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SCHOOL OF LAW

**A COMPARATIVE ANALYSIS OF THE ZAMBIA INFORMATION AND
COMMUNICATION TECHNOLOGY AUTHORITY (ZICTA) AND THE INDEPENDENT
COMMUNICATIONS AUTHORITY OF SOUTH AFRICA (ICASA).**

By:

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**AN OBLIGATORY ESSAY SUBMITTED TO THE UNIVERSITY OF LUSAKA IN
PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE AWARD OF THE
BACHELOR OF LAWS (LLB) DEGREE.**

2025

DECLARATION

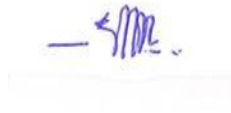
I, **MELO NALWIMBA**, hereby declare that this dissertation titled “A **COMPARATAIVE ANALYSIS OF THE ZAMBIA INFORMATION AND COMMUNICARION TECHNOLOGY AUTHORITY (ZICTA) AND THE INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA (ICASA).**” is my own original work which is hereby submitted to the School of Law at the University of Lusaka as part of the requirements for the award of the Bachelor of Laws (LLB) degree, and that it has, to the best of my knowledge, not yet been presented for any academic purpose in Zambia or elsewhere. Other people’s work and sources used in the study have been acknowledged. I hereby declare that I have read and understood the regulations governing the submission of the Bachelor of Laws Degree (LLB) dissertation including those relating to length and plagiarism, as contained in the rules of the University and that this dissertation conforms to those regulations.

Signature 

Date 11th November 2025

SUPERVISOR'S RECOMMENDATION

I, THOMAS MALAMA do recommend that the dissertation titled **A COMPARATIVE ANALYSIS OF THE ZAMBIA INFORMATION AND COMMUNICATION TECHNOLOGY AUTHORITY (ZICTA) AND THE INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA (ICASA)**, authored by **MELO NALWIMBA** STUDENT NUMBER LLB22112250 was done under my supervision be admitted by the university. I have checked it carefully and I am satisfied that it meets the requirements related to format as laid down by the university regulations.



.....

MR THOMAS MALAMA

(Supervisor)

DEDICATION

This dissertation is dedicated to my parents Loveness Chongo and late Mr. James Musenga Silwimba.

ACKNOWLEDGEMENTS

I would like to truthfully acknowledge all the people who contributed to the preparation of this report, whose assistance, time and support made it possible to complete this piece of work.

My profound appreciation goes to my supervisor Mr. Thomas Malama, whose ingenuity, direction, advise, time and dedication shaped this piece of work. additionally, I am grateful for his wisdom, counseling and the knowledge he instilled in me.

Many thanks goes to my mother for her guidance and believing in my capabilities academically, for the love and support that she gave throughout this research.

LIST OF ABBRIVIATIONS

ICASA- INDEPENDENT COMMUNICATION AUTHORITY OF SOUTH AFRICA

ICT – INFORMATION AND COMMUNICATION TECHNOLOGIES

ZICTA- ZAMBIA INFORMAION AND COMMUNICATION TECHNOLOGY AUTHORITY

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ABSTRACT

A comparative analysis of the Zambia Information and Communication Technology Authority (ZICTA) and the Independent Communications Authority of South Africa (ICASA), two prominent regulatory bodies in the African telecommunications landscape. The study examined their respective mandates, regulatory frameworks, operational structures, and effectiveness in fostering competition, ensuring consumer protection, and promoting universal access to ICT services within their jurisdictions. Key areas of comparison included licensing regimes, spectrum management policies, interconnection regulations, quality of service monitoring, and approaches to digital inclusion. The analysis highlighted both similarities in their foundational objectives, such as promoting a competitive and fair ICT market, and divergences in their implementation strategies and the specific challenges they face, influenced by their unique national contexts and market maturities.

The research draws upon publicly available documents, annual reports, regulatory decisions, and academic literature pertaining to both ZICTA and ICASA. For instance, ZICTA's regulatory framework is primarily governed by the Information and Communication Technologies Act No. 15 of 2009, which outlines its powers and functions in regulating the provision of ICT services in Zambia. Similarly, ICASA operates under the Electronic Communications Act, 2005 (Act No. 36 of 2005) and the ICASA Act, 2000 (Act No. 13 of 2000), which define its role in regulating the electronic communications, broadcasting, and postal sectors in South Africa.

CHAPTER ONE

1.0 INTRODUCTION

The rapid evolution of Information Communication Technology (ICT) has significantly influenced regulatory frameworks across the world. The rapid growth of the ICT sector in Zambia and South Africa, as in many other countries, has transformed the way people communicate, access information, and conduct business. In an article by Wallsten (2001),¹ the ICT sector has become a critical driver of economic growth, innovation, and social development in both countries. However, the growth of the ICT sector has also raised concerns about the need for effective regulation to promote competition, protect consumers, and drive innovation.

In response to these concerns, the Zambian government established the Communications Authority of Zambia under the Telecommunications Act No. 23 of 1994 whose existence was continued by the Information and Communication Technologies Act No. 15 of 2009 (“Information and Communication Technologies Act” or “ICT Act.”) The Information and Communication Technologies Act renamed the regulator from Communications Authority to Zambia Information and Communication Technology Authority (ZICTA.) The functions of ZICTA in a nut shell are to regulate the provision of electronic communication services and products and monitor the performance of the sector, including the levels of investment and the availability, quality, cost and standards of the electronic communication services. This includes among others, ensuring consumer protection, licensing, approving sites at which transmitting stations are established, promote competition, allocate frequency and numbers and foster Universal Access and Service among others.

The South African government, on the other hand, established the Independent Communications Authority of South Africa (ICASA) in 2000. ICASA is responsible for regulating the telecommunications, broadcasting and postal industries in the public interest and ensure affordable services of a high quality for all South Africans. The

¹ Wallsten, Scott J. “An Economic Analysis of Telecom Competition, Privatization, and Regulation in Africa and Latin America”. The Journal of Industrial Economies. Volume XLIX, March 2001, No. 1.

Authority also issues licenses to telecommunications and broadcasting service providers', enforces compliance with rules and regulations as well as protecting consumers from unfair business practices and poor quality of service.²

This analysis conducts a comparative analysis of the two regulatory bodies – ZICTA and ICASA. These institutions, though operating under different mandates, challenges, and regulatory environments, each play a crucial role in shaping the ICT landscape in their respective countries,

1.1 Background of the Study

As Information and Communication Technology continues to expand, regulatory authorities face numerous challenges, including ensuring fair competition, protecting consumer rights, managing spectrum allocation, and fostering innovation. In Zambia, the Information Communication Technology sector is primarily governed by the Information and Communication Technologies Act No. 15 of 2009, which provides for and regulates the Zambia Information and Communication Technology Authority (ZICTA) as the regulatory body for the sector. As observed earlier, ZICTA is responsible for among others, licensing operators, allocating spectrum, and enforcing quality of service standards (Act No. 15 of 2009)³.

Conversely, South Africa, the Information and technology sector is governed by the Independent Communications Authority of South Africa Act No. 13 of 2000, which established Independent Communications Authority of South Africa (ICASA) as the regulatory body for the sector. ICASA as was observed, is responsible for among others, licensing operators, allocating spectrum, and enforcing quality of service standards.⁴ ICASA operates within a more complex atmosphere exemplified by among others, the fact that it is a converged regulator but in not in charge of Universal Access and Service. South Africa has more advanced ICT infrastructure and services. The differences in their

² ICASA <https://www.icasa.org.za/pages/our-mandate>

³ Information and Communication Technologies Act No. 15 of 2009,

⁴ Independent Communications Authority of South Africa Act No. 13 of 2000,

environments, mandates and regulatory approaches can lead to varying outcomes in terms of market efficiency, consumer protection, and technological advancement.

1.2 Problem Statement

Zambia, like many other countries, has experienced rapid growth in the use and exploitation of technology over recent years. This growth is characterized by a massive increase in access to Information Communication technologies (ICT), which has become integral and foundational to various sectors including education, healthcare, and business. To manage this technological expansion, Zambia enacted among other pieces of legislation, the Information and Communication Technologies Act No. 15 of 2009. This legislation provides for and regulates the ICT Sector regulatory body known as the Zambia Information and Communication Technology Authority (ZICTA). ZICTA is tasked with overseeing the ICT sector, issuing licences, ensuring consumer protection, setting standards and fostering Universal Access among other functions.⁵

One notable aspect of ZICTA's governance is that it operates under the direction of the Minister who is empowered to issue general directives ZICTA is compelled to obey. This compromises ZICTA's autonomy which may significantly influence its decisions. In contrast, South Africa's Independent Communications Authority (ICASA) functions as an independent body without direct ministerial oversight. This independence allows ICASA to operate with greater autonomy in regulating telecommunications and broadcasting services. The fact that ZICTA may be directed by a minister may lead to potential conflicts of interest or political interference in regulatory decisions.

While Zambia has made significant strides in technological advancement through its regulatory framework established by the Information and Communication Technologies Act No. 15 of 2009⁶ which provides for ZICTA, there are critical issues regarding governance that need addressing. These include among others –

- (a) the absence of ZICTA's financial and operational autonomy;

⁵ Information and Communication Technologies Act No. 15 of 2009

⁶ Information and Communication Technologies Act No. 15 of 2009

- (b) inappropriate board appointment process by which the Minister single handedly appoints the whole board;
- (c) unfettered discretion bestowed on ZICTA to engaged in activities ordinarily reserved for licensees; and
- (d) find a person guilty leading to such person being charged a largely indeterminate amount the Director General sees fit.

The above hinder the effective regulation of the sector and may be distinguished from more independent ICT sector regulatory bodies like ICASA in South Africa.

This study will, therefore, critically analyze the Zambia Information and Communications Technology Authority (ZICTA) as provided for by the relevant legal framework and compare it to the Independent Communications Authority of South Africa (ICASA) as provided for by the relevant legal framework. Such critical comparative analysis is with the aim of identifying strengths and weaknesses and borrowing from best practice.

1.3. Main Objective and Research Questions

To analyze the Zambia Information and Communications Technology Authority (ZICTA) and the Independent Communications Authority of South Africa (ICASA) together with the accompanying legislatives frameworks identifying strengths and weaknesses in such legal frameworks as they relate to the said regulatory entities. The study will essentially examine the adequacy and appropriateness of the relevant legal frameworks in Zambia and South Africa and the impact they have on the discharge by the regulatory authorities of their functions. The study will also consider the impact of the legal frameworks providing for the two ICT regulators on the sector and society.

1.3.1 Specific Objectives

- i. To explore the concept of regulation of the Information and Communication Technology sector.
- ii. To explore Information Communication Technology regulatory frameworks as they relate to the regulators in Zambia and south Africa.

- iii. To conduct a critical analysis of the adequacy of the Information and Communication Technologies Act and the Independent Communications Authority of South Africa Act in providing for and regulation of the ICT Sector regulators.

1.3.2 Research questions

- i. What is the concept of regulating Information and Communication Technology sector?
- ii. What constitutes the primary Information Communication Technology regulatory frameworks as they relate to the regulators in Zambia and south Africa?
- iii Do the Information and Communication Technologies Act in Zambia and the Independent Communications Authority Act of South Africa adequately and appropriately provide for and regulate the ICT Sector regulators in their respective jurisdictions?

1.4. Significance of Study

Both the Zambia Information and Communication Technology Authority (ZICTA) and the Independent Communications Authority of South Africa (ICASA) serve as ICT sector regulatory bodies in their respective countries overseeing telecommunications and postal services. By comparing the legal frameworks governing the two regulatory bodies as they provide for the said regulators, this study will highlight best practices and areas for improvement in regulatory approaches.

Findings from this analysis can inform policymakers in Zambia and South Africa about the development of more effective and adequate legal and regulatory frameworks providing for the ICT sector regulator. A progressive, more adequate and appropriate legal framework and ICT regulator has the potential of enhancing service delivery, promoting competition, better protecting consumer rights, increase the contribution of the ICT sector to the national economy and thus contribute to social and economic development.

As African nations increasingly engage in regional integration initiatives, understanding how different countries regulate Information and Communication Technology can

facilitate harmonization of policies across borders. This is crucial for fostering a conducive environment for investment and innovation in the ICT sector.

1.5 Scope of Study

This study will primarily be centered on provisions from the Information and Communication Technologies Act No. 15 of 2009 and Independent Communications Authority of South Africa Act 2000 that govern the Information and Communication Technology regulators of Zambia and South Africa.

1.6 Literature Review

Patricia (2005), indicates that the African continent grows increasingly marginalized as technological advancements in other areas of the world with the African Telecommunication Union, to remedy this situation, articulating its mission to effectively promote the rapid development of information communications technologies in Africa in order to achieve universal access and full inter-country connectivity.⁷

This dissertation, recognizes that inadequate and inappropriate legislative frameworks governing ICT sector regulatory bodies exacerbates the situation Africa finds itself in as indicated above. This study, therefore, seeks to contribute to the solution by critically analyzing Zambia's relevant legal framework with the aim of providing recommendations with the potential of making it more appropriate. This will, in turn, play a critical role in ensuring the ICT sector is vibrant, well-regulated and duly contributes to the national economy.

According to **Information and Communication Technology Regulation Toolkit (2014)**, the ICT past was populated by Ministries of Post, Telegraph and Telecommunications (MPTTs), which set the policies, determined technical standards, designed and certified equipment, controlled radio spectrum, allocated numbers, managed assets, made investment decisions, set prices for goods and services, operated

⁷ McCormick, Patricia K. "The African Telecommunications Union: A Pan-African Approach to Telecommunications Reform" Page 529 – 530.

https://www.researchgate.net/publication/227426582_The_African_telecommunications_union_A_Pan-African_approach_to_telecommunications_reform Accessed 2nd October 2025

businesses, granted privileges and regulated these largely state-owned communications administrations⁸.

The regulation toolkit (2014) also indicates that in the 1980s and 1990s, the communications landscape in some countries began to change in large part due to changing technological development and business opportunities interacting with each other. It is noted that there also was, during this period, institutional developments by which telegraph lost its importance, while post and telecommunications generally became structurally separated regulators. Indicated is that as of the end of 2009, 153 countries and administrative regions had created a national regulatory Authority for their ICT and telecommunication sectors. Ninety-three percent of African countries are said to have a separate sector regulator, which is the highest percentage in the world. Of the countries in the Americas, 89 percent have a separate sector regulator, followed by 80 percent in Europe, 66 percent in the Arab States and 62 percent in Asia-Pacific countries.⁹

The above outlines a brief history and evolution of regulation which the author of this dissertation takes note of as important for this current study. Also taken note of, however, is the fact that for such evolution to continue on a positive trajectory, it is imperative that the legal framework providing for regulators is adequate and appropriate. Appropriate legal framework provide the regulator with sufficient autonomy while ensuring such regulator is not availed limitless discretion with inadequate safeguards. This current study aims at achieving exactly the above ideal scenario with respect to the legislative frameworks providing for the regulator in Zambia. Recommendations this study will avail are aimed at ensuring the legal framework governing ZICTA is such as fosters the due regulation of the ICT sector leading to increased contribution to the social and economic development of the sector.

⁸ International Telecommunications Union, Info Dev and World Bank, ICT Regulation Toolkit.
https://digitalregulation.org/wp-content/uploads/ITU_Infodev_WB_ICT_Regulation_Toolkit.pdf

⁹ International Telecommunications Union, Info Dev and World Bank, ICT Regulation Toolkit.
https://digitalregulation.org/wp-content/uploads/ITU_Infodev_WB_ICT_Regulation_Toolkit.pdf

While the work cited to above addresses ICT regulation in a general manner, this current study is focused specifically on the legal framework and ICT sector regulator in Zambia as compared to South Africa.

According to the Evolution, Status and Impact of ICT on Economic Development and Transformation in Africa (2007) the Information and Communication Technology sector is undergoing tremendous advances, which have changed peoples' lives and the way they participate in the development activities using various information and communication devices such as mobile cellular phones, radios, faxes, televisions and computers.¹⁰

The author of this current research while in total agreement with the above, is of the opinion that such positive impact of ICT can be magnified by among others, ensuring an adequate and appropriate legal framework governing ICT sector regulators. An adequate and appropriate legislative framework governing ICT sector regulator has the potential of making the regulator more efficient, objective and independent. This, in turn, is expected to lead to a thriving ICT sector with increased contribution to the national economy – hence the undertaking of this study.

According to the ITU's guidelines on Regulation, key principles underpinning effective regulatory regime include transparency, objectivity, efficiency and relevance.¹¹

The author of this dissertation is in complete agreement with the above and seeks to emphasize that for that reason, this dissertation is vitally imperative considering it aims at fostering the above principles of effective regulation by critically analyzing the Zambian legal framework and providing relevant recommendations. It is, however, to be observed that while the work cited and referred to above approaches the matter from a global and

¹⁰ Prof. Samuel Wangwe. The Evolution, Status and Impact of ICT on Economic Development and Transformation in Africa (2007) page 7 https://africaportal.org/wp-content/uploads/2023/05/WangweS_AnOverviewpaperonICT.pdf Accessed 2nd October 2025

¹¹ United Nations Development Programme and International Telecommunication Union, Handbook on Sector Reform: Guidelines on Regulation (August 1995) Page 10 <https://share.google/nOLywwkdQoX7l6Yog>

general perspective, this study differs in that it specifically focuses on the legal framework providing for and regulating ZICTA – the ICT sector regulator in Zambia.

The **International Telecommunication Union**, in a publication entitled Regulation and Consumer Protection in a Converging Environment noted that with respect to a study conducted, consumer complaints about pricing and billing were the most commonly cited by survey respondents. The ITU further observed that such complaints were despite consumers having almost universal access to pricing information across all services, including for mobile, internet access and smart phone services. This, the ITU noted, suggested that the provision of information may not in itself be a sufficient measure to protect consumers in a converging services environment.¹²

Lorenzo Bertolini,¹³ indicates that regulatory transparency evolved over time to fill three primary needs:

- To reassure investors. When deciding where to invest, investors seek legal and regulatory frameworks that most clearly and predictably define their rights and obligations.
- To build legitimacy around sensitive decisions. Consumers are more likely to accept socially sensitive decisions as legitimate when they can participate in the regulatory process and have open access to regulatory rules and agreements.
- To reduce corruption. Requiring regulators to publish and justify their decisions helps ensure that they will reach well-reasoned decisions and reduces corruption as well as suspicion that it is occurring.

The publication indicates that measures that may be taken to enhance regulatory transparency include:

¹² International Telecommunication Union, Regulation and Consumer Protection in a Converging Environment Page 10 <https://share.google/cHYnAyZtHhfP43n4x> Accessed 2nd October 2025

¹³ Lorenzo Bertolini, “How to Improve Regulatory Transparency: Emerging Lessons from an International Assessment” Published in Gridlines Note No. 11, June 2006. <https://share.google/dcVmdRzYlJdSnBA8U> Accessed 2nd October 2025

Clarity - the roles and objectives of institutions responsible for regulation need to be clearly set out in primary legislation

Predictability -to reassure stakeholders, regulatory decisions must be made according to established rules, methodologies, and processes
Autonomy and accountability
Regulators need to be shielded from undue interference by policymakers and special interests.

Participation – stakeholders including regulated entities, nonregulated ones, consumers, policymakers, and other public authorities should participate actively in the regulatory decision-making process, to provide regulators with as much information as possible about their views (and about the impact that a regulatory decision would have on them.)

The author of this dissertation acknowledges the above position taken by Lorenzo Bertolini emphasizing that need for the above principles to be upheld and imposed on the sector regulator is the very reason for this current study in this dissertation. As observed in the Statement of the Problem, the ICT Act in its current form, does not demand adequate transparency from either the Minister or ZICTA with both being accorded wide sweeping discretionary powers. Such discretion may be used to escape the moral and good governance obligation of exhibiting transparency. This dissertation will, thus, among other considerations, use the above referred to principles in assessing whether the ICT Act adequately and appropriately provides for and regulates ZICTA.

The United Kingdom's ICT regulatory framework is built upon a foundation of domestic legislation like the Communications Act 2003. This framework aims to regulate telecoms markets, guarantee user rights, and manage radio spectrum through the regulatory body, the Office of Communications (Ofcom).¹⁴

Nchimunya Hanyama taking note of the various laws and policies in place in relation to internet usage and access lists the same as including;

- (a) The National ICT Policy, aimed at using use ICTs in contributing to the national objectives of providing an innovative and productive education and training

¹⁴ Communications Act 2003

systems accessible to all citizens for creation of a knowledge based Zambian society;

- (b) Information & Communications Technologies Act of 2009 that provides for the economic and technical regulation of ICTs and access rights;
- (c) Postal Services Act of 2009 for the regulation of Zambian postal and courier services;
- (d) Electronic Communications and Transactions Act for the development and operation of a safe, secure and effective environment for electronic transactions; and
- (e) Independent Broadcasting Authority Act that established the Independent Broadcasting Authority to regulate the broadcasting sector.¹⁵

It is very easy to observe from the above that Zambia's ICT sector, legislation and regulator are not at all converged. This is unlike the scenario in other countries with progressive legal frameworks that espouse convergence. This observation is extremely important for this dissertation which seeks to unearth such shortcomings in the Zambian ICT legislative and regulatory framework.

While what has been observed in the work cited above is in accord with this dissertation, the point of departure is the fact that this study does not just mention the number of pieces of legislation and instruments governing the ICT sector. It, first, observes the fact that such number of instruments are due to the fact that Zambia has not adopted a converged regulatory approach. This dissertation, further, considers the effects of such scenario. This current study also aims at providing relevant recommendations to remedy the shortcoming.

The Zambia Information and Communications Technology Authority Annual Reports such as the 2021¹⁶ report suggests ZICTA may not always have adequate

¹⁵ Nchimunya Hanyama, Policies and Legislation for Internet Access and Usage in Zambia (University of Zambia Master of Engineering ICT Policy, Regulation and Management Dissertation) Page 3 <https://share.google/oGhg567KppZBrCWQq> Accessed 2nd October 2025

¹⁶ Statement of Comprehensive Income, 2021 ZICTA Annual Report page 95 <https://www.zicta.zm/media/annual-reports> Also <https://share.google/L21J36qIEicPoumUH> Accessed 2nd October 2025

financial resources to adequately and efficiently discharge its legal mandate. The Financial Statements in the 2021 ZICTA Annual Report indicate a net deficit - total income of K 204,248,963 with a total expenditure of K 224,082,779.

The above is cardinal considering that international best practice, as will be observed, requires the regulator to be financially as well as operationally autonomous. The above indicates the dire need to conduct a critical analysis such as the one proposed in this dissertation so as to confirm the above observation, consider the effect it has on the regulator and propose remedies for the shortcoming.

The African Export-Import Bank, Industry Outlook – Telecom 2022 Report¹⁷ discussing maturity of digital Service markets in Africa indicates that there is, at one extreme, large and very mature market of South Africa, and at the other extreme are large but relatively underdeveloped markets, such as Botswana, Mozambique and Lesotho. The report indicates that South Africa stands apart as a more mature and established market.

The above validates this current study's choice of choosing South Africa as the jurisdiction with which Zambia should be compared with in the critical comparative analysis. Unlike in the work cited above, this study will compare South Africa and Zambia from the perspective of their ICT Sector legislation and regulators as opposed to the maturity of their markets per se.

1.7 Methodology

1.7.1 Research Approach

The approach of this study will be Qualitative by an in-depth analysis of non-numeric data in the form of legislative provisions among others, will be conducted. It will involve the systematic gathering, analysis, and interpretation of data relating to the Zambian and South African ICT sector regulatory Authorities. Both primary as well as secondary data

¹⁷ African Export-Import Bank, Industry Outlook – Telecom 2022 page 8 and 9
<https://share.google/xCzGtPCrKeUggJO9G> Accessed 2nd October 2025

may be considered. Secondary sources will include among others, Journals, publications, statutes, reports, online resources, and such other sources.

1.7.2 Research Design

The research design will utilize a descriptive and comparative design, allowing for an in-depth examination as well as a comparison of ICT sector legal frameworks and regulators of both Zambia as well as South Africa. Data to be described and compared will include legislative framework, regulatory practices and consumer protection measures.

1.7.3 Research Type

This study may be categorized under the Analytical Research type. The researcher will use pre-existing and available data which when analyzed form the basis of a hypothesis for to evaluation. This will play a cardinal role in ensuring that the study provides actionable insights that can inform policy improvements and enhance regulatory practices.

1.7.4 Study Population

The study population will include key stakeholders involved in ICT regulation within Zambia and South Africa. This may encompass, officials from Zambia Information and Communication Technology Authority (ZICTA) and Independent Communications Authority of South Africa (ICASA), ICT service providers, consumer advocacy groups, and academic experts in ICT policy.

1.7.5 Study Size

The study size will depend on the availability of participants but is expected to include approximately 10-20 respondents from each country. This sample size will provide sufficient diversity in perspectives while remaining manageable for qualitative analysis.

1.7.6 Sample Technique

A purposive sampling technique will be utilized to select participants who have relevant experience or knowledge about the subject matter. This ensures that the data collected

is rich in quality and context as well as directly relevant and applicable to the research objectives.

1.7.7 Data collection

This study's data will be collected using mostly desk research, that is, using the internet, pieces of legislation, as well as books by eminent scholars. Review of existing literature, principal legislation, reports, policy documents, and regulations associated with both Zambia Information and Communication Technology Authority (ZICTA) and Independent Communications Authority of South Africa (ICASA).

1.7.8 Data Analysis

This study will be a Comparative analysis technique to identify similarities and differences between Zambia Information and Communications Technology Authority (ZICTA) and Independent Communications Authority of South Africa (ICASA) and the legal frameworks governing them.

1.7.9 Ethical Considerations

During the collection of Data and analysis, the researcher will obtain permission from the relevant research body at the University of Lusaka in charge of ethics. Informed consent will be obtained from all participants before data collection. Confidentiality will be maintained by anonymizing responses and participants will have the right to withdraw from the study at any time without penalty. All works and ideas drawn from various sources will be acknowledged, cited and referenced accordingly.

CHAPTER TWO

THE CONCEPT OF REGULATION OF THE INFORMATION AND COMMUNICATION TECHNOLOGY SECTOR.

2.0 INTRODUCTION

The concept of regulating the Information and Communication Technology (ICT) sector is a multifaceted endeavor aimed at fostering a healthy, competitive, and accessible digital ecosystem while safeguarding public interests. At its core, ICT regulation involves the establishment and enforcement of rules, policies, and standards that govern the entire lifecycle of ICT services and infrastructure, from their development and deployment to their usage and eventual decommissioning. Consequently, the regulation of the ICT sector has emerged as a paramount concern for governments, international organizations, and industry stakeholders alike. This chapter will lay the groundwork for understanding the intricate landscape of ICT regulation, defining its core concepts, outlining its primary drivers, and setting the stage for a detailed examination of its application across diverse sectors.¹⁸

The regulatory landscape for ICT is not static but rather a dynamic and continuously evolving domain, adapting to new technological paradigms, emerging threats, and changing societal expectations. The future of ICT regulation will likely be characterized by increased complexity, greater international cooperation, and a continued focus on resilience and accountability.

Continuous Development of Technical Standards and Guidelines

Regulatory bodies are constantly developing and refining technical standards and guidelines to operationalize broad regulatory mandates. For instance, the European Supervisory Authorities (ESAs) are actively working on a comprehensive set of technical standards and guidelines to implement Digital Operational Resilience Act¹⁹, covering detailed requirements for ICT risk management, incident reporting, and the oversight of

¹⁸ International Telecommunication Union. (2023). Trends in Telecommunication Reform 2023: Regulatory and Market Environment. [ITU] Accessed 20th October 2025

¹⁹ Regulation 2023/2554

critical ICT third-party service providers. These detailed specifications are crucial for ensuring consistent application and effective compliance across regulated entities. Similarly, the European Union Threat Intelligence-Based Ethical Red-Teaming (TIBER-EU) framework aligns with DORA's requirements for advanced threat-led penetration testing, demonstrating the iterative nature of regulatory development²⁰

This regulatory oversight is crucial because the ICT sector is characterized by rapid technological advancements, significant capital investment, and a profound impact on economic growth, social development, and national security.²¹

2.1 PRIMARY OBJECTIVES OF ICT REGULATION

The primary objectives of ICT regulation are diverse and often interconnected. They include:

2.1.1 Promoting Competition

Regulators aim to prevent monopolies and abuse of dominant market positions by encouraging new entrants, ensuring fair interconnection rates, and addressing anti-competitive practices. This leads to lower prices, better quality services, and increased innovation for consumers.²²

2.1.2 Protecting Consumer Rights

Protecting consumers involves ensuring transparency in pricing, service quality, data privacy, and handling consumer complaints. Regulators often set standards for service level agreements and provide mechanisms for dispute resolution.²³

2.1.3 Ensuring Universal Access and Service

The key goal of Universal Access and Service is to bridge the digital divide by promoting access to affordable ICT services, especially in underserved rural or marginalized areas.

²⁰ https://www.eiopa.europa.eu/digital-operational-resilience-act-dora_en accessed 19th October 2025

²¹ World Bank Group. (2022). Digital Economy for Africa (DE4A) Initiative: Regulatory Frameworks.

²² Organisation for Economic Co-operation and Development. (2020). OECD Digital Economy Outlook 2020.

²³ European Commission. (2022). Digital Single Market: Regulatory Framework.

This often involves setting up of a universal service fund, infrastructure sharing mandates, and targeted subsidies.²⁴

2.1.4 Managing Scarce Resources

Critical scarce resources like radio frequency spectrum and numbers are finite and regulators are responsible for efficient allocation, licensing, and management of these resources to maximize their public benefit.²⁵

2.1.5 Fostering Innovation and Investment

Fostering innovation and Investment is a cardinal regulatory function that is often overlooked. While regulating, authorities should also strive to create an environment conducive to technological innovation and private sector investment by, among other measures, providing regulatory certainty and predictable frameworks.²⁶

2.1.6 Safeguarding National Security and Public Order

Safeguarding national security and public order includes addressing issues like cybersecurity, combating cybercrime, managing critical infrastructure, and ensuring lawful interception capabilities.²⁷

2.1.7 Addressing Societal Concerns

The regulator's function of addressing ICT sector – related societal concerns should never be taken too lightly as it has the potential of having a profound impact on, not only individual consumers but the economic and social development of the nation at large. Modern regulation extends to content moderation, child online protection, data governance, and the ethical implications of emerging technologies like Artificial Intelligence.²⁸

²⁴United Nations Conference on Trade and Development. (2021). Digital Economy Report 2021: Cross-border Data Flows and Development.

²⁵GSMA. (2023). Spectrum for Mobile: A Guide for Regulators. [GSMA]

²⁶ World Economic Forum. (2023). The Future of Digital Cooperation: A Framework for Action. [World Economic Forum]

²⁷ Council of Europe. (2022). Convention on Cybercrime (Budapest Convention). [Council of Europe]

²⁸UNESCO. (2021). Recommendation on the Ethics of Artificial Intelligence.

2.2 REGULATORY APPROACHES

The regulatory approach has evolved from traditional command-and-control methods, primarily focused on fixed-line telephony, to more flexible, technology-neutral, and market-oriented approaches that can adapt to convergence and new digital services.²⁹ This often involves a mix of ex-ante (pre-emptive) regulations, ex-post (after-the-fact) enforcement, and self-regulation by industry players.³⁰

Regulation has also evolved into a collaborative and consultation approach in which all stakeholders now play a cardinal role in regulating the sector.

2.3 IMPORTANCE OF ICT REGULATION

The importance of ICT regulation stems from the transformative impact of the digital age. Without appropriate regulation, the potential benefits of ICT could be undermined by:

Market Failures: Unfettered competition can lead to monopolies or oligopolies, hindering innovation and harming consumers. **Consumer Exploitation:** Lack of regulation can expose consumers to fraud, data breaches, and unfair practices. **Security Risks:** Insufficient cybersecurity measures can make individuals, businesses, and critical infrastructure vulnerable to cyberattacks. **Social Harms:** The spread of harmful content online can have serious consequences for individuals and society.

2.4 KEY COMPONENTS OF ICT REGULATION

ICT regulation encompasses a wide range of legal and policy instruments, including:

2.4.1 Telecommunications Regulation

This address the licensing of telecommunication operators, spectrum allocation, interconnection, and universal service obligations. They aim to ensure competition, promote investment in network infrastructure, and provide affordable access to services.

2.4.2 Data Protection and Privacy Regulation

²⁹International Telecommunication Union. (2021). ICT Regulatory Tracker 2020.

³⁰International Telecommunication Union. (2023). Regulatory Best Practices for Digital Transformation.

This establishes rules for the collection, processing, storage, and transfer of personal data. This often include requirements for data security, consent, data breach notification, and the rights of individuals to access and control their data. Examples of a data privacy legal framework include the General Data Protection Regulations (GDPR³¹) in Europe, the California Consumer Privacy Act of 2018 (CCPA³²), and the Personal Information Protection and Electronic Documents Act (PIPEDA³³) in Canada.

To comprehend the regulatory landscape of the ICT sector, it is essential to distinguish between legally enforced regulations and voluntary guidelines or frameworks. While both aim to enhance cybersecurity and operational resilience, their nature, enforceability, and implications differ significantly.

2.4.3 Cybersecurity Regulation

This focuses on protecting ICT systems and networks from cyberattacks. The associated legal framework may mandate security standards, require incident reporting, and promote collaboration between public and private sectors.

The cybersecurity regulatory framework includes legislation as well as legally enforceable rules and guidelines established by governmental authorities or designated regulatory bodies. These are mandatory, and non-compliance can lead to severe penalties, including fines, legal action, and reputational damage. They are often prescriptive, dictating specific security measures, reporting requirements, and compliance standards that organizations must adhere to. The primary objective of regulations is to establish a baseline level of security and accountability, particularly in sectors deemed critical or those handling sensitive data.

Key characteristics of cybersecurity regulatory framework include:

- **Mandatory Compliance:** Organizations within the specified jurisdiction or sector are legally obligated to follow legally enforceable rules.

³¹ <https://share.google/JvDb9BOzOhw81eMBV> accessed 19th October 2025

³² <https://share.google/gfs0T0vssCVYe591r> accessed 19th October 2025

³³ <https://share.google/yMSAOCEbQ4pzL5IDH> accessed 19th October 2025

- **Legal Consequences:** Failure to comply can result in significant financial penalties, legal liabilities, and operational restrictions.
- **Industry-Specific:** The framework is tailored to the unique risks and operational characteristics of particular industries, such as finance, healthcare, or critical infrastructure.
- **Prescriptive Nature:** Components of the legal and regulatory framework often specify particular technologies, processes, or controls that must be implemented.³⁴

2.4.4 E-Commerce Regulation

This governs online transactions, including consumer protection, electronic signatures, and digital contracts.

2.4.5 Content Regulation

This addresses the online dissemination of harmful content, such as hate speech, incitement to violence, and child sexual abuse material. Regulation of content often involves complex balancing acts between freedom of speech and the need to protect individuals and society.

2.4.6 Intellectual Property Rights (IPR) Regulation

This protects the rights of creators and innovators in the digital environment, covering areas such as copyright, patents, and trademarks among others.

2.4.7 Competition Law

Competition law is applied to the ICT sector to prevent anti-competitive practices, such as monopolies, cartels, and abuse of dominant market positions.

2.4.8 Digital Identity and Authentication Regulation:

³⁴ <https://www.upguard.com/blog/cybersecurity-regulations-by-industry> accessed 19th October 2025

This involves the establishment of standards for verifying the identity of individuals and entities online, which is crucial for secure transactions, access to services, and combating fraud.

2.5 CONCLUSION

ICT regulation plays a vital role in shaping the digital landscape, fostering innovation, protecting consumers, and ensuring societal well-being. While the evolving nature of ICT presents significant challenges, a flexible, adaptable, and globally-minded regulatory approach is essential to harness the benefits of the digital revolution while mitigating its risks. As technologies continue to advance, regulators must remain vigilant and proactive, constantly adapting appropriate regulatory approaches to address emerging challenges and opportunities. Achieving the right balance between innovation, consumer protection, and security will be crucial for ensuring a vibrant, inclusive, and sustainable digital future. This necessitates ongoing dialogue, and collaboration among governments, industry stakeholders, and civil society, striving for a regulatory environment that supports both progress and prosperity. Furthermore, a key component of this regulatory environment will be digital literacy among the general public, ensuring that all stakeholders are equipped to navigate the ever-changing digital world.

CHAPTER THREE

EXPLORATION OF INFORMATION COMMUNICATION TECHNOLOGY REGULATORY FRAMEWORKS AS THEY RELATE TO THE REGULATORS IN ZAMBIA AND SOUTH AFRICA.

3.0 INTRODUCTION

Information Communication Technology (ICT) regulatory frameworks in Zambia and South Africa are designed to foster competition, protect consumers, ensure universal access, and manage scarce resources like spectrum. While both countries aim for similar objectives, their approaches and the specific structures of their regulatory bodies exhibit distinct characteristics. Understanding these frameworks is crucial for this study as it highlights the volatile and rapidly evolving landscape of digital governance.

3.1 ZAMBIA'S ICT REGULATORY FRAMEWORK

Zambia's ICT regulatory landscape is primarily governed by the Zambia Information and Communications Technology Authority (ZICTA). ZICTA was established as Communications Authority by the Telecommunications Act Chapter 469 of the Laws of Zambia and its existence continued and name changed to Zambia Information and Communications Technology Authority (ZICTA) by the Information and Communications Technologies (ICT) Act No. 15 of 2009 (ICT Act). This latter piece of legislation repealed and replaced the Telecommunications Act of 1994 and the Radio Communications Acts both of 1994. This legislative overhaul aimed to put in place a legal and regulatory framework and regime that would lead the sector and country to be abreast the rapidly evolving technology and ICT Sector environment. The regime sought to create an ICT ecosystem and environment that was taking steps towards a unified licence environment. ZICTA's mandate is broad, encompassing the regulation of electronic communications, postal services, telecommunication and the management of the national frequency spectrum among others.

3.1.1 Information and Communications Technologies (ICT) Act No. 15 of 2009

Section 3

The Information and Communications Technologies Act No. 15 of 2009 in section 3 brings out the supremacy of the Act providing that “subject to the Constitution, where there is any inconsistency of Act between the provisions of this Act and the provisions of any other written law relating to the regulation of information and communication technologies, the provisions of this Act shall prevail to the extent of the inconsistency”³⁵

Section 4

Section 4 of continues the existence of the Authority, the regulator renaming it from Communications Authority to the Zambia Information and Communications Technology Authority (ZICTA.) In the words of section 4, itself:

4.(1) The Communications Authority established under the and renaming repealed Act shall continue to exist as if established under this Act Authority and’s ^or Purposes of Act hereby re-named the Zambia Cap 469 Information and Communications Technology Authority.

(2) The Authority shall be a body corporate with a common seal, capable of suing and of being sued and, subject to the provisions of this Act, capable of performing all such acts and things as a body corporate may, by law, do or perform.

Section 5

This section projects the autonomy of the Authority, indicating that it is an autonomous body not subject to the control or direction of any person or authority.in the words of the Act, itself:

Except as otherwise provided in this Act, the Authority shall of Authority be an autonomous body and shall not be subject to the direction of any other person or authority.

Section 6

This section addresses the functions of the Authority – first in a net shell then in detail. Section 6(1) indicates that the Authority shall regulate the provision of electronic Authority communication services and products and monitor the performance of the sector,

³⁵ Information and Communications Technologies (ICT) Act No. 15 of 2009

including the levels of investment and the availability, of the Zambia regulatory framework section 5 brings out the autonomy of the authority and section 6 establishes the functions of the authority.

Section 6(2) lays out in detail, the functions of ZICTA indicating:

Without limiting the generality of subsection (1), the Authority shall -

- (a) implement and administer the licensing and assignment schemes provided for under this Act, including setting standards for the sector;*
- (b) provide for national frequency and numbering plans and facilitate the efficient use and allocation of numbers and frequencies;*
- (c) promote and facilitate the provision, in urban and rural areas, of such information and electronic communication services that meets all reasonable demand including, in particular, emergency services, directory information services and maritime services;*
- (d) approve the sites at which all transmitting stations, other than aircraft stations, mobile stations or ship stations, are to be established and at which all radio station apparatus used in connection with the transmitting station is to be erected;*
- (e) disseminate information and promote the participation of the public in the provision of electronic communications services;*
- (f) promote the interests of consumers, purchasers and other users of information and electronic communications services, including, in particular, persons with disabilities and the aged in respect of the accessibility, quality and variety of the services and equipment;*
- (g) promote competition among persons engaged in commercial activities relating to, or in connection with, the provision of information and communication technology and efficiency and economy on the part of persons so engaged;*
- (h) promote research, development and the use of new and appropriate technologies in the sector and promote the manufacturing and production of relevant apparatus;*

- (i) attract and encourage local and foreign investment in information and communication technology and promote the provision of international transit services;*
- (j) administer the country code top level domain and electronic addresses;*
- (k) allocate the frequency on which all radio transmitting stations and apparatus shall be worked;*
- (l) approve-*
 - (i) the mode of transmission to be adopted in connection with all transmitting stations and the power to be radiated therefrom;*
 - (ii) the classes, types and standards of transmitting stations and the radio station apparatus to be used in connection with different classes of radio communication services; and*
 - (iii) the classes, types and standards of receiving stations and radio and other apparatus to be used in connection with diffusion services; and*
- (m) perform any other functions as are necessary or incidental to the performance of its functions under this Act.*

Section 6(3)

This provision empowers the Minister to issue to the Authority, general directives with respect to the discharge of its functions under this Act as the Minister considers necessary – with the Authority being legally empowered to give effect to such directives.

Section 6(4)

This provision authorizes the Authority to undertake and carry on, without a licence, works or activities which if performed by anyone else, would require such other person have a licence authorizing such activity or works.

Section 8

The Authority is, under this provision, compelled to consult the Zambia Competition Commission on all competition – related matters in the sector.

Section 9, 10, 11, 53 and 54

Section 9 prohibits the operation of an electronic communications network or provision of an electronic communication service without a licence issued under the Act. **Section 10** provides for two categories of licences – Network and Service while **section 11** provides for means of application for the above licences.

Likewise, section 53 prohibits the use of scarce resources (frequency, electronic addresses or numbers) without an assignment while sections 54(2) and 54(4) provide for means of applying for assignment of scarce resources.

Section 12

The Authority is, by this section, compelled to only issue a licence where the applicant is financially and technically capable of meeting the applicant's obligations and the terms and conditions of the licence.

Section 14

The Authority is, by this provision, empowered to vary terms and conditions of a licence where the variation is necessary in the public interest or its necessary to address concerns of members of the public or consumers.

Section 18

The ICT Act in section 18 provides the Authority with power to suspend or cancel a licence for cause. Reasons for such suspension or cancellation include among others where the licensee –

- (a) obtained the licence by fraud or submission of false information or statements;
- (b) has contravened any written law relating to the licence or its terms and conditions;
- (c) fails to comply with a decision or guidelines made by the Authority;
- (d) enters into receivership or liquidation or takes any action for voluntary winding up or dissolution;
- (e) enters into any scheme of arrangement, other than for the purpose of reconstruction or amalgamation, upon terms and within such period as may previously have been approved in writing by the Authority;

- (f) is the subject of any order that is made by a court or tribunal for its compulsory winding up or dissolution;
- (g) has ceased to fulfil the eligibility requirements under this Act; or
- (h) the suspension or cancellation is in the public interest.

The section requires the Authority to, prior to suspension or cancellation provide the licensee with the right to be heard and opportunity to remedy the default.

Section 20

The Authority may, by virtue of discretion accorded to it under section 20, exemption a person, class of persons or activity from requiring a licence for a period as the Authority may determine.

Section 39 – 52

The Act under Part V ranging from sections 39 to 52, accord the Authority the right, power and function of economic regulation of the sector. This includes among others, regulation of interconnection, access, competition – including determination of dominant operators, and tariffs charged by licensees.

Section 53 to 62

Part VI under which sections 53 to 62 fall, provide for regulation of scarce resources – including spectrum and number assignment.

Section 64 to 66

The above sections also falling under Part VI, provide for issuance of technical standards for electronic communications apparatus and equipment as well as type approval of equipment.

Sections 67 – 69

These provisions are concerned with consumer protection, provide for regulation of Quality of Service, requiring the issuance of guidelines for handling complaints as well as a consumer protection – related code of conduct for service provider.

Sections 70 – 72

These provisions, falling under Part VIII, provide for Universal Access and Service – the quest and mandate to ensure access to affordable, reliable ICT goods, products and services.

Sections 73 and 74

The above sections provide for appeals indicating that appeals against the Authority's decisions lie to a tribunal appointed by the Minister and those against decisions of the tribunal lie to the High Court.

Section 76

Section 76, falling under Part X of the ICT Act empowers the Authority to appoint inspection for purposes of enforcement of ICT Act provisions. These inspectors are when armed with a warrant, empowered to enter private premises for purposes of conducting inspections. Inspectors do not require a warrant to enter premises ordinarily open to the public. They, when empowered to enter premises, may confiscate relevant documentation as well as seize equipment in the course of such investigations.

First Schedule of the ICT Act

The First Schedule of the Act is dedicated to matters relating to the administration of the ZICTA including, among other matters, the composition and tenure of the Board. It provides that the Board shall be appointed by the Minister for a term of three (3) years.

3.2 SOUTH AFRICA'S ICT REGULATORY FRAMEWORK

South Africa's ICT regulatory landscape is characterized by a more complex and multi-faceted structure, primarily overseen by the Independent Communications Authority of South Africa (ICASA). ICASA was established through the Independent Communications Authority of South Africa Act No. 13 of 2000 (ICASA Act), which merged the functions of the South African Telecommunications Regulatory Authority (SATRA) and the Independent Broadcasting Authority (IBA). This merger aimed to create a converged regulator capable of addressing the blurring lines between telecommunications and broadcasting.

ICASA's mandate is derived from several key pieces of legislation, most notably the Electronic Communications Act (ECA) No. 36 of 2005, which is the primary legislation governing electronic communications in South Africa. Other relevant Acts include the ICASA Act No. 13 of 2000 and the Broadcasting Act No. 4 of 1999.

3.2.1 Independent Communications Authority of South Africa Act No. 13 of 2000

Section 3

The establishment of the Authority has been stipulated in section 3 and its functions have been stipulated in section 4 of Independent Communications Authority of South Africa Act No. 13 of 2000

Section 3 provides as follows:

- (1) There is hereby established a juristic person to be known as the Independent Communications Authority of South Africa. The Authority is deemed to be the Regulator contemplated in the Postal Services Act.*
- (2) The Authority acts through the Council contemplated in section 5.*
- (3) The Authority is independent, and subject only to the Constitution and the law, and must be impartial and must perform its functions without fear, favour or prejudice.*

Section 4

This section requires the Authority to function without any political or commercial interference. It also indicates that the Authority must - (a) exercise the powers and perform the duties conferred and imposed upon it by the Act, the underlying statutes and by any other law; (b) subject to section 231 of the Constitution, act in a manner that is consistent with the obligations of the Republic under any applicable international agreement.

Section 4 further provides that the Authority is subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999) and that its functions and powers include, among others, to

-

- (a) make recommendations to the Minister on policy matters and amendments to this Act and the underlying statutes which accord with the objects of this Act and the underlying statutes to promote development in the postal and communications sectors;*
- (b) monitor the electronic communications sector to ensure compliance with this Act and the underlying statutes;*
- (c) manage the radio frequency spectrum in accordance with bilateral agreements or international treaties entered into by the Republic;*
- (d) develop and enforce licence conditions consistent with the objects of this Act and the underlying statutes for different categories of licences;*
- (e) grant, renew, amend, transfer and revoke licences;*
- (f) approve technical parameters and transmitter and transmission characteristics to be used by licensees;*
- (g) by notice in writing, direct the holder of a licence in terms of the underlying statutes to produce or furnish to the Authority, at a time and place specified in the notice, any documents and information specified in such notice and relating to any matter in respect of which a duty or obligation is imposed on such licensee by this Act or the underlying statutes;*
- (h) conduct research on all matters affecting the postal and communications sectors in order to exercise its powers and perform its duties;*
- (i) attend conferences convened by the relevant United Nations Specialised Agencies and any other bodies and, where applicable, must implement any decisions adopted by such Agencies and other bodies to which the Republic is a party;*
- (j) make regulations on any matter consistent with the objects of this Act and the underlying statutes or that are incidental or necessary for the performance of the functions of the Authority;*
- (k) make regulations on empowerment requirements in terms of Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);*

- (l) inspect transmitters or other communications apparatus used for communications;*
- (m) undertake inquiries on any matter within its jurisdiction;*
- (n) investigate and adjudicate complaints submitted in terms of this Act, the underlying statutes, and licence conditions.*

Section 4, further yet, authorizes *the Council to, in writing, delegate any power, function or duty of the Authority in terms of this Act or the underlying statutes to -*

- (i) any councillor;*
- (ii) any committee of the Council established in terms of section 17; or*
- (iii) the chief executive officer appointed in terms of section 14.*

Section 4, however, provides that the power to make regulations may not be delegated in terms of paragraph (a).

The same section further, provides that a power, function or duty delegated to the chief executive officer may be performed by any other staff member of the Authority authorised by the chief executive officer, except where precluded by the terms of such delegation.

The section also provides that subject to paragraph (e), a delegation in terms of paragraph (a) or (c)— (i) is subject to such conditions as may be determined by the Council or chief executive officer, as the case may be; and (ii) may at any time be amended or revoked.³⁶

Section 4B

This section authorizes the Authority to conduct inquiries into any matter with regard to -

- (a) the achievement of the objects of this Act or the underlying statutes;
- (b) regulations and guidelines made in terms of this Act or the underlying statutes;
- (c) compliance by applicable persons with this Act and the underlying statutes;

³⁶ Independent Communications Authority of South Africa Act No. 13 of 2000

- (d) compliance with the terms and conditions of any licence by the holder of such licence issued pursuant to the underlying statutes; and
- (e) the exercise and performance of its powers, functions and duties in terms of this Act or the underlying statutes.

Section 5

This section provides for a Council consisting of a chairperson and eight other Councillors appointed by the Minister upon the approval by the National Assembly, taking into account principles including-

- (a) participation by the public in the nomination process;
- (b) transparency and openness; and
- (c) the publication of a shortlist of candidates for appointment,

Section 51A

This section requires the the National Assembly to submit to the Minister a list of suitable candidates at least one and a half times the number of Councillors to be appointed. The section authorizes the National Assembly to invite technical experts to assist in the selection, evaluation and appointment processes of Councillors.

The section further, provides that the experts contemplated above may include -

- (i) a person with knowledge of and experience in the industry;
- (ii) a person with a legal background, knowledge of the ICT sector and competition related matters;
- (iii) an academic in the field of electronic communications; and
- (iv) a representative from the labour sector; and
- (v) a representative of consumer interests.

Section 51B

This provision requires the Minister to recommend to the National Assembly, from the list contemplated in subsection (1A), persons whom he or she proposes to appoint to serve on the Council. According to the same section, if the National Assembly is not satisfied that the persons recommended for appointment by the Minister comply with subsection (3), the National Assembly may request the Minister to review his or her recommendation.

Section 17

Section 17 provides for inspections and searches, indicating under 17G (1) that these will be conducted in accordance with the Criminal Procedure Act, 1977 (Act No. 51 of 1977), with the necessary changes required by the context to entries, searches and seizures.

Section 17G (2) provides that an inspector appointed under the Act may, in order to carry out his or her functions under this Act or the underlying statutes, at any reasonable time without prior notice and on the authority of a warrant enter any premises and -

- (a) demand the production of a licence issued in terms of the underlying statutes for inspection;
- (b) search such premises or the owner or person in control of such premises;
- (c) inspect any book, record or other document found on such premises and make copies thereof;
- (d) inspect any radio apparatus, studio, plant, transmitters, apparatus, other equipment or other broadcasting, communications or postal service facilities on the premises;
- (e) inspect anything referred to in paragraph (c) which is in the possession of or used by, or suspected of being in the possession of or being used by, any person in contravention of this Act, the underlying statutes or an applicable licence;
- (f) request the owner or person in control of such premises or any person on such premises who may reasonably be expected to have the necessary information to furnish information regarding a document or thing;

(g) seize for further examination or safe custody any document or thing which has a bearing on the alleged non-compliance or other act referred to in section 17F on such premises

3.2.2 Electronic Communications Act, 2005

Section 5

This section authorizes the Authority to, grant individual and class licences for the following:

- (a) electronic communications network services;
- (b) broadcasting services; and
- (c) electronic communications services.

Section 6

This section empowers the Authority to exempt the requirement of holding a licence with respect to –

- (a) provision of electronic communications services;
- (b) operation of electronic communications networks;
- (c) provision of electronic communications network services; and
- (d) use of radio frequency spectrum.

Section 7

Section provides that except for services exempted in terms of section 6, no person may provide any service without a licence.

3.3 CONCLUSION

This chapter's aim was to explore the legal frameworks governing the ICT sectors in Zambia and South Africa. The chapter introduced the relevant components of the legal frameworks a highlighted salient provisions therein.

The chapter concentrated on the ICT Act in Zambia and the ICASA Act as well as the ECT Act in South Africa providing the reader with an overview and run through the said legal frameworks. This prepares the reader for the critical comparative analysis the following chapter is going to conduct between the primary ICT sector legislation in the two countries – Zambia and South Africa.

CHAPTER FOUR

A CRITICAL ANALYSIS OF THE ADEQUACY OF THE INFORMATION AND COMMUNICATION TECHNOLOGIES ACT AND THE INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA ACT IN PROVIDING FOR AND REGULATION OF THE ICT SECTOR REGULATORS.

4.0 INTRODUCTION

The Information and Communication Technologies (ICT) Act No. 15 of 2009 and the Independent Communications Authority of South Africa (ICASA) Act No. 13 of 2000 (as amended) are pertinent piece of legislation regulating the ICT sectors the Zambia and South Africa respectively. There is need of assessing the adequacy of the Zambian piece of legislation as compared it counterpart in South Africa. This is in part considering that ICT legislative frameworks are foundational and play a great role in the social and economic development of modern states.

ICT legislation's effectiveness in addressing contemporary challenges and fostering innovation is currently a subject of ongoing global debate. A critical analysis reveals both strengths and significant shortcomings, particularly concerning ICT legal frameworks' ability to keep pace with rapid technological advancements, ensure competitive markets, and protect consumer interests effectively.

While ICT legal frameworks around the world aim to, among others, promote universal access, reduce the digital divide, and ensure fair competition and protect the interest of service providers and consumers, the evolving nature of ICT necessitates a continuous evaluation of their regulatory efficacy.

4.1 Information and Communication Technologies Act 2009 (Zambia)

Information and Communication Technologies Act No. 15 of 2009 provides for the Zambia Information and Communications Technology Authority (ZICTA) as the regulator for the ICT sector, encompassing telecommunications, internet and postal services. This step towards convergence was a significant step towards streamlining regulation in a rapidly evolving digital landscape. The Act aims to promote competition, protect consumer

interests, ensure universal access to ICT services, and manage scarce resources like spectrum. While Zambia has made significant strides and advancement through its regulatory framework established by the Information and Communication Technologies Act No. 15 of 2009 which provides for ZICTA, there are critical issues regarding governance that need addressing. These include among others the absence of ZICTA's financial and operational autonomy; inappropriate board appointment process by which the Minister single handedly appoints the whole board; unfettered discretion bestowed on ZICTA to engaged in activities ordinarily reserved for licensees; and find a person guilty leading to such person being charged a largely indeterminate amount the Director General sees fit.

4.2 Independent Communications Authority of South Africa Act No. 13 of 2000,

The ICASA Act, which has undergone several amendments since its initial promulgation, establishes the Independent Communications Authority of South Africa (ICASA) as the regulator for the electronic communications, broadcasting, and postal sectors in South Africa. Its primary objectives include promoting competition, ensuring universal service, managing spectrum, and protecting consumer interests.

The Independent Communications Authority of South Africa Act 13 of 2000 (the ICASA Act) is the foundational legislation that established ICASA as the independent regulator for the South African communications sector. Its primary purpose is to establish ICASA, define its powers and functions, and ensure its independence in regulating broadcasting, electronic communications, and postal services.

The adequacy of the ICASA Act is often assessed in terms of its ability to empower ICASA to effectively fulfill its mandate in a rapidly evolving technological landscape. While the ICASA Act provides the overarching framework for ICASA's existence and general powers, its adequacy is frequently debated in conjunction with the more specific sector-specific legislation it oversees, such as the Electronic Communications Act (ECA) and the Broadcasting Act.

4.3 Comparative Analysis

4.3.1 Financial and Operational Autonomy

The financial and operational autonomy of the ICT sector regulator a critical aspect of its effectiveness as a regulator. The ICT sector legal and regulatory framework as currently officially interpreted does not sufficiently guarantee financial or operational autonomy, potentially leading to undue influence from the government. A truly independent regulator is essential for fostering a competitive and fair telecommunications market, as it can make decisions based on technical and economic considerations rather than political ones. The lack of financial autonomy can manifest as reliance on insufficient government appropriations, which can be withheld or reduced, thereby impacting the regulator's ability to execute its mandate effectively, including monitoring, enforcement, and infrastructure development initiatives. Financial dependence can be positively used to control the regulator – by threat of underfunding if the regulator fails to implement the wishes of government.

Zambian Scenario

ZICTA relies on funds appropriated to it by Parliament through the line Ministry. Though the Authority generated more than it requires – making it potentially self-sufficient – it is compelled to deposit such funds in the central treasury and instead rely on monies appropriated to it by parliament. Such monies seem insufficient and inadequate to allow the Authority adequately discharge its functions. This may be observed from among others, the following comments made by the Parliamentary Committee on Media, Information and Communication Technologies:

“Your committee observes that regulatory bodies such as the IBA and ZICTA do not have the capacity to adequately regulate the use of social media and other platforms in the country.”³⁷

Operational autonomy is equally important, ensuring that ZICTA can set its own priorities, manage its internal affairs, and make regulatory decisions without direct ministerial interference in day-to-day operations.³⁸ Section 6(3) of the ICT Act empowers the Minister

³⁷ Diggers Newspaper 19th June 2018 edition, IBA, ZICTA Lack Capacity to Regulate Social Media – Parley Committee <https://diggers.news/local/2018/06/19/iba-zicta-lack-capacity-to-regulate-social-media-parley-committee/> Accessed 27th October 2025

³⁸ Zambia Information and Communications Technology Authority (ZICTA) Annual Report 2023.

to issue directives to ZICTA which the regulator is compelled to carry out. Considering the presence of Zamtel, the Government – owned service provider in the sector, it is very difficult to believe that the Government accords ZICTA full autonomy where Zamtel – related decisions are concerned. Zamtel for a long time, owed the Authority colossal sums of money in unpaid statutory fees which the service provider either could not or neglected to pay³⁹. It is very hard to imagine such money would have been owed to ZICTA by one of the privately owned service providers without any sanctions being meted out by ZICTA.

South African Scenario

While the ICASA Act establishes the Authority, its operational adequacy is also tied to the resources and capacity allocated to ICASA. Effecting and discharging of the regulator’s function and mandate can be hampered if the regulator lacks the necessary human, technical, and financial resources to execute its mandate effectively.⁴⁰

The ICASA Act is designed to ensure the independence of ICASA from political and commercial interference. This independence is crucial for fair and impartial regulation. Like ZICTA in Zambia, ICASA, in South Africa, is also primarily financed through funds appropriated by Parliament⁴¹. Like ZICTA, it, too, seems not to be adequately funded. In the words of Business Day:

“The Independent Communications Authority of South Africa (ICASA) must be funded directly by the Treasury and be guaranteed independence.⁴²

As regards operational independence of ICASA, Section 3(3) and (4) provide as follows;

“(3) The Authority is independent, and subject only to the Constitution and the law, and must be impartial and must perform its functions without fear, favour or prejudice.

(4) The Authority must function without any political or commercial interference.”

³⁹ Tech Trends quoting a Zamtel Press Release. <https://www.techtrends.co.zm/zamtel-settles-k10-2m-spectrum-operating-fees/> Accessed 27th October 2025

⁴⁰ ICASA Annual Report 2023/2024

⁴¹ Section 15 ICASA Act

⁴² Business Day, ICASA Independence must be Guaranteed <https://share.google/ORWW0K1ApfIA5nTNK> Accessed 27th October 2025

It is very clear from the above that while the ICT Act in Zambia has provisions that may be abused to facilitate governmental interference, the case is different in South Africa. The law in South Africa in fact, seems to go out of its way to buttress the operational autonomy of ICASA by spelling out and emphasizing ICASA's autonomy.

The above notwithstanding, the adequacy of this independence has been a recurring theme in discussions, particularly concerning the appointment and removal of councilors, and the extent of ministerial oversight. For instance, the Independent Communications Authority of South Africa Amendment Bill, 2010, aimed to amend the ICASA Act to address concerns about the balance of power between the Department of Communications and ICASA, suggesting that the initial framework might have had perceived weaknesses in fully safeguarding ICASA's autonomy.⁴³

4.3.2 Board Appointment Process by Which the Minister Single-Handedly Appoints the Whole Board

Zambia

The process of appointing ZICTA's board members is another significant area of concern. The ICT Act No. 15 of 2009 grants the Minister responsible for communications the power to single-handedly appoint the entire board of ZICTA⁴⁴. This concentration of power in the hands of a single political appointee raises questions about the board's independence and impartiality. An ideal board appointment process would involve a more diverse and transparent selection mechanism, perhaps including nominations from industry stakeholders, professional bodies, and civil society, followed by parliamentary approval or a multi-stakeholder committee review. Such a process would enhance the legitimacy and perceived independence of the board, ensuring that it represents a broader range of interests and expertise, rather than being solely beholden to the appointing authority. This concern is often highlighted in discussions about good governance practices for

⁴³ <https://www.ellipsis.co.za/parliamentary-hearings-into-regulation-of-ott-services/> accessed 25th October 2025

⁴⁴ ICT First Schedule Part I (as amended by the ICT (Administration of the Authority) Regulations Statutory Instrument 28 of 2022

regulatory bodies, where a balanced and independent board is seen as crucial for effective oversight and decision-making.⁴⁵

South Africa

Unlike in Zambia where Board members are singlehandedly, ICASA councillors, in South Africa, are appointed by the minister but on the recommendation of the National Assembly according to the following principles:

- a) participation by the public in the nomination process;
- b) transparency and openness; and
- c) the publication of a shortlist of candidates for appointment.⁴⁶

4.3.3 Unfettered Discretion Bestowed on ZICTA to Engage in Activities Ordinarily Reserved for Licensees

Zambia

The ICT Act's provisions regarding ZICTA's scope of activities have also drawn criticism, particularly Section 6(4) of the ICT Act which accords the Authority unfettered discretion to engage in activities typically reserved for licensed operators. This could include, for example, providing certain telecommunications services or infrastructure, which would put ZICTA in direct competition with the very entities it is supposed to regulate. Such a conflict of interest can undermine market fairness, distort competition, and discourage private sector investment. Regulatory bodies are generally expected to create a level playing field for market participants, not to become players themselves. The appropriateness section 6(4) of the ICT Act would therefore be questioned as it allows ZICTA to overstep its regulatory mandate and venture into commercial operations, thereby blurring the lines between regulator and operator.⁴⁷

⁴⁵ Information and Communication Technology Regulation Toolkit (2014)

⁴⁶ Independent Communication Authority of South Africa, ICASA Council <https://www.icasa.org.za/our-people>
Accessed 27th October 2025

⁴⁷ International Telecommunication Union. (2023). Trends in Telecommunication Reform 2023: Regulatory and Market Environment

South Africa

Unlike the above, the ICASA Act does not provide ICASA with the discretion of engaging in activities ordinarily reserved for licensees and service providers. This is in line with international best practice as well as competition theory.

4.3.4 Finding a Person Guilty Leading to Such Person Being Charged a Largely Indeterminate Amount the Director General Sees Fit

Zambia

The power granted to ZICTA, particularly its Director General, in Section 88, to find a person guilty of an offence and impose a largely indeterminate amount as a penalty is a significant legal and procedural concern. This provision raises serious questions about due process, fairness, and the rule of law. In a well-functioning legal system, the determination of guilt and the imposition of penalties should typically follow established judicial or quasi-judicial procedures, with clear guidelines for sentencing or fines. Allowing a regulatory body's Director General to unilaterally determine guilt and impose a largely "indeterminate amount" of penalty lacks transparency, predictability, and the necessary checks and balances. This could lead to arbitrary decisions, potential abuse of power, and a lack of legal certainty for individuals and entities operating within the ICT sector. Legal scholars and human rights advocates often emphasize the importance of defined penalties and independent adjudication to ensure justice and prevent regulatory overreach. The appropriateness of the ICT Act in this regard may be said to be lacking.

South Africa

Section 17C of the ICASA Act provides that a person who has reason to believe that a licensee is guilty of any non-compliance with the terms and conditions of its licence or with this Act or the underlying statutes may lodge a complaint with the Authority. According to Section 17D (1,) the Complaints and Compliance Committee must make a finding within 90 days from the date of conclusion of a hearing of the complaint must submit its finding and recommendations and a record of such proceedings to the Authority for a decision regarding the action to be taken by the Authority.

Section 17E (1) provides that when making a decision contemplated in section 17D, the Authority must take all relevant matters into account, including -

- (a) the recommendations of the Complaints and Compliance Committee;
- (b) the nature and gravity of the non-compliance;
- (c) the consequences of the non-compliance;
- (d) the circumstances under which the non-compliance occurred;
- (e) the steps taken by the licensee to remedy the complaint; and
- (f) the steps taken by the licensee to ensure that similar complaints will not be lodged in the future.

Section 17 E (2) on the other hand provides that the Complaints and Compliance Committee may recommend that one or more of the following orders, among others, be issued by the Authority, namely -

- (a) direct the licensee to desist from any further contravention;
- (b) direct the licensee to pay as a fine the amount prescribed by the Authority in respect of such non-compliance or non-adherence;
- (c) direct the licensee to take such remedial or other steps in conflict with this Act or the underlying statutes as may be recommended by the Complaints and Compliance Committee.

Section 17 also provides for offences which are to be prosecuted in the Courts of Law.

It is to be noted that the ICASA Act does not provide for unfettered power for one individual to use his or her discretion to single handedly determine the amount of fine is payable following breach.

4.3.5 Access to Justice and the Tribunal

Zambia

Section 74(2) of the ICT Act in Zambia provides as follows:

“The Minister shall not appoint the Tribunal unless the appellant deposits with the Minister such sum, as the Minister considers will be sufficient to pay the costs, including the allowances payable to the members of the Tribunal, likely to be incurred in connection with the appeal.”

The above provision militates against access to justice in that it ties access to justice to payment of money which lead to discrimination against those that do not have monetary resources favoring those that do.

Further, the Minister can use the payment to ensure appeals effected by certain appellants are frustrated and not heard at all. This is exacerbated by the fact that the amount of money required to be paid prior to the Appeals Tribunal being constitutes is entirely at the discretion of the Minister with absolutely no criteria or guidelines whatsoever.

South Africa

The scenario in South Africa is unlike in Zambia where the appellant is required to pay an amount the Minister has been granted discretion to determine.

4.3.6 Enforcement Mechanisms:

Zambia

The Zambian legal framework, in Part X provides for enforcement, empowering the Authority to appoint inspectors whose duty is to conduct inspections for compliance and effect enforcement. Section 76 empower such inspectors to access premises (with a warrant where such premises are not ordinarily open and accessible to the public,) seize any book, record or document, or apparatus which the inspector has reasonable cause to suspect will afford evidence of the commission of an offence under the Act.

South Africa

The ICASA Act grants ICASA powers to enforce compliance with its regulations and license conditions. The adequacy of these enforcement mechanisms is critical for ensuring a level playing field and protecting consumer interests. Debates often arise

regarding the effectiveness of penalties, the speed of dispute resolution, and ICASA's capacity to monitor and enforce compliance across a complex and diverse industry.⁴⁸

4.3.7 Convergence and Sector-Specific Regulation

Zambia

The ICT Act confers upon the Authority power to primarily regulate telecommunications, internet and postal. Regulating broadcasting content falls under the mandate of a separate and different body – the Independent Broadcasting Authority.

This projects a legal and regulatory regime that is not converged despite convergence in technology and service platform. Regulation of the sector is thus in service - specific silos. This may lead to potential conflicting regulatory overlaps and a regulatory regime that lacks predictability.

Best practice recommends convergence of regulators which fosters efficiency, brings down the cost of doing business.

increasingly blurred. This includes a more harmonized approach to licensing, content regulation, and consumer protection across different platforms and services.

South Africa

Section 2 of the ICASA Act provides for a converged regulator indicating as follows:

“The object of this Act is to establish an independent Authority which is to -

- (a) regulate broadcasting in the public interest and to ensure fairness and a diversity of views broadly representing South African society, as required by section 192 of the Constitution;
- (b) regulate electronic Communications in the public interest.”

The Authority is responsible for regulating the telecommunications, broadcasting and postal industries in the public interest and ensure affordable services of a high quality for

⁴⁸ <https://www.ellipsis.co.za/parliamentary-hearings-into-regulation-of-ott-services/> accessed 25th October 2025

all South Africans. The Authority also issues licenses to telecommunications and broadcasting service providers.⁴⁹

South Africa's ICASA is a converged regulator while Zambia's ZICTA is not fully converged with regulation of broadcasting falling under the mandate not of ZICTA, but of the Independent Broadcasting Authority.

4.4 Conclusion:

The Zambia ICT Act 2009 represents a significant legislative effort to regulate the ICT sector. It has some strengths which include provision for inspection, enforcement, functions of the regulator, and competition among others. The ICT Act, however, falls short of what its South African counterpart able provides. Areas where the ICT Act falls short include, but are not limited to, lack of operational autonomy - though both seem to lack financial autonomy, way too much discretion accorded to the Director General and the Minister. Further, the ICT Act grants the Authority power to conduct activities which would otherwise require a licence which discretion the ICASA Act does not accord ICASA.

The following chapter will conclude this study with recommendations being provided which when implemented may drive legal reform in Zambia leading to enhancing the adequacy and appropriateness of the ICT Act.

⁴⁹ ICASA, Our Mandate <https://www.icasa.org.za/pages/our-mandate> Accessed 27th October 2025

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.0 INTRODUCTION

This comparative analysis has meticulously examined the regulatory frameworks governing the Information and Communication Technology (ICT) sectors in Zambia and South Africa, focusing on ZICTA and ICASA, respectively.

5.1 CHAPTER 1

Chapter 1 introduced the critical importance of effective ICT regulation in fostering economic growth, innovation, and digital inclusion especially within developing economies. In this respect, the study selected Zambia and South Africa as case studies in ICT regulation. The chapter, additionally, emphasised the importance of the study, projected the research objective, conducted literature review while indicating the chosen research methodology for the study. It also projected the fact that the study would abide by research – related ethical guidelines and standards the University of Lusaka has set and expects of every researcher including the author of this dissertation.

5.2 CHAPTER 2

This chapter delved into the foundational concepts of ICT sector regulation, highlighting the evolving nature of the digital landscape and the need for agile and adaptive regulatory approaches. Key regulatory principles such as market liberalization, consumer protection, spectrum management, and competition promotion were explored, providing a theoretical lens through which to assess the practical application of these principles by both ZICTA and ICASA.

5.3 CHAPTER 3

Chapter three provided an exploration of the relevant ICT regulatory frameworks in Zambia and South Africa. For Zambia, the analysis focused on the Information and Communication Technologies Act No. 15 of 2009, while focusing on the Independent

Communications Authority of South Africa Act No. 13 of 2000, alongside the Electronic Communications Act No. 36 of 2005 for South Africa.

5.4 CHAPTER 4

This chapter undertook a critical analysis of the adequacy of the respective legislative instruments – the Information and Communication Technologies Act for ZICTA and the Independent Communications Authority of South Africa Act (in conjunction with the Electronic Communications Act) for ICASA – in effectively regulating their ICT sectors.

5.5 RECOMMENDATIONS

Based on the comprehensive analysis, the following recommendations are put forth to enhance the effectiveness and responsiveness of ICT regulation in both Zambia and South Africa

5.5.1 Financial Autonomy

The financial autonomy of ZICTA should be enhanced by allowing it to retain the monies collected during the discharge of its functions such as licence and spectrum fees and fines. This is opposed to compelling ZICTA to handover to central Government such monies and funding the Authority through appropriation by Parliament. The ICT Act should, thus, be amended to expressly provide for the above.

5.5.2 Operational Autonomy

ZICTA should be accorded more operational autonomy with the Minister either completely not being empowered to direct it in the discharge of its functions, or providing for such Ministerial directives to be in writing and publicized. This will enhance autonomy of the regulator as well as foster transparency and accountability on the part of the Minister. Section 6(3) of the ICT Act should, as such, be amended accordingly.

5.5.3 Board Appointments

The ICT Act should be amended to diversify the Authority Board by providing for various stakeholders such as consumers and businesses to be represented. The Act should also not provide for the Minister to single-handedly appointing the Board but have instead nominations from a wide range of stakeholders and appointments being ratified by Parliament.

5.5.4 Access to Justice and the Tribunal

The ICT Act should be amended by replacing the current tribunal - related provisions with those that establish a permanent tribunal funded by the Government. Appellants should, therefore, not be required to deposit any money for their appeals to be heard.

5.5.5 Compounding Offences

Section 88 empowering the Authority to find a person guilty and the Director General to impose an indeterminate fine should be amended. The ICT Act should provide for a panel which includes the Director General and stakeholders including a representative of the Competition and Consumer Protection Commission to determine such fine.

5.5.6 ZICTA Engaging in Activities Reserved for Licensees

The ICT Act should be amended by repealing of Section 6(4) which authorizes the Authority to engage, without a licence, in activities reserved for licensees.

5.5.7 Converged Regulator

Considering that the rapid evolution of technology outpaces the law, it becomes imperative to have the law, as much as is practicable, keep abreast technology. Anything less than the above may lead to disparity between the law and technology as well as disparity between provisions of the law on the one hand and what obtains or is supposed to obtain in the sector, on the other. Unfortunately, such dichotomy has the potential of inhibiting growth in the ICT sector as well as national social and economic development.

Considering the convergence of technologies best regulatory practice demands a converged regulator overseeing telecommunications, internet, scarce resources assignment and broadcasting.

The ICT Act should, following the above, be thus be repealed and replaced by a piece of legislation that provides for a converged regulator - effectively fusing the Independent Broadcasting Authority with ZICTA. This will reduce the cost of doing business and bring about harmonization in regulation - avoiding mismatching decisions issued by two different regulators considering that a broadcaster requires to obtain a licence from IBA and assignment of frequency spectrum from ZICTA.

By implementing these recommendations, ZICTA can further solidify its role as an independent, adequately funded and effective regulator governed by an adequate, modern and progressive legal and regulatory framework. This has the potential benefit of having a well regulated thriving ICT sector significantly contributing to the social and economic development of the nation. This is vital considering that the ICT sector has been identified globally, as the driving force of modern, democratic states.

5.6 Final Conclusion

This study conducted a critical comparative analysis of two regulators in their respective jurisdictions - the Zambia Information and Communications Technology Authority (ZICTA) in Zambia and the Independent Communication Authority of South Africa and the legal frameworks providing for the two.

Observed was the fact that the two legal and regulatory frameworks both had positive and progressive provisions relating to the regulators. It was, however, also observed that they also both had retrogressive provisions including those that eroded the autonomy of the regulators.

The study has, in this final chapter, provided recommendations which, when implemented, have the potential of transforming the Authority together with the ICT sector which in turn has the potential of fostering national social and economic development.

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L400B / Dissertation II – DIRECTED RESEARCH (OBLIGATORY ESSAY)

RESEARCH CLEARANCE FORM

NAME: MELO NALWIMBA

STUDENT NUMBER: LLB22112250

**SUPERVISOR: MR THOMAS MALAMA TOPIC: A COMPARATIVE ANALYSIS OF
THE ZAMBIA INFORMATION AND COMMUNICATION TECHNOLOGY AUTHORITY
(ZICTA) AND THE INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH
AFRICA (ICASA)**

Stage	Supervisor's Comments	Supervisor's Signature & Date	Student's Signature & Date
Research Proposal	Reviewed and approved	 02/10/2025	 02/10/2025

Chapter 1 – Introduction	<p>Reviewed and approved after corrections relating to the comments below were effected:</p> <p>Spelling errors in the title. Various incomplete footnotes.</p> <p>Revision and correction of literature</p>	<p style="text-align: center;"><i>— < / MRE —</i></p> <p>02/10/2025</p>	<p style="text-align: center;">02/10/2025</p> <p>02/10/2025</p>
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Chapter 2 –

Approved following corrections based on the following comments;

[a] Acronyms like DORA and TIBER EU should be written in full with acronym in brackets the first time they are used.

[b] Some footnotes have an arrow at the end. Dates when internet sites were accessed should be indicated.

[c] GDPR - should be in full with acronym in brackets the first time the term appears


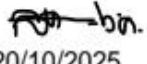
[d] E Commerce Regulation content should be moved. It currently is in between content on cyber above and below sandwiched.


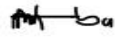
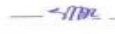
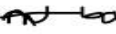
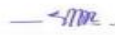

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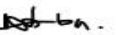
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<p>Chapter 3 –</p>	<p>Reviewed and approved following corrections related to the following comments:</p> <p>Capitalize first words</p>	 20/10/2025	 20/10/2025
	<p>of titles including Chapter title correctly ICT Act is Technologies Act Not Technology Act</p> <p>Authority when referring to ZICTA or ICASA should have the first letter "A" capitalized</p> <p>Repetition of a section under "Section 6" of the ICT Act discussion</p>		

Chapter 4 –	Approved following corrections based on the following comments: [a] Wrong first letters in title capitalized [b] ZICTA is not a converged regulator it doesn't regulate Broadcasting CONTENT. It only regulates the network used to provide broadcasting services [c] Some footnotes ARE incomplete - eg. Regulatory Toolkit website address not cited. Dates site accessed to be indicated.	 10/28/2025	 10/28/2025
Chapter 5 – Conclusions &	Chapter 5 subject to deletion of recommendations for	 10/28/2025	 10/28/2025
Recommendations	amendment of ICASA Act.	10/11/2025	10/11/2025
Abstract, Table of Contents, Bibliography and Appendices	Reviewed and approved	 12/11/2025	 12/11/2025
First Draft	Reviewed and approved		
Second Draft			

Final Draft	Reviewed and approved	 11/11/2025	 11/11/2025
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