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THE LEGAL FRAMEWORK FOR DIGITAL LENDING AND MOBILE MONEY SERVICES IN ZAMBIA, ANALYZING REGULATORY GAPS, CONSUMER PROTECTION CHALLENGES AND PROSPECTS, FOR REFORM DRAWING LESSONS FROM KENYA

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 BITATO NANCY, do as a result of this utterance declare that this dissertation titled " The digital framework governing digital lending and mobile money services in Zambia, analyzing regulatory gaps, consumer protection challenges and prospects for reform drawing lessons from Kenya". 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, is my original work and has not formally been submitted for the award of a degree at this institution or any other tertiary institution?

Primary and secondary sources that have been used have been acknowledged and properly referenced.

Signature……………………………………………………………………………………

Date: **12th November, 2025**

SUPPERVISORS RECMENDATIONS

I **KETIWE ZIMBA,** do recommend that the dissertation titled **THE LEGAL FRAMEWORK FOR DIGITAL LENDING AND MOBILE MONEY SERVICES IN ZAMBIA, ANALYZING REGULATORY GAPS, CONSUMER PROTECTION CHALLENGES AND PROSPECTS, FOR REFORM DRAWING LESSONS FROM KENYA** authored by **BITATO NANCY, STUDENT NUMBER LLB21211748** was done under my supervision, be admitted by the university of Lusaka. I have checked it carefully and i am satisfied that it meets the requirements related to format as laid down by the University regulations governing research.

Ms. KETIWE ZIMBA

…………………………………………

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DEDICATION

This piece of work is entirely dedicated to my grandfather. Kambo S. Lupupa, the man who took over all parental responsibilities after my father's demise. He has shown endless love, support, and never gave up on my two elder sisters and myself.

LIST OF STATUTES

The Bank of Zambia Act No. 5 of 2022 (Zambia)

The Banking and Financial Services Act, No 7 of 2017 (Zambia)

The Competition and Consumer Protection Act, No 24 of 2010 (Zambia)

The Central Bank of Kenya (Digital Credit Providers Regulations, 2022 (Kenya)

The Data Protection Act No, 3. of 2021 (Zambia)

The Data Protection Act, No. 24 of 2019 (Kenya)

The Electro Communications and Transactions Act, 2021 (Act No. 4 of 2021)

The Information and Communications Technologies Act No 15 of 2009 (Zambia)

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ABSTRACT

This research paper analysed the adequacy and appropriateness of the legal framework governing digital lending mobile money operators and consumer protection. The analysis focused on seeing weather the present legislation addresses the security and privacy challenges brought forth by the mobile user's specifically digital credits.

Through a combination of doctrinal legal analysis and a case study approach, the research explored how laws such as the banking and financial services Act 2017 and the competition and consumer protection act 2010 are applicable to digital lenders. The study drew on the case of **Charles Chihinga V new future financial company limited** as a foundational example of the legal treatment of disputes between consumers and financial service provider. It also integrated findings from regulatory reports, academic literature, and policy papers to evaluate enforcement gaps and consumer vulnerabilities in the digital lending ecosystem.

To answer the question of whether the Acts properly tackle the challenges, risks and consumer protection concerns associated with digital lending. We examined the five Acts. The examination was done by the author of the research by looking at the provisions in the Acts that where relevant to the regulation of digital lending and using questionnaires that where field in by ZICTA and BOZ knowledge intellectuals. The examination by the author and the questionnaires looked at the interconnection of ZICTA, ECT AND BOZ in regulating digital financial service providers and weather the relevant provisions adequately resolve the challenges brought within the digital lending market.

The results of the analysis showed that though there existed some provisions that protected users from some of the financial lending related challenges, most of the provisions did not include digital lenders and consumers from these challenges.

This study contributes to the growing body of knowledge on fintech regulation in sub-Saharan Africa and offers practical recommendations for aligning financial innovation with consumer protection.

CHAPTER ONE

1.0 INTRODUCTION

The digital transformation of financial services has become a defining feature of the 21st century, offering innovative solutions to the longstanding challenges of financial exclusion. The emergence of Digital lending and mobile money services represents one of the most profound disruption in the legal sector, particularly in developing economies where access to formal financial services remains limited. In Zambia, digital lending and mobile money services have played a pivotal role in expanding access and promoting financial inclusion, especially among marginalized populations. These services provide low cost, accessible and convenient financial solutions to individuals who are traditionally excluded from formal banking systems due to geographical, economic or bureaucratic barriers.

1.1 BACKGROUND OF THE STUDY

[1]The emergence of digital lending and mobile money services in Africa can be traced back to the early 2000s, with the launch of M-PESA in Kenya in 2007 serving as the landmark innovation in mobile financial services. M-PESA revolutionized mobile money transactions by enabling users to send, receive and store money through their mobile phones bypassing traditional banking infrastructure.[2]The success of the M-PESA laid a foundation for the widespread adoption of mobile money services across Africa. According to the GSMA Mobile Money Report (2023), Africa accounted for 70% of the world's mobile money transactions with mobile services processing over $800 billion in transactions in 2022 alone.

[3]According to the **WORLD BANK GLOBAL FINDEX REPORT 2021**, approximately 59% of adults in Sub-Sahara Africa lack access to formal financial services, with Zambia's financial exclusion rate standing at 43% as of 2020. The proliferation of mobile money platforms such as MTN Momo, Airtel money and Zamtel Kwacha significantly contributed by bridging this gap, with mobile money penetration in

[1] Leigh Gardener, From cowries to mobile phones: Africa's monetary system since 1800 (2023)

[2] IBID

[3] World bank global Findex report 2021

Zambia, reaching 69% of the adult population by 2023. [4]Furthermore, the integration of digital micro-lending services into mobile money platforms. Such as the Airtel money Kasaka loan and MTN MoMo loan-has provided instant, collateral free credit to low-income earners, accelerating the shift towards a cashless digital economy. However, while digital financial services offer immense potential for financial inclusion, they have also introduced regulatory and consumer protection challenges. The absence of comprehensive legislation specifically tailored to digital lending has left consumers' vulnerable to explosive lending practices, opaque loan terms and data privacy violations. In many cases, digital lenders impose excessive interest rates that exacerbate the debt burden of low-income borrowers, while some engage in aggressive debt collection practices that undermine consumer dignity. A study by the competition and consumer protection commission (CCPC) in 2022 revealed that over 40% of digital loan users in Zambia reported difficulties in understanding loan terms and repayment condition., raising concerns about the adequacy of consumer protection mechanisms in the digital lending sector.

Moreover, Zambia's current legal framework for digital financial services is highly fragmented and reactive with regulatory oversight spread across multiple institutions, including the bank of Zambia (BOZ), Zambia information and communications Technology authority (ZICTA), and the competition and consumer protection commission (CCPC).[5] This fragmented regulatory approach creates jurisdictional overlaps, enforcement inconsistencies and regulatory blind sports. Particularly in areas such as data protection, credit information sharing and fair lending practices.

[6]By contrast, Kenya has made significant strides in developing a robust regulatory framework for digital financial services through instruments such as the National payment systems act 2011, The Data Protection 2019 and, the Digital Credit providers' regulations, 2022. The Kenyan model provides valuable insights into how a harmonized regulatory framework can promote consumer protection, data privacy and responsible lending without stifling innovation.

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[4] 2022 annual market report

[5] National cyber risk assessment Report (2022)

[6] Prof. Chalwa Ngambi on consumer protection in Zambia.

[7]The rapid growth of digital lending and mobile money services represents both significant opportunities and a regulatory challenge for Zambia. [8]While these services have expanded access to credit and promoted financial inclusion, they also have invaded on a right to privacy, promote fraudulent application and identity theft, Cybersecurity risks, Regulatory and compliance challenges, credit risk and underwriting challenges, Operational risks and the black box problem among other challenges.

Digital lending in Zambia has expanded rapidly, but regulatory framework has not kept the pace. Many digital lenders operate with minimal oversight, leading to potential exploitation against consumers, while Zambia has regulations governing traditional financial institutions, digital lenders often fall into gray areas where they are not fully regulated, hence creating gaps in consumer protection. [9]Digital lending in Zambia has experienced notable challenges, particularly concerning fraud, consumer protection, regulatory and infrastructure challenges. The swift growth of DFS outpaced regulatory frameworks and infrastructure development. This mismatch led to challenges in consumer protection and the reliability of digital financial services, especially in rural areas where information and communication technology infrastructure was lacking. Addressing these challenges is crucial for the sustainable development of digital lending and financial inclusion in Zambia.

Therefore, this study seeks to critically examine the legal framework for digital lending and mobile money services in Zambia, identifying regulatory gaps, consumer protection challenges and the prospects for legal reform. By drawing lessons from Kenya's regulatory approach, the study aims to propose legal reforms that will enhance consumer protection while promoting the sustainable growth of digital financial services.

1.1 STATEMENT OF THE PROBLEM

The digital lending sector in Zambia operates in a largely unregulated environment due to the absence of a comprehensive legal framework tailored for digital lending

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[7] GM Kanja and E Kalula. Understanding banking law in Zambia (Juta law 2015)
[8] Anonymous" the background of the bank of Zambia" www.boz/(accessed march 5th 2025)
[9] National cyber risk assessment report 2022

services.[10] While traditional financial institution such as the banks and microfinance institutions are regulated under the Banking and Financial Services Act (BFSA). In addition, overseen by the Bank of Zambia (B O Z). Many digital lenders operate outside this regulatory scope, creating legal uncertainties and enforcement challenges. Despite the rapid growth of digital money lending in Zambia, Zambia still lacks a comprehensive and effective regulatory framework to govern these emerging services, which highlights a significant legal problem. While these innovations hold the potential to drive financial inclusion. Zambia's legal infrastructure has not kept pace with the evolving digital economy, resulting in regulatory gaps. These legal deficiencies compounded by inconsistent oversight from various regulatory bodies, undermine the trust and security of digital financial services in Zambia. The already existing regulations that attempt to govern digital lending do not cohesively set regulations that balances innovation with consumer protection. Thus, the luck of a compressive legal framework in the Zambia's digital lending sector breads confidentiality of other risks or problems associated with this factor. The luck of specific licensing requirements for digital lenders makes it difficult to distinguish legitimate operators from predatory lenders. This regulatory gap enables fraudulent lenders to exploit borrowers without fear or legal consequences.

Furthermore, Zambia lacks a standardized cap on interest rates and additional fees charged by digital lenders. Without a clear regulatory ceiling, some lenders impose exorbitant interest rates and hidden charges, pushing borrowers into excessive debt burdens. Unlike traditional financial institutions which must comply with interest rate regulations. The lack of legal enforcement for debt collection practices; Due to the regulatory vacuum, many digital lenders resort to unethical and sometimes illegal debt collection methods. Borrowers have reported cases of harassment, threats and public shaming through social media or direct contact with friends and family. Without a clear legal framework outlining acceptable debt recovery practices, there is no effective mechanisms to hold lenders accountable for abusive collection tactics. The Data Protection Act of 2021 contains provisions that address digital data protection, though it does not specifically focus on digital lending. The act regulates the collection, processing storage and sharing of personal data in digital and non-

[10] African Union Convention on Cyber Security and Personal Data Protection.

digital environments. It however, lucks supporting authority, which speaks directly to the protection of personal data from unauthorized access, loss or breaches by digital lending institution. Given the unique nature of digital lending, where large amounts of data are collected, analyzed and shared in real time, there is need to sector specific regulations to ensure borrower's data is adequately protected.

Given these legal uncertainties, there is an urgent need for a comprehensive regulatory framework that balances financial innovation with consumer protection. Without clear guidelines, Zambia risks an unchecked digital lending market that could lead to financial exploitation, data privacy breaches and fraud in digital lending and institutions.

1.2 OBJECTIVES OF THE STUDY

1.2.1 To explore digital lending, mobile money and consumer protection in the Zambian ICT sector.

1.2.2 To analyze the legal framework governing digital lending, mobile money and consumer protection in Zambia.

1.2.3 To conduct a comparative analysis of the legal Framework Governing Digital lending in Zambia against that of Kenya.

1.3 RESEARCH QUESTIONS

1.4.1 What is the current legal and regulatory framework governing mobile money and digital lending services in Zambia?

1.4.2 What consumer protection challenges arise in Zambia's digital lending and mobile money sectors?

1.4.3 What laws govern mobile money services and digital lending in Zambia, drawing lessons from Kenya

1.4 SIGNIFICANCE OF THE STUDY

This study will highlight the inadequacies or uncertainties with the laws on mobile money services and digital lending in Zambia. It seeks to outline loopholes in our already existing laws and the effect of the luck of a comprehensive legislation to govern digital lending in Zambia. Enhancing consumer protection by identifying key consumer challenges such as high interest rates, unfair debt collection methods and data privacy concerns. The research will contribute to efforts aimed at safeguarding concerns from exploitation and financial distress. Furthermore, the study will provide valuable insights for industry player, including fintech companies, banks and mobile money network operators. Understanding the regulatory landscape will help these entities navigate compliance requirements, improve their business models and foster responsible digital financial practices that align with legal expectations. The study will offer comparative insights that can inform future research and policy development in the region.

1.5 SCOPE OF STUDY

This dissertation focuses on the legal and regulatory framework governing digital lending and mobile money services in Zambia. It explores the extent to which current laws and regulations address key issues such as licensing, consumer protection, data privacy, interest rates control and dispute resolution within the digital financial ecosystem. The study limits its geographical scope to Zambia but drawing its comparative insights from Kenya, given its more advanced Financial Technology (FINTECH) regulatory landscape.

1.6 LITERATURE REVIEW

Warren C Mwambazi[11] The legal and regulatory framework for mobile money and digital lending in Zambia is primarily governed by the bank of Zambia Act. It saves as a regulatory authority with the mandate to license, supervise and regulate financial service providers including those involved in mobile money and digital lending. The bank of Zambia also gives directives to govern FINTECH payment services.

This act is entirely focused on traditional financial services such as Banks and that is one of its loopholes. He started that at the time this Act was enacted in 1996 mobile money was not as noisy as is now, and it looked none developing thus the focus was on the already existing financial institutions which where banks, furthermore digital lending was entirely restrictive as a privilege for those with bank accounts only. Thus to some extent this act does govern digital lending but not to its needed entirety covering all existing digital lending institutions. Then there is the **Banking and**

[11] Warren c Mwambazi. An evaluation of legal challenges of financial and banking supervision faced by the Central Bank of Zambia 2019.

Financial services Act (BFSA); it provides the framework for licensing, regulating and supervising financial institutions including those offering digital lending. This Act is in cognizance of financial institutions that extend their services to digital lending however, what it does not address are those institutions that only operate digitally, there licensing procedure, and supervision of these digital lending institutions. This act supports the BOZ act by amplifying the legal and regulatory framework of licensing, supervising and regulating financial service providers in Zambia. In its preamble the BFSA sets out the objectives for which it was enacted, that is to say, to regulate the conduct of banking and financial services to provide safeguards for investors and customers of banks and financial institutions and to provide for matters connected with or incidental to the foregoing.

Additionally the National Payment systems Directives on Electronic Money Issuance, which specifically addresses the issuance of electronic money (mobile money). Which does not directly offer guidelines on mobile money lending but any other mobile money related services I e transfer of money from one mobile money account to another and opening a mobile money account among other services. This dissertation will further the above writers discussion by outlining regulatory gaps in the already existing legal frameworks governing financial institutions in Zambia.

Mwansa 2011[12]The author discussed the duties and responsibilities of the Bank of Zambia, he equally outlines management challenges it faces with traditional banks as leading lending institutions. He suggests that with a fast growing mobile money market. Regulating and licensing all digital lenders is a major challenge now and as

Such, the market has more illegal lenders. Thus, this dissertation will further the above writers report and further suggest the need of establishing a comprehensive legal framework that will entirely focus on digital lending and guarantee adequate supervision, maintenance and regulation of digital lending in Zambia.

Chileshe M 2023[13].He alludes that the regulation of money lending in Zambia involves a collaborative framework among the bank of Zambia, the data protection

[12] Anonymous 'An overview of the national payment system in Zambia 'paper presented at the bank of Zambia workshop.www.boz.zm/paymentsytems/visionandstrategy2007-2011

[13] Choongo p, M Chileshe, CN Lesa. The effect of leadership styles on the growth of FINTECH startups in Zambia. 2023,2698-717

act and the consumer protection act among others. Each playing a critical role in ensuring responsible financial practices. The author above recognizes the bodies working hand in hand in regulating digital lending, however this dissertation will highlight the risks associated with borrowing statutory provisions from the above-mentioned statutory bodies such as regulatory overlap, inconsistent enforcement and potential gaps safeguarding borrower rights. From a regulatory standpoint, Mobile money operators such as MTN and AIRTELs facilitation of unregulated lending may also contravene conditions under its license by the Zambia Information and Communications Technology Authority (ZICTA), which may limit the scope of permitted financial services. The coherent and robust regulatory frameworks that do not clearly define the responsibilities of mobile money operators, particularly when they serve as platforms for third-party financial services.

Catherine M Onsando 2021[14] the author in this dissertation focused on the adoption of information system security among digital lenders in Kenya, identifying threats and challenges in securing digital lending platforms. Similarly, this dissertation will focus on the adoption of information and security digital lenders in Zambia. Identifying threats and challenges in securing digital lending platforms in Zambia and consumer protection concerns in Zambia.

Kgahliso Bridget Nonyane 2022[15] this dissertation examines how mobile lending affects the sustainability of banks in Zambia and Kenya. It explores whether mobile lending services as a complimentary service or a disruptive innovation to traditional banking. While Kgahliso's study on the disruptive innovation and long run impact of mobile money lending on bank sustainability in Zambia and Kenya has explored the economic and technological implications of digital financial this dissertation adopts a distinct legal lens focusing exclusively on Zambia, This study examines the statutory and regulatory frameworks governing digital lending and mobile money services. It seeks to identify regulatory gaps, assess the adequacy of consumer protection mechanisms and propose legal reforms to enhance oversight and safeguard consumer interests.

[14] Catherine M Onsando. Digital lending and information security in Kenya. (University of Nairobi) 2021

[15] Disruptive innovation and the long run impact of mobile lending on Bank sustainability in Zambia and Kenya. (University of Witwatersland, Johannesburg) 2022

1.7 METHODOLOGY

This study adopts a qualitative legal research methodology, primarily focusing on doctrinal and comparative approaches. The research shall refer to statutes, reports, internet sources, textbooks, journals and articles as well as other relevant research materials that shall contribute towards thus research. It will additionally include visits to relevant institutions and interviewing appropriate officers as well as the public in relation to digital lending. The aim of these visits will be to obtain information about The licensing procedure, recent experiences of defamation and harassment online as well as challenges faced by regulatory bodies this far.

1.8 ETHICAL CONSIDERATIONS

This dissertation shall be in line with all the essential ethical standards that shall be encountered during the period of carrying it out. The researcher will see to it that that all the information and acknowledge obtained in confidence in the pursuit of this research shall continue to be confidential and therefore shall be forms of misinformation and misuse of the said information to the disadvantage of the sources from which information is acquired.

1.9 RESEARCH OUTLINE

CHAPTER ONE stands as an introduction to this thesis. It introduces the statement of the problem and provide the background of the study.

CHAPTER TWO will explore digital lending, mobile money and consumer protection in the Zambian ICT sector.

CHAPTER THREE will focus on analyzing the legal framework governing digital lending, mobile money operators and consumer protection in Zambia.

CHAPTER THREE will critically analyze the adequacy of the legal framework governing digital lending in Zambia and conduct a comparative analysis of the adequacy and the appropriateness of the legal framework governing digital lending, mobile money and consumer protection between Zambia and Kenya.

CHAPTER FIVE will summarize the contents provided in the proceeding chapters of this thesis at the same time make reforms that will aid in the resolving of the problem identified due to the incomprehensiveness of the Zambian legal framework on digital lending and mobile money operators.

1.9.1 TIMETABLE WITH INTENDED TIMELINES

ACTIVITY	DURATION
Submission of Chapter 2 to Supervisor	1 Month
Submission of Chapter 3 to Supervisor	1 Month
Submission of Chapter 4 to Supervisor	1 Month
Submission of Chapter 5 to Supervisor	1 Month
Submission of Chapter 4 to Course Coordinator	1 Day

CHAPTER TWO

EXPLORING DIGITAL LENDING, MOBILE MONEY OPERATORS AND CONSUMER PROTECTION IN THE ICT SECTOR

2.0 INTRODUCTION

The objective of this study is to explore and comprehend the complexities involved with digital lending and mobile money operation in Zambia, focusing on their implications on consumer protection within the information and communication technology (ICT) sector. The study will seek to study and draw lessons from Kenya. It aims to contribute to the creation of an efficient, adequate and effective digital lending framework in Zambia. The above has the potential of fostering and maintaining sustainable economic and social development in Zambia. The scope of this chapter will extend to the role of Zambia information and communications Technologies Authority.

2.1 DEFINITION OF DIGITAL LENDING AND MOBILE MONEY OPERATORS

The Mobile Money Transaction Levy Act no 1 of 2023 defines mobile money operators as an [16]entity that is authorized by the Bank of Zambia to issue electronic money against receipt of funds in accordance with the National Payment Systems Act of 2007. This definition aligns with the regulatory framework established under the National Payment Systems act no 1 of 2007 which governs payment systems including electronic money issuance. While there is no specific statutory definition for digital lending, the activity falls under the purview of the Banking and Financial Services Act no 7 of 2017 (BFSA). The BFSA regulates financial service providers, including those offering credit facilities. It defines [17]Advance as any direct or indirect payment of monies, a loan or an advance for the performance of a banking or financial service by a financial service provider to another. Therefore, digital lending activities are subject to the licensing and regulatory requirements stipulated in the BFSA, even though the term digital lending itself is not explicitly defined.

[16] Mobile Money Transaction Levy Act No 1 of 2023.

[17] Banking And Financial Services Act no 7 of 2017.

2.2 HISTORICAL BACKGROUND OF MOBILE MONEY OPERATORS AND DIGITAL LENDING

The inception of digital lending can be traced back to the mid-1990s with the advent of online financial services. In 1997 E-loan became one of the first platforms to offer mortgage loans over the internet, allowing consumers to bypass traditional intermediaries and direct access loan products. [18]In 2007, Afaricom in partnership with Vodafone launched the M-PESA in Kenya. Originally designed to enable microfinance loan repayment, it then quickly evolved into comprehensive mobile money platform, allowing users to send and receive money, pay bills and purchase goods and services. Its success demonstrated the viability of mobile money services inspired similar initiatives worldwide. This innovation marked a significant shift towards digitalizing financial services, setting the stage for future developments.[19]In The last twenty years, the realm of information and communications technology (ICT) has expanded significantly due to technological advancements and the evolving market landscaped particularly in terms of mobile money operations and digital lending which pertain to the extent of individuals inclusion in digital platforms, have also broadened. The notion of financial services has evolved in the recent years, driven by advancements in technology such as the internet and mobile phones as well as liberalization of markets and rising demand in emerging countries. While Digital lending in Zambia is closely tied to the growth of mobile money; which provided the rails for digital financial services, the entry of Airtel Money in 2011 and MTN Mobile Money in 2012 marked the beginning of digital financial ecosystems in Zambia, later joined by Zamtel kwacha in 2016. Initially focused on transfers and bill payments, these platforms laid the foundation for credit by digitalizing financial transactions and building customer records.

The major breakthrough was MTN's partnership with JUMO between 2016 and 2019, which launched KASAKA loans, providing small, short-term loans via USSD. Banks such as Atlas Mara, Stanbic Bank and Cavmont also piloted mobile linked credit products, while microfinance institutions started integrating digital channels. By 2020-2022 Digital, lending broadened with Fintech entrants and growing adaptation

[18] Janine A, Mobile Money and the Economy (The world bank research observer 2018)

[19] https://www.researchgate.net/publication/342071094 universal Access and Service the Rise of international Good practice.

of mobile money. JUMO scaled its MTN partnership, while microfinance institutions like BAYPORT, FINCA AND MADISON finance introduced mobile loan disbursements and repayments. Banks invested in app based credit products, targeting both consumers and SMEs. In 2022 the bank of Zambia strengthened oversight by requiring digital lenders to register as microfinance institutions, comply with consumer protection rules and report to credit reference bureaus to prevent over-indebtedness, This regulatory shift marked a transaction from a lightly regulated environment to one emphasizing transparency and responsible lending.

2.3 THE CONCEPT OF MOBILE MONEY

Universal availability and accessibility alone is not enough to achieve the sustainable development goals and ensure that every person has safe, secure and affordable access to mobile money services including digital loans. It is therefore important to explain the concept of mobile money operations and digital lending at large. The concept of mobile money operations revolves around using mobile technology to facilitate financial transactions in a convenient way especially targeting populations that are traditionally excluded from the formal financial systems. [20]Mobile money is thus a digital financial service provider that allows users to conduct monetary transactions using mobile devices, it operates through a mobile wallet linked to mobile number and is typically offered by mobile network operators .These services allow users to send, store and receive money. Mobile money platforms are often in partnership with banks or licensed financial service providers and are accessible through various interfaces such as USSD codes, SMS, and mobile applications.[21]The concept of mobile money is grounded in the goal of enhancing financial inclusion, particularly in developing economies where access to traditional banking infrastructure is limited. Mobile money allows users especially those in rural or underserved areas to perform basic financial transactions such as cash deposits and withdraws via mobile money agents, peer to peer transfers, bill payments,

[20] Bank of Zambia. (2020). National financial inclusion strategy 2017-2022.https;//www.boz.zm
[21] GSMA. (2023). State of the industry report on Mobile Money 2023. GSM Association. https;//www.gsma.com

airtime purchase and in some cases access microcredit and savings services. [22]By leveraging widespread mobile phone penetration, mobile money operations reduce the reliance on physical bank branches and promote more efficient, secure and convenient financial transactions. These services are regulated under the National financial and telecommunications law, which aim at insuring consumer protection, financial integrity, and compliance with anti-money laundering (AML) and counter-financing of terrorism (CFT). The Zambia Information and communications Technology Authority (ZICTA) and the Bank of Zambia (B O Z).

2.4 CORE OBJECTIVES FOR MOBILE MONEY OPERATORS

The objectives of mobile money in Zambia are closely aligned with the national agenda for financial inclusion and digital transformation. As outlined in the national financial inclusion strategy 2017-2022 and supported by key regulatory bodies such as the BoZ and ZICTA. Mobile money service providers are expected to achieve the following core objectives.[23]

i) **Promote financial inclusion;** Mobile money aims to bridge the financial access gap by providing affordable and convenient financial services to Zambia unbanked and underbanked populations, particularly in rural and peri-urban areas where formal banking infrastructure is limited.,

ii) **Enhance Accessibility and Convenience**; by leveraging widespread mobile phone ownership, mobile money service market makes it possible for users to perform essential financial transactions, such as transfers, payments and savings, without the need for a bank account.

iii) **Foster economic empowerment**; Mobile money facilitates access to digital savings, microloans and payments, empowering individuals, smallholder farmers and micro, small and medium enterprises etc

iv) **Strengthen government service delivery**; the mobile money platforms serve as effective tools for disbursing government to person payments, including Social Cash Transfers, subsidies and emergency relief, thereby improving efficiency.

[22] Jack, w, and Suri T. (2016). The long run poverty and gender impacts of mobile money science, 354(6317) ,1292. https;//doi.org/10.1126/science.aah5309.
[23] UNCDF. (2020) Digital financial services in Zambia; market development overview.https;//www.unsdf.org

v) **Support Digital Transformation**; The expansion of mobile money in Zambia supports the broader digital economy strategy by reducing dependency on cash, encouraging digital payment adoption and stimulating innovation in fintech and e-commerce ecosystems.

vi) **Enhance transparency and financial literacy;** by formalizing transactions and creating digital records, mobile money helps improve financial transparency and can serve as a stepping-stone to broader financial literacy and inclusion.

2.5 RISKS ASSOCIATED WITH MOBILE MONEY OPERATIONS

Risks associated with mobile money operations directly influence adaptation, sustainability and regulatory effectiveness. These risks affect how borrowers interact with digital platforms and their ability to repay loans. In addition, by examining these risks, this dissertation will assess the effectiveness of digital lending in promoting financial inclusion. Identify barriers to adaptation and evaluate how policy and regulatory frameworks can mitigate negative outcomes essentially. Analyzing these risks provides a foundation for understanding both the opportunities and limitations of digital financial services in Zambia, informing practical recommendations for improving the sector.

i) **Fraud;** fraud in mobile money occurs in several ways among them includes social engineering scams where fraudsters trike users into reveling their pins or OTPs by pretending to be customer service agents, offering fake promotions or claiming a prize , once they have access, they can drain the users account. Additionally fraudsters send fake SMSs or emails with malicious links that when clicked, can capture login credentials or install spyware to monitor mobile money activity hence questioning the effectiveness of the consumer protection commission as the authority protecting the interest of the mobile users as the consumers.

ii) **Cybersecurity Risks:** Common cybersecurity risks in digital lending is identity theft, hackers steal personal information to apply for loans in someone else's name. Data breaches, unauthorized access to loan databases can expose sensitive details, leading to financial and reputational damage.

iii) **Consumer Protection Risks:** this refers to the potential for consumers to suffer harm or loss due to unfair, deceptive or fraudulent practices in the market place and digital financial services and other various consumer transactions. Digital lending exposes consumers to unsuitable financial products, misleading information, unfair contract terms and inadequate disclosure of risks.

iv) **Money laundering and terrorism financing:** Digital lending platforms can be vulnerable to money laundering due to their speed, cross-border capabilities and reliance on digital identities. Criminals may exploit the anonymity of online transactions and the potential for cross-border transfers to hide the origins of illicit funds. Digital lenders must implement robust Anti-money laundering (AML) and know your customer (KYC) to mitigate the risks. Concealing identity, Digital lending allows criminals to apply for loans through shell companies or with synthetic or stolen identities making it difficult to trace the true borrower. Additionally money launderers can break down large sums into smaller, seemingly legitimate loans across multiple digital lenders, a tactic known as structuring.

v) **Regulatory and legal risks**: Luck of comprehensive regulations, gaps in legislation lives users unprotected and limit the central banks' ability to supervise operations. In some cases, new financial products or business models may not be adequately covered by existing consumer protection regulations, creating loopholes for unscrupulous actors.

vi) **Clear Ownership and Accountability**: It must be noted that mobile money operators such as MTN and AIRTEL do not entirely offer digital loans using mobile money. The MMOs above do provide a platform for independent lenders such as Fikiliza under MTN and Nasova loans under AIRTEL. This has proved to be a problem when cases of defamation arise as a means of collecting debt from clients. Most clients understand that they are dealing with AIRTEL and MTN yet in the actual sense, they are dealing with independent contractors. Therefore, ownership and accountability proves to be serious risks associated with digital lending.

vii) **Market Conduct Risks**: such as predatory practices, some mobile money providers might engage in unfair practices like unauthorized deductions or misleading credit offers, I e the recent reports on charges on the Airtel and MTN charge sheets that appears different from the market charges.

2.6 APPRECIATING THE ZAMBIAN INFORMATION AND COMMUNICATIONS TECNOLOGY (ICT) SECTOR

The Zambia information and communications Technology Authority (ZICTA) is the regulatory body responsible for overseeing the ICT sector in Zambia. Established under the Zambian information and communications technologies act of 2009. ZICTA regulates the sector by licensing operators, enforcing compliance with technical standards, as well as monitoring and enforcement. The growth of the Zambia's information and communications technology sector has thus been pivotal in enabling financial inclusion and digital innovation, Driven by mobile network expansion, internet penetration, and investment in digital infrastructure. [24]The Zambian ICT sector is experiencing significant growth and contributing substantially to a country's economy, with a 2.6% contribution to GDP in 2023. This growth is driven by increased investments, particularly in digital financial services and government initiatives aimed at enhancing digital transformation and connectivity. Moreover, as such the ICT has created the foundation for mobile-based financial services. Mobile phone subscriptions and 3G/45 networks rollout have facilitated access to digital platforms enabling innovations such as mobile money and digital lending particularly among unbanked and under banked populations in urban and rural areas.

The expansion of digital financial services has been a major factor in the sectors Growth with exponential increases record. Owing to its liberation. ***The Zambia Information and Communication Technology Authority (ZICTA) ICT gap analysis survey report of 2022*** states that competition has resulted in an increase in mobile geographical coverage, which stands at 69.9 percent. **[25]**However, rural areas still face connectivity challenges, which translates into investment opportunities. The 2021 Economic Report records that the ICT sector experienced

[24] The Zambia Information and Communication Technology Authority (ZICTA) ICT gap analysis survey report of 2022

[25] Must, B., & Ludwig, K. (2010). Mobile money; cell phone banking in developing countries. Policy Matters journal, spring, 27-33.

high growth rates 40.1 percent in 2018 and 19.7 percent in 2021 while national average was 4% and 3.6 respectively. [26]This made ICT the best performing sector during the period under review and the highest contributor to growth. [27]Most of this growth in the ICT sector is accounted for by the expansion of digital financial services, which has recorded Exponential growth. By 2021, the sector contributed 2.7% to the country's Gross Domestic Product (GDP). [28]In addition, the government has set out to construct 169 communication towers in order to enhance universal access to internet and mobile connectivity. This will enhance efficiency in sectors like finance, agriculture and healthcare, driving productivity and innovation. On the other hand, the sector generates revenue through telecommunications services, software development and e-commerce activities all of which are potential investment opportunities. ICT breaks down geographical barriers enabling businesses to reach new markets and customers. They provide access to a vast amount of information, empowering businesses to make informed decisions. For example, e-commerce platforms allow businesses to sell their products online reaching a global audience. Therefore, the ICT sector is crucial in digital lending, driving economic growth by enhancing productivity, fostering innovation and enabling access to information and markets. Their impact is evident across various sectors and plays a vital role in both developed and developing economies.

2.7 Consumer Protection in the Zambian ICT Sector

[29]In Zambia, consumer protection in the ICT sector is primarily overseen by the Zambia information and communications technology authority (ZICTA).ZICTA is established in accordance with section 4 of the information and communication Technologies (ICT) Act No. 15 of 2009. Section 6 of the Act empowers ZICTA to regulate the provision of electronic communication services and products and monitor the performance of the sector, including the levels of investment and availability, quality, costs and standards of electronic communication services under the Act. The authorities mandate has further been enhanced by the amended electronic communications and transactions Act No. 21of 2009. Section 68 of the Act

[26] Ccpc.org.com
[27] IBID
[28] IBID
[29] Zambia information and communications Act

empowers the authority to establish guidelines for the making, receipt and handling of complaints of consumers regarding the provision of the ICT Services. [30]Key aspects of consumer protection include ensuring timely and accurate billing, promoting responsible use of service and providing channels for lodging complaints. However, these duties and responsibilities are faced with challenges such as mobile money transactions. Delayed or non-reversal of mobile money transactions are a significant source of complaints in the ICT sector. Furthermore, Data theft, frauds and online swindles, phishing, and data theft are also concerns that ZICTA AND CCPC is working on as a major concern raised from digital lending. [31]The competition and consumer protection commission (CCPC) is Zambia's statutory body established under the Competition and Consumer Protection Act No 24 of 2010. With a mandate to protect consumer rights and promote fair market practices across all sectors including the information and communication technology (I C T). More so to safeguard and promote economic welfare by prohibiting anti-competitive and unfair business practices.

Furthermore, in the context of mobile money and digital lending, the CCPC complements ZICTA by ensuring that consumers are protected from exploitative Practices, hidden charges, and unfair lending behavior, thereby building trust in digital financial services and supporting financial inclusion. Notwithstanding the two authorities with a paramount duty of consumer protection for CCPC Zambia is still recording cases of harassment and by digital lenders as a way of obtaining payments from clients, additionally ZICTAs authority is equally interrupted by BOZ being the mother body for all financial institutions and as such the Two authorities having different policies yet with similar mandates this far has not satisfied consumer protection no have they satisfied mobile money operators compliance.

CONCLUSION

In conclusion, this chapter sums up, finally, with the universal access and service in the digital lending market, evolution and challenges faced by both consumers and service providers. Reviewing from the African perspective. One is immediately aware

[30] Yankee Group Research, (2002). Mobile User Survey Results Part 1; Will Next Generation Data Services Close The Value Gap?

[31]

of the dynamic growth of digital lending and mobile money services within Zambia's evolving ICT landscape. The integration of digital technologies into financial service delivery has significantly expanded access to credit and transactional platforms, particularly among underserved populations. Mobile money has instrumental in advancing financial inclusion, while digital lending has introduced new models of microfinance that bypass traditional barriers to credit access. However, this transformation has not come without challenges. This chapter has identified a range of consumer protection risks associated with digital lending, including data privacy concerns, exploitive lending practices, lack of transparency and weak redress mechanisms. The rapid race of innovation coupled with limited regulatory oversight has created vulnerabilities for consumers and exposed gaps in the Zambia's legal and institutional frameworks. Furthermore, the chapter has highlighted the crucial place and duty occupied by ZICTA within the framework of providing equal access to ICT thereby increasing economic and social development.

CHAPTER THREE

TO ANALYZE THE LEGAL FRAMEWORK GOVERNING DIGITAL LENDING MOBILE MONEY AND CONSUMER PROTECTION IN ZAMBIA.

3.0 INTRODUCTION

While building up from the previous chapter. This objective seeks to critically examine the existing legal and regulatory formwork governing digital lending and mobile money services in Zambia, with particular emphasis on the extent to which it ensures effective consumer protection. This study will explore the statutory and regulatory instrument that govern the operations of digital lenders and mobile money service providers, including licensing requirements, interest rates regulation, data protection obligations and debt recovery [32]practices. Furthermore, the objective encompasses an evolution of the institutional landscape, including the roles of regulatory authorities such as the bank of Zambia, The Zambia Information and Communications Technologies Authority (ZICTA), And the competition and consumer protection commission (CCPC). The analysis will also assess the adequacy of consumer protection mechanisms in addressing issues such as fraud, data breaches, predatory lending, lack of transparency in terms of conditions and access to effective dispute resolution. The ultimate aim is to identify regulatory strengths, shortcomings and potential overlaps or gaps within Zambia's legal framework.

3.1 EXISTING LAWS GOVERNING DIGITAL LENDING

3.1.1 THE BANK OF ZAMBIA

The Bank of Zambia (B O Z) is the central Bank of the republic of Zambia and plays a pivotal role in regulating the country's financial system, including overseeing monetary policy, banking operations, payment system and more recently, digital financial services. ***Section 4 of the Bank of Zambia Act provides the legal mandates of the Bank of Zambia as follows.***

[32] The bank of Zambia, Act 1996.s 4(2) (a)

i) The Bank shall formulate and implement monetary and supervisory policies that will ensure the maintenance of price and financial systems stability so to promote balanced macro-economic development.

ii) Without prejudice to generality of subsection (1) and are subject to the provisions of this.

> ***a)*** License, supervise and regulate the activities of banks and financial institutions so as to promote the safe, sound and efficient operations and development of the financial system.
>
> ***b)*** Promote efficient payment mechanisms.
>
> ***c)*** Issues notes and coins to be legal tender in the republic and regulates all matters relating to the currency of the republic.
>
> ***d)*** Act as banker fiscal agent to the republic.
>
> ***e)*** Support the efficient operation of the exchange system and.
>
> ***f)*** Act as adviser to the government on matters relating to economic and monetary management.

Subject to the above provisions. Section ***4 (2) (a) (b)*** [33]subjects all financial institutions Digital lenders inclusive, to the bank of Zambia as the licensing, supervisory and regulatory institution of the state. Meaning the Bank has power to grant licenses to banks and financial institutions. Without a license a bank or financial institution cannot legally operate. The licensing process involves assessing whether the applicant meets the required legal, financial and operational standards. Once licensed, the BOZ then monitors the ongoing operations of bank/financial institution. Supervision involves oversight to ensure compliance with laws regulation, prudent risk management capital adequacy, liquidity, governance etc. It includes inspections, audits, requiring reports and ensuring corrective action when needed. Regulations means BOZ also makes rules, standards, guidelines, regulatory statements etc.

[33] Bank of Zambia act 1996 4 (2) (b)

that dictates how banks and other financial institutions business. This covers everything from solvency, customer protection, and disclosure, anti-money laundering, operational risks. Efficient payment mechanisms refer to payment systems, infrastructure, rules, participants, and procedurals that enables the transfer of funds among people, businesses banks and other financial institutions. Efficiency means that these systems settle transactions quickly, reliable and secure. Cost effective and accessible to users. Therefore, BOZ plays a pivotal role in the financial sector because payments are central to economic activity. Efficient payment systems reduce transaction costs (time, money). Support commerce, both domestic and international. Its evolution is closely tied to Zambia's political and economic history, particularly its transition from colonial rule to independence and beyond.[34] The Bank of Zambia (B O Z) was established shortly after Zambia gained independence, from British colonial rule in 1964. Prior to independence, the countries monetary affairs were managed by the bank of northern Rhodesia, which was itself part of the larger bank or Rhodesia and Nyasaland. A Central Banking institution for the federation of Rhodesia and Nyasaland, which included the present day Zambia, Zimbabwe and Malawi.[35]

With the dissolution of the federation and Zambia's independence, The Bank of Zambia act no 42 of 1965 was enacted to establish the bank of Zambia as an autonomous central bank. The act came into effect on 22 august 1964 and the bank formally began operations in 1965. [36]With the mandate to issue and monitor the national currency, formulate and implement monitor policy, act as a banker to the government and regulate commercial banks. [37]The early 2000s saw efforts to consolidation BOZ institutional capacity. Structural recognition reduced non-core functions and enhanced risk management. Inflation targeting gained prominence, and in April 2012, BOZ introduced the policy rates as its main monetary policy signal, supported by open market operations and reserve requirements. In 2013, the kwacha was redenominated, removing three zeros from the currency to restore

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[34] Bank of Zambia , national financial inclusion strategy 2017-2022 (B O Z, 2017)

[35] IBID

[36] IBID

[37] Central banks; Zambia (exchange currency.biz,2020 https://us.exchangecurrency.biz/centralbanks/Zambia accessed 20 august 2025

efficiency in transactions and accounting, introducing what is known as the second kwacha. As of 2020, the BOZ comprised 14 departments covering everything from banking supervision and payments to economics, legal services, ICT, internal audits, strategy and risk management. The historical development of the bank illustrates the broader trajectory of postcolonial African central banking, from colonial currency boards through post-independence developmental roles, crisis management in the 1970s-1980s, liberalization in the 1990s and modern policy frameworks in the 2000s-2010s; the BOZs evolution reflects Zambia's economic and political transformation. Today its dual mission of price stability and financial system soundness situates it as a critical institution in navigating Zambia's path toward sustainable growth and integration into the global economy.

3.1.2 THE COMPETITION AND CONSUMER PROTECTION COMMISION (CCPC)

The commission was firstly established in 1997 under the name Zambia Competition commission (ZCC) as a statutory body under the ministry of commerce, trade and industry with a mandate to oversee competition issues. [38]In 2010 following the enactment of the Competition and Consumer Protection Act (CCPCA) No 24 of 2010 the institution was renamed the competition and consumer protection commission (CCPC) This legislative reform was intended to broadened its scope by incorporating consumer protection mandates and repealing the earlier competition and fair trading act, 1994.Under section 45 the definition was revised to include practices that mislead consumers, Compromised standards of honesty and good faith or use harassment or coercion to influence purchasing decisions, a new definition for unconscionable conduct, hash oppressive behavior that defies good conscience. It then limits aggressive debt collection. Today the CCPC is charged with dual responsibilities, protecting competition in Zambia extends to investigating Cartels, monopolistic behavior, and abuse of market dominance, anti-competitive mergers and unfair trading practices.[39]It is also empowered to handle consumer complaints, conduct public awareness campaigns, and mediate

[38] Competition and consumer protection commission about us (CCPC Website, accessed 21st august 2025) (CCPC Established in 1997 as Zambia competition commission)https;//www.ccpc.org.zm/about as accessed august 2025

[39] IBID

disputes and foster consumer advocacy according to section 47. Organizationally the CCPC operate under the oversight of the board of commissioners appointed by the minister, that performs both governance and adjudication functions. A secretariat, led by an executive Director, manages the commission's day- to-day operations. Recognizing the need for greater national reach, the commission launched plans in 2013 to expand its presence to Provincial and District Offices, starting with Kitwe (Copperbelt) and Chipata (Eastern Province), and later established representation in Livingstone, Solwezi and Western Province. This expansion aimed to improve consumer access to redress mechanisms and strengthen regional enforcement. In 2016, The CCPC earned international acclaim when the international competition network (ICN) recognized it and the World Bank as the best competition authority in the category of "Advocating competition in key domestic markets to maximize the benefits of trade". The award was given in recognition of the commission's impact interventions, notably in the forestry sector involving ZAFFICO, where it enforced competitive licensing processes that enhanced market access and sustainability. [40]A notable amendment to the CCPC was signed into law in the late 2023, aimed at further strengthening competition and consumer welfare.[41]The amendment-incorporated provisions aligned with COMESA Competition Regulations, addressed unconscionable trade practices. Improved safeguards against false advertisements and empowered the CCPC to respond to public emergencies (such as the cholera outbreak). [42]In 2023, the CCPC reported handling 1854 cases issuing fines to offending traders, and recovering refunds and replacements worth several million Zambian

Kwacha across sectors including retail financial services and ICT. By 2024 enforcement actions increased 41 restrictive business practices cases were handled (a 32% increase), along with investigations into 10 cartels, highlighting the commissions growing enforcement.

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[40] Competition and consumer protection act 2010, no 24 of 2010 (Zambia) (Renaming ZCC to CCPC and repealing old act) https;//www.parliament.gov.zm/node/3351.

[41] IBID

[42] The competition and consumer protection commission (CCPC) to expand (Lusaka Voice, 13 September 2013) https;//lusakavoice.com/2013/09/13/competition-consumer-protection-commission-ccpc-expand / accessed 21 August 2025.

3.1.3 ZAMBIA INFORMATION AND COMMUNICATIONS TECHNOLOGIES AUTHORITY

[43]ZICTA was formally established in 2009 under three new legislative instruments. The information and communications Technologies Act No 15 of 2009, The Electronic Communications and Transactions Act No 21 of 2009 which in its preamble states that ‘an act provides a safe and effective environment for electronic transactions, promote secure electronic signatures, facilitate electronic filling of documents by public authorities, provide for the use, security, facilitation and regulation of electronic communications and transactions. To promote legal certainty and confidence, and encourage investment and innovation in relation to electronic transactions. Regulate the National public key infrastructure’ with the mandate being upheld this act was repealed and replaced by the electronic communications and transactions act to cover the wider scope that the 2009 act omitted. [44]The ECT Act provides the foundation for treating electronic contracts with the same legal force as traditional paper agreements, a core principle for digital lending. Furthermore, [45]the Act equally validates contracts formed automated transactions, such as a loan application processed by a computer program without human view. Standard electronic signature for most digital loan agreements is a basic electronic signature (e g click to accept button) is sufficient provided it reliably identifies the signer. Electronic contracts provide a reliable record keeping, lenders retain electronic records in a way that preserves their integrity and can be reliably accessed for future references. These Acts transformed the communications regulator into Zambia Information and Communications Technology Authority (ZICTA). Expanding its mandate to cover ICT, Postal services, Telecommunications, Competition, Consumer protection, Cybersecurity and spectrum management. Under the new legal framework, ZICTAs responsibilities included licensing, interconnection regulation, spectrum and frequency allocation. Universal service expansion,

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[43] Bernadette Deke-Zulu “ The Zambia Information and Communications technologies Authority ZICTA” DAILY NATION 2025[43] The competition and consumer protection commission (CCPC) to expand (Lusaka Voice, 13 September 2013) https;//lusakavoice.com/2013/09/13/competition-consumer-protection-commission-ccpc-expand / accessed 21 August 2025.

[43] Bernadette Deke-Zulu “ The Zambia Information and Communications technologies Authority ZICTA” DAILY NATION 2

[44] The electronic communications and transaction Act no 4 of 2009

[45] The electronic communications and transactions act no 4 of 2021

consumer protection and promoting investment and innovation in the ICT sector. Its mandate also aligned with the 2006 ICT policy.. [46] One of ZICTAs early impactful actions was carrying out a cost of services study in 2010, which led to the introduction of price caps on telecommunications tariffs. A measure that significantly reduced call costs for consumers.[47]Additionally in 2014, ZICTA erected 147 rural telecom towers to bridge the digital divide in underserved communities. In 2018, it decentralized licensing, enabling provinces and districts to issue network and service licenses a strategic move to foster competition and local participation. By 2021, ZICTA awarded beeline telecom (Zed mobile) the Nations 4th mobile operator license, signaling increasing market liberalization. In 2022-2023, it committed to advancing digital transformation by ensuring affordable data and internet access, and facilitating cross-broader ICT collaboration (notably with Malawi’s MACRA). Moreover, ZICTA began deploying satellite broadband to connect previously unserved rural districts, enhancing digital inclusion. The evolution of ZICTA mirrors Zambia’s shift from a narrow telecom regulator in 1994 to a comprehensive ICT authority in 2009 with mandates over telecommunications, postal services, cybersecurity and consumer protection. Through infrastructure rollouts, tariff reforms and licensing of new entrants such as beeline and star link, ZICTA has advanced digital inclusion and competition. However, governance challenges and questions of autonomy such as during the 2021 social media shutdown reflect ongoing tensions between state control and regulatory independence. Overall ZICTA remains central to Zambia’s digital transformation and the promotion of an inclusive information society. ZICTA serves as a regulatory body pursuant to section 6(1). Its functions are furthered listed under section 6 (2) (a) – (I) these functions are centered on telecommunications falling short of enforceable consumer protection powers over fintech apps. However, the recent Cyber Security and Cyber Crimes Act no 2 of 2021 empowers ZICTA to implement and enforce cybersecurity provisions within Zambia. Furthermore, the ECT Act enhances ZICTAS mandate, particularly in the area of consumer protection, by allowing ZICTA to establish guidelines for handling consumer complaints related to ICT services.

[46] ibid

[47] ibid

3.2 REGULATORY GAPS AND FRAMENTATION

Fragmentation refers to a situation where authority, responsibility or oversight is divided among multiple institutions or agencies without clear coordination or boundaries. [48]Historically, supervision of financial businesses tended to follow sector lines that is, each financial sector hard its own supervisory authority. This is what is known as the fragmented or sector specified regulatory model of supervision. Indeed Zambia is one such country that has adopted the fragmented or sector specific regulatory model of supervision, as there are three institutions that regulate the financial sector in Zambia. These are BOZ, SEC and PIA.[49] This fragmented model has two main disadvantages among others. One is that it creates problems of competitive inequality, inconsistencies, duplication and gaps that arise because similar products offered by different institutions are regulated differently. Another disadvantage is that multiple agencies supervising different financial sectors impair the overall effectiveness of the financial firms as they engage in regulatory arbitrage. As earlier mentioned, the bank of Zambia is the primary financial regulator. Empowered under the Bank of Zambia Act 1996 and the banking financial services Act 2017 (BFSA). It supervises banks, microfinance institutions, and payment service providers. It also monitors credit reporting under the credit data reporting Act of 2018, which seeks to improve credit information sharing. Furthermore, BOZ also regulates electronic money guidelines covering mobile money and related digital financial services. This framework remains more tailored to traditional banking and micro finance than to innovative, fast moving Fintech ecosystem. [50]Similarly, The Competition and Consumer Protection commission safeguards consumer rights and promotes fair competition on the market. Its relevance lie in ensuring disclosure of lending terms, including interest rate, repayment schedules and penalties. Addressing unfair and exploitive practices, such as predatory lending or hidden charges. And importantly the function of the CCPC is to prevent anti-competitive conduct, particularly where dominant mobile money operators or fintech platforms may restrict new entrants. With the said mandates the CCPC still faces limitations, it

[48] Banda Harrison, the effects of mobile money banking on financial performance in selected micro and small enterprises in Lusaka, june 2022
[49] IBID
[50] Munganzi, Namakando, Evolution of factors affecting mobile money operations credit access 2024

lacks sector specific consumer protection rules for digital finance, relying instead on general consumer law, moreover, enforcement becomes complex when lenders are foreign owned or unlicensed, limiting the commissions ability to intervene effectively. Lastly, the Zambia Information and Communications Technology Authority (ZICTA) was mandated to regulate telecommunications and the ICT services.[51] Its involvement in digital lending arises indirectly through mobile network oversight. Since lending apps and mobile money platforms rely on telecom infrastructure. Sim registration and digital identity systems, which are critical for verifying borrowers. As well as Data protection and cybersecurity, given that digital lenders process sensitive consumer information. ZICTAs challenge lies in its limited mandate over financial services. [52]While it can regulate ICT infrastructure, it cannot directly regulate lending practices and that's where its responsibility ends.

3.3 RISKS ASSOCIATED WITH REGULATORY FRAGMENTATION

The role of the Bank of Zambia, Competition and Consumer Protection Commission and Zambia Information and Communications Technologies Act demonstrates a fragmented regulatory environment. [53]Both the Bank of Zambia and the Competition and Consumer Protection Authority oversee consumer protection but from different perspectives. Except each institution approaches consumer protection from its statutory mandates. The bank of Zambia safeguards financial stability and fair lending terms and credit reports. While the CCPC enforces rights against unfair trading practices and general consumer protection.[54]Furthermore, BOZ regulates licensing of all financial service providers while ZICTA is equally a regulatory body for all telecommunication service providers, the two bodies are responsible for licensing two different service providers, offering combined services governed and regulated by two different bodies with different targets. Living the main activity with no comprehensive legal framework governing them. The same is true with consumer protection all the three bodies are key players in protecting the interests of a consumer and to some extent that of a service provider. However, the overlap creates a diluted regulatory regime. Instead of strengthening protection, it disperses

[51] IBID
[52] Mulundano, Clarence, Digital financial services model for higher education institution in Zambia, 2017
[53] Mbunji, Poul, An investigation of the impact of mobile money lending services on consumer rights.
[54] IBID.

accountability, leaving consumers vulnerable, without clear coordination mechanisms or unified consumer protection framework. The mandates of the three bodies risk working cross-purposes rather than reinforcing each other. I e Consumers may not know which authority to approach when wronged by a digital lender, especially when complaints involve both financial and ICT issues.

3.4 DISADVANTAGES OF REGULATORY FRAGMENTATION

i) **Overlaps** When multiple regulators have similar mandates they often duplicate efforts. This wastes resources, creates inefficiency and can lead to inconsistent outcomes when agencies issue conflicting decisions. Pursuant to chapter 11, parts 1 and 2 of the 1994 version details the licensing system for banks and non-banks financial institutions. ZICTA has a mandate to license and supervise all electro related activities that is Digital lending inclusive as it is not just a financial activity but also an electro mobile service as most transactions are commenced and executed using a telephone. Similarly The BOZ Act under section 6 (2) grants the BOZ the power to license, supervise, and regulate banks and financial institutions that equally is digital lending inclusive as it involves financial transactions.

ii) **Regulatory Gaps** no regulator takes responsibility issues (regulatory vacuum). i e mobile money fraud cases, is it a financial issue to be handled by BOZ or a telecom issue to be handed by ZICTA, or a consumer right issue? If each assumes the other will act, Victims may remain unprotected. With reference to the sections above three bodies have similar mandates with a focus on different areas yet the same concerns. For example. Mobile money operators like MTN and AIRTEL. Operating license for the two agencies are granted by ZICTA. However, these mobile services extend to finance via mobile money services referred to as MOMO and Airtel money, which brings the BOZ and The BFSA into play. It is equally important to note that These Mobile money operators extend their licenses to individual lenders who offer digital lending using the MTN OR AIRTEL platform these includes Patumba, Kongola, Ka stata, Extra cash on MTN and Kafast loan, Fikiliza overdraft and Konza loans on AIRTEL. Section 37 of the ICT Act on the other hand states that the license obtained is nontransferable. Concerns of regulatory gaps then arise in instance of confusion and defamation cases as a used mean of obtaining or collecting payments from customers.

iii) **Inconsistency** regulators apply different or even conflicting rules to similar problems. For instance, ZICTA may approve telecom tariff structure. Section 47 of the ICT act grants ZICTA the authority to approve tariffs for ICT services and products, these sections along with the ICT tariffs regulations 2018 mandate that service providers must submit tariffs for approval, ensure they are cost based, transparent and non-discriminatory. While BOZ sets a different percentages on interest rates for different figures which works hand in hand with the money lenders Act. Additionally Section 48 (1) gives recognition that a dominant market shareholder SHALL pay submit to the authority for its approval, the tariffs it intends to charge to the public for each electronic communications services together with a detailed justification for the tariffs. This in itself Dilutes enforcement capacity, since no single authority has exclusive jurisdiction.

CONCLUSION

The historical and institutional analysis of the Bank of Zambia (BOZ), the Competition and Consumer Protection Commission Authority (CCPC), and the Zambia Information and Communications Authority (ZICTA) demonstrates that while each regulator has a legitimate statutory mandate, the convergence of financial, technological, and consumer markets has produced significant regulatory overlaps and fragmentation. This fragmentation has produced several negative consequences among them include duplication of mandates, regulatory gaps, consumer confusion in seeking redress, weakened enforcement, and policy inconsistency. This has allowed financial institutions, telecom operators and digital platforms to exploit regulatory blind sports, at times undermining consumer trust and effective market governance. Nevertheless, fragmentation also signals the complexity of modern markets, where traditional sector based regulations struggles to keep pace with technological convergence. Instead of abolishing mandates, the challenge lies in harmonization and coordination.

CHAPTER FOUR

TO CONDUCT A COMPARATIVE ANALYSIS OF THE LEGAL FRAMEWORK GOVERNANING DIGITAL LENDING IN ZAMBIA AGAINST THAT OF KENYA

4.0 INTRODUCTION

The expansion of digital financial services across Africa has brought new opportunities and challenges, particularly in areas such as digital lending, mobile money and consumer protection. Legal and regulatory frameworks play a pivotal role in shaping how these services evolve, influencing both market innovation and the protection of consumer rights. This piece of writing provides a comparative analysis of the legal frameworks governing digital lending, mobile money and consumer protection in Zambia and Kenya. Kenya was chosen for comparison due to its relatively advanced statutory and regulatory approach to digital credit. The analysis evaluates key legislative instruments, scope, practical effects and implications for consumer protection in both jurisdictions with the aim of identifying best practices, gaps, and potential areas for reform. This chapter's objective is to asses both the adequacy and appropriateness of Zambia's legal framework compared to that of Kenya.

4.1.1 KENYA

Kenya has developed a relatively mature and targeted legal framework to govern its dynamic digital financial ecosystem. [55]The central bank of Kenya (Amendment) Act 2021 (which came into force on 23rd December 2021) amended the CBK Act to grant the bank power to license and supervise digital credit providers. [56]***Section 57*** of the central bank of Kenya Act as amended empowers the CBK to make regulations concerning non-deposit-taking credits providers (formerly digital credit providers) the amendment replaced digital lending/digital credit business and vested powers to prescribe penalties for non-compliance not exceeding certain amounts and inserted obligations about registration/licensing of such providers into the central bank of Kenya. Solidly making the central bank the legal framework governing all financial related activities not just for traditional banks but digital lending and mobile money

[55] The Central Bank of Kenya (Amendment) Act 2021

[56] IBID

inclusive. Furthermore,[57] ***Section 59*** of the act provides transitional provisions for persons who were carrying on digital credit business and where not registered under any law before the regulation came into force to apply for license within six months of regulations publication also allows for continuation of operations pending determination by the central bank of Kenya under certain conditions. Section 33R equally powers the central bank to approve digital channels, setting capital adequacy requirements, supervising digital credit businesses, suspending or revoking licenses, and issuing regulations for the sector. *Section 33S* is plainly explaining licensing of digital credit providers, the Act specifies that the Bank shall not only be concerned with traditional banking only but also nontraditional banks and that is digital credit providers inclusive. This section mandates that no nontraditional bank digital credit provider shall conduct a digital credit business without a CBK license, it clearly outlines application requirements such as incorporation certificates and data protection registration and details penalties for non-compliance including fines and potential imprisonment***.*** The Central Bank of Kenya (Digital credit providers) Regulations 2022 provides specific rules for digital credit providers operationalizing

the Act. [58]Key regulations include Regulation 11 which explains corporate governance. It requires all digital lenders to adhere to sound corporate governance principles including ethics, integrity and risk management. This is because the authority recognizes that not all digital lenders are a body corporate, some are under particular registered mobile service providers and deem themselves non-binding to the principles guiding the parent body and thus act contrary to the rules and regulations governing the said parent body. Thus, the Act comes into play to set a permeant reminder to both independent Digital credit providers and non-independent digital credit providers. Furthermore, ***Regulation 12*** explicitly mandates confidentiality of customer information. This provision mandates strict policies to protect customer data and prohibits sharing customer's information and details without concern. [59]To solidify customer protection and corporate ethical standards ***Regulation 19*** prohibits certain credit collection practices. The regulation puts it plain that any act of threats, violence, deformation and contacting customers without prior

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[57] IBID

[58] The central bank of Kenya (Digital credit providers regulation 2022)

[59] IBID

authorization. It was noted for Kenya and it still is notable for Zambia as the practice is ongoing that the most common method used by digital credit providers to collect debts from its customers is typical harassment and constant calls to a customer. Kenya put an end to it by incorporating this particular regulation in the act, while Zambia is still facing this challenge up to date. ***Regulation 26*** on the other hand talks about advertisement and promotions. This regulation requires that all digital credit providers practice fair, clear and non-misleading advertisements and mandates disclosure that the Digital credit provider is Central Bank of Kenya regulated. This was implemented specifically to insure that customer is aware of who is dealing with and incase of dispute a proper channel is used to resolve the said conflict. Furthermore, ***regulation 27*** prohibits variation of terms and conditions. For purposes of uniformity and certainty, this provision requires prior Central bank of Kenya's approval for changes to pricing models. Between 2010 and 2015, common practice for digital credit providers to change charges (being interest rates and accumulative charges on delayed payments), and in response Kenya mandated all digital credit providers and put the regulation in place to specifically foster information sharing and fair practices. In response to public complaints about poor customer service and lack of recourse when customers faced issues like unethical debt collection practices or privacy violations. Beyond a company's internal mechanisms. The central bank of Kenya itself has oversight and enforcement powers to impose administrative sanctions on non-compliant providers. Notwithstanding the above recourse. ***Regulation 22 (1)*** on the other hand puts an obligation on all digital credit providers to establish a complaints redress mechanism". This mechanism must include a dedicated channel for receiving and communicating customer complaints. It letter on insist on customer awareness, it requires that digital credit providers must properly communicate this complaints mechanism to their customers so they know how to file a complaint. It states that a digital credit provider must address and resolve a customer complaint within 30 days of it being reported. To ensure accountability ***Regulation 22(3)*** requires digital lenders to keep a record of all customer complaints and the outcome of their resolution. Kenya has taken a fairly integrated approach to data protection and financial regulation, especially with respect to digital lending payment services, credit information sharing and consumer protection. The Central Bank of Kenya regulates banks, non-banks financial institutions, digital credit providers, payment services providers etc. Several of CBKs rules explicitly include data protection/privacy obligations, and CBK collaborates with ODPC. The Data Protection Act,2019 (DPA) and the Central Bank of Kenya's (CBK) work in tandem to regulate the digital lending sector, ensuring consumer data privacy while maintaining financial sector integrity. The DPA mandates that all data controllers, including digital lenders, process personal data lawfully, securely, and with explicit consent from the data subject. ***Section 25 to 31 of the*** act outlines obligations regarding data security, purpose limitation, and consent, while ***section 37*** guarantees the rights of individuals to correct or delete inaccurate data. The Office of the Data Protection Commissioner (ODPC), established under section 5 of the DPA, is empowered to enforce these provisions. In parallel, the CBKs digital credit providers regulation 2022 stipulate that lenders submit a data protection policy as part of their licensing process ***(regulation 6(c)), and regulation 23(1)*** specifically prohibits lenders from accessing borrowers contacts or sensitive data without their consent, echoing DPA principles. Additionally ***Regulation 28*** grants the CBK authority to revoke the licenses of non-compliant lender. This coordinated framework ensures that data protection principles integrated into the financial regulatory landscape with CBK incorporating the DPA requirements into its supervision and ODPC providing oversight. As such, Kenya's regulatory environment for digital lending effectively combines financial regulation with robust data protection, reinforcing both consumer privacy and sector compliance.

4.1.2 ZAMBIA

Unlike Kenya, who has one legal framework governing financial services accompanied by an amendment that includes digital credit providers. By virtual of Zambia having a fragmented legal framework, with six statutory bodies sharing responsibilities regarding financial service providers, Mobile money operators and consumer protection. With the Bank of Zambia ranking top regarding all financial service providers. [60]The Act itself does not provide a definition of a financial service provider, Furthermore in its preamble it does not clearly state its boundaries and

[60] T Mwale , "Digital credit regulations in Zambia; Bridging the legal Gaps in Consumer Protection 2023) 55 Zambian law Journal

which areas of financial services it is concerned with. It states that [61]"an act to provide for the additional functions, operations and management of the bank of Zambia, provide for the composition of the board of directors of the bank of Zambia and provide for their functions, provide for the establishment of the monetary policy committee and provide for their functions, real and replace the bank of Zambia act, 1996 and provide for matters connected with or incidental to the foregoing". However*, **The Banking and financial services Act, No 7, 2017(chapter 387of the laws of Zambia**)* specifically under ***section 2*** defines a bank as.[62] "A, financial institution or financial business. While this definition provides a foundation for regulating traditional financial entities it is inadequate. This definition is grounded in a traditional understanding of financial services, which emphasizes Physical institutions such as banks and licensed financial entities. This definition fails to explicitly include digital lenders and fintech platforms that provide credit through mobile applications or online platforms and thus many digital lenders operate outside the supervisory scope of the bank of Zambia (BOZ), creating a regulatory vacuum that exposes consumers to unfair practices. Legal scholars and policy makers including BOZs ***National Financial Inclusion Strategy Review Report (2023)*** have observed that the [63]Zambia's financial laws do not adequately capture the fast evolving nature of digital financial services. They recommend amending section two of the banking and financial services act to expressly include Digital credit providers and other fintech actors within the definition of financial service providers. Additionally, this definition has failed to capture digital lenders that do not accept deposits or operate through partnerships with mobile network operators. These entities provide credit without being categorized as a Bank, financial institutions or financial business thereby escaping BOZ licensing and prudential oversight. This legal gap undermines BOZs ability to enforce responsible lending practices and protect consumers from exploitive interest rates or predatory loan recovery tactics. It further courses significant consumer harm such as Unauthorized Data access, Predatory-lending practices such as exorbitant interest rates and debt trap. With reference to the case of ***Charles Chihinga v New Future Financial Company***

[61] The Bank of Zambia Act no

[62] The Banking and Financial services ACT No 7 of 2017

[63] The Bank of Zambia's National Financial Inclusion Strategy Review Report (2023)

Limited in which among other issues raised, include defamation, harassment and unauthorized consumer data access by the credit providers. furthermore*, **Section 4 of the Banking and Financial Services Act*** provides for the function of the BOZ but as discussed earlier since the definition is too narrowly defined under section two BOZs regulatory authority is limited to conventional financial institutions and as such BOZ cannot effectively supervise or sanction digital lenders that fall outside the formal licensing framework. Even when they engage in predatory or unethical lending practices such as harassment and abuse, transparency insufficiency and credit damage (unreported credit information) and this wakens BOZs consumer protection role and contributes to proliferation of unlicensed digital lenders in Zambia. ***Section 6*** provides for the licensing of financial service providers, it prohibits a person from conducting financial services without a license from BOZ. In Theory, this provision should cover all lenders. However, in practice, it applies only to entities recognized as 'financial service providers" under section 2, since many digital lenders are registered as technology companies, not financial businesses they operate outside this section. This creates regulatory inconsistency; digital lenders can extend credit without a banking license, leaving borrowers with no recourse under the BFSA. A practical example is independent lenders operating under MTN and AIRTEL mobile money platforms like Patumba, Kongola, Kastarta and Zamcash. These are duly not recognized and catered for under this act and they are the notorious ones in consumer right violation. Thus, there is every need to amend section 2 to include digital lenders so that the scope of application is not entirely limited to other services provided by mobile network services providers but financial services too. ***Section 67*** introduces rates and charges. It allows financial service providers to determine their own interest rates, provided they are disclosed to customers. This section has been heavily criticized because the removal of statutory interest rates caps in 2015 means there are no upper limits on what lenders may charge and as such, digital lenders have exploited this gap, imposing exorbitant interests hidden fees on short-term loans. The section therefore may be amended to include standard interest rate caps. ***Section 76*** highlights consumer protection, It mandates financial service providers to ensure fair and transparency towards consumers, but where is the fair if there is no uniformity in the charges and rates on the market, this provision is in effective since most digital lenders are not licensed under the act, they are not bound by these consumer protection obligation. Thus, exposes consumers to harassment, unfair debt collection and data misuse without legal recourse*.* ***Section 78*** on the other hand mandates confidentiality of customer information. It prohibits disclosure of customer information except as provided by law. This provision presupposes that financial institutions maintain proper data management systems and are supervised by BOZ. However, digital lenders frequently access personal data (contacts, messages, location, identity card numbers, and names) Through mobile apps and often operate outside the BOZs Jurisdiction and thus brings in ***The Zambia Information And Communications Authority's Act*** as a major role player in the digital ecosystem but not so necessary in financial regulation. ZICTA is established under the information and communications Technologies Act No 15 of 2009 to regulate electronic communications and postal services, to promote ICT. However, ZICTA"s mandates do not expressly extend to financial regulation. This becomes problematic because digital lending relies heavily on ICT infrastructure including mobile network, apps and digital platforms as digital lending contracts are offered, accepted and executed digitally yet ZICTAs Authority ends where financial activities begin. Thus, when a mobile money operator or Fintech App uses telecommunications infrastructure to offer credit, ZICTA cannot directly regulate issues like lending terms, interest rates, data usage for credit scoring or consumer recourse in cases of financial misconduct. This results in a regulatory vacuum where neither BOZ nor ZICTA has full control, leading to unregulated lending practices via digital platforms. It must be noted that mobile network operators such as Airtel Money, MTN Money and Zamtel Kwacha are licensed and supervised by ZICTA as ICT service providers not financial entities. These companies increasingly collaborate with third-party digital lenders who use their platforms to distribute loans without separate license from BOZ and as such, there is poor coordination with the bank of Zambia as both operate parallel regulatory regimes that overlap in digital finance space. BOZ regulate financial conduct while ZICTA supervises the communication infrastructure through which digital lending occurs. There is no formal inter-agency mechanism for coordination between the two bodies. This lack of collaboration has caused, regulatory overlaps (both parties claiming partial jurisdiction over mobile money and Fintechs, and as such breads regulatory gaps where unlicensed digital lenders escape both authorities scrutiny and thus delays enforcement against illegal online lenders who misuse ICT infrastructure. The [64]BOZ National Financial Inclusion Strategy Review (2023) And [65]The Fintech Regulatory Sandbox Report (2022) both highlight the urgent need for harmonized regulatory frameworks between ZICTA, BOZ and the Data Protection Commissioner. The Communications and Transactions Act (ECT Act) No 4 of 2021 governs electronic commerce data messages and digital signatures. All of which underpins digital lending operations in Zambia. The ECT Act provides for the facilitation of electronic transactions and the development of a safe online environment. However, it does not expressly regulate digital financial services or recognizes digital lending as a distinct category. ***While part II (sections 4-10)*** establishes the legal validity of electronic communications and transactions, it does not identify electronic credit or lending platforms as regulated activities. Because the act focuses on general e-commerce rather than financial technology, digital lenders operate outside its direct purview. Furthermore, ***part IV (Section 18-23***) recognizes electronic signatures and contracts as valid and enforceable. While this facilitates digital agreements, it fails to safeguard consumers in online financial contracts. There is no provision requiring disclosure of loan terms, interest rates or repayment obligations in digital form. Borrowers often consent to loans through mobile apps or websites without understanding the full implications. The Act focuses on validating e-contracts, without regulating their substantive fairness, allows predatory lending and unfair contracts terms to flourish in Zambia's digital lending market. Although ***Section 21*** provides that an electronic signature satisfy legal requirements for authentication, The Act does not define the standard of informed consent in digital financial transactions. In digital lending, consent is often reduced to a "click-to-agree". Borrowers may not fully understand the contractual obligations or data implications. This creates evidentiary challenges in disputes as lenders can easily prove consent electronically, while borrowers cannot demonstrate misunderstanding or coercion. *Part IX (Section 81-88)* addresses privacy and data protection. However, *the* ***Data Protection Act no 3 of 2021*** has overtaken these provisions. Because it does not defines what constitutes sensitive information, how lenders may collect or share such data or penalties for unlawful data use in online lending. The Act gives

[64] IBID

[65] The Fintech Regulatory sandbox Report 2022

regulatory and oversight roles to the minister and ZICTA (***Section 94-98),*** but does not establish a dedicated enforcement authority for e-commerce violations, including financial misconduct. The act omits clear penalties or sanctions for unregistered or noncompliant digital lending platforms. Worse, enough the act lives out dispute resolution mechanisms. Despite facilitating online contracts, the Act does not provide for electronic dispute resolutions (E-ADR) system for grievances arising from digital transactions. Digital borrowers who face unauthorized deductions or unfair debt collection tactics lack a legal forum for redress under the ECT framework. This omission diminishes consumer confidence in digital credit systems. While *the* ***Electronic communications and transactions Act, 2021*** provides a technological and legal foundation for e-commerce, it falls to adapt to realities of digital lending. It validates the form of electronic transactions (how they occur) but not their substance (what protections borrowers receive). The absence of sections addressing digital credit, consumer rights, data privacy enforcement, and cross-border compliance leaves Zambia's fintech lending space largely unregulated, despite its rapid expansion. ***The Data Protection Act No 3 of 2021*** is critical for regulating digital lending in Zambia because digital lenders collect, process, and share personal and financial data. However, while progressive in intention, the Act has several limitations and gaps when applied to the digital lending ecosystem. [66]The Act Defines key terms such as personal data, data subject, and data controller under ***(part I, Sections 2-3).*** However, it does not explicitly define digital lenders or fintech platforms even though these entities routinely collect sensitive personal and financial information. Furthermore ***part v (sections 40-48)*** empowers the data protection commission to investigate violations and issue fines, however, enforcement is limited in practice , this leaves digital lenders effectively unregulated in practice and borrowers have minimal recourse when their data is misused. It can be argued that the act *under* ***sections 18-20*** mandates consumer consent for data collection but does not establish clear standards for informed consent in digital lending. Furthermore with intent to protect consumers ***section 12-14*** requires data to be processed for specific purposes but the act does not guild on how much data may be collected retention periods and cross platform sharing. Digital lenders frequently access contacts, SMS

[66] The Data Protection Act No 3 of 2021

log INS and geolocation beyond what is necessary. ***Section 40-48*** empower the data protection commission to investigate violations, but enforcement is limited by capacity constraints, weak penalties and challenges in dealing with foreign-based digital lenders.

Lastly but not the least ***the Competition and consumer protection Act No 24 of 2010***. In its preamble the act states that "An Act to continue the existence of the Zambia competition commission and re-name it as the Competition and consumer protection commission; safeguard and promote competition; protect consumers against unfair trade practices; provide for the establishment of the competition and consumer protection Tribunal; repeal and replace the competition and fair trading Act, 1994; and provide for matters connected with, or incidental to the foregoing". The name of the Act suggests that the focus is not just the competition but also consumer protection. However, the Act ***under Section 3*** outlines the applicability of this act as [67]"Except as otherwise provided for in this Act, this act applies to all economic activities within or, having an effect within Zambia". *(2)* This Act binds the state insofar as the state or an enterprise owned, wholly or in part, by the state engages in trade or business for the production, supply or distribution of goods or the provision of any service within the market, which is open to participation by other enterprises. This section in every sense focuses on applicability of this act to only one concern, which is competition and does not include any aspect of consumer protection and thus its applicability, is not fully inclusive.

Furthermore, ***section 5*** of the act highlights the functions of the commission from ***subsection (a) to subsection (l)*** the commissions functions are entirely focused on ensuring competition on the market and no mention of consumer protection. Additionally ***Section 8*** highlights restrictive businesses and anti-competitive trade practices*.* ***Section 9*** brings out the horizontal agreements, which are prohibited per se. These are strictly agreements between enterprises and not between consumer and supplier starting *from* ***section 9 subsection 1 (a) to (e).*** With over 88 sections only two sections make mention of consumer protection which are also inadequate. ***Section 52*** highlights consumer product safety; it speaks to the suppliers to adhere to safety measure in so as far as production is concerned, however it does not fully

[67] IBID

cover for consumers who are supplied with digital services. Furthermore, ***section 55*** explains the investigations by the commission. [68]It states, "Subject to subsection (4), the commission may on its own initiative or on a complaint made by any person, undertake an investigation if it has reasonable grounds to believe that there is or is likely to be a contravention of any Provision of this act. This means that if the raised complaint is not raised in accordance with this act even if it is a violation of a consumer right the commission shall not have jurisdiction over it and it shall not entertain it. While this Act defines anti-competitive practices and listed them into two dimension being Prohibited per se (horizontal) and prohibited by reasoning (vertical) it has not defined or listed any consumer right violation prohibited per se or by reasoning. Although ***section 43*** prohibits false advertising, it does not cover algorithmic or data-driven misrepresentation commonly used in digital lending apps. For instance automated loan eligibility assessments based on incomplete data. The law here focuses on traditional advertisements, not digital or app based promotions, allowing Fintechs to use opaque algorithms without clear disclosure. While the Act under ***section 45*** protects consumers against harsh and oppressive conduct, it fails to define what constitutes unconscionability in online lending where consent is click-to-agree terms that borrowers barely read. This section needed to explicitly recognize digital contracts and user-interface manipulation as forms of unconscionable conduct. ***Section 46*** attempted to outline basic consumer rights but lacks digital–specific safeguards such as data protection, algorithmic transparency, and cybersecurity obligations; it therefore needed to include the right to data privacy, digital literacy and protection against unauthorized digital deductions. ***Section 85*** establishes the consumer protection committee whose jurisdiction is limited to the insights of this Act. It lacks enforcement mechanisms to regulate digital finance effectively.

4.2 COMPARATIVE ANALYSIS

It can be observed that Zambia's legal system does not explicitly define or recognize digital lenders as a distinct category of financial service provider. [69]The BFSA, 2017 regulates banks and financial institutions but does not expressly cover non-bank

[68] IBID
[69] IBID

digital lender or Fintech companies operating through mobile platforms like AIRTEL Money, MTN MOMO and ZAMTEL Kwacha. While Kenya in response to this regulatory gap it established a clear regulatory regime for digital lenders through the central bank of Kenya (Digital Credit Providers) Regulations 2022. These regulations require all digital lenders to be licensed by CBK. The CBK also reviews ownership structures, pricing models, and data handling policies before granting a license. Kenya ensures formal oversight of all digital lenders enhancing transparency, consumer trust and financial stability. Secondly, regarding consumer protection the Zambia's competition and consumer protection authority outlines consumer rights but does not address digital financial services, there are no laws under the act mandating interest rates, disclosure, data transparency, or consumer consent in online lending. Borrowers often face hidden fees, exploitive interest rates and unauthorized deductions. This is not the same case with Kenya as it mandates all digital lenders under the Digital credit provider's regulation Act of 22 to disclose all loan terms, including total cost of credit, repayment schedules and penalties. This regulation prohibits unethical debt collection practices such as harassment, public shaming, or unauthorized access to phone contacts. The CBK enforces responsible lending and ensures that borrowers understand digital loan terms. The Kenyan laws ensure incorporates modern consumer protection standards specific to digital credit, while Zambia relies on general consumer law that does not reflect the realities of digital finance. Additionally While the Zambia's data protection and privacy provide general principles of data processing, convent, and security without adequately recognizing fintech and digital lenders, the Kenyan Digital credit providers Regulations requires lenders to obtain express consent before collecting or sharing consumer data. The office of the Data Protection Commissioner (ODPC) actively monitors compliance and can impose penalties for data breaches or misuse. Kenya's Data protection regime is better integrated with its financial regulations, while Zambia's framework remains fragmented and weakly enforced, allowing privacy violations in digital lending. With enforcement and consumer redress. In Zambia, consumers rely on the CCPC or civil litigation for complaints, which are often slow and inaccessible for low-income borrowers, there are no clear procedures for reporting or resolving digital lending disputes. While with Kenya, the CBK provides complaints resolution framework and requires each licensed lender to have an internal dispute resolution mechanism. Borrowers can also lodge complaints with the office of the data protection commissioner for privacy violations. Kenya offers accessible and specialized redress mechanisms for digital borrowers, while Zambia lacks such procedures, leaving consumers vulnerable to exploitation.

The Zambian Fintech growth has largely been driven by the private sector, with limited government-led digital finance strategy. [70]The National Financial inclusion strategy (2017-2022) acknowledges digital finance but lacks clear legal enforcement tools. Kenya's success stems from coordinated policy and legal ecosystem, with digital finance embodied in national strategies such as vision 2030, the national payment systems act, and the CBKs Fintech Sandbox framework. Kenya's legal framework represents a mature integrated and adaptive approach to digital lending regulations, characterized by clear licensing requirements, data protection, and consumer safeguards Zambia's framework, by contrast remains fragmented and reactive, relying on general laws not tailored for digital lending platforms.

Table 1: Comparative Analysis Table between Zambia and Kenya

ASPECT	KENYA	ZAMBIA	ADEQUACY COMPARISON	APPROPRIATENESS COMPARISON
Digital Lending	Specific regs (2022); licensing, disclosures, data privacy integration.	General BFSA; partnerships required, sandbox for testing.	Kenya more adequate (covers predatory risks).	Kenya suits mature market; Zambia fits emerging stage.
Mobile Money	E-Money Regs 2013; limits, agent oversight, no non-bank lending.	E-Money Directives 2015; reporting, AML, transaction levy.	Similar adequacy; both ensure stability.	Both appropriate, but Kenya enables scale.

[70] The National Financial inclusion strategy (2017-2022)

Consumer Protection	Disclosures, redress (30-60 days), education; Data Protection Act.	CCPC amendments 2023; gaps in disclosures, AI complaints tool.	Kenya more adequate (fewer gaps).	Zambia's focuses on literacy for low-trust users.
Overall Enforcement	CBK-led; rate caps history, licensing enforcement	BoZ/CCPC; fines/imprisonment, but overlaps.	Kenya stronger due to specificity.	Both proportional to fintech maturity.

4.3 CONCLUSION

This study has demonstrated that Zambia's legal framework, when compared to that of Kenya is disjointed and not inclusive. Digital lending has expanded rapidly yet it operates within outdated and fragmented laws that fail to clearly define or supervise digital lenders. The Bank of Zambia Act, (2022), The Banking and Financial services Act (2017) and the Data Protection Act (2021) provides partial oversight but luck the clarity, coordination , and consumer safeguards needed in the digital era. As a result, borrowers remain vulnerable to unfair lending terms, data misuse and inadequate avenues for redress. In contrast with Kenya's structure and technology, responsive framework, particularly through the Digital credit provider's regulations (2022), demonstrates how specific legislation and strong institutional coordination can foster responsible innovation while protecting consumers. Zambia can draw from this model to create a unified and adaptive legal framework that promotes trust, accountability and sustainable digital finance. Ultimately, it demands for a balance between innovation and protection, ensuring that the benefits of financial technology truly reach and empower all citizens.

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.0 INTRODUCTION

The preceding analysis revealed several weaknesses in Zambia's legal and institutional framework governing digital lending and mobile money services. Although the regulatory system aims to promote financial stability and consumer welfare, it remains fragmented and less inclusive. This chapter presents targeted recommendations addressing the key legislative and institutional gaps identified in the already existing authorities. These recommendations seek to guide Zambia towards a coherent, technology-responsive, and consumer-oriented digital finance regime, drawing lessons from Kenya's regulatory model and other international best practices.

5.1 GENERAL CONCLUSIONS

The study found that Zambia currently lacks specific legislation regulating digital lending, existing laws, including the Banking and Financial Services Act (2017), The money lenders act and the Data protection Act 2021. Provide only general consumer protection and financial oversight. As a result, many digital lenders operate without proper licenses or supervision exposing consumers to high interest rates, hidden charges and potential misuse of personal data. Regulatory enforcement mechanisms exists but are largely ineffective as there focus was on traditional financial service providers at the time of inception and consumer awareness of legal rights remains limited. These findings review the insufficiency of the Zambia's legal framework governing digital lending in comparative to that of Kenya. The research paper provides for the shortcomings, regulatory gaps and successes within the legal and regulatory frameworks of each country. The legislative measures exemplified by the said frameworks has been compared and lessons that potentially can improve Zambia's relevant framework. This comparative analysis underlines the importance of a robust single and comprehensive legal framework for financial services including digital lenders as a key driver of social, economic development and consumer protection on the digital market. The recommendations presented in this chapter aim to transform Zambia's fragmented legal structure into a coherent, adaptive, and forward-looking framework that adequately responds to the evolving digital financial ecosystem. Reforming the bank of Zambia Act, BFSA, ZICTA Act, ECT Act, Data protection Act and the CCPA is essential to establishing a balanced regulatory environment that encourages innovation while protecting consumers. Drawing inspiration from Kenya's regulatory success, Zambia should Adapt specific digital enwinding regulations, strengthen institutional collaboration, and embed data protection and consumer welfare at the heart of its fintech policies. Only through such reforms can Zambia achieve a secure, transparent, and inclusive digital financial sector that supports both innovation and sustainable economic growth.

5.2 SUMMARY OF CHAPTERS

This dissertation explores the legal framework governing digital lending in Zambia and its impact on consumer protection. It begins by introducing the topic, give the research objectives, the significance of the study, the methodology and the literature review examining existing research on digital lending, regulatory approaches and consumer protection gaps. Furthermore, Chapter Two discuss digital lending and mobile money operators under the Zambian ICT sector. It then proceeds to discussing the already existing Laws governing digital lending, highlighting its adequacy and appropriateness with digital lending concerns. Additionally, it explores the Kenyans legal framework governing digital lending and conducted a comparative analysis between Kenya and Zambia and finally, Chapter Five began by highlighting the research findings reveling regulatory gaps, unlicensed digital lenders and risks associated with such operations against clients. The study concludes with recommendations for comprehensive legislation, stronger oversights and enhanced consumer protection being, the enactment of specific Digital lending legislation to develope specific digital lending legislation regulating all digital lending platforms, setting clear rules for licensing operations and consumer protection. Strengthen Regulatory oversight, enhance consumer protection and ensure Data privecy and security by increasing consumer awareness and establish enforcement mechanisms.

5.2.1 CHAPTER ONE

Chapter one created the foundation of the study by bring out the legal issues that the study was to discuss. The chapter went on to bring out three objectives that where expanded on in chapters two, three, and four. Additionally, the chapter gave the significance of the study showing the necessity of the research. The chapter then concluded by observing that the current legal framework governing digital lending does not adequately address issues presented by consumers in the digital market and thus needs to be revised in order to adequately protect the Zambian public data, legislative procedures for digital lenders and provide an inclusive legal policy.

5.2.2 CHAPTER TWO

Chapter two discussed digital lending, mobile money operators and consumer protection in the Zambian ICT sector by giving an in-depth definition of digital lending, mobile money operators and consumer protection according to the authorities provided. The chapter then looked at the historical background of Zambia's digital lending, mobile money operations and ICT. Among other things, the chapter discussed the concept of mobile money, Risks associated with it and the advantages or benefits it confers, especially on consumers. It then concluded with appreciating the Zambia information and communications technology sector by discussing ICTs key growth drivers and ZICTAS role in regulating all ICT related service. It was established that the law is sorely lagging behind.

5.2.3 CHAPTER THREE

Chapter three analyzed the legal framework governing digital lending, mobile money and consumer protection in Zambia. It started with the Bank of Zambia, highlighted its mandate and its loopholes in governing digital lending. It further discussed the Competition and Consumer protection Commission and its in-adequacies and lastly discussed the Zambia Information and Communications Authorities. Furthermore, the chapter discussed the regulatory gaps and fragmentation associated among the three existing legislative bodies governing digital lending. In conclusion, the chapter discussed the risks and disadvantages associated with regulatory fragmentation.

5.2.4 CHAPTER FOUR

Chapter four explored the legislation in Kenya that address digital lending. These include the Central Bank of Kenya Act (Amendment of 2021). And the Act was discussed in comparison with the Zambia's legal framework governing digital lending. It further, illustrated the in adequacy of the Zambia's legal framework by highlighting particular sections in the already existing laws that omits or neglects the digital market. It concluded by observing that the Zambian legal system governing digital lending has to some extent recognized digital lending but not kept pace with its fast-moving growth by making it rely on the old sections that did not adequately recognize digital lending as a separate market altogether.

5.3 RECOMMENDATIONS

Having labored to bring out the insufficiencies of the Zambian legislation governing Digital lending, the author of this dissertation advances these recommendations: That there is urgent need for all Financial Service Providers to be subjected to one Law and allow for a uniform standard of regulation and supervision to address regulatory arbitrage. In this regard propose appropriate legislative amendments that will bring money lenders under the regulatory and supervisory armpit of the Bank of Zambia. Furthermore, establish digital finance supervision departments within BOZ to coordinate Fintech overseeing and mandating periodic reporting on digital credit market trends and risks.

1. **REINTRODUCTION OF INTEREST RATE CAPS**

   This policy was removed in 2015 as it did not serve its purpose, but now that it has been discovered that it is the regulatory fragmentation that makes it impossible to maintain the interest rate caps, the amendment of the B O Z Act, awarding it the mandate to license and supervise financial institutions will make the goal achievable.

2. **UPDATING THE ELECTRONIC COMMUNICATIONS AND TRANSACTIONS ACT (ECT)**

   The act be amended to recognize and regulate electronic loan agreements, define digital lenders, digital consent or cyber security obligations. This would provide legal certainty for digital lending transactions, protect consumers against fraud and abuse of individual data, thus foster transparency and trust in the digital lending sector. Lastly, include periodic reporting on digital credit market trends and risks.

3. The author also recommends enhancing the data protection Act 2022 to address weaknesses. The ACT to mandate registration of digital lenders as data controllers, impose strict consent and purpose limitation requirements as well as empower the data protection commissioner with greater financial and optimal independence. Additionally, introduce sector-specific data protection guidelines for financial institutions, this lesson is drawn from Kenya.
4. The author lastly recommends amending the competition and consumer protection Act to include digital consumer rights provisions, transparency requirements for online lending platforms, ethical standards for digital debt collection and communication, and importantly consider adapting a proactive approach by directing efforts towards consumer education so that both lenders and consumers can understand their obligations under the loan contracts.

CONCLUSION

The study concludes that Zambia exists legal and regulatory framework governing digital lending is insufficient, as it relies primarily on general financial and data protection statutes that do not adequately address the unique risks inherent in digital lending. Consequently, consumers are exposed to exploitive practices, including excessive interest rates, hidden charges and potential misuse of personal data, while regulatory enforcement mechanisms remain largely ineffective. The findings highlight the imperative for comprehensive, digital-lending-specific legislation, enhanced regulatory oversight, formal recognition of electronic loan agreements, the establishment of minimum cybersecurity standards, and strengthened consumer protection measures. Such reforms are essential to foster a secure, transparent, and sustainable digital lending environment in Zambia, thereby safeguarding consumers and promoting confidence in the emerging digital financial sector.

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1 2 3 SCHOOL OF LAW THE LEGAL FRAMEWORK FOR DIGITAL LENDING AND MOBILE MONEY SERVICES IN ZAMBIA, ANALYZING REGULATORY GAPS, CONSUMER PROTECTION CHALLENGES AND PROSPECTS, FOR REFORM DRAWING LESSONS FROM KENYA By NANCY BITATO LLB21211748 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 BITATO NANCY, do as a result of this utterance declare that this dissertation titled 1 2 3 " The digital framework governing digital lending and mobile money services in Zambia, analyzing regulatory gaps, consumer protection challenges and prospects for reform drawing lessons from Kenya" 1 2 3 . 1 2 4 5 6 8 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, is my original work and has not formally been submitted for the award of a degree at this institution or any other tertiary institution? 1 6 Primary and secondary sources that have been used have been acknowledged and properly referenced. 1 Signature..

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SCHOOL OF LAW

L400B – DIRECTED RESEARCH (OBLIGATORY ESSAY)

RESEARCH CLEARANCE FORM

NAME: NANCY BITATO

STUDENT NUMBER: LLB21211748

SUPERVISOR: KETIWE ZIMBA

TOPIC: THE LEGAL FRAMEWORK FOR DIGITAL LENDING AND MOBILE MONEY SERVICES IN ZAMBIA, ANALYZING REGULATORY GAPS, CONSUMER PROTECTION CHALLENGES AND PROSPECTS, FOR REFORM DRAWING LESSONS FROM KENYA

STAGE	COMMENT	SUPERVISOR'S SIGNATURE AND DATE	STUDENT'S SIGNATURE AND DATE
CHAPTER ONE	Approved with corrections on objectives and Research questions	21st July 2025	
CHAPTER TWO	Approved with inclusion of the ECT Act and Expand on ZICTA	1st September 2025	
CHAPTER THREE	Approved. Explain statutory provisions to explain why the current rules do not cover fintech	24th September 2025	

CHAPTER FOUR	Approved with statutory provision that need to be amended specifically	13th October 2025	
CHAPTER 5 – CONCLUSIONS & RECOMMENDATIONS	Approved with guidance on recommendations on specific sections	4th November 2025	
TABLE OF CONTENTS, BIBLIOGRAPHY AND APPENDICES	Approved. Align the work and use an automated table of contents	10th November 2025	
FIRST DRAFT	Approved. Align your work use correct font size and spacing	10th November 2025	
SECOND DRAFT	Minimise page numbers. Approved.	11 November	
FINAL DRAFT	Approved.	12 – November	