regulation of the private media UNZA repository

<sup>5</sup> <https://www.daily-mail.co.zm/2025/02/19/iba-recounts-2024-events>

<sup>6</sup> Ibid 1

consolidates previous fragmented legislation into a single, coherent code that governs all aspects affecting children<sup>7</sup>. Complementing the legislative framework, various safeguarding policies and guidelines aimed at raising awareness, reporting *etc.* have been developed.

However, research indicates that the media coverage, especially on child online protection (COP), remains limited and sometimes not widely known, reducing the effectiveness of the media's role in informing the public and protecting children. The Country Director for ChildFund Zambia, Mr. Victor Koyi, discussed in an interview on ZNBC TV that as the digital landscape evolves, an increasing number of children in Zambia are accessing the internet. This surge in online activity, however brings along significant risks such as cyber-bullying, harmful content, exposure to online predators among others, he highlighted the urgency of these issues and called for a collective effort to foster a secure digital environment for every child from parents, educators' government, tech companies and civil society.<sup>8</sup>

Furthermore, Mr. Koyi emphasized the need to strengthen legal protection for children online in that, one of the foremost steps in safeguarding children is to enhance existing legal framework that protects their rights. This involves updating laws and improving enforcement of laws. Secondly, building awareness through digital literacy by equipping children and their families with knowledge about online risks and skills to identify and mitigate these dangers, they can be empowered to engage with technology responsibly.

Thirdly, to promote responsible technology use, in as much as tech offers numerous benefits, its misuse can lead to grave consequences. Thus, promoting responsible use of it is crucial; this involves educating children about the potential dangers of excessive screen time, the impacts of sharing inappropriate content and the importance of being respectful communication in digital spaces. Fourthly, upholding children's rights in digital spaces; the right of children to be safe, protected and able to participate fully in the digital world must be upheld, it includes advocating for their rights to privacy and freedom of expression while simultaneously ensuring that they are not exposed to predatory behavior or harmful content. Organizations focused on child welfare, alongside government entities, must work to establish standards and protocols that prioritize children's rights in digital platforms.

Lastly, Mr. Koyi submitted that at ChildFund, their pledge is to protect children both offline

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<sup>7</sup> Child rights legislative reform <https://www.childrensrightsreform.org/images/uploads/commentary-Zambia-CRLR.pdf>

<sup>8</sup> Zambia Today <https://www.facebook.com/Childfundzm/posts/our-country-director-victor-koyi-on-znbc-tv-online-child-protection>

and online. They dedicated to equip families and communities with the necessary tools, knowledge and support to keep children safe in an increasingly digital world. Through strategic partnerships and community outreach, their aim is to create a network of support that empowers caregivers and educators to play an active role in children's online safety and that is their commitment to protecting children.<sup>9</sup>

## **2.4 INTRODUCTION TO BROADCASTING STANDARDS AND GUIDELINES**

The Zambian broadcasting sector has established clear policies and practices to protect children, guided by national legislation, and regulatory standards and guidelines. To assess the current policies and practices, it is essential to briefly acknowledge the legal and regulatory framework governing broadcasting in Zambia.

### **2.4.1 LEGAL AND REGULATORY FRAMEWORK**

Firstly, the Children's Code Act requires all facilities serving children that includes broadcasters to implement child safeguarding measures and actively prevent child abuse.<sup>10</sup> Pursuant to the IBA Standard Operating Procedures (SOPs), it mandates all broadcasters to take 'all reasonable steps' to protect children under the age of 18, with detailed guidance on scheduling, content standards, and reporting practices. It further encourages the public to report any unprofessional or harmful broadcasting practices. If complaints about inappropriate content targeting or exposing children to harm are not addressed within 14 days by the broadcaster, the matter is escalated to the IBA for investigation and enforcement action. This regulatory framework promotes accountability among broadcasters regarding child protection and in cases of violation, The IBA routinely publishes findings of breaches. Broadcasters who intentionally or repeatedly air inappropriate content during children's hours, or fail to protect child identities in court reporting, face regulatory sanctions, including fines or license suspensions.<sup>11</sup>

### **2.4.2 STANDARDS AND GUIDELINES**

Broadcasting standards and guidelines are a set of rules and principles designed to ensure

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<sup>9</sup> Ibid 3

<sup>10</sup> Children's code act 12 of 2022

<sup>11</sup> IBA standard operating procedures for Broadcasting in Zambia <https://www.iba.org.zm/SOP-for-broadcasting-in-zambia>

that broadcasters produce and transmit content responsibly, respecting ethical considerations such as accuracy, impartiality, decency and protection of vulnerable audiences, particularly children.<sup>12</sup> These standards help protect viewers and listeners while balancing freedom of expression with societal expectations and legal requirements, guiding broadcasters in delivering content that is fair, accurate and respectful to all segments of the audience<sup>13</sup>. Broadcasting standards and guidelines include:

### **2.4.3 SCHEDULING AND CONTENT CONTROL**

Broadcasting houses are guided by already put in place scheduling and content control guidelines. The principle is designed to protect audiences, especially children, from exposure to harmful or inappropriate material. It provides that material mostly likely to impair children's physical, mental, or moral development is prohibited from broadcast. According to the IBA standard operating procedures, appropriate scheduling should be judged according to (a) the nature of the content (b) the likely number and age range of children in the audience, taking into account school time, weekends and holidays (c) the start time and finish time of the program (d) the nature of the channel or station and the particular program and lastly (e) the likely expectations of the audience for a particular channel or station at a particular time and on a particular day.

Adult content, including violence, sexual material, or strong language cannot air before the "watershed" (10 pm to 05 am), with stricter rules for subscription and children's programming. Violence and dangerous behaviors that children might imitate must be limited or avoided in children's programs or before the watershed, unless editorial justification exists. Similarly, offensive language must not be used in programs made for children and should be minimized before the watershed. It is also required that content warnings and appropriate audience information is provided for potentially unsuitable material.<sup>14</sup> This scheduling strategy balances the need for creative freedom with responsibility to protect vulnerable audiences and uphold societal standards of decency.

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<sup>12</sup> Broadcasting Standards Codebook <https://www.bsa.govt.nz/broadcasting-standards/broadcasting-code-book-2022>

<sup>13</sup> Ibid 11

<sup>14</sup> Ibid 6

#### **2.4.4 INCLUSION OF CHILD IN PROGRAMMING**

In cases where children are involved in programs, due care is required to ensure their welfare and dignity. Real life campaigns such as the International Children’s Day of Broadcasting (ICDB) are an example of the current practices of the broadcasting sector practiced and held each March, where Zambian children “take over the airwaves” on radio and television, producing child-led content to raise awareness about child protection and online/offline safety issues. In March 2025, children in Zambia were given the chance to plan, present and produce both radio and television shows. These shows discussed real issues like school violence, the dangers of online abuse and the significance of addressing inappropriate content.<sup>15</sup> This annual occasion serves as both advocacy and policy in action, bringing children’s rights and media safety to the attention of the public and industry. In light of this, media houses and civil society organizations like World Vision Zambia, Save the Children and Panos Institute southern Africa collaborate with broadcasters to develop child centered programming, advance reporting standards and raise awareness of child advocacy issues in both traditional and media.<sup>16</sup> Lastly, public education in terms regular campaigns and public statements by the IBA and NGOs reinforces the importance of ongoing vigilance in content scheduling and reporting on children’s issues.

#### **2.4.5 CONTENT CLASSIFICATION**

Content classification and access restrictions: it is a requirement under the IBA to properly categorize harmful content accurately and make sure that access to it is suitably restricted. Content rated ‘S’ on television and multimedia services cannot be aired prior to watershed. They must schedule potentially harmful materials, such as violence, adult content, and strong language, during late hours outside of times when children are likely to be watching or listening. This is done through the “Watershed” policy, where harmful or sensitive content such as explicit sexual material, offensive language, or scenes of violence must not be broadcast before the watershed period, typically after 10 pm, and programs meant for children should avoid depicting dangerous behavior unless there’s a strong editorial justification. For example, DSTV Zambia as a leading subscription provider enforces content

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<sup>15</sup> CHILDREN TAKE OVER THE AIRWAVES TO MARK <https://www.mcdss.gov.zm>

<sup>16</sup> <https://www.panos.org.zm/panos-calls-for-more-broadcast-media-content-by-and-about-children-advancing-child-rights>

classifications and access restrictions for its local and international channels. Viewers are required to use parental controls to restrict access to harmful or age-inappropriate content, especially on premium movies, series, or sports channels, similarly GO Tv and Top Star follow similar frameworks.<sup>17</sup> While free-to-air stations like QTV and Prime TV also abide by these restrictions by scheduling potential harmful content post-watershed and using on-screen advisories to notify viewers about program content.<sup>18</sup>

## **2.5 ETHICAL GUIDELINES AND CONSIDERATIONS**

Media ethics refer to acceptable guidelines that govern the media, thereby promoting good morals and stipulated laws that set required standards. Pursuant to the IBA ethical guidelines, the programming provided by a commercial broadcasting service shall subject to the conditions of the broadcasting license and the provisions of the IBA (a) reflect the culture, character, needs and aspirations of the areas specified in license (b) meet the highest standards of journalistic professionalism. The code of ethics refers to part V of the IBA act section 33, which provides the minimum professional standards for the journalism profession, stating that The corporation and every licensed broadcasting service, shall develop a code of professional standards which comply with the following minimum requirements (a) respect for the human dignity and human rights and freedoms and contribution to tolerance of different opinions and beliefs (b) observance of procedures for factual errors and redressing unfairness (c) the protection of the integrity of minors by classifying and distributing programs that could endanger the development of a child in a way with the least possibility for child to use it.<sup>19</sup> Broadcasters adhere to ethical guidelines that prohibit the airing of content that may impair the physical, mental, or moral development of minors. There is explicit emphasis on the protection of minors, which includes ensuring that children's identities are safeguarded in sensitive cases, such as court reporting or news involving child victims.<sup>20</sup>

In light of the stressed policies put in place and practices required to be undertaken, regulatory gaps still exist. While traditional media content regulation is more established with

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<sup>17</sup> ibid

<sup>18</sup> <https://www.iba.org.zm/television-content-service-providers>

<sup>19</sup> IBA ethical guidelines <https://www.iba.org.zm/ethical-guidelines>

<sup>20</sup> Section 33 IBA act

stringent measures like codes of conduct, classification systems, watershed periods and mandatory free access to public service channels, controls are less developed or harder to enforce on other multimedia platforms with global content. Monitoring pay TV and other multimedia content requires sophisticated and continuous oversight due to on-demand and multichannel distribution, unlike the scheduled and broadcast nature of traditional media<sup>21</sup>. Additionally, legal and policy gaps contribute to the challenges, the existing broadcasting laws including the Independent Broadcasting Authority Act and the Zambia National Broadcasting Corporation Act, were mostly designed for analogue broadcasting. There is ongoing review to update these laws to reflect realities of the digital age, but delays and focus content control leave gaps in regulating digital broadcasting platforms.<sup>22</sup>

Furthermore, in relation to other challenges in enforcing these policies stem from inadequate monitoring equipment. The IBA lacks sufficient technologically advanced equipment to effectively monitor the activities of all media institutions, hindering their ability to detect and detect non-compliance. The IBA's reliance on government funding can compromise its independence contrary to its name and purpose, and the authority also faces challenges in adequately funding its operations to procure necessary resources.<sup>23</sup> The transition of digital broadcasting continues to present challenges for the IBA, requiring the development of a regulatory framework for the new platform. According to the IBA's 4<sup>th</sup> Edition digest, it has cited a lack of sufficient personnel to monitor broadcasting stations effectively across the country.<sup>24</sup> It is from these challenges of lack of regulatory and enforcement faced, that children continue to be exposed harmful content as brought out by the World Vision policy brief. In light of the first deputy speaker's speech at the UNICEF workshop, that the media, including ZNBC, play a crucial role in promoting child welfare, but there are ongoing efforts to ensure more child sensitive programming and adherence to ethical standards. Therefore, she urged members of parliament to champion and advocate for child protection laws by stating that the stakeholder's commitment to child protection must therefore go beyond attendance and statements, it must be translated through adequate budgetary support,

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<sup>21</sup> ibid

<sup>22</sup> IBA digest 1<sup>st</sup> edition (2015)

<sup>23</sup> K. Chungu, A critical analysis of the 'independence' of the Independent Broadcasting Authority's regulation of the private media UNZA repository

<sup>24</sup> IBA digest 4<sup>th</sup> Edition

effective oversight and constant engagement.<sup>25</sup>

## **2.6 CONCLUSION**

In summary, as assessed above, the Zambian broadcasting standards has set a framework to safeguard children from harmful content through well-defined guidelines and ethical considerations. They require broadcasters to be mindful of children's developmental needs and audience profiles, while promoting culturally relevant content and facilitating child participation in media. Although these policies anchored in regulatory frameworks exist within the sector, challenges continue to present themselves, i.e. inadequate legislation and lack of funds to carry out enforcement and monitoring stations continue to pose challenges for the IB authority.

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<sup>25</sup> Ibid 1

## **CHAPTER THREE**

### **CRITICAL ANALYSIS OF THE LEGAL FRAMEWORK REGULATING BROADCASTING IN ZAMBIA AND THEIR EFFECTIVENESS AND ADEQUACY IN PROTECTING CHILDREN FROM HARMFUL AND INAPPROPRIATE CONTENT**

#### **3.0 INTRODUCTION**

Legal frameworks play a critical role in the regulation of broadcasting content by establishing explicit standards designed to safeguard vulnerable groups, particularly children, by preventing the dissemination of material that is harmful, offensive, or inappropriate for such audiences. These regulations aim to safeguard children's physical, mental, moral, and emotional development by restricting exposure to content that could cause harm. "The development and proliferation of new media have made issues more complicated and multidimensional. The presence of the children as users and content generators in new media has been the common source of concern regarding possibilities of their exposure to harmful content and abuse."<sup>26</sup>

Thus, regulation of the content of broadcast material is about protection. Protecting viewers and listeners from being harmed or offended. The prime purpose of protection in programme content is the protection of minors. A global case. Although the legal age of majority may differ from country to country. Most regulators are concerned to protect the welfare of children and young people. The intention is to seek to protect children from material which would, or could damage them morally, psychologically or physically.<sup>27</sup> Legal frameworks often include provisions for content classification, scheduling (to avoid airing sensitive content during times when children are likely to view) and specific protection of minors' privacy and dignity in media coverage. By limiting the exposure of harmful programming and advertising, self-regulatory codes in broadcasting also protect vulnerable groups reflecting an evidence-based policy to prevent exploitation. In Zambia, broadcasters voluntarily adhere to content guidelines and ethical standards above and beyond their legal responsibilities through the use of self-regulatory codes. These guidelines seek to guarantee good programming encourage ethical broadcasting practices and protect viewers from offensive material.

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<sup>26</sup> Protecting children from harmful content in new media: An ethical approach, Ruhdan Uzun

<sup>27</sup> Eve Salomon, Guidelines for broadcasting regulation (2<sup>nd</sup> edition, commonwealth broadcasting association 2008)

However, stakeholders, in the report of the committee on media, information and communication technologies, bemoaned the absence of a media regulatory body which had contributed to the continuous flouting of media ethics by media houses and practitioners. They submitted that there was a need for the government to urgently enact a comprehensive media self-regulatory mechanism similar to the Law Association of Zambia (LAZ) which should be strong enough to regulate its members in order to ameliorate the ethical challenges the sector was faced with. They were of the view that the process to develop a media self-regulation mechanism should be championed by journalists themselves without interference from the government to ensure an independent process that could be inclusive and transparent.<sup>28</sup> The best example of a self-regulatory code for broadcasting in Zambia is found in the Standard operating procedures for broadcasting in Zambia (SOP) .Therefore, this chapter intends to critically analyze the key statutes governing Zambia's broadcasting sector and assess their effectiveness and adequacy in safeguarding children from harmful and inappropriate content.

### **3.1 FRAMEWORK GOVERNING BROADCASTING IN ZAMBIA'S BROADCASTING SECTOR**

#### **3.1.1 BRIEF BACKGROUND ON MEDIA REGULATION IN ZAMBIA**

In Zambia, until 1987 broadcasting services were an integral part of the state, being directly placed under government control through the Ministry of information. In 1987 there was colossal policy shift through the enactment of the ZNBC Act. The intention of which was to reduce the role of the state and enable ZNBC to be self- sufficient relying less on capitalization. The broadcast media became a mouthpiece of the ruling government, and the state introduced media laws aimed at maintaining their strong grip on the industry in Zambia. In 1991, the country reverted to multiparty democracy and the broadcasting sector was liberalized. The new government introduced new broadcasting regulations to end monopoly of ZNBC and to open the broadcasting sector for private investment. Further, the Telecommunications Act of 1994 and the Radio Communications Act of 1994 were enacted, with the introduction of these Acts, the sector become more liberalized, with new entrants

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<sup>28</sup> Report of the committee on media, information and communication technologies

appearing on the scene.<sup>29</sup> In 1995, the government began to issue permits to private and religious entities to enter the broadcasting market.<sup>30</sup> In 1996, after the increasing pressure from local NGOs and international community, the government came up with the information and media policy document. The document whose one of the objectives was the creation of an independent broadcasting authority,<sup>31</sup> because during that period, Zambia did not have a body that specifically regulated broadcasting. The liberalization of the sector necessitated the establishment of an independent body to regulate the broadcasting sector. Consequently, the independent Broadcasting Authority (IBA) Act was enacted in 2002, although it became operational in July 2013.<sup>32</sup>

In Zambia, today, broadcasting is primarily regulated by two statutes namely: The Independent Broadcasting Act No. 17 of 2002 and the Zambia National Broadcasting Corporation Act No. 16 of 1987. The ZNBC Act establishes and defines the functions of the state-controlled Zambia National Broadcasting Corporation (The Corporation)

### **3.1.2 INDEPENDENT BROADCASTING ACT**

There is hereby established the *Independent Broadcasting Authority (IBA)* a statutory body, under part II section 4 of the IBA act No. 17 of 2002 as amended by the IBA Act no. 18 of 2018.<sup>33</sup> The primary responsible of the IBA is to regulate the broadcasting industry in Zambia. Further functions stipulated in section 5 subsection 2 relevant to this chapter include: The Authority shall issue to any or all broadcasters, advisory opinions relating to broadcasting standards and ethical conduct in broadcasting, To oblige broadcasters to develop codes of practice and monitor compliance with those codes and to develop program standards relating to broadcasting in Zambia and monitor and enforce compliance with those standards.<sup>34</sup>

In addition, section 33 provides that the Corporation and every licensed broadcasting service, shall develop a code of professional standards which shall comply with the following minimum requirements: maintain respect for human dignity and human rights and freedoms, and contributions to the tolerance of different opinions and beliefs and in section 33(e),is

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<sup>29</sup> Elvis Besa Regulation of ICT-based broadcasting in the digital age: A case of Zambia, 2019

<sup>30</sup> IBA strategic plan 2023-2027

<sup>31</sup> Ibid 3

<sup>32</sup> Ibid 4

<sup>33</sup> Section 4 of the Independent Broadcasting Act

<sup>34</sup> Section 5 of the independent broadcasting Act

highlighted the section most essential to this research and the only part in all of the act that it is made mention being, “the protection of the integrity of minors by clearly classifying and distributing programmes that could endanger the development of a child in a way with the least possibility for a child to use it.” <sup>35</sup>

The IBA’s guidelines for enforcement and handling of compliance breaches handbook provides for the enforcement of the provisions of the IBA act<sup>36</sup>, however, it lacks enforcement in relation to compliance of child protection standards. To effectively safeguard children harmful media content, it is recommended that the IBA be granted strengthened authority to supervise and enforce child protection standards comprehensively. The IBA should also be authorized to conduct regular compliance audits, impose sanctions for violations, and oversee the use of parental control technologies by broadcasters and platforms. The IBA’s mandate should encompass enhanced public awareness initiatives and stakeholder engagement to promote a safer media environment for minors.

However, section 7(2) of the IBA which states that the board shall consist of nine part-time members appointed by the Minister. Poses issues in regards to the independence of the Authority. The report of the committee on media, information and communication technologies provided stakeholders argued that although the Independent Broadcasting Authority (IBA) was in place, the term ‘independent’ was far-fetched because the institution had never been independent. They alleged that the IBA was being used as a government watchdog entity to monitor and curtail the operations of private and community media houses that broadcast information perceived not to be in the best interest of the government. Stakeholders also observed that some media houses upheld media ethics in their work, while others failed lamentably. The culprits in dividing the media were the politicians, especially those from ruling parties. Such matters continue to make it difficult for the media to remain ethical, truthful, fair and balanced. It further affirmed that section 4(2) of the ZNBC and section 7(2) in the IBA provide for the appointment of a board by the minister which compromises the autonomy of the board.<sup>37</sup>

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<sup>35</sup> Section 33 IBA Act

<sup>36</sup> IBA guidelines for enforcement and handling of compliance breaches

<sup>37</sup> Report of the committee on media, information and communication technologies

### **3.1.3 ZAMBIA NATIONAL BROADCASTING CORPORATION ACT**

In relation to the ZNBC Act, although it does not specifically address the protection of minors from exposure to harmful content, in section 27, it provides that the minister has the power to prohibit broadcast of certain matters. Where, if the minister is of the opinion that a broadcast is defamatory, blasphemous, obscene, or seditious he may, by notice in writing, prohibit the Corporation from making such broadcast and the Corporation shall comply with any such notice<sup>38</sup>. This in itself highlights the several gaps in the ZNBC Act in relation to broadcasting. It fails to prescribe specific criteria, guidelines or content standards much less procedural safeguards for content restriction that broadcasters are expected to follow proactively. There are not codified provisions within the Act that define the boundaries of acceptable content or the procedures broadcasters must adhere to in order to self-regulate or ensure compliance. This absence of explicit standards or content regulation, especially from the national broadcasting corporation, leaves broadcasters without clear directives. Furthermore, related Acts such as the Children's code Act no 12 of 2022 also highlights under section 19 of part II that a person shall not expose a child to obscene or pornographic material.<sup>39</sup> In this sense the children's code Act is expected to explicitly and clearly place a statutory duty for IBA to monitor compliance with the children's code Act, lack of which is already seen, in that cases of exposure of children to harmful and inappropriate content continue to rise. The gap in the children's code adds to the many other lacunas in the broadcasting sector's legal framework and thus it would be advised that the children's code act place a statutory duty to ensure compliance with broadcasting standards and regulation and also monitor such compliance.

### **3.1.4 CONVENTION ON THE RIGHTS OF THE CHILD**

Similarly, international standards set out in the Convention on the rights of the child to which Zambia is a member state, under Article 17, says as follows: states parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical

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<sup>38</sup> Section 27 ZNBC

<sup>39</sup> S19 children's code

and mental health. To this end, State Parties shall encourage the development of appropriate guidelines for the protection of the child from information that could be injurious to his or her well-being bearing in mind the provisions of articles 13 and 18.<sup>40</sup>

### **3.1.5 CYBERCRIMES ACT**

As provided in section 15 of the cybercrimes Act no.4 of 2025, the prohibition of child pornography; it provides that a person commits an offence if that person intentionally, sells, imports, exports or makes available any pornography through to a child or computer system and compels, invites or allows a child to view pornography through a computer or computer system.<sup>41</sup>

Although the Act provides for the prohibition of child pornography, it notably lacks specific provisions addressing the regulation of broadcasters and digital streaming platforms. This therefore creates a significant regulatory gap since the Act primarily focuses on cyber offenses, online privacy, and protection against cybercrimes, without specific rules for unique challenges posed by digital broadcasting and streaming services. While traditional broadcasting in Zambia is regulated by the IBA focusing on content control and licensing, the Cybercrimes Act does not extend these regulatory frameworks to encompass the digital broadcasting environment. Consequently, broadcasters and digital streaming platforms operate largely in an unregulated digital environment under this Act, leading to potential challenges in enforcing content standards, licensing, and compliance within the rapidly evolving digital media landscape. This regulatory silence underscores the inefficiencies and fragmentation in Zambia's legal framework for digital content regulation.<sup>42</sup>

### **3.1.6 IBA STANDARD OPERATING PROCEDURES**

Lastly and more importantly, the Independent Broadcasting Authority standard operating procedures for broadcasting in Zambia (SOP) of 2016, highlight largely the protection of children from exposure to harmful and inappropriate content. While the IBA SOP does not explicitly state provisions for periodic review to address emerging digital content risks, its regulatory approach inherently involves adaptive content monitoring and enforcement mechanisms. The rapid technological advancements and digital convergence noted in

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<sup>40</sup> Article 17 of the CRC

<sup>41</sup> Section 15 Cybercrimes act

<sup>42</sup> Chambwa Moonga 'State explains online broadcasters license' *Zambian Daily Mail*

Zambia highlight regulatory gaps, as the existing IBA Act and SOP were framed in the analogue age and have not been fully updated for ICT-based or online broadcasting, this suggests the need for formal provisions in the IBA ACT and SOP to mandate periodic reviews that specifically address emerging digital content risks<sup>43</sup>.

Nonetheless, The SOP is set out in terms of principles, meanings and guidelines and includes a set of guidelines to be practiced by licensees. Section 1 of the SOP provides for the protection of children, read in conjunction with section 2 of the aforesaid. The objective of which is to ensure that children are protected and thus the SOP provides guidelines in dealing with children, as follows: scheduling and content information, material that might seriously impair the physical, mental or moral development of children must not be broadcast. Children must also be protected by appropriate scheduling from material that is unsuitable to them. It goes on to provide the meaning of “appropriate scheduling” as being judged according to the nature of the content, the likely number and age range of children in the audience, taking into account school time, weekends and holidays, the start and finish time of the programme, the nature of the channel or station and the particular programme and the likely expectations of the audience for a particular channel or station at a particular time and on a particular day. It emphasizes that licensees must observe the watershed, which refers to the point in time after which adult content may be broadcast. For the purposes of the SOP it is 22:00 hours. Material unsuitable for children must not be broadcast before 10pm or after 05am. <sup>44</sup>

Furthermore, the use of illegal drugs, smoking, abuse of drugs, solvent abuse, and the misuse of alcohol must not be featured in programmes made primarily for children unless there is strong editorial justification and generally be avoided and in any case must not condoned, encouraged or glamorized in programs broadcast before the watershed. In relation to violence, its after-effects and descriptions of violence, whether verbal or physical, must be appropriately limited in programmes broadcast before the watershed and must also be justified by the context. Television and multimedia services material with rating “S” must not be broadcast before the watershed. Pornographic material must not be broadcast at any time. Pornographic material means material means audio or visual material containing explicit descriptions and or displays of sexual behavior intended to trigger sexual excitement.

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<sup>43</sup> Elvis Besa Regulation of ICT-based broadcasting in the digital age: A case of Zambia, 2019

<sup>44</sup> IBA standard operating procedures

The Act goes further in stating that generally accepted standards must be applied to broadcasting content so as to provide adequate protection for members of the public from the inclusion in such services of harmful and/or offensive material.<sup>45</sup>

The above mentioned laws, as seen do indeed provide protection from exposure to harmful content in a general sense, however, most do not tie to the protection of minors from exposure to broadcast of harmful and inappropriate content, except the specific mention in the Independent broadcasting Act under section 33 and section 1 of the IBA standard operating procedures. There begins the inadequacies of regulation in the broadcasting sector in Zambia.

The IBA strategic plan of 2023-2027, set by the Authority, in determining their SWOT analysis, had found that one of the major weaknesses is the inadequate legal framework to regulate online and public broadcasting, the lack of provisions to regulate both online and public service broadcasting. It said that the lacuna has led to a situation where some operators are regulated while others are not. One of the threats identified is that there is inadequate knowledge of broadcasting laws and regulations by licensees and the public.

In the Authority's determination of their, political, economic, social, environmental, technological and legal factors (PESTEL) macro-environment. It determined in their technological factor, that there being an advancement in technology and digital migration has brought upon positive factors, however the existence negative factors hoovers, one being that the advancement in technology has affected the IBA in its quest to regulate the industry. The law has lagged behind industry developments, the IBA act has remained behind to address emerging issues. In analyzing its legal factors, although the positive stance the authority took is the POSSIBLE, yet not available, repeal and replacement of the IBA Act which is intended to enable the authority to effectively regulate the sector in the digital era. The negative factors, include the ineffective self-regulatory bodies for media practitioners, non-regulation of online broadcasting and slow processes for law reforms.<sup>46</sup>

This was also highlighted in the 2024 newsletter released by IBA included news relating to the IBA Act undergoing review. "The independent broadcasting authority in conjunction with key stakeholders has embarked on the process of reviewing the IBA Act enacted in 2002

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<sup>45</sup> Ibid 10

<sup>46</sup> IBA strategic plan 2023-2027

with the aim of repealing and replacing the Act.” During the presentation, 4 key matters were highlighted, one major point being that, the lacuna in framework governing online broadcasting has since been recognized. It was said that “A regulatory gap exists for online broadcasting, considering that some stations solely want to use the internet for transmission.”<sup>47</sup> A true plea is that the review of the IBA with the aim of repealing and replacing it does not end in only being a review and further that issues relating to content and general public are placed above the desires of the stakeholders, the government and the authority as well.

However, while the IBA strategic plan 2023- 2027 identifies a critical gap in the legal framework for regulating online and public broadcasting but does not explicitly incorporate measurable targets for child protection enforcement and compliance. To strengthen the plan, it is essential to include specific, measurable objectives aimed at protecting children from harmful content across all broadcasting platforms. Such provisions should mandate clear benchmarks for monitoring child protection compliance, including regular audits of broadcasting content, the frequency of compliance inspections focused on child appropriate programming and quantifiable goals for reducing the exposure of children to inappropriate material.

In furtherance, while the current legal framework largely focuses on traditional broadcasting, the current broadcasting laws insufficiently address the increasingly digital nature of children’s media consumption. There is no comprehensive child online protection (COP) legal framework integrated with broadcasting laws to protect children from online risks such as exposure to inappropriate, harmful content and cyberbullying accessed through broadcasting platforms and internet streams. However, the recent ITU (International Telecommunication Union) work includes a case study on ZICTA’s role in implementing COP and contributing to child protection, along with a broader strategy to address child online risks and enhance legal and institutional framework<sup>48</sup> This also stems from the inadequate provision for children’s participation and representation, studies indicate that ZNBC, the state broadcaster, provides minimal space for children to participate national discourse or express views, limiting the representation of children’s perspectives on media content and policies. The gap between

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<sup>47</sup> IBA Newsletter Digest

<sup>48</sup> ITU report on COP Zambia, 2008

legislation and effective protection is evident in increasing reports of children's exposure to harmful content, including pornography and violence, through broadcasting media. For example it was found that local media monitoring found accounts of child related content breaches that went unaddressed or inadequately sanctioned<sup>49</sup>. Additionally, online surveys highlight persistent risks faced by children in Zambia from harmful digital content accessed via broadcast media platforms.<sup>50</sup> The failure to enforce penalties against non-complaint broadcasters, combined with public unawareness of complaint mechanisms under the IBA, perpetuates a cycle where broadcasters avoid accountability, and children remain vulnerable.

In addition, given the increasing digital nature of children's media consumption and the current legal framework in Zambia being primarily focused on traditional broadcasting, it is essential for effective child protection that the IBA, the Zambian Information and communications technology authority (ZICTA) and while ZICTA is charged with regulating the entire Information and communication technology sector (ICT) sector in Zambia as well as providing oversight on cyber security in the country<sup>51</sup> and the office of the Data Protection Commissioner coordinate their efforts, since the DPC is charged with the responsibility and central authority for overseeing and enforcing data protection regulations in public bodies and private institutions through licensing of auditors, registration of data processors and controllers, to ensuring that handling of personal data adheres to the Act and best security practices<sup>52</sup>. Such collaboration would enable the harmonization of regulatory standards sharing of expertise, and unified enforcement across broadcasting, online platforms and data privacy domains. By complementing each other where the other lacks and working together, these institutions can address gaps in digital content regulation, ensure robust protection of children's rights online and enforce compliance with data protection laws.

### **3.2 CONCLUSION**

In concluding, while Zambia has established foundational legal frameworks such as the Independent Broadcasting Authority Act and the Children's code Act aimed at regulating

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<sup>49</sup> ICBF press statement by the Media network on children's rights and development 2025

<sup>50</sup> MTN child safety report, Let children be children, 2024

<sup>51</sup> <https://www.zicta.zm/about/about-zicta>

<sup>52</sup> <https://www.dataprotection.gov.zm> welcome to the Data Protection commission (DPC)

broadcasting content and protecting children, these laws fall short in effectively shielding minors from harmful and inappropriate media exposure. The shortcomings in legislation include weak enforcement mechanisms and insufficient integration of emerging digital and online media risks. This leaves children vulnerable to exposure to explicit, violent, and exploitative content during hours when they are likely to be part of the audience. Additionally limited resources of regulatory bodies like the IBA overlook effective compliance monitoring and sanction enforcement. There is also a lack of awareness among broadcasters and the general public about the provisions and intent of child protection laws in broadcasting. As a result breaches go unaddressed, and many children remain exposed to potentially harmful content

Furthermore, the major of these issues is the exclusion of children's voices in broadcasting policy discussions and insufficient provisions for ensuring children's participation and representation in media governance, which could otherwise enhance the relevance and effectiveness of protective measures. This chapter outlined the urgent need for legislative reforms that specifically address the real issues of digital broadcasting and online content consumption. Promotion of meaningful child participation are critical steps towards fostering a safer broadcasting environment for Zambian children. Without addressing these gaps, legislative intent risks being merely symbolic, leaving children exposed to the ever-growing media risks that threaten their physical, mental and moral development. The committee on media, information and communication technologies, was concerned that the media development policy has not taken on board issues relating to digital transformation and it recommends that the executive should review the policy to come up with a comprehensive media development policy that will address the technological advancements in the world today, and also reflect international best practices regarding media freedom as well as guide legal reforms in the media sector, it should also be advised that the reform must also cater to the needs of children in relation to broadcast of harmful and inappropriate content.<sup>53</sup>

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<sup>53</sup> Ibid 11

## **CHAPTER 4**

### **A COMPARATIVE STUDY OF REGULATORY FRAMEWORKS OF KENYA, THE EUROPEAN UNION (THE EU) AND ZAMBIA: DRAWING LESSONS AND IDENTIFYING BEST PRACTICES**

#### **4.0 INTRODUCTION**

This chapter presents a comparative study of the regulatory frameworks governing broadcasting sectors in Kenya, the EU and Zambia, with a focused lens on the protection of children from exposure to harmful and injurious content. As the media environment continues to evolve, shaped by the advancements in digital technology and the proliferation of online platforms. Thus, ensuring that child protection within broadcasting regulation has become an urgent priority globally.

By examining Kenya's regulatory dynamics, the EU's comprehensive and harmonized directives, this chapter aims to draw lessons and best practices from the regulatory frameworks and broadcasting practices observed by both the EU and Kenya, to identify best practices, challenges and lessons learned in protecting children from harmful content. It will examine how these jurisdictions balance technological innovation and digital freedoms with essential safeguards and the roles and the powers of regulatory authorities, and the integration of traditional and digital media oversight. This chapter aims to contribute to the development of more effective, child-centered policies that respond holistically to the evolving digital landscape and uphold children's rights to safe and appropriate media exposure. Understanding these comparative regulatory strategies will inform recommendations aimed at enhancing the broadcasting regulations in Zambia to better shield children from harmful media exposure in the rapidly growing media landscape.

#### **4.1 KENYA**

Broadcasting in Kenya is primarily regulated by the Communications Authority of Kenya (CA) which oversees licensing, spectrum management and technical standards within the telecommunications and broadcasting sectors. In converse, the Media Council of Kenya (MCK) serves as the key state authority responsible for regulating media content, upholding professional journalistic standards and handling public complaints related to media practices. Additionally, the Kenya Film Classification Board (KFCB) plays a vital role in the broadcasting

sector by classifying and regulating audiovisual content to protect viewers, especially children, from exposure to harmful or inappropriate content. The KFCB's mandate includes reviewing, rating and restricting content that is broadcast on television and digital platforms. Together, their coordinated efforts are crucial to addressing the evolving challenges posed by the convergence of traditional broadcasting and digital media in Kenya.

#### **4.1.1 COMMUNICATIONS AUTHORITY OF KENYA**

The CA is the regulatory authority for the communications sector in Kenya established in 1999 by the Kenya information and communications Act 1998 and it is responsible for facilitating the development of the information and communications sector including broadcasting, cyber security, multimedia, telecommunications, electronic commerce, postal and courier services.<sup>54</sup> The authority, where necessary provides and issues guidelines for the ICT sector on implementation of specific regulatory issues and an essential guideline being **Industry Guidelines for Child Online Protection and safety in Kenya, 2022**<sup>55</sup> specifically catered for the protection of children. The guidelines are premised on the various principles, the following being key to this research. CA opines that child protection and safety is everyone's responsibility: the development and deployment of mechanisms that respect children's rights and foster a safer online experience for children. These guidelines therefore explicitly address the safeguarding of children within the broadcasting and digital media landscape. In contrast, the broadcasting sector in Zambia currently faces a significant regulatory gap in this regard. Despite growing concerns over children's exposure to harmful and injurious content across traditional and digital media, Zambia still lacks a comprehensive legal framework that explicitly prioritizes child protection within broadcasting laws and policies. Unlike Kenya's well-articulated and institutionally supported guidelines.

Furthermore, the objectives of the Industry Guidelines provide more assurance of the protection of children in the digital environment. These include: to foster the development of technical interventions in the market that minimize the risk of exposure of children to online risks and vulnerabilities and to develop industry guidance on how to promote children's rights and responsible digital citizenship among children, among others. In relation to specific

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<sup>54</sup> Communications Authority of Kenya: <https://www.ca.go.ke/who-we-are>

<sup>55</sup> Ibid 2

guidelines programs on broadcast content and broadcasters, it states that broadcasters, are required to adhere to the Kenya Information and communications (broadcasting) regulations 2009 and the authority's programming code as they detail specific requirements on the management and handling of content obtained from or relating to children.<sup>56</sup>

The Kenya information and communications (broadcasting) regulations 2009, first and foremost, under part III states that a public broadcaster shall provide independent and impartial broadcasting services of information, education and entertainment. It goes further in part IV, section 19 to provide for general requirements. It therefore states that 'a licensee shall ensure that no broadcasts by its station contains the use of offensive language, including profanity and blasphemy, presents sexual matters in an explicit, offensive manner and glorifies violence in an offensive manner, is likely to incite, perpetuate hatred, vilify any person or section of the community, on account of race, ethnicity, nationality, gender among others and has no program rating from KFCB indicated prior to the commencement of such programs.'<sup>57</sup> Section 20 specifically provides for the protection of children. It goes on to state that a licensee shall ensure that due care is exercised in order to avoid content that may disturb or be harmful to children, that has offensive language, explicit sexual or violent material, music with sexually explicit lyrics or lyrics which depict violence. That not to broadcast programmes with content specified above during the watershed period and to also request for permission to conduct an interview with a minor from the minors' parents or guardian before conducting an interview with a minor.<sup>58</sup> Therefore, from the above it can be seen that the Kenyan's broadcasting laws, clearly and definitively provide for the protection of children, the enactment of the regulations 2009 sets clear standards expected of broadcasters when it comes to broadcasting content likely to injured or be harmful to children.

#### **4.1.2 MEDIA COUNCIL OF KENYA**

The Media Council of Kenya is an independent Kenyan national institution established for the purposes of setting of media standards and ensuring compliance with standards set in their constitution. Section 6 of the media council of Kenya Act provides for the 15 functions of the MCK, including: to prescribe standards for journalists, media practitioners and media

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<sup>56</sup> Industry guidelines for Child online protection and safety in Kenya, 2025

<sup>57</sup> Section 19 of the Kenya information and communications (broadcasting) regulations 2009

<sup>58</sup> Section 20 of the Kenya information and communications (broadcasting) regulations 2009

enterprises, to promote and enhance ethical and professional standards amongst journalists and media enterprises, to establish media standards and regulate and monitor compliance of media standards, to develop and regulate ethical and disciplinary standards for journalists media practitioners and media enterprises<sup>59</sup>: this clearly speaks to how the media sector of Kenya is at self-regulatory methods unlike that of Zambian laws. Steps set taken by the council to both regulate the media sector and the continued protection of children can be seen in the repealing and replacing of the second schedule to the Media Council Act to the new one being **the code of conduct for media practice**. Section 15 states that a person subject to the Act shall not publish content that is obscene, vulgar or offensive unless in the interest of the public, images of mutilated bodies, violence, or abhorrent scenes unless serving public interest purpose and also a verbal and visual warning shall precede the transmission of potentially distressing content in news, factual programming or current affairs broadcasts.<sup>60</sup>

The Act goes on further to specifically provide for protection of children under part IV of the second schedule: with general principles stating that exceptional care shall be exercised when reporting on children to ensure their best interest, protection, and overall welfare. Section 19 sets out specific standards for children programming: it states that a program intended for children shall convey the underlying message appropriate for children, feature content that promotes emotional, moral, spiritual, mental, or physical development, be consistent with the best interests of the child, avoid language or gestures that encourage disrespectful behavior among children; exclude vulgar, profane, offensive, sexually suggestive, derogatory, or demeaning language, avoid content that promotes unhealthy eating habits, not depict sexual acts, sexual organs, or sexually suggestive content is prohibited, not glorify violence, or portray force as an acceptable means of resolving conflicts, not promote or depict the consumption of tobacco, alcohol, narcotics, inhalants, depressants, hallucinogens, or other prohibited substances, not promote gambling or portray it as a desirable or aspirational activity, not feature advertisements for products inappropriate or potentially harmful to children.<sup>61</sup>

Furthermore, obligations relating to children provide that a person subject to this Act shall

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<sup>59</sup> Media council of Kenya <https://mediacouncil.or.ke>

<sup>60</sup> Section 15 (1) of the Media Council of Kenya (code of media practice) 2025

<sup>61</sup> section19 of the Media council (code of media practice) 2025

minimize depictions of violence and strong language in children's content, ensuring contextual suitability for the target age group, avoid publication of sexual content during the watershed period, ensure that any necessary content is appropriately classified for the intended audience, where possible, ensure digital platforms used for distributing children's content incorporate parental controls and age-based content filtering mechanisms and to provide appropriate context when reporting on children's issues to ensure accuracy and avoid misrepresentation or stigma. Additional obligations include, obligations concerning digital and online platforms and reporting on sexual violence; a person subject to this Act shall ensure that the online forum targeting children or young adults does not disseminate harmful, malicious or exploitative content, including content that amounts to cyberbullying, not publish explicit content language or suggestive themes that promote inappropriate behavior in children during the watershed period which is also from 10pm to 05 am. Not publish advertisements unsuitable for children immediately preceding, during, or immediately after a children-friendly program. Ensure a safe and controlled environment for children involved in content creation.<sup>62</sup> It also provides pursuant to section 23(2), that media enterprises shall develop and implement internal child protection policies and designate a child protection focal person responsible for ensuring compliance with the part of the code. Lastly, according to part VIII general provisions, on obligations for classification of non-editorial content. A person shall ensure that all non-editorial content broadcast, streamed, or published on their platform is classified according to age-appropriate categories, apply content classification guidelines issued by the Kenya film classification board or any other relevant authority, clearly display classification ratings before the start of any non-editorial content, including but not limited films, television programs, and digital content, music videos, animations, and interactive content and include visual or audio classification indicators at the start of and during the broadcast of non-editorial content, with appropriate warnings for content that may contain, violence strong language, or distressing scenes, sexual content or nudity , drug use, substance abuse, or self-harm themes or any other potentially harmful material. To ensure that non-editorial content broadcast during the watershed period complies with child protection standards specified under the code and to lastly establish mechanisms to advise users of available content controls or age restriction tools where

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<sup>62</sup> Section 22(1) of the media council (code of media practice) 2025

applicable, recognizing that full control over access lies with platform providers or users themselves.<sup>63</sup>

#### **4.1.3 KENYA FILM CLASSIFICATION BOARD**

The Kenyan film classification board is a Kenyan state corporation whose role is to regulate the creation, broadcasting, possession, distribution and exhibition of film and broadcast content<sup>64</sup>. Their regulation is meant to ensure that content conforms to Kenya's culture, moral values, and national aspirations as well as to protect children from exposure to inappropriate content. In addition, with regard to the watershed period, the Kenya information and communications Act requires all broadcasters to ensure that their content is examined and classified by the KFCB before it is aired and that the programming code for broadcasting services stipulates that all programme and non-programme matter, commercials, infomercials, documentaries etc. are examined and classified before airing. The board is also empowered to prescribe and develop guidelines on film and broadcast content regulation in the country. In 2022, the KFCB collaborated with Google-Kenya, the Communication Authority of Kenya, Eveminet Communications Limited, CODE-IP Trust and other sector agencies to create awareness on child online safety and digital parenting.<sup>65</sup> Additionally, the KFCB classification guidelines 2012 also provide clearly and detailed content classification in order to protect children from exposure to harmful and inappropriate content. The children are protected in the sense that the content intended for adults is not consumed by them and ideas and thoughts that may comprises public morality and decency are not released to the public through film.<sup>66</sup> In addition, in 2017, as a way to address the gaps in the online protection of children. KFCB convened a child online safety retreat for stakeholders to discuss ways to protect children from harmful online content which birthed the National Plan of Action to tackle online child sexual exploitation abuse in Kenya for 2022-2026.<sup>67</sup>

Therefore, it can be seen the many efforts Kenya has put into its regulatory framework in matters relating to the protection of children from exposure to harmful and inappropriate content. The fact that CA a body equivalent to ZICTA in Zambia, formally regulates

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<sup>63</sup> section 31 of the media council (code of media practice) 2025

<sup>64</sup> Section 1 of the films and stage plays Act Cap 222 of 1998

<sup>65</sup> KFCB: Child online Safety is a collective responsibility <https://kfcg.go.ke/child-online-safety-collective-responsibility>

<sup>66</sup> KFCB: classification guidelines, 2012

<sup>67</sup> Child protection and safety online in Africa ( June, 2025)

broadcasting and as well as other electronic communications services provided in the country. Whereas ZICTA in Zambia primarily focuses on postal, courier, electronic communications and matters relating to cyber security but not specifically relating to broadcasting even though it is a body that manages digital, telecommunications and information technologies. The coordination among the big authoritative bodies, Communications authority of Kenya, media council of Kenya and the Kenya film classification board also plays a major role in ensuring protection of children, all bodies play a vital role and also the fact that the legislation governing broadcasting and digital communications and information in Kenya, all provides specifically, clearly and detailed, for the protection of children from exposure to harmful and inappropriate content, a step Zambia has failed to take. The coordinated action where all broadcast content or digital programmes to be examined and classified before airing it is also a major step in ensuring children are protected.

#### **4.2 THE EUROPEAN UNION**

To address challenges brought about by the technological advancements in the digital space, the EU has implemented a range of laws whose objective is protecting children online, while enabling them to explore the digital space and fulfil their potential. These measures include regulations on digital services, audiovisual media services, data protection. The European declaration on digital rights and principles calls for promoting positive experiences in an age-appropriate and safe digital environment that protects children against harmful and illegal content, exploitation and online abuse. In 2022, the European Commission published a strategy on Better internet for kids (BIK +) strategy which highlights the aim to protect, empower and respect children online. It is created three topics: safe digital experience, digital empowerment and active participation. The strategy adopted by the EU objective being that firstly, it focuses on safeguarding children from online harms while simultaneously empowering them to explore the digital environment. This approach recognizes that children's engagement with digital with digital technologies is inevitable and beneficial if guided by clear protective measure. Central to the child protection measures in the EU are key legislative instruments such as the Digital services Act, the Audiovisual Media Services Directive and the General Data protection Regulation. However, the research mainly focuses on the first two. Furthermore, apart from the regulatory framework is the European

Declaration on Digital Rights and Principles and it articulates a right-based vision for digital environments. It provides for the creation and promotion of positive, age-appropriate digital experiences, with protection of children from harmful content and injurious broadcast at its core.

#### **4.2.1 DIGITAL SERVICES ACT**

One of the most significant EU digital laws that protects the public, including minors, from online harm is the Digital Services Act of 2022. It is highly effective in regulating online platforms by imposing clear duties on digital service providers. It places restraints and duties on various digital services including social media platforms, with rules varying depending on the role, size, and impact of the online platform. The Digital services Act makes it easier to report and take down illegal content from online platforms. It also provides that the providers of online platforms are required to take measures to ensure a high level of privacy, safety, and security of minors they are required to explain their services in a way that minors can understand. However, challenges exist in that enforcement of the Act being that, enforcement is shared between national authorities and the European Commission. Issues are that national enforcement of the digital service Act is limited.<sup>68</sup> The DSA places responsibilities on digital services providers to mitigate risks related to illegal and harmful content, including that which is harmful to minors

#### **4.2.2 AUDIOVISUAL MEDIA SERVICES DIRECTIVE**

The Audiovisual media services directive is aimed at protecting minors from harmful content, including from harmful advertisements. It applies to all services with audiovisual content, including video-sharing platforms and video-on-demand platforms such as YouTube and TikTok. It requires that EU member states to ensure that these platforms take measures to protect minors from content that might be harmful for their physical, mental or moral development. The AMSD encourages establishing effective reporting, age verification, parental-control and content ratings systems, the most harmful content, such as pornography or gratuitous violence should be should be subject to the strictest access control measures. The directive leaves room for flexibility for the member states in defining 'harmful content' as per national values. It also prohibits audiovisual commercial communications for alcoholic beverages specifically targeted at minors, showing minors consuming them. It promotes self-

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<sup>68</sup> Digital Services Act, 2022

regulation through codes of conduct regarding advertisements of unhealthy foods and beverages. In relation to enforcement, the directive requires member states to designate one or more national regulatory authorities or bodies to monitor and enforce compliance with the directive.<sup>69</sup> Generally, the AVMSD regulates audiovisual media while ensuring protective content standards, age-appropriate access and measures to shield minors from harmful broadcast

Additionally, as a key action planned to be taken by the commission in order to provide children with better protection online, in 2021, the commission brought out a general strategy on the rights of the child which recognizes both the potential benefits and the harms of the digital environment for children. The strategy is set out to facilitate a child led process aimed at developing a set of principles to which online industries must adhere.<sup>70</sup> It can therefore, be seen that the EU is also an active participant in dealing with the risks that associate with the digital environment and prioritizing the protection of children from exposure to harmful content by taking measures the directive and the digital services Act.

Furthermore, unlike the broadcasting laws in Zambia, both the DSA and the AVMSD represent two advanced regulations designed to address the challenges posed by the digital and traditional media sectors, while Zambia on the other hand majorly focuses on traditional media while neglecting digital streaming platforms which by far pose the biggest challenge when it comes to the protection of children from exposure to harmful content. In Zambia there is a lack of detailed mechanisms for timely content removal and cross platform monitoring this reduces their capacity to effectively respond to the fast evolving digital content environment.

#### **4.3 CONCLUSION**

In conclusion, it can be seen above that the laws in Kenya and those in EU are more advanced compared to those in Zambia. It would be in Zambia's best interests to adopt the clear measures taken by Kenya and the EU in the protection of children from exposure to harmful and inappropriate content. However, both Kenya and the European Union can be seen to face challenges of their own in relation to curtailing the risks associated to the digital space and broadcasting as a whole and also enforcement of laws created for the protection

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<sup>69</sup> European parliamentary research services: protecting children online (April, 2025)

<sup>70</sup> Ibid 17

of children from the exposure to harmful and inappropriate content. However, unlike Zambia, Kenya and the EU is seen to be more committed in prioritizing the protection of children through the many laws and regulations and the coordination of bodies under the broadcasting and information and communications sector. The regulatory framework in Zambia, operates in a more isolated manner, with multiple bodies handling different aspects broadcasting and digital content regulation but without strong coordination or unified mandates, this then results in duplication of efforts and slower enforcement and those making the laws less effective. The self- regulation codes of conduct add on to the efforts and measures taken. The regular periodic reviews in relation to laws, strategies and codes of conduct also show that the mandates of Kenya and The EU to promote a safer digital environment amidst rapid technological advancements speaks volumes on the gaps and lacunas in Zambia's regulatory framework in protecting children from the exposure to harmful and inappropriate content.

## **CHAPTER FIVE**

### **CONCLUSION AND RECOMMENDATIONS**

#### **5.0 INTRODUCTION**

This chapter purports to summarize the matters and contents analyzed and discussed in the chapters above. This chapter, will further go on to also provide for the recommendations needed to aid in the resolution of the problem identified in this research being the gap in the legal framework in Zambia governing the broadcasting sector in protecting children from the exposure to harmful and inappropriate content.

#### **5.1 GENERAL CONCLUSION**

In conclusion it is worthwhile to understand that although Zambia has made significant strides in enacting laws tailored at governing the broadcasting industry such as the Independent Broadcasting Authority Act, and it has also to a somewhat degree enacted those intended to protect children from exposure to harmful content such the Independent Broadcasting Authority Standard Operating Procedures. There remain notable gaps and challenges in the legal framework, enforcement and comprehensive protection from harmful and inappropriate content. The existing broadcasting laws and regulatory frameworks do provide some protection, including restrictions on airing inappropriate content during protective watershed periods, however these measures are insufficient given the rapidly evolving digital environment and increased and continued exposure of children to a variety of harmful content beyond traditional media. This also continues to raise issues in that most of Zambia's broadcasting regulatory framework majorly governs traditional and free-to-air media.

#### **5.2 SUMMARY OF CHAPTERS**

This research paper contains five chapters. Summaries thereof include:

##### **CHAPTER ONE**

The first chapter identified the legal problem, which in turn laid a foundation for this research study. This chapter discussed the research problem being, the lack of legislation in the broadcasting sector especially in relation to digital media platforms in the rapidly evolving digital age this is evidenced by the reports released in relation to the increasing

number of cases of children being exposed to harmful and inappropriate content. It further identified the research objectives which are firstly, to assess the current policies and practices of Zambian broadcasting houses regarding the protection of children. To critically analyze specific existing laws that govern the broadcasting industry in Zambia and their effectiveness and adequacy in protecting children from harmful and inappropriate content. To compare Zambia's regulatory framework with those of Kenya, and the EU, drawing lessons and identifying actionable best practices. This chapter further discussed the significance of the research study which is identifying the gaps in the current legal frameworks and broadcasting practices and review and undertaking legislative reform in relation to the foregoing.

## **CHAPTER TWO**

This chapter solely discussed the current practices and policies and it was found that the Zambian broadcasting standards has set a framework to safeguard children from harmful content through well-defined guidelines and ethical considerations. They require broadcasters to be mindful of children's developmental needs and audience profiles, while promoting culturally relevant content and facilitating child participation in media. Although these policies anchored in regulatory frameworks exist within the sector, challenges continue to present themselves, i.e. inadequate legislation and lack of funds to carry out enforcement and monitoring stations continue to pose challenges for the IB authority.

## **CHAPTER THREE**

This chapter focused on the critical analysis of the legal framework regulating broadcasting in Zambia and their effectiveness and adequacy in protecting children from harmful and inappropriate content. It was found that the inadequacies in legislation including weak enforcement mechanisms, insufficient integration of emerging digital and online media risks, gaps in broadcaster accountability. Leaves children vulnerable to exposure to explicit, violent, and exploitative content during hours when they are likely to be part of the audience. Additionally, the low capacity and limited resources of regulatory bodies like the IBA undermine effective compliance monitoring and sanction enforcement. There is also a pronounced lack of awareness among broadcasters, journalists, and the general public about the provisions and intent of child protection laws in broadcasting. As a result breaches go unaddressed, and many children remain exposed to potentially harmful and injurious content.

## **CHAPTER FOUR**

Chapter four mainly focused on the comparative study of regulatory frameworks of Kenya, The European Union and Zambia, while drawing lessons and identifying best practices and it found that Both Kenya and the European Union can be seen to face challenges of their own in relation to curtailing the risks associated to the digital space and broadcasting as a whole and also enforcement of laws created for the protection of children from the exposure to harmful and inappropriate content. However, unlike Zambia, Kenya and the EU is seen to be more committed in prioritizing the protection of children through the many laws and regulations and the coordination of bodies under the broadcasting and information and communications sector. It also showed that the mandates of Kenya and The EU to promote a safer digital environment amidst rapid technological advancements speaks volumes on the gaps and lacunas in Zambia's regulatory framework in protecting children from the exposure to harmful and inappropriate content.

### **5.3 RECOMMENDATIONS**

It has been established in the preceding chapters that the exposure of children to harmful and inappropriate content poses a challenge, especially in the digital growing age. It has also been determined that the regulatory framework governing broadcasting in Zambia contains lacunas. The major gap is the regulation of digital platforms as opposed to the traditional television.

Authoritative bodies such as the Independent Broadcasting Authority and the Zambia National Broadcasting Corporation, Parents and Guardians and all other players involved in media, communication and information need to actively participate in the protection of children. A straightforward and definitive review of the laws purporting to regulate broadcasting must also been held in that upon acknowledgement of gaps change must be made in relation to the existing laws, the clear and detailed inclusion of protection of children from exposure to harmful content and the enforcement of such laws must also be of the utmost priority of the key players.

The following recommendations are made in observance of the foregoing:

1. The need to repeal and replace the Independent Broadcasting Authority Act must decisively include comprehensive provisions for the regulation on digital streaming platforms. This update is essential to address the rapid emergence of digital content risks that traditional regulatory frameworks do not adequately cover. By integrating the digital streaming services into the regulatory scope, Zambia can consolidate the oversight of both traditional broadcasting and online media under a unified legal framework. Such consolidation will enable more coherent and consistent regulation, ensuring that content standards, licensing requirements and compliance mechanisms apply equally across all media formats. This balanced approach will not only safeguard children, but also protect public interest and also protect vulnerable groups from harmful digital content within the rapidly evolving media environment. Ultimately, a revised legal regime that embraces digital streaming alongside traditional broadcasting will enhance the effectiveness of media governance and enforcement within the country.
2. The need to repeal and undertake legislative reform of the Zambian National Broadcasting Corporation Act is critical to keep up-to-date and strengthen the legal framework governing national broadcasting. This reform must clearly and vividly incorporate provisions aimed at protecting children from exposure to harmful and injurious content, reflecting the increasing recognition of children's rights and vulnerabilities in both traditional and digital media landscape. As the principal national broadcasting legislation, the ZNBC Act should embed clear standards and responsibilities for content that prioritizes child protection, thereby enhancing compliance and accountability. Taking into account the world vision report on children's rights in the digital environment, which stated that children in Zambia continue to undergoing violations of rights on the digital platforms. The reform must also introduce robust procedural safeguards relating to content restriction to ensure transparency, fairness, and respect for freedom of expression. These safeguards may include; established processes for content review, appeal mechanisms for broadcasters and content producers and oversight and supervision by an independent authority.

3. The need to strengthen the Independent Broadcasting Authority's authority to supervise and enforce child protection standards is critical for ensuring effective safeguards of children in Zambia's media environment. This enhancement should include clear statutory power enabling the IBA to pro-actively oversee, investigate and sanction broadcasters and digital media providers who fail to comply with child protection standards. Additionally, there should be a clear statutory duty imposed in the children's code Act to monitor and ensure compliance with the IBA. This duty would require the integration of the principles and specific content protections of the IBA SOP into the children's code, seeing as the Children's Code Act is the national act that specifically provides for the protections of children and it is therefore only fair that it also provides content regulation, procedural safeguards in relation to protection of children from exposure to harmful content.
4. The critical need to have an Independent, Independent broadcasting Authority, Zambia National Broadcasting Corporation and the media sector, to actively purge government interference within the sector. This significant for protecting media freedom and pluralism. Ensuring the autonomy for media personnel to operate and edit away from political influence this will in turn promote public trust in media houses. To achieve this, regulatory frameworks should clearly define and enforce the separation between government entities and media supervision and monitoring bodies, including protecting the IBA's governance structures from political appointments or undue pressure.
5. The need for better cooperation and coordination between ZICTA and the Data Protection Commissioner and the Independent Broadcasting Authority is critical in effectively and efficiently protecting children from exposure to harmful and injurious content. As the major entities regulating media, communication and information in the country, their collaborative efforts will enable a cohesive regulatory response that addresses the complicated nature of digital and traditional media risks to children. The collaboration should involve the sharing of information, joint monitoring initiatives and harmonized enforcement actions to close regulatory gaps and avoid duplication of efforts in curtailing media and technology dangers.

## **5.4 CONCLUSION**

In conclusion, the findings of the chapter summaries and also the recommendations underscore an urgent need for comprehensive legislative and institutional reforms within Zambia's media and broadcasting landscape. Repealing and replacing outdated laws to include digital media regulation, clear and detailed child protection measures and procedural safeguards will align the legal framework with contemporary media realities. Strengthening the authority and enforcement capacity of the IBA is essential for effective oversight and supervision, especially concerning the protection of children from harmful content. Additionally, ensuring the independence of the regulatory bodies and media houses from government interference is essential for preserving media freedom and public trust. Finally, the enhanced cooperation and coordination among key authoritative bodies will create a robust, unified and responsive system that better safeguards children and upholds media standards in Zambia's evolving digital and traditional media environment. These reforms collectively will promote a balanced, transparent and protective media environment.

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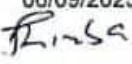
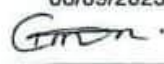
### L400B – DIRECTED RESEARCH (OBLIGATORY ESSAY)

#### RESEARCH CLEARANCE FORM

NAME: NAMWABA TOWERA STUDENT NUMBER: LLB22113976

SUPERVISOR: MS KETIWE ZIMBA

TOPIC: ANALYZING THE INTERSECTION OF DIGITAL TRADE AND CHILDREN'S RIGHTS IN ZAMBIA'S BROADCASTING SECTOR

| Stage         | Comment                                                                                                                      | Supervisor's signature and date                                                                    | Student's signature and date                                                                        |
|---------------|------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| Chapter one   | Approved with correction on literature review, background and significance of study.                                         | 15/08/2025<br> | 20/08/2025<br> |
| Chapter two   | Approved after redoing the chapter.                                                                                          | 06/09/2025<br> | 06/09/2025<br> |
| Chapter three | Approved with corrections on citation and referencing and also addition of recommendations                                   | 15/10/2025<br> | 15/10/2025<br> |
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|-------------------------------------------------------|------------------------------------------------------------------------------------------------|---------------------------|---------------------------|
| <b>Conclusions &amp; Recommendations</b>              | addition of chapter summaries and building on recommendations                                  | 30/10/2025<br>[Signature] | 30/10/2025<br>[Signature] |
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