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# A CRITICAL ANALYSIS OF THE RELEVANCE AND APPROPRIATENESS OF PART IV OF THE INFORMATION AND COMMUNICATION TECHNOLOGIES (ICT) ACT NO 15 OF 2009


**By:**

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

**2025**

**DECLARATION**

I, **Audrey Malungo Samboko**, do hereby declare that this dissertation titled "**A CRITICAL ANALYSIS OF THE RELEVANCE AND APPROPRIATENESS OF PART IV OF THE INFORMATION AND COMMUNICATION TECHNOLOGIES (ICT) ACT NO 15 OF 2009"** 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 own original work and that it has not been submitted for a degree at any other tertiary institution.

The sources that have been used or quoted have been indicated and duly acknowledged as complete references.

**Signature**: _____

**Date**: _____12/11/2025_____

**SUPERVISOR'S RECOMMENDATION**

I, **THOMAS MALAMA** do recommend that the dissertation titled "**A CRITICAL ANALYSIS OF THE RELEVANCE AND APPROPRIATENESS OF PART IV OF THE INFORMATION AND COMMUNICATION TECHNOLOGIES (ICT) ACT NO 15 OF 2009",** authored by **AUDREY MALUNGO SAMBOKO** with Student Number LLB19218208 was done under my supervision, be admitted by the University. I have checked it carefully and I am satisfied that it meets the requirements related to the format as laid down by the University regulations.

……

**MR THOMAS MALAMA**

**(Supervisor)**

12th November 2025

**(Date)**

## DEDICATION

This dissertation is lovingly dedicated to my late father, Mr Charles Samboko, whose unwavering faith in my potential and quiet strength continue to guide me. His belief in me was a constant source of motivation and his memory remains a beacon of perseverance and purpose. To my mother Mrs Prisca Miluko Samboko, whose prayers, unconditional love and enduring resilience have been my anchor, your strength and sacrifices have shaped every step of this journey. To my family and loved ones, thank you for your steadfast support, encouragement and belief in my dreams. Your presence (whether near or far) has been a source of inspiration and comfort. This achievement is not mine alone, it is a shared triumph born of collective hope, patience and love. Here's to us and to the power of faith, family and enduring support.

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**ABSTRACT**

This dissertation critically analyses the relevance and appropriateness of part IV of the ICT Act no 15 of 2009, the rules that govern radio licensing. Act no 15 of 2009 was meant to streamline the laws around ICT services, but Part IV still holds on to old rules from the 1994 Radiocommunications Act which it replaced. The idea of a "Radio License" is outdated and does not reflect what the Zambia Information and Communications Technology Authority (ZICTA) does such as issuance of Network Licenses, Service Licenses and allocations of limited resources. The provisions of part IV have led to confusion, legal gray areas and practical headaches for everyone involved, which weakens how well the ICT sector is managed overall.

The research begins by delving into the concepts behind ICT regulation, such as public interest theory, responsive regulation, and digital constitutionalism, and then explains how Zambia's system fits into those frameworks. It then examines the structure of ICT in Zambia, from institutions to regulations, with a focus on how ZICTA's role has expanded and the industry has evolved from a single provider to a more open market with several participants. The inquiry reveals major gaps between what is specified in the statute and how things work, particularly in terms of licensing, enforcement, and operator certification.

To put things into context, the dissertation draws on the experiences of neighboring countries including Kenya, Ghana, Namibia, and Tanzania, as well as broader principles like the African Union's Digital Transformation Strategy and the SADC Model ICT Policy and Law. These examples show how other governments have adopted flexible, tech-agnostic licensing arrangements that promote innovative ideas, the integration of digital technology, and more open markets. The study also integrates real-world data and practitioner comments to show what happens when these old ideas are followed.

In the end, the dissertation calls for repelling of Part IV entirely and switching to a single, modern licensing system that's neutral on technology and lines up with global standards. It pushes for ongoing law updates, input from all stakeholders and syncing up with regional and international norms. By tackling this old legislation and pushing for fresh regulations, the work adds to the conversation on reforming Zambia's ICT sector and helps the country aim for a strong, accessible digital economy that sparks innovation.

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# CHAPTER ONE

## 1.0 INTRODUCTION

The evolution of Information Communication Technology has seen significant transformations since the 1990s. In Zambia, the legal framework governing these advancements has not kept pace with the rapid evolution. To address this gap, Zambia enacted the **Information and Communication Technologies (ICT) Act** in 2009, which replaced the **Telecommunications Act** and the **Radiocommunication Act**, both established in 1994. The objectives of the 2009 ICT Act were to, among others, facilitate access to and utilization of affordable ICT goods, services and products, protect the interest of consumers and service providers, regulate competition as well as enhance operational efficiency among service providers.[1]

The Zambia Information and Communications Technology Authority (ZICTA or Authority) is entrusted with the mandate of governing the ICT sector in Zambia. The Authority is, in this regard, responsible for ensuring a vibrant ICT sector, universal provision of affordable quality services, compliance among service providers with the law, license conditions and guidelines as well as healthy competition among service providers. The Authority achieves this by, among other means, granting special permissions, referred to as licenses or assignments, to companies seeking to provide ICT goods, products and services as provided or under the ICT Act

There, nonetheless, exists a significant issue within Part IV of the 2009 ICT Act, which contains provisions for "Radio Licenses" inherited from the repealed legal framework comprising the Telecommunications Act and Radiocommunications Act of 1994. This segment of the law serves no legal function within the context of the ICT Act – failing to adequately reflect the current state of ICT. Importantly, ZICTA does not issue Radio Licenses per se at present. It is, by the ICT Act mandated to issue Network Licenses, Service Licenses and Assignment of scarce resources.

This study seeks to conduct a comprehensive examination of Part IV of the ICT Act to evaluate its relevance and appropriateness within the current ICT framework. This will be done by critically analyzing the existing legislature as well as the operational practices.

[1] Act No 15 of 2009

The research ultimately aims to provide informed recommendations for amending the legislation to better address the changing needs of the Zambian ICT sector.

## 1.1 BACKGROUND OF THE STUDY

Zambia's Information Communications Technology (ICT) sector has undergone several changes over the years. Prior to 2009, the sector was regulated by the Telecommunications and Communications Acts of 1994. However, these statutes failed to adequately address the rapidly evolving ICT sector, associated services and best regulatory practices. The government acknowledged the necessity for the evolution and overhaul of the regulatory approach and regime for purposes of achieving more adequate, appropriate and effective regulation of the sector, enhance accessibility to ICT services as well as safeguard the interests of both service providers and consumers.[2]

The provision for the Zambia Information and Communications Technology Authority (ZICTA) in 2009 with increased functions reflected substantial legal reforms in the governance of technology services within Zambia. Previously, the market was predominantly controlled by a single entity, Zamtel, resulting in elevated service costs and limited options for consumers.[3] The current landscape reflects liberalization of the sector, features a diverse range of companies providing various services and has improved conditions for customers. It is important to take note of the fact that technology, the concept and practice of regulation as well as the ICT landscape continues to rapidly evolve. Presently, innovations such as internet radio, streaming services, and digital communications have emerged, which may neither have been contemplated nor therefore adequately provided for under previous legislative frameworks. In order to align with this development, a lot of countries in Africa are modernizing their ICT legislation so as to remain relevant.[4] For example, in Kenya, the legislature and regulations facilitated the countries position as the pioneer in mobile banking through the M-pesa platform

[2] Global Information Society Watch 2024 Special Edition GISWATCH2024_web_OK.pdf
[3] https://giswatch.org/countryreport/2008/zambia#:~:text=This%20saw%20the%20enactment,These%20legal%20instruments%20were (Accessed on 17/04/2025)
[4] https://theafricanfile.com/ict/regulation-andreformofictinafrica/#:~:text=pace%20of%20policy%20making,include%20multiple%20interest%20parties (Accessed on 17/04/2025)

highlighting the importance of having regulations that effectively accommodate new technologies.[5]

ZICTA now faces a lot of challenges in relation to the 2009 ICT Act, particularly Part IV, which looks at Radio Licenses. The said part does not adequately align with the operational practices of the regulator resulting in confusion for companies aspiring to invest in the sector. ZICTA has adopted a different approach in managing radio communications which includes integrating them into broader licensing frameworks that encompass a wider array of services. The situation is further complicated by constant and rapid advancements in technology. innovations such as digital radio, internet streaming, and artificial intelligence which are reshaping communication technology usage.

Recent reports indicate that Zambia's ICT sector is experiencing substantial growth, evidenced by an increasing number of mobile phone and internet users. However, the presence of antiquated legislative provisions such as those found in Part IV, have the potential of impeding ZICTA's ability to effectively manage this expansion, which in turn affects both service delivery by companies and accessibility for the general populace.[6]

In 2022, ZICTA implemented a new licensing structure to promote the development of Zambia's digital economy. This framework, which replaces a previous system established in 2017, aims to boost the country's GDP and encourage local innovation.[7] The redesigned system stresses two types of licenses; network licenses, which allow for the development and operation of communication networks, and service licenses, which authorize the supply of communication services. While ZICTA also oversees the assignment of radio frequencies, these frequencies are not classified under the term "licenses".[8] The persistence of the term "Radio License" in Part IV of the ICT Act introduces inconsistencies that create confusion among stakeholders as they, as alluded to earlier, do not accurately reflect the licensing regime intended by the ICT Act. Such old provisions can cause confusion and disturb the regulation of the ICT sector.

[5] https://theafricanfile.com/ict/regulation-andreformofictinafrica/#:~:text=pace%20of%20policy%20making,include%20multiple%20interest%20parties (Accessed on 17/04/2025)
[6] Bernadette Deka-Zulu (2025) Zambia Information and Communications Technology Authority (ZICTA); Its Role on Zambia's Telecoms Regulations and Policy Framework. (Accessed on 17/04/205)
[7] ibid
[8] https://www.lusakatimes.com/2018/08/02/zicta-decentralizes-network-licenses (accessed on 17/04/205)

Furthermore, ZICTA's main goal is to develop initiatives to decentralize its licensing provisions, making it easier for individuals and businesses across the country to obtain the necessary permissions. This strategic plan aims to enhance engagement in the ICT sector and make services more accessible to a wider audience.[9] Nevertheless, the continued use of the term "Radio Licenses" in the Act does not correspond with these progressive developments.

The retention of Part IV in its current form may also result in legal complications, as laws are most effective when they are precise and current. Obsolete provisions can engender legal ambiguities, which may be subject to exploitation or misinterpretation. It is, therefore, imperative to review and amend such provisions to ensure the legal framework supports the current and future needs of the ICT sector.

This study is important because having clear and up-to-date laws helps everyone. It helps service providers know the exact permissions, requirements, demands and prohibitions of the law they operate under. It also facilitates the adequate, efficient and appropriate enforcement of the law and regulation by ZICTA, the regulator and enforcer of the said legal and regulatory regime. Most importantly, it helps in ensuring consumers obtain due affordable and quality access to modern ICT goods, products and services.

## 1.2 STATEMENT OF THE PROBLEM

The ICT Act was enacted to facilitate the development and regulation of the Information Communication Technology Sector. This includes, among others, facilitation of access to ICTs, protection of the rights and interests of service providers and consumers, foster and maintain competition in the sector, foster Universal Access and Service, issue licenses and assignment as well as enforce their terms and conditions and repeal the **Telecommunications Act,** 1994, and the **Radiocommunications Act**, 1994. It seems, however, that though the Radiocommunications Act was repealed, Part IV which is a word for word rending of part of the Radiocommunications Act was erroneously uplifted from the Radiocommunications Act and placed in the ICT Act.

[9] https://www.lusakatimes.com/2018/08/02/zicta-decentralizes-network-licenses (accessed on 17/04/205)

The ICT Act, in Section 10, provides for only two licenses to be issued, that is a Network License and a Service License. The only other permission provided for is one to use scarce resources which in fact is not referred to as a License but rather an Assignment. Part IV of the ICT Act, however, introduces what it refers to as “Radio License.” No such standalone License is currently issued by ZICTA, as the Authority itself provides. To try and get round the above, ZICTA now issues a Radiocommunications License within which it is an assignment. It is clear from the above that Part IV of the ICT Act is a “hangover” from the Radiocommunications Act which was repealed. It is thus not to have a whole Part of a piece of legislation containing obsolete provisions. This study aims at critically analyzing Part IV for purposes of recommending amendments which will ensure the ICT Act contains only provisions that are useful.

## 1.3 RESEARCH OBJECTIVES

The study will be guided by the following objectives:

1.3.1 To explore the concept of regulation of the ICT sector.

1.3.2 To explore provisions of the legal framework governing the ICT Sector in Zambia.

1.3.3 To critically analyze the appropriateness and relevance of Part IV of the ICT Act.

## 1.4 RESEARCH QUESTIONS

1.4.1 What is the concept of regulation of the ICT sector consist of?

1.4.2 What are silent provisions of the legal framework governing the ICT Sector in Zambia?

1.4.3 How appropriate and relevant is Part IV of the ICT Act?

## 1.5 SIGNIFICANCE OF THE STUDY

This study will add to the body of knowledge by demonstrating how legislative inertia might influence modern regulatory procedures in the rapidly changing ICT sector. It will combine legal research, policy studies and empirical findings to provide a multidisciplinary

view on the effectiveness of legislative frameworks. The findings will provide tangible recommendations for updating Part IV of the ICT Act, streamlining the legal structure to suit current needs and providing as a model for other jurisdictions facing comparable issues from old legislative provisions.

The ICT sector is, globally recognized, to be in the forefront of driving modern economies. This study thus has the potential of contributing to the economic and social development of the nation by playing a part in fostering a vibrant sector underpinned by an adequate, appropriate and effective legal and regulatory framework.

## 1.6 SCOPE OF THE STUDY

This study will focus specifically on Part IV of the ICT Act and its relationship to Zambia's current ICT licensing framework. The temporal scope extends through the period commencing 2009, when the ICT Act was enacted, to the present. Geographically, the study focuses on Zambia's regulatory framework, using international best practices and lessons from a few SADC nations. The study admits some limitations, especially with relation to internal decision-making procedures and access to private government policy documents.

## 1.7 LITERATURE REVIEW

### 1.7.1 Current Relevant Literature

Existing researchers have noted systemic issues with Zambia's ICT regulatory structure. **Mukonde** criticizes the licensing regime as antiquated, citing its reliance on archaic terminology and structures that were unsuited for modern technology improvements.[10] He pointed out that the law continues to employ outdated phrases and structures that are no longer appropriate for today's ICT world. The research recommends more adaptable, technology-neutral regulations that can respond to innovation. While his analysis thoroughly covers Zambia's licensing system, this study concentrates on Part IV of the ICT Act, which retains the obsolete concept of a "Radio License" as a vestige of the now-defunct Radio Communications Act. The disparity between the currently applicable

[10] Mukonde, M M. (2013). An Evaluation of the Licensing Regime under the Information and Communication Technologies Act of 2009. University of Zambia

legislative language and the ideal, required, and appropriate legal frameworks highlights the urgency of reform.

**Bellmac Consulting** elaborates on the ICT Act's license categories while ignoring the controversy caused by Part IV.[11] The preceding work confirms that ZICTA requires equipment certification, but it does not address how the Act's antiquated "Radio License" clause contradicts with modern practices. This void needs a focused analysis of Part IV's relevance, which this study fills.

Broader criticisms of Zambia's ICT governance contribute to understanding the problem. **Hanyama** blames policy confusion on infrequent legislative reviews, but Phiri relates regulatory stagnation to restrictions on digital rights.[12] Though neither focuses specifically on Part IV, both findings emphasize the disadvantages of maintaining outmoded regulations. Similarly, **Deka-Zulu**, **Kaponda** and **Tembo** look at ZICTA's regulatory role and sectoral overlaps, but they don't criticize Part IV's outdated language.[13][14] This study fills that gap by thoroughly evaluating the provision's alignment with what best practice recommends is the proper operational structure.

**Elvis Besa** explored how technological advancements have influenced Zambia's broadcasting sector,[15] particularly the move from analog to digital broadcasting. He found that while technology has evolved, the regulatory framework has not kept pace, leading to gaps in the regulation of digital broadcasting. Besa highlighted that the separation of the broadcasting regulator (IBA) and the telecommunications regulator (ZICTA) has caused inefficiencies, as the two bodies often have overlapping responsibilities in the digital space. He suggested that a more unified regulatory approach is needed to effectively manage the converging technologies. Besa considered the broader relationship between ZICTA with the legal framework that governs it on the one hand and Independent Broadcasting Authority with the attendant legislative framework on the other.

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[11] Bellmac Consulting. The Cyber Regulatory Framework in Zambia. https://zambia.bellmacconsulting.com/the-cyber-regulatory-framework-in-zambia
[12] Phiri, S (2021). Zambia Digital Rights Landscape Report. Institute of Development Studies
[13] Deka-Zulu, B (2023). ZICTA's Role in Zambia's Telecoms Regulations and Policy Framework. Daily Nation. https://www.dailynationzambia.com/2023/02/zambia-information-and-communications-technology-authority-zicta-its-role-on-zambias-telecoms-regulations-and-policy-framework
[14] Kaponda, K & Tembo, S (2018). Evaluation of Policy and Regulatory Challenges of DFS ICT Ecosystem in Zambia. SSRN
[15] Besa, E (2019). Regulation of ICT-Based Broadcasting in the Digital Age: A Case of Zambia. University of Zambia

However, the current study focuses on Part IV of the ICT Act, highlighting the fact that it contains outmoded rules that are no longer in line with contemporary licensing practices.

**Mzyece** investigated how Zambia uses technology in government (e-government).[16] He discovered that there are many problems, such as lack of leadership, little stakeholder involvement, and limited business sector backing. He suggested changes in policy and better planning to make technology work better in public services. Mzyece's work is broad and looks at how technology is used in government operations. The above work is relevant in the sense that an inadequate or inappropriate legal framework, like leadership, poor stakeholder involvement and limited private sector support, also has the potential of affecting e- government service provision by ZICTA. Uncertainty and confusion fostered by inappropriate legal provisions can cause waste of resources and uncertainty on the part of potential ICT sector investors. This is crucial considering that ZICTA's mandate includes attracting investment into the sector.

While Mzyece's work is handy for this current research, it differs radically from it because this dissertation focuses specifically on the relevance and appropriateness of particular provisions under the ICT Act. **Lombe's** work focused on how technology helps people access legal information.[17] The author indicates that ICT is important because it can help more people understand the law. His research supported using ICT tools to make legal information easier to reach for everyone.

One way in which technology can make it easier for individuals to access the law is by being able to access the internet through licensed technology and service providers. This makes it essential to ensure that the legal framework governing the licensing of such providers is adequate and appropriate. Where this is not the case, the licensing framework may hinder the provision of such services, which in turn will have an impact on access to technology and ICT services.

This dissertation is thus essential as it can play a major role in affecting legislative reforms aimed at adequate and appropriate regulation of the ICT sector thereby increasing its positive impact on national social and economic development. This dissertation, however,

[16] Mzyece, M (2012). A Critical Analysis of e-Government in Zambia. The African Journal of Information and Communication, 12, 110-127

[17] Lombe, Mbalashi M (2012) The role of information technology in the promotion of access of legal information. University of Zambia

differs from Lombe's work in that it seeks to play a part in fostering increased access to ICT goods, products and services by ensuring the existence of an appropriate legal framework. The study seeks to contribute to the achievement of the above by conducting a critical analysis of Part IV of the ICT Act.

The convergence of ICT and broadcasting regulation, as explored by **Besa**,[18] reveals additional complexities and challenges in the ICT sector. Besa indicates that the fragmented oversight of the sector by both ZICTA and IBA creates inefficiencies. This study seeks, while agreeing with the above, to convey another challenge the sector faces, namely, inappropriate provisions in the legal and regulatory framework. Both Besa's fears and those highlighted in this dissertation have the potential to prevent the ICT sector's full contribution to national social and economic development.

**Chanda** assessed the impact of convergence on Zambia's regulatory landscape,[19] stating that existing sector-specific regulatory bodies such as ZICTA, IBA and the CCPC frequently lead to jurisdictional ambiguities and inefficiencies in a converged environment. Chanda advocates for a more unified regulatory framework to effectively manage the growing convergence of telecommunications, media and information technology services.

The lack of uniform regulation creates ambiguities and inefficiencies in the same way that irregular, vague and inappropriate rules, such as those stipulated in Part IV of the ICT Act, that negatively impact the ICT sector. While Chanda focusses on the lack of convergence, this current study focusses, instead on another anomaly in the legal framework, irrelevant, ambiguous and inappropriate provisions. The push for a converged and more cohesive legal and regulatory framework should be accompanied by that for one that is clear, unambiguous and relevant. Part IV of the ICT Act contributes to the fragmentation and inappropriate legal framework that lacks cohesion.

**Simumba** explored the hurdles of implementing e-government programs in Zambia,[20] noting legal and regulatory barriers, notably the slow pace of legislative reform, as major

[18] Besa, E (2019). Regulation of ICT-Based Broadcasting in the Digital Age: A Case of Zambia. University of Zambia
[19] Chanda, P (2016). Regulatory Convergence in the Zambian Telecommunications Sector: A Critical Analysis. Journal of ICT Policy and Regulatory Affairs, 8(2), 45-60
[20] Simumba, K (2020) E-Government Implementation Challenges in Zambia: A Legal and Policy Perspective. International Journal of Electronic Governance, 12(1), 1-15

obstructions. Simumba argues that the current legal framework frequently struggles to integrate new digital services and technology, resulting in regulatory gaps and confusion.

Among other legal and regulatory hurdles with potential of militating against implementation and realization of e- government are vague and inappropriate legal provisions. Thus, while Simumba does not specifically target Part IV, his broader critique of the unresponsiveness of Zambian law to technological advancements in in accord with this study's contention that outdated legislative provisions need urgent review to facilitate, rather than impede, e government and technological progress.

**Zulu and Siwela** investigated the impact of universal access and service grants in boosting ICT access in Zambia,[21] noting that outdated legal frameworks and a lack of clear policy direction typically obstruct effective use of these resources. Their findings reveal that, while policies may seek to promote widespread ICT access, underlying legislation may act as a barrier, failing to give the required flexibility for new solutions. This viewpoint is consistent with the study's thesis that Part IV, as an obsolete legislative instrument, may unintentionally promote regulatory rigidities that undermine broader policy aims of fostering a contemporary and efficient ICT economy.

**Musonda** also emphasized the difficulties of cybersecurity governance in Zambia,[22] emphasizing how a fragmented legislative and institutional structure hinders effective national response to cyber-attacks. Musonda contends that the lack of a comprehensive and updated legislative framework for cybersecurity, which frequently relies on different and sometimes contradictory pieces of legislation, creates vulnerabilities. While his research focuses primarily on cyber security, the findings highlight a broader issue of legal incoherence and the need to modernize legislation to match current ICT concerns. This is congruent with the current study's focus on Part IV, which demonstrates how specific outdated regulations contribute to a larger regulatory framework that is unprepared for the modern digital economy.

[21] Zulu, L & Siwela, A (2017) Universal Access and Service Funds in Zambia: An Assessment of Legal and Policy Frameworks. African Journal of Information and Communication, 19, 99-115
[22] Musonda, J (2021) Cybersecurity Governance in Zambia: Challenges and Prospects for a Comprehensive Legal Framework. Journal of Cyber Policy, 6(3), 301-318

**Bourdieu's Legal Field Theory** emphasizes the significance of laws adapting to cultural and technological changes to remain effective.[23] Part IV of the ICT Act highlights how law might contain ineffective provisions because of a legislative framework that has failed to keep pace with rapidly changing technology and practices in the ICT industry.

**Lessig's "Code is Law"** on ICT regulation proposes that legal frameworks must constantly evolve to keep up with technological innovation. The continued use of Part IV contradicts this concept, resulting in a "regulatory lag" that stifles sectoral advancement.[24] Together, the publications establish a solid platform for examining regulatory obsolescence in Zambia's ICT sector. These frameworks support the study's call for legislative reform.

### 1.7.2 Gaps in Existing Literature

The current analysis on Zambia's ICT regulation reveals substantial gaps. Few studies have looked at Part IV of the ICT Act. Furthermore, there has been no comparative research on Zambia's framework using regional and global best practices. This study intends to overcome these gaps by conducting a focused evaluation of Part IV and utilizing regional and global comparative perspectives. Furthermore, there is a scarcity of empirical evidence on the real effects and perceived challenges of maintaining outdated legislation, such as Part IV, on Zambian ICT companies and users. While existing literature focuses on legal and theoretical differences, more in-depth understanding of how these out-of-date regulations affect company operations, stifle innovation, or affect end user access and costs is still being investigated. This study aims to bridge this gap by gathering insights into the actual effects of regulatory misalignment from important stakeholders within Zambia ICT sector.

## 1.8 METHODOLOGY

### 1.8.1 Research Design

This study uses a qualitative research methodology to comprehensively examine the issues surrounding Part IV of the ICT Act. The approach combines legal analysis of

[23] Bourdieu, P., "The Force of Law: Toward Sociology of the Juridical Field", Hastings Law Journal, 38(1987, pp. 805-853

[24] Lessig L, Code and Other Laws of Cyberspace (Basic Books 1999)

statutory texts, review of policy documents and empirical research through stakeholder interviews. This method is suitable because it helps to explore legislation, opinions and perceptions, which are important in evaluating the practical impact of the Act. This research will adopt the Descriptive and Case Study Design by which relevant concepts will be explored, scholarly works and legislation at large studied and a critical comparative analysis of specific legislation conducted.

### 1.8.2 Research Type

This study falls within the Analytical Research Type in which the researcher uses facts and information that pre-exists analyzing the same and developing a hypothesis for evaluation.

### 1.8.3 Data Collection

Primary data will be gathered from three key sources. Firstly, the researcher will conduct detailed analysis of legislation relevant to this study. Secondly, secondary data will be drawn from academic journals, court decisions, articles, books, ZICTA Annual Reports, SADC policy documents, International Telecommunication Union (ITU) guidelines and relevant other similar works. The study will, thirdly, involve semi structured interviews with carefully selected stakeholders, including ZICTA officials, ICT legal experts, telecom industry representatives, academic researchers and consumer advocacy representatives.

### 1.8.5 Data Analysis

The research will employ two primary analytical methods. Thematic analysis will identify and categorize key issues emerging from the legislative review, interview data and secondary data. A comparative legal study will be conducted to comprehensively examine Zambia's relevant legal framework against regional and worldwide models to identify best practices and reform prospects. These methodologies will enable both a thorough assessment of Zambia's specific circumstances and general regulatory insights.

## 1.9 ETHICAL CONSIDERATION

The study will follow stringent ethical norms throughout the research procedure. All interviewees will be guaranteed anonymity and confidentiality. Before obtaining consent, participants will be informed clearly about the goal of the study and their rights. Sensitive data will be securely maintained and processed in compliance with university research ethics protocols. These measures ensure that the research adheres to high ethical standards while acquiring useful stakeholder opinions.

# CHAPTER TWO

# EXPLORING THE CONCEPT OF ICT SECTOR REGULATION: THEORETICAL AND ZAMBIAN CONTEXT

## 2.0 INTRODUCTION

The regulation of the Information and Communication Technology (ICT) sector is a pillar of modern economic governance, allowing governments to create digital marketplaces, protect consumers and promote innovation. As the global economy becomes more digital, efficient ICT regulation guarantees that the advantages of technological innovation are publicly available while reducing associated hazards such as monopolistic behavior, data breaches and cybercrime. This chapter investigates the conceptual and theoretical basis of ICT regulation, compares global practices and situates Zambia's regulatory framework within the larger discourse. This offers the framework for a critical analysis of Part IV of the ICT Act No. 15 of 2009.

## 2.1 CONCEPTUAL FRAMEWORK OF ICT REGULATION

The ICT sector's regulation refers to a set of laws, regulations, norms and institutional procedures designed to govern, control and facilitate the development, operation and use of information communication technologies in accordance with public policy objectives.[25] In practice, it refers to a set of state-led or state-sanctioned interventions aimed at market regulation, fair competition, consumer protection, and universal service provision. ICT regulation is typically more comprehensive than traditional telecommunications regulation since it encompasses several digital technologies such as internet services, broadcasting, e-commerce, data protection, and cybersecurity.[26] A comprehensive regulatory framework for ICT frequently pursues multiple interrelated purposes, such as:

a. Market Efficiency and Competition which ensures fair competition among new entrants and preventing monopolies.[27]

[25] Ibid
[26] Ibid
[27] Mulenga, C (2021) 'Regulating ICT for inclusive development in Zambia', *Zambia ICT Journal*

b. Consumer Protection which entails safeguarding users' rights to service quality, fair pricing, privacy, and dispute resolution procedures.[28]

c. Universal Access and Inclusivity which provides ICT services to rural and underserved communities to close the digital divide.[29]

d. National Security and Public Safety which regulates ICT infrastructure to avoid cybercrime, data breaches and threats to critical infrastructure.[30]

e. Innovation and Investment Promotion which encourages innovation and investment while balancing public interests.[31]

Many countries have dynamic ICT legislation in place to address technological convergence (when telecoms, broadcasting, and internet-based services merge) as well as upcoming technologies such as 5G, AI, and cloud computing. This needs a move from a strictly compliance-based strategy to one of strategic governance, in which regulators foresee sector developments and match

Zambia's ICT sector is governed by the **Information and Communication Technologies Act No. 15 of 2009**, which is complemented by additional legislation such as the **Electronic Communications and Transactions Act**, the **Cyber Security Act** and the **Cybercrime Act**. The Zambia Information and Communications Technology Authority (ZICTA) is the major regulator, in charge of licensing operators, allocating spectrum, enforcing standards, and encouraging universal access. These regulatory systems seek to strike a balance between market liberalization and state control to protect economic and social interests.[32]

From a conceptual standpoint, ICT regulation can be understood as a delicate balance between allowing rapid technical innovation and preserving consumer, service provider, and public interests. This balance is especially important in developing nations like Zambia, where ICT growth can drive economic change while also aggravating inequality

[28] Posner, R. A. (2014) 'Theories of economic regulation', Bell Journal of Economics and Management Science, 5(2), pp. 335–358
[29] Ibid
[30] Ibid
[31] Ibid
[32] Black, J. (2014) Constructing and Contesting Legitimacy and Accountability in Polycentric Regulatory Regimes. Regulation & Governance, 8(1), pp. 28-48

if regulatory measures are inadequate, out of date, or misaligned with technological trends.[33]

## 2.2 THEORETICAL PERSPECTIVES ON REGULATION

Understanding ICT regulation necessitates a solid foundation in established regulatory theories that explain why governments manage markets and how these interventions are structured. In the ICT context, these theories give analytical lenses for deciding whether Zambia's regulatory rules, particularly Part IV of Act No. 15 of 2009, are developed and implemented in ways that benefit the public while sustaining a competitive and innovative economy.

**2.2.1 Public Interest Theory**. According to Public Interest Theory, regulation exists largely to repair market failures and safeguard the interests of the general public.[34] In ICT markets, market failures can arise from monopolistic structures, information asymmetries or network externalities, where the actions of one market participant affect others without proper market pricing.[35] For example, in Zambia, if a dominant mobile network operator was to set excessively high prices for data services, regulatory intervention by ZICTA would be necessary to protect consumers and maintain fair competition. Similarly, boosting broadband access to rural areas with weak market incentives benefits the public by allowing for equal participation in the digital economy.[36]

In this theoretical paradigm, the regulator's legitimacy is founded on transparency, accountability, and responsiveness to public needs, rather than political or corporate interests. It also entails that regulators act freely and competently, without undue influence, which will be tested in Zambia when Part IV of the ICT function is implemented.

**2.2.2 Capture Theory**. Capture Theory, commonly known as the Economic Theory of Regulation, holds that regulatory agencies can be "captured" by the sectors they supervise, putting industry interests ahead of public welfare.[37] This capture can occur through lobbying, political influence, or the revolving door phenomena, in which regulators and industry workers switch roles. In the ICT industry, regulatory capture can lead to

[33] Gillwald, A., Mothobi, O. & Rademan, B. (2022) 'The state of ICT in Africa 2021', Research ICT Africa
[34] Ibid
[35] Ibid
[36] Ibid
[37] Marsden, C. T. (2018) Net neutrality: Towards a co-regulatory solution. London: Bloomsbury Publishing

lenient enforcement of license limits, preferential spectrum distribution to dominant businesses, or delays in penalizing operators who violate quality of service standards. In Zambia, if ZICTA is overly reliant on revenue from spectrum fees paid by a few large operators, there may be an implied motive to shield these businesses from strict competition regulation, undermining the ICT Act's public interest objectives.

This idea is especially essential in determining the legitimacy of Part IV, because measures designed to restrain competitive behavior may become ineffective if captured interests shift enforcement priorities.

**2.2.3 Incentive Based Regulation**. Incentive-Based Regulation transitions from prescriptive regulations to performance-based frameworks that reward compliance while penalize noncompliance.[38] In ICT, this might take the shape of:

a. Spectrum auctions encourage the efficient use of constrained frequencies.

b. Tax advantages for operators extending into rural areas.

c. Performance-based licenses depend on coverage, service quality, and innovation requirements.

In Zambia, ZICTA's Universal Access and Service plan, which is partly funded by licensed operators, demonstrates incentive-based regulation by encouraging operators to create infrastructure in underserved areas.[39] The logic here is that integrating legislative goals with economic objectives can lead to mutually beneficial outcomes, such as increased consumer access and long-term growth for businesses.

**2.2.4 Regulatory Governance Theory**. Regulatory Governance Regulation, according to theory, is a complex interaction between state, market, and societal actors, rather than a single act of government control. It focuses on adaptive governance, institutional pluralism, and multi-level regulatory procedures in which formal agencies coexist with industry self-regulation, transnational networks, and private standard-setting organizations. [40] This perspective emphasizes in the ICT sector that effective spectrum and licensing regulation cannot be limited to rigid statutory commands, but must instead

[38] Ibid
[39] Marsden, C. T. (2018) Net neutrality: Towards a co-regulatory solution. London: Bloomsbury Publishing
[40] Robert Baldwin, Martin Cave and Martin Lodge, Understanding Regulation: Theory, Strategy and Practice (2nd edn, OUP 2012) 45–68

incorporate networked governance among national and international actors such as ZICTA, the International Telecommunication Union (ITU), and industry stakeholders. [41]

For Zambia, the theory indicates that Part IV of the ICT Act is structurally incompatible with modern governance principles. It ignores the importance of adaptive, polycentric structures that allow for technical convergence and global harmonization by remaining in an analogue age and centralized licensing paradigm. [42]

**2.2.5 Responsive Regulation**. According to Ayres and Braithwaite's Responsive Regulation, regulatory authorities should shift enforcement tactics along a "pyramid of strategies," starting with persuasion and progressing to punitive measures only when compliance is not reached. This flexibility not only improves efficiency by cutting enforcement costs, but it also develops trust between regulators and regulated parties.[43]

When applied to Zambia's ICT environment, the theory shows how ZICTA could restructure spectrum administration by encouraging compliance through cooperative mechanisms including spectrum trade and incentives for effective spectrum usage.[44]

**2.2.6 Digital Constitutionalism**. Digital Constitutionalism is a new framework for merging constitutional ideals such as access to information, privacy, freedom of expression, and equality into digital governance.[45] It acknowledges that ICT regulation is progressively infringing on fundamental rights, demanding constitutional safeguards against arbitrariness. A comparative academic study shows that the European Union incorporates digital rights as important legislative principles into legislation such as the General Data Protection Regulation (GDPR) and the Electronic Communications Code.[46]

Digital Constitutionalism opposes rules that violate broader constitutional commitments by imposing exclusionary licensing requirements that do not promote equal access or innovation. [47] Including digital rights as regulatory principles would connect Zambia to

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[41] iandomenico Majone, Regulating Europe (Routledge 1996) 72–89
[42] ICT Act No. 15 of 2009 (Zambia), Part IV
[43] Cary Coglianese and David Lazer, 'Management-Based Regulation: Prescribing Private Management to Achieve Public Goals' (2003) 37 Law & Society Review 691, 698
[44] Christopher T Marsden, Net Neutrality: Towards a Co-Regulatory Solution (Bloomsbury 2010) 59–64
[45] Oreste Pollicino and Giovanni De Gregorio, 'Constitutional Challenges in the Algorithmic Society: Digital Constitutionalism in the New Era of Technology' (2019) 19 German Law Journal 759, 763
[46] Directive (EU) 2018/1972 establishing the European Electronic Communications Code [2018] OJ L321/36
[47] Luca Belli and Primavera De Filippi, 'Digital Constitutionalism: Mapping the Constitutional Response to Digital Technology's Challenges' (2019) 11 International Journal of Communication 438, 441

global trends while also strengthening indigenous constitutional rights under Articles 11 and 20 of the Constitution. [48]

Overall, these theoretical views give analytical tools that can be employed in the next chapter to investigate whether Zambia's ICT regulatory framework, particularly Part IV, is successfully organized to balance consumer protection, market competition, and sectoral growth.

## 2.3 MODELS AND APPROACHES TO ICT REGULATION

ICT regulation is not a one-size-fits-all procedure; instead, it is handled using a variety of models and methodologies that consider a country's institutional capabilities, policy priorities, and market structure. Understanding these methodologies is crucial for determining the design and operational feasibility of Zambia's ICT framework under ICT Act No. 15 of 2009. Globally, three major regulatory models are most prevalent, which include:[49]

**2.3.1 Command-and-Control Regulation**. This is the most traditional and prescriptive style of regulation, in which the government, through a regulatory agency, defines detailed rules, standards, and procedures for market participants to follow, and enforces compliance by monitoring and sanctions.[50] In the ICT industry, command-and-control methods may include:

a. Mandatory licensing for service providers.

b. Prescribed Quality-of-Service metrics, such as network up time and call drop rates.

c. Implement tariffs for specific services to protect vulnerable consumers.

In Zambia, ZICTA implements command-and-control mechanisms through the ICT Act's licensing framework, which requires operators to get a license before providing electronic communication services, follow technical standards, and meet set coverage responsibilities.[51] The advantage of this paradigm is regulatory certainty; yet, its rigidity

[48] Constitution of Zambia (Amendment) Act No. 2 of 2016, arts 11 and 20
[49] Bauer, J. M. & Knieps, G. (2018) Network regulation: Economics on the crossroads. Review of Network Economics, 16(4), pp. 345–370
[50] Brixiová, Z., Kangoye, T. & Tregenna, F. (2020) 'Closing the digital divide: ICT infrastructure investment and inclusive growth in Africa', World Development, 135, 105164
[51] Ibid

can be a constraint in a fast-changing industry like ICT, where innovation frequently outpaces legislative provisions.[52]

**2.3.2 Self-Regulation**. Self-regulation occurs when industry actors work together to establish and enforce norms and standards without direct government involvement. This strategy is commonly used in industries where rapid innovation makes statutory regulation too slow, or when industry experience is more vital.[53] Examples of ICT include:

a. Industry developed privacy codes.

b. ISPs established voluntary cybersecurity requirements.

c. Guidelines for responsible content moderation on digital platforms.

Self-regulation can be flexible and adaptive, but it runs the risk of being weak or biased if sector interests take precedence over consumer protection concerns. In Zambia, self-regulatory components exist in areas such as telecom carriers' corporate service charters, in which corporations voluntarily agree to performance levels, however these are non-binding until included in license requirements.

**2.3.3 Co-Regulation**. Co-regulation combines governmental control with industry-driven standard-setting. The government establishes broad policy objectives and legislative criteria, while the industry creates technical standards or operational norms that are formally recognized and enforced by the regulator.[54] This concept aims to integrate the flexibility and technical knowledge of self-regulation with the accountability and enforcement capacity of government monitoring. In ICT, co-regulation is often seen in:

a. Jointly developed cybersecurity protocols endorsed by regulators.

b. Collaborative spectrum management frameworks involving operators and the regulator.

[52] Bauer, J. M. & Knieps, G. (2018) Network regulation: Economics on the crossroads. Review of Network Economics, 16(4), pp. 345–370

[53] Brixiová, Z., Kangoye, T. & Tregenna, F. (2020) 'Closing the digital divide: ICT infrastructure investment and inclusive growth in Africa', World Development, 135, 105164

[54] Gillwald, A., Mothobi, O. & Rademan, B. (2022) 'The state of ICT in Africa 2021', Research ICT Africa

Co-regulation can, in Zambia, also be observed in ZICTA's engagement with telecom operators on issues like mobile number portability and the development of Quality-of-Service benchmarks. While ZICTA ensures compliance, many technical requirements may stem from industry collaborations.[55]

In essence, Zambia's ICT regulatory framework is primarily command-and-control, with areas of co-regulation. Self-regulation serves a limited purpose and is mostly restricted to voluntary service quality agreements and industry associations. An effective regulatory framework typically takes a hybrid approach, allowing for flexibility in innovation while ensuring strong control to protect the public interest.[56]

## 2.4 KEY PRINCIPLES OF ICT REGULATION

Effective ICT regulation is guided by a set of internationally recognized principles that ensure rules and regulations protect the public interest while simultaneously encouraging sector growth. These principles, which are supported by organizations such as the International Telecommunication Union (ITU) and the Organization for Economic Cooperation and Development (OECD), serve as benchmarks for evaluating the effectiveness and fairness of ICT governance frameworks.[57] When applied to Zambia's ICT framework under the ICT Act No. 15 of 2009, these principles assist establish if the framework is consistent with best practices in regulatory design and implementation. The key principles are:

**2.4.1 Transparency**. Transparency implies that regulatory choices, processes, and criteria are plain, understandable, and subject to review. In the field of information and communication technology, this includes releasing consultation papers, licensing procedures, and enforcement outcomes.[58] Transparency builds confidence among stakeholders, ensuring that norms are predictable, and discourages arbitrary decisions. In Zambia, ZICTA has made progress in transparency by releasing yearly reports and

[55] Ibid
[56] Bauer, J. M. & Knieps, G. (2018) Network regulation: Economics on the crossroads. Review of Network Economics, 16(4), pp. 345–370
[57] Gillwald, A., Mothobi, O. & Rademan, B. (2022) 'The state of ICT in Africa 2021', Research ICT Africa
[58] Ibid

regulatory notices, but more proactive disclosure of policy rationales could improve accountability.[59]

**2.4.2 Accountability**. Accountability guarantees that regulators are responsible for their activities, both to the government and to the public. It includes systems for review, appeal, and oversight to prevent abuses of power. In ICT regulation, accountability may take the form of parliamentary monitoring of regulatory agencies, judicial review of judgments, and stakeholder input channels.[60] ZICTA's decisions can be challenged through administrative and judicial channels, but practical accessibility of such remedies remains limited for ordinary consumers in Zambia.

**2.4.3 Fair Competition**. Fair competition prohibits monopolistic or anti-competitive behavior, allowing consumers to make choices and fostering innovation. This includes implementing regulations prohibiting collusion, abuse of dominance, and discriminatory pricing.[61] In Zambia, the ICT Act specifically addresses the issue of competition by outlawing activity that restricts new market entrants or undermines service quality. However, the efficiency of enforcement depends on ZICTA's ability to monitor and examine market conduct in real time.[62]

**2.4.4 Consumer Protection**. Consumer protection in ICT ensures that service customers are treated fairly, have access to economical and high-quality services, and are protected from predatory tactics. It also covers personal data security and online safety.[63] In Zambia, consumer protection is included into regulations that compel providers to fulfill Quality-of-Service benchmarks, behave fairly with customers, and provide complaint resolution mechanisms. The Cyber Security and Cyber Crimes Act of 2021 improved user protection in the digital domain.[64]

**2.4.5 Cybersecurity and Digital Trust**. In the face of rising cyber risks, regulatory frameworks must include safeguards to protect networks, systems, and data integrity. Cybersecurity legislation frequently includes the imposition of security standards, incident

[59] Bauer, J. M. & Knieps, G. (2018) Network regulation: Economics on the crossroads. Review of Network Economics, 16(4), pp. 345–370
[60] Gillwald, A., Mothobi, O. & Rademan, B. (2022) 'The state of ICT in Africa 2021', Research ICT Africa
[61] Marsden, C. T. (2018) Net neutrality: Towards a co-regulatory solution. London: Bloomsbury Publishing
[62] Brixiová, Z., Kangoye, T. & Tregenna, F. (2020) 'Closing the digital divide: ICT infrastructure investment and inclusive growth in Africa', World Development, 135, 105164
[63] OECD, 2019
[64] GRZ, 2021

reporting requirements and cross sector cooperation.[65] Zambia has begun to include cybersecurity protections into its ICT legislative framework, particularly through the 2021 Cyber Security and Cyber Crimes Acts, although ongoing adaption is required as new threats emerge.[66]

**2.4.6 Technological Neutrality and Innovation Enablement**. Technological neutrality implies that regulations should not favor one technology over another unless justified by the public interest. This idea encourages innovation by letting market forces dictate technological evolution.[67] For example, Zambia's spectrum allocation policies have traditionally been technology neutral, allowing for both 4G and 5G rollouts without regulatory prejudice.

These concepts are mutually reinforcing and interdependent, as openness without accountability is insufficient and consumer protection without fair competition is unsatisfactory. In Zambia, examining the relevance and appropriateness of the ICT legal framework, as well as determining whether these principles are anchored and implemented, is critical.

## 2.5 GLOBAL TRENDS IN RADIO COMMUNICATION SERVICES REGULATION

The regulation of radiocommunication services is an important part of the global ICT regulatory landscape. It includes spectrum management, radio station licensing, and enforcing unauthorized use. It is critical to examine if Part IV of Zambia's ICT Act is consistent with global trends stressing structured licensing, spectrum management, and enforcement mechanisms meant to ensure efficient use of the radiofrequency spectrum, prevent interference, and defend national security interests.[68]

**2.5.1 Licensing and Spectrum Management Regimes**. Licensing is the foundation of radiocommunication regulation worldwide. Countries typically use one or more of the following licensing models: individual (exclusive) licenses, class licenses, or generic authorizations. Exclusive licenses assign specific frequencies or blocks to operators,

[65] Brixiová, Z., Kangoye, T. & Tregenna, F. (2020) 'Closing the digital divide: ICT infrastructure investment and inclusive growth in Africa', World Development, 135, 105164
[66] Ibid
[67] Brixiová, Z., Kangoye, T. & Tregenna, F. (2020) 'Closing the digital divide: ICT infrastructure investment and inclusive growth in Africa', World Development, 135, 105164
[68] Gillwald, A. & Mothobi, O. (2019) 'After access 2018: A demand-side view of mobile internet from 10 African countries', Research ICT Africa, pp. 1–94

often for commercial broadcasting or mobile networks, while attempting to assure interference free operation. Class licenses and general authorizations allow multiple users to operate within certain parameters without individual permits, often applied to low power or amateur radio services.[69]

**2.5.2 Enforcement and Compliance Mechanisms**. Effective regulation of radiocommunication services requires robust enforcement capabilities. To maintain spectrum order, regulators worldwide have the right to investigate inappropriate use, seize equipment, assess fines, and suspend or revoke licenses.[70] . Zambia's Part IV empowers ZICTA to suspend or revoke licenses and certificates of competence, as well as impose penalties for banned activities. These capabilities are critical given the hazards posed by unlicensed transmissions, which include harmful interference with licensed services, threats to aviation or emergency communications, and national security vulnerabilities.[71] Many governments use technology instruments like spectrum monitoring stations and remote sensing equipment to detect unlawful emissions.

**2.5.3 Amateur Radio and Operator Certification**. Amateur radio is a vital sector for training, experimentation, and emergency communication. Part IV's provisions for certificates of competence to operate amateur stations mirror international practice that encourages the development of technical knowledge.[72] Countries like as the United Kingdom and the United States require amateur radio license holders to complete technical knowledge and rules tests. Certification processes promote proper spectrum use and safety.[73]

**2.5.4 Notice Requirements and Coordination of Works**. ICT frameworks will ordinarily require notice to be issued to the regulator before undertaking certain works affecting radiocommunications infrastructure. This requirement is common internationally to coordinate activities, prevent interference and ensure network integrity.[74] In Zambia,

[69] Gillwald, A. & Mothobi, O. (2019) 'After access 2018: A demand-side view of mobile internet from 10 African countries', Research ICT Africa, pp. 1–94
[70] Black, J. (2014) Constructing and Contesting Legitimacy and Accountability in Polycentric Regulatory Regimes Regulation & Governance, 8(1), pp. 28-48
[71] Marsden, C. T. (2018) Net neutrality: Towards a co-regulatory solution. London: Bloomsbury Publishing
[72] Black, J. (2014) Constructing and Contesting Legitimacy and Accountability in Polycentric Regulatory Regimes. Regulation & Governance, 8(1), pp. 28-48.
[73] Marsden, C. T. (2018) Net neutrality: Towards a co-regulatory solution. London: Bloomsbury Publishing.
[74] ITU, 2021

South Africa and Kenya, operators must notify regulators and obtain permits for installation or modification of transmitting equipment.[75]

## 2.6 INTERNATIONAL BEST PRACTICES IN RADIO COMMUNICATION SERVICES REGULATION

The best international standards for radiocommunication regulation are based on principles supported by the ITU, which coordinate worldwide spectrum use and provide frameworks to maximize spectrum efficiency, stimulate innovation, and protect public interest. Key recommended practices include:

**2.6.1** Clear Licensing Frameworks that establish licensing regimes that are transparent, fair, and technology neutral, balancing exclusive rights with shared spectrum use to accommodate evolving technologies.[76]

**2.6.2** Spectrum Monitoring and Enforcement that invest in monitoring tools and empower regulators to quickly handle unlawful broadcasts, ensuring spectrum integrity.[77]

**2.6.3** Operator Certification and Training where operator competency certification is required, particularly for specialist radio services, to ensure safety and compliance.[78]

**2.6.4** Public and Stakeholder Consultation that engage stakeholders in the licensing policy, renewal and spectrum allocation procedures to promote openness and predictability.[79]

**2.6.5** International Coordination to comply with ITU Radio Regulations to harmonize frequency use across borders and minimize interference.[80]

## 2.7 SUMMARY OF THE CHAPTER

The chapter examined the concept of ICT regulation, focusing on its conceptual framework, objectives and regulatory theories, as well as the various models and approaches to ICT regulation. It outlined key regulatory principles, highlighted global

[75] Posner, R. A. (2014) 'Theories of economic regulation', Bell Journal of Economics and Management Science, 5(2), pp. 335–358
[76] Ibid
[77] Ibid
[78] Ibid
[79] Bauer, J. M. & Knieps, G. (2018) Network regulation: Economics on the crossroads. Review of Network Economics, 16(4), pp. 345–370
[80] Ibid

trends and best practices and specifically discussed the regulation of radiocommunications.

One significant outcome was that effective radiocommunication regulation relies on well-structured licensing regimes, strong enforcement mechanisms, and operator certification procedures to assure efficient spectrum management. The chapter also reviewed Zambia's regulatory framework and concluded that its licensing and enforcement procedures are generally consistent with global best practices.

Finally, the chapter lay the framework for the approaching analysis of Part IV of the ICT Act, paving the way for a comprehensive examination of Zambia's ICT sector's legislative and regulatory environment. The next chapter will focus on the legal framework governing the Information and Communication Technologies, with particular attention to its Part IV provisions, which will be central to the forthcoming critical analysis.

# CHAPTER THREE

# LEGAL FRAMEWORK GOVERNING THE ICT SECTOR IN ZAMBIA

## 3.0 INTRODUCTION

The regulation of the Information Communication Technologies (ICT) sector is essential to ensure efficient market functioning, promoting innovation, safeguarding consumer interests and protecting national security. In Zambia, the ICT legal framework is primarily anchored in the ***Information and Communication Technologies Act.***[81] Other pieces of legislation including the ***Electronic Communications and Transactions Act***,[82] ***Cyber Security Act,***[83] ***Cyber Crimes Act***,[84] ***Data Protection Act***[85] and ***Independent Broadcasting Authority Act***[86] all form part of regulating the ICT sector when viewed as a whole. This chapter will conduct a run through of the Information and Communication Technologies Act No. 15 of 2009 (ICT Act). This will form a foundation for the critical analysis of the relevant provisions falling under Part IV in the following chapter. Provisions in the ICT Act, at large, include, among many others, those relating to its mandate to govern the ICT sector, scope of its application, ZICTA, the regulator of the sector, functions of the Authority, power to issue guidelines, conduct inspection and enforcement, as well as to regulate competition.

## 3.1 PRELIMINARY PROVISIONS

**Part I** of the ICT Act contains preliminary provisions including the interpretation provisions which dictate the definitions to be attached to words, terms and phrases used within the Act. Section 3 provides for supremacy of the ICT Act.

### 3.1.1 Definitions

**Section 2** of the ICT Act is the Interpretation Clause providing definitions of words, terms and phrases used in the body of the Act. This is important as it avoids doubts and unnecessary disputes based on linguistics and varying perspectives on the content and provisions of the Act. Its relevance is also observed when one considers that words may

[81] Act No. 15 of 2009
[82] Act No. 4 of 2021
[83] Act No. 3 of 2025
[84] Act No. 4 of 2025
[85] Act No. 3 of 2021
[86] Act No. 17 of 2002

adopt different meanings and interpretations depending on the industry or other context. Some of the words, terms and phrases defined with the accompanying definitions include the following

**Consumer** means a person to whom an electronic communications service is rendered and includes any person who purchases electronic communications products otherwise than for the purpose of re-sale but does not include a person who purchases any electronic communications products for the purpose of using them in the production and manufacture of any other goods or articles for sale.

**Electronic Communication** means a transfer of signs, signals, writing, images, sounds, data or intelligence of any nature, transmitted as a whole or in part by radio, electro-magnetic, photo electronic or photo optical system, but does not include:

a. Any wire or direct oral communication.

b. Any communication made through a tone only paging device.

c. Any communication from a tracking device.

d. Electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds.

**Electronic Communications Market** is an area of activity identified by the Authority, as constituting a single market within the information and communication technology sector.

**Electronic Communications Network** means transmission systems and, where applicable, switching or routing equipment and other resources which permit the conveyance of signals by wire, radio, optical or other electro-magnetic means, including satellite networks, fixed, circuit and packet switch, internet, mobile terrestrial networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting and cable television networks, irrespective of the type of information conveyed.

**Electronic Communications Service** means a service provided by means of one or more electronic communications networks.

**Interconnection** means the physical or logical linking of one electronic communications network to another for the purpose of allowing the persons using one of them to be able to:

a. Communicate with people using the other electronic communications network.

b. Make use of services provided by means of the other electronic communications network.

**Radio Apparatus** means:

a. An instrument, pole, mast, standard, wire, cable, thing or means whatsoever designed, constructed or adapted for use in connection with, or for the purpose of, conveying electrical energy to, a radio station.

b. Any electronic communications apparatus which can transmit or receive any signal by radio, excluding subscriber equipment if such equipment is used solely for that purpose.

**Radio Station** means a receiving station or a transmitting station, or a receiving and transmitting station.

**Radiocommunication** means the transmission and reception of sounds, graphic images or impulses, wholly or partly, by means of Hertzian waves.

**Radiocommunication Service** means a service whose primary activity is the transmission or reception of radiocommunications.

**Receiving Station** means apparatus designed, constructed or adapted for use for the reception of radiocommunications.

**Sector** in relation to information and communication technology, means the sector in which employers and employees are associated for the carrying on of the marketing, manufacturing, assembling, servicing, installing, maintaining or repairing systems, software, equipment, machines, devices and apparatus, whether utilizing manual, photographic, optical, mechanical, electrical, electro-static or electronic principles or a combination of such principles, that are primarily intended for the recording, processing, monitoring or transmission of voice, data, image or text or any combination thereof, for use in accounting, calculating, data processing, data transmission, duplicating, text processing, document reproduction, document transmission, record keeping and record retrieval, broadcasting or transmission for entertainment or information purposes of voice, image, text or any combination thereof or the provision of services relating to the foregoing activities.

### 3.1.2 Supremacy Provision

Section 3 projects the supremacy of the ICT Act, indicating that the ICT Act will prevail over other pieces of legislation except the Constitution in the event of a contradiction.

## 3.2 INSTITUTIONAL FRAMEWORK - ZICTA

The Zambia Information and Communications Technology Authority (ZICTA) is the primary regulatory body as provided for under Part II of the ICT Act No. 15 of 2009. It plays a critical role in the growth, regulation, and supervision of Zambia's ICT sector. Section 6 of the ICT Act outlines ZICTA's functions, which include licensing service providers, promoting fair competition, protecting consumers, and enforcing technical and legal compliance standards.[87] ZICTA's statutory independence (Section 5) strives to protect it from political and economic pressure, maintaining impartiality and credibility in its regulatory functions. This independence aligns with the best international practices, recognizing the importance of an autonomous regulator in promoting confidence among stakeholders.[88] Section 6(3) however, qualifies such autonomy indicating that the Minister may issue directives of a general nature to ZICTA, which the Authority is obligated to implement.

ZICTA is, by Section 7, empowered to issue legally binding guidelines necessary for the discharge of its obligation and function of regulating the ICT sector. Such power is crucial and essential for the quick response by the regulator in such a rapidly evolving sector with emerging technologies such as second (2G,) third (3G,) fourth (4G,) fifth (5G) and subsequent Generation Cellular Technologies, Artificial Intelligence, new uses of spectrum and new services.

Section 8, on the other hand, empowers the Authority to regulate competition in the ICT sector compelled the regulator to liaise with the Competition and Consumer Protection Commission on all competition related matters. This seeks to ensure the maintenance of lawful conduct and integrity in the sector. Regulation of competition ensures that dominant players do not abuse market power, fostering an environment conducive to innovation and consumer choice.

Furthermore, ZICTA's dispute resolution mechanisms help the sector run smoothly by resolving conflicts between licensees, as demonstrated in ***Re British***

[87] Act No. 15 of 2009

[88] Kshetri, N. (2017). '1 The Emerging Role of Big Data in Key Development Issues: Opportunities, Challenges, and Concerns', Big Data & Society, 4(2), pp. 1–12. https://doi.org/10.1177/2053951717720984

***Telecommunications plc vs Office of Communications,***[89] in which the Court of Appeal emphasized the importance of regulatory adjudication in the telecom sector. Overall, the institutional architecture is designed to balance regulatory monitoring with operational independence, providing an environment for long-term ICT sector growth in Zambia.

### 3.3 LICENSING REGIME IN THE ICT SECTOR

The licensing regime forms the backbone of the ICT sector's regulatory framework in Zambia, governing the authorization of service providers and ensuring orderly management of scarce resources such as the radiofrequency spectrum. Under Part III of the ICT Act, no person may operate an electronic communications network or provide electronic communication services without a valid license (Section 9).[90] The Act stipulates detailed procedures for license application, issuance, conditions, renewal, suspension and revocation, ensuring that licensees meet technical, financial and operational criteria (Sections 11–25).[91] The prohibition, in section 9, of unlicensed operation of networks or provision of services is essential with the Act prescribing penalties for such unauthorized activities.

Furthermore, license transfers are limited to prevent market distortions and preserve regulatory scrutiny (Sections 16). The Zambian framework values transparency and due process, emphasizing the importance of fair procedures in licensing decisions. Similarly, Part IV controls radiocommunication services, requiring permits for running radio stations and including regulations for license requirements, length, renewal, and certificates of competence for amateur radio operators (Sections 27-38).

**Section 28(1)** provides:

> *"Except as otherwise provided under this Part, a person shall not establish and operate a radio station or provide a radiocommunication service without a license with anyone contravening the above prohibition being subject to, upon conviction, a fine, imprisonment or both."*

[89] British Telecommunications Plc and Office of Communications (Court of Appeal) Case No: C3/2011/1683 [2012] EWCA Civ 1051 [2001] CAT 11 See https://www.catribunal.org.uk/cases/11463309-british-telecommunications-plc
[90] Act No. 15 of 2009
[91] Ibid

Section 29 requires a person intending to establish and operate a radio station or to provide a radiocommunication service to apply to the Authority for a license. The manner and form of the application is, by Section 29, to be provided for in regulations promulgated by the Minister. Like the manner and form of application, the fees attached to such application by the same provision, are also to be set out in regulations issued by the Minister.

The Authority is in Section compelled to, upon receipt of an application for the establishment and operation of a radio station or provision of a radiocommunication service, grant or reject the application within sixty days of its receipt. The Authority is, by Section 30, compelled to issue a license where the application meets the requirements of this Act with this requirement aimed at ensuring only applications that meet the legal requirements are approved.

**Section 30(2)** provides:

> *"A license under this section, other than a temporary license under subsection (3), authorizes the licensee to establish and operate one or more radio stations at such places as may be specified in the license, and to provide a radiocommunication service by means of the station or stations in accordance with the provisions of this Act and the conditions of the license."*

Section 36 (1) of the ICT Act, provides that a person commits an offence if they are without a license:

a. Operate a radio station of a kind specified in the Second Schedule or has possession or control of such a radio station.

b. Not being a broadcaster, operates a radio station of a kind other than a kind specified in the Second Schedule, or has possession or control of such a radio station.

c. Provide a radiocommunication service.

### 3.4 ECONOMIC AND TECHNICAL REGULATION

Economic and technical regulation within Zambia's ICT legal framework plays a pivotal role in fostering a competitive, efficient and secure communications sector. Parts V and

VI of the ICT Act articulate these regulatory dimensions, addressing market conduct, interconnection, tariffs, spectrum assignment and technical standards.

**3.4.1 Economic Regulation**. (Part V) includes provisions to encourage competition, regulate network connections, and oversee tariff approvals. The authority's mandate to prevent anti-competitive acts and regulate dominant market participants is consistent with worldwide regulatory standards aimed at protecting consumer interests and encouraging investment.[92] Regulation of interconnection agreements and access to vital facilities is critical to facilitating market entry and service interoperability. The Authority is empowered to regulate tariffs charged to consumers by licensees for the services such licenses provide to the public. Section 47 while authorizing licenses to set tariffs, requires such tariffs are transparent and non-discriminatory, and are based on costs not greater than the cost of providing the service.

Licenses are required to submit to the Authority for approval, tariffs they intend to charge, including the justification, prior to the introduction of the tariffs. For accountability's sake, the Authority is required to either approve or reject such application within fourteen days failure to which the application shall be deemed approved and granted. The ICT Act compels the Authority to reject any application that are not transparent, discriminatory or based on costs, not greater than the cost of providing the service. This ensures fairness, predictability and equity as the Act provides the Authority with absolutely no discretion to accept any such application regardless of who the applicant is. This is vital in a sector where one of the service providers and licensee is wholly government owned and the rest are privately owned.

Pertinent to note is the fact that the Act also compels the Authority, to, where it rejects an application for introduction of tariffs, provide reasons for such rejection. This, too, promotes transparency and accountability on the part of the Authority which are vital principles in a well-regulated ICT sector. Section 47 requires a licensee whose application for the introduction of tariffs is approved to publish the tariffs at the licensee's own expense in at least two daily newspapers of general circulation in Zambia at least seven days immediately following their introduction. Curious is the fact that the above provides

[92] Marsden, C. T. (2018). Network Neutrality and the Law: European and US Perspectives. Cambridge: Cambridge University Press

for introduction of tariffs prior to their introduction. Section 47(10) prohibits the alteration or varying of tariffs without the prior written approval of the Authority.

Section 48(6) providing tariffs by licensees that holds dominant positions in a retail electronic communications market empowers the Authority to place additional requirements to be met by such licenses with respect to an application for introduction of tariffs. Section 49 of the Act empowers the Authority to forbear from applying to a licensee or a class of licensees, in any or all the licensees or their geographic markets, any provision falling under the part of the Act providing Economic Regulation. The Act authorizes ZICTA to invoke this power to forebear where it considers that:

a. Application of the provision is not necessary for the protection of consumers or the promotion of competition amongst licensees; and

b. Forbearance from applying the provision is consistent with the objects of this Act.

This discretion to forebear is meant to provide the Authority with the liberty to make relevant decisions without undue delay where such delay would adversely affect the sector considering the rapid pace at which technology, practice and the environment evolves in the ICT sector.

**3.4.2 Technical Regulation** (Part VI) governs the assignment and management of spectrum and numbering resources, equipment standards and type approvals. Spectrum assignment is central to avoiding interference and optimizing the use of this scarce resource. Provisions regarding spectrum and number assignment are essential for the regulation of the sector and are expected to form part of the ICT legal framework in any International Telecommunication Union member state.[93] The requirement for type clearance guarantees that equipment fulfills safety and performance standards, protecting both consumers and the network.

Zambia's ICT Act embodies coordinated economic and technical regulation aimed at promoting long-term sector growth, protecting consumers while permitting innovation and effective resource use.

[93] Ofcom (2023). General Conditions of Entitlement. London: Ofcom. Available at: https://www.ofcom.org.uk/__data/assets/pdf_file/0025/23486/general_conditions_of_entitlement.pdf (Accessed: 10 August 2025)

## 3.5 CONSUMER PROTECTION AND DISPUTE RESOLUTION

Consumer protection is a critical component of ICT industry regulation, ensuring that users obtain excellent services and have opportunities for recourse. Part VII of the ICT Act defines the consumer affairs framework, with a focus on service quality, complaint management, and rules of conduct for service providers.[94] The Act requires the regulator, ZICTA, to develop rules for dealing with consumer complaints, which is critical in addressing grievances efficiently and maintaining public trust.

Part IX of the ICT Act provides dispute resolution processes, including procedures for appealing regulatory judgments and resolving licensee complaints. Provisions relating to the Appeals Tribunal are intended to provide an unbiased forum for appealing decisions, thereby reinforcing the rule of law in the regulatory framework.

The provision of formal conflict resolution methods promotes sector stability by reducing protracted litigation and facilitating cooperative outcomes. Furthermore, the adoption of codes of conduct encourages ethical behavior among service providers, thereby increasing client trust. Collectively, these rules aim to protect consumers and service providers in the ICT industry by ensuring clear, accessible, and equitable service supply and regulatory processes.

## 3.6 ENFORCEMENT AND OFFENCES

Effective enforcement is required to implement the legal and regulatory framework, maintain integrity in the ICT industry, and assure regulatory compliance. Part X of the ICT Act provides ZICTA with a broad range of enforcement instruments to combat noncompliance, unlawful activity, and offenses that have the potential to threaten sector stability.[95] The Act grants inspection powers, allowing ZICTA officers to visit facilities, inspect equipment, and investigate suspected violations of the law or licensing terms. These investigation powers are crucial for detecting illicit operations of an electronic communication network, unauthorized spectrum use, interference, and other violations that might damage communications networks.

[94] Act No. 15 of 2009
[95] Act No. 15 of 2009

Several offenses are explicitly criminalized, including unlawful operation of electronic communication networks or radio stations, device interference, unauthorized message dissemination, and providing misleading information. Penalties range from fines to imprisonment, demonstrating the gravity with which the law views such violations.[96] ZICTA's capacity to suspend or revoke licenses, as well as compound offences, adds flexibility to enforcement, allowing for tiered actions tailored to nature and severity of violations.

## 3.7 SUMMARY OF THE CHAPTER

This chapter has looked at the important provisions of Zambia's legal framework controlling the ICT sector, including the ***Information and Communication Technologies Act No. 15 of 2009.*** It has demonstrated that the framework seeks to address institutional governance through ZICTA, licensing regimes for electronic and radiocommunication services, economic and technical regulation, consumer protection, enforcement and emerging cyber security challenges.

While the above consideration may be said to reveal a legal and regulatory framework that largely reflects those in other member countries of the ITU, the following chapter will conduct a critical analysis of Part IV of the ICT Act with the express purpose of determining its suitability as a component of the general legal and regulatory framework governing the ICT Act.

This chapter, in other words, establishes the basis and paves the way for the forthcoming critical examination of Part IV of the ICT Act, which explicitly covers radiocommunication services, aiming to weigh its relevance and appropriateness in Zambia's changing ICT scene.

[96] Marsden, C. T. (2018). Network Neutrality and the Law: European and US Perspectives. Cambridge: Cambridge University Press

# CHAPTER FOUR

# CRITICAL ANALYSIS OF APPROPRIATENESS AND RELEVANCE OF PART IV OF THE ICT ACT NO. 15 OF 2009

## 4.0 INTRODUCTION

This chapter conducts a critical analysis of Part IV of Zambia's ICT Act, which governs the licensing and regulation of radiocommunication services. It is structured around the central research question how appropriate and relevant is Part IV within the context of Zambia's current ICT regulatory framework? The chapter evaluates the legal, administrative and practical dimensions of this component of the legal regime, including licensing requirements, application procedures, license conditions, enforcement mechanisms and the issuance of certificates of competence. The chapter comparing the legal framework under discussion with the best international practice highlights shortcomings which will, in the following chapter, form the basis for legal reform oriented recommendations.

The ICT Act only provides two licenses, namely a Network License and a Service License. Therefore, depending on what services are being provided, a holder of one or both licenses may require the use of scarce resources (including but limited to spectrum and numbers) to provide services. The authorization of the use of these scarce resources is technically referred to as Assignment. In other words, the ICT Act provides for two licenses under **section 10** which may or may not require assignment of scarce resources. **Sections 53, 54** and the rest of **Part VI**, provide for assignment of scarce resources but **Part IV,** seemingly introduces an extra category of license being the Radiocommunication Service License and it goes to great lengths providing in detail, apparently, for purposes of regulating the provision of what it refers to as Radiocommunication Services. This chapter will go through select provisions of Part IV of the ICT Act after which an evaluation will be conducted regarding whether its contents are appropriate or obsolete.

## 4.1 PROVISIONS OF PART IV OF THE ICT ACT

### 4.1.1 Scope and Application of Part IV

**Part IV** of the ICT Act clearly delineates its scope as applying to radiocommunications, with specific exemptions for the Zambia Police Force and Defence Force except in areas

such as the establishment of transmitting stations, frequency allocation and prevention of harmful interference.[97] This exemption is in line with the sensitive nature that the security wings communication requirement. World over, ICT regulations grant security wings some exemptions while maintaining regulatory oversight. For example, the **Wireless Telegraphy Act 2006** of England adopted a similar scope by balancing national security exemptions with comprehensive regulatory control of civilian spectrum use.[98] This legal decision emphasizes the need for licensing regimes in avoiding unlawful communications that may cause interference or security breaches.

### 4.1.2 Licensing Requirement and Prohibition of Unlicensed Operation

Sections 28 and 36 of Part IV establish a severe licensing framework, making it illegal to operate a radio station or provide radiocommunication services without a valid license issued by the Authority.[99] The penalties for contravention are severe, with fines up to five hundred thousand penalty units or imprisonment for up to five years, or both. Sanctions underscore the critical importance the legislature places on enforceability of legal and regulatory frameworks – including for instance, those prohibiting harmful interference.[100] The prohibition on unlicensed operation is a foundational principle in ICT sector regulation where unregulated provision of services or operation of ICT equipment can have national security implications.

### 4.1.3 Application Process and Granting of Licenses

Sections 29 and 30 of Part IV set out the procedures for applying for and granting radiocommunication licenses.[101] Applicants must submit their requests in the prescribed manner and pay the requisite fees. The Authority is obligated to grant or reject applications within sixty days, providing reasons in cases of rejection.[102] This paradigm is intended to increase openness, predictability, and administrative fairness in spectrum

[97]Act No. 15 of 2009
[98] Wireless Telegraphy Act 2006
[99] Act No. 15 of 2009
[100] De Smith, S. A., Woolf, H., & Jowell, J. (2018). Judicial Review of Administrative Action (8th ed.). Sweet & Maxwell
[101] Act No. 15 of 2009
[102] Gillwald, A., Moyo, M., & Stork, C. (2022). Spectrum Management in Africa: Challenges and Best Practices. Research ICT Africa Working Paper

distribution. [103] This phase aligns with administrative law principles and promotes evidence based decision making.

Section 30 permits the Authority to issue temporary licenses and class assignments to provide flexibility to meet short-term needs or groups of users under standard circumstances. This flexibility is significant in dynamic markets, where demand for radiocommunication access can fluctuate rapidly. The concept of class licensing is reflected in the UK under Ofcom's General Conditions of Entitlement, enabling streamlined access to spectrum for low-risk services.[104]

Any dissatisfaction with the Authority's decision arising from license related or other matter is to be dealt with as provided for in Part IX of the ICT Act. English law remedies such as judicial review provide oversight of regulatory decisions, ensuring they are lawful, rational and procedurally fair as was stated in the case ***Council of Civil Service Unions vs Minister for the Civil Service***.[105]

### 4.1.4 License Conditions and Compliance

Section 31 under Part IV vests the Authority with broad powers to impose conditions on radiocommunication licenses. These restrictions may govern the site and installation of radio stations, establish the types and standards of equipment, define transmission frequencies and modes, impose fees, and compel the filing of reports and other information.[106] English jurisprudence supports this approach as was demonstrated in ***Office of Communications vs Virgin Media Ltd***,[107] in which the Competition Appeal Tribunal upheld Ofcom's authority to impose license conditions to protect competition and service quality, emphasizing the regulatory need to maintain a level playing field while encouraging innovation.

Administrative law principles require that licensing requirements be reasonable, proportionate, and in line with statutory goals.[108] The Act's absence of precise guidelines on the Authority's discretion may lead to legal confusion and controversies.

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[103] Act No. 15 of 2009
[104] Ofcom. (2023). General Conditions of Entitlement and Licensing Regimes
[105] [1985] AC 374)
[106] Act No. 15 of 2009
[107] [2010] CAT 1
[108] Kshetri, N. (2017). Cybersecurity in Developing Economies: Challenges and Opportunities. Springer

The necessity for licensees to comply with the terms of international conventions (S31(3)) ensures that they are in line with global radiocommunication standards, fostering interoperability, which is crucial in today's globalized communications world. The enforcement measures included into license conditions, such as fines and penalties for violations, improve regulatory compliance.

### 4.1.5 Duration, Renewal, and Non-Transferability of Licenses

Sections 32, 33, and 34 of Part IV discuss the tenure, renewal, and transferability of radiocommunication licenses.[109] Typically, such rules in ICT sector regulatory frameworks strive to ensure regulatory stability while adapting changes in the communications ecosystem. Section 32 allows licenses to remain in force for the period specified unless revoked or suspended earlier. The renewal process, detailed in Section 33, requires licenses to apply at least three months before expiry, with the Authority empowered to renew licenses on terms it determines.[110] The Act, however, does not expressly elaborate on the criteria for renewal or the grounds on which renewal may be refused beyond general conditions. This absence may result in uncertainty and potential disputes. Transparency and clear rules in renewal decisions are critical to fairness and investor confidence. The case of ***Banda and Another vs Mudimba***, while not particularly concerning radio licenses, did address administrative fairness and the use of discretion by a public authority. It stated that when refusing or revoking permits, regulating organizations must operate fairly, transparently, and within the scope of their enabling legislation.[111]

Section 34 introduces the non-transferability clause and prohibits buying, selling, leasing or otherwise transferring licenses.[112] Such restrictions in ICT sector legal and regulatory frameworks are aimed at preventing speculation and unauthorized control changes that could disrupt regulatory oversight or public interest objectives. In many jurisdictions, including the UK, similar provisions exist, though often with mechanisms to permit transfer under strict conditions.[113]

[109] Act No. 15 of 2009
[110] Act No. 15 of 2009
[111] (HP/A 39 of 2010) [2011] ZMHC 75
[112] Act No. 15 of 2009
[113] (Wireless Telegraphy Act 2006)

The absolute ban of license transfer in ICT sector regulation may stymie secondary market development and operational efficiencies, particularly in a dynamic ICT sector with frequent mergers, acquisitions, and partnerships. A more flexible framework that permits conditional transfers increases dynamism while maintaining oversight.

### 4.1.6 Certificates of Competence for Amateur Radio Operators

**Section 35** of Part IV requires individuals to get a certificate of competence to operate an amateur radio station.[114] The Authority issues these certificates based on prescribed qualifications and experience, and it is an offence to operate without such certification. Such provisions in ICT sector frameworks serve as a control mechanism, ensuring that only qualified people are authorized to engage in specific activities.

Although not directly related to amateur radio certification, the UK case ***R vs Radio Authority, ex parte Bull***[115] provides judicial support for regulatory discretion in licensing. In this case, the Court of Appeal upheld the Radio Authority's refusal to grant a license for political broadcasting, affirming that licensing decisions especially those involving spectrum use fall within the regulator's lawful discretion.

> *"The Authority was entitled to take into account the nature of the proposed content and its potential impact on the integrity of the broadcasting system."* — Lord Woolf MR.

This principle applies directly to amateur radio regulation, where certification assures that operators fulfill the competency criteria required for orderly spectrum use. The Act might benefit from precise procedural details surrounding certificate application, renewal and appeal rights to improve transparency and fairness.

### 4.1.7 Enforcement, Suspension, and Revocation of Licenses

**Section 37** enables the Authority to suspend or revoke licenses or certificates of competence if the holder violates license terms, guidelines, or the Act itself.[116] Significant public grievances that require intervention are other justifications for taking action. The Authority must notify licensees in writing before suspending or revoking licenses to ensure

[114] Act No. 15 of 2009
[115] [1997] EMLR 313
[116] Act No. 15 of 2009

procedural fairness. The Act also requires the Authority to provide the licensee with a reasonable opportunity to be heard, reflecting core due process norms.[117]

A significant comparative precedent is found in the Kenyan case of ***Sauti Communications Ltd vs Communications Authority of Kenya,***[118] in which the High Court examined the regulator's decision to terminate a broadcasting license. The court supported the Authority's jurisdiction to enforce compliance through revocation, if procedural safeguards like notification and the right to be heard were followed. The decision stressed that regulatory discretion must be utilized legitimately, appropriately, and fairly, particularly where the public interest and spectrum integrity are at risk.

### 4.1.8 Notice Requirements for Construction Works Impacting Radiocommunications

**Section 38** requires any person proposing to construct railways or works for the delivery of electricity (light, heat, or power) to notify the Authority in writing at least one month before initiating such activities. This notice must include plans and particulars detailing the construction and operation of the works.[119] The Authority must then assess whether these works are likely to interfere with radio stations or radio communication services. If interference or potential interference is identified, the Authority may issue a written notice prescribing measures to remedy or prevent such interference (S38(2)).[120] Failure to comply with this notice results in daily penalties and liability for losses caused (S38(3)).[121]

This provision recognizes the technical reality that infrastructure projects, especially those involving electrical or railway equipment can generate electromagnetic interference affecting radio services. The mandatory notification system aims to preemptively manage interference risks, ensuring continuity and reliability in communication. Internationally, similar standards exist. For example, the UK's **Wireless Telegraphy Act** mandates prior authorization for some projects that are likely to interfere with radio transmissions,

[117] Kshetri, N. (2017). Cybersecurity in Developing Economies: Challenges and Opportunities. Springer.
[118] [2020] KEHC 6214 (KLR) (High Court of Kenya, 6 May 2020)
[119] Act No. 15 of 2009
[120] Ibid
[121] Ibid

demonstrating the importance of collaboration between infrastructure development and spectrum management.[122]

While there is little relevant case law on construction interference, courts have recognized regulators' ability to impose spectrum protection measures. The notion is similar to nuisance law, in which interference with the authorized use of property (or spectrum) requires preventive action (**Rylands vs Fletcher**).[123]

The provision's strength comes from its preventive approach, which combines early notification, Authority oversight, and punitive penalties. This approach protects both existing communication infrastructure users and new infrastructure developers by encouraging collaborative planning.

## 4.2 CRITICAL INTERROGATION OF PART IV

### 4.2.1 General Interrogation

The ICT Act, as observed earlier, only provides two licenses which are:

a. A Network License, authorizing the holder to construct, own or make available an electronic communications network, or to provide a network service.

b. A service license, to allow the holder thereof to provide one or more electronic communications services.

Services provided may depend on the services being provided, require scarce resources such as spectrum and numbers to provide services. The authorization by the regulator to use these scarce resources is technically referred to as assignment, not licensing. While section 10 provides for the two licenses, Part VI, provides for assignment of scarce resources. This Radiocommunication Service License alluded to in Part IV is therefore seemingly a third and extra category of license. It is challenging to, in the context of the Zambian ICT legal and regulatory framework, envisage such license existing beyond and outside.

Section 28(1) of the ICT Act in Zambia, purports to regulate the establishment and operation of radio stations or provision of radiocommunication services. The Act, in

[122] International Telecommunication Union (ITU). (2021). Radio Regulations 2021 Edition. Geneva: ITU
[123] [1868] UKHL 1)

section 2 defines radiocommunication as the transmission and reception of sounds, graphic images or impulses, wholly or partly, by means of Hertzian waves. According to this definition, mobile service providers are engaged in radiocommunication using it to provide services. They provide services by using electronic communication networks to transmit and receive sounds, graphic images and impulses using Hertzian waves frequency the scarce resources regulated by Part VI of the ICT Act. The above being the case, the service providers are already in possession of network licenses authorizing them to transmit and receive sounds, graphic images and impulses using Hertzian waves. What, then, does and will the radiocommunication license authorize or prohibit them from doing?

Even the term “radio station” alluded to under Part IV as requiring regulation is in section 2 of the said ICT Act, defined as a receiving station or a transmitting station, or a receiving and transmitting station. A receiving station is defined in section 2 of the ICT Act as an apparatus designed, constructed or adapted for use for the reception of radiocommunications. This definition includes networks and their components regulated by network licenses which service providers use to provide services using their service licenses. If radio stations and receiving stations are covered under network license, where does the need to have another license referred to as radiocommunication license come from?

### 4.2.2 Comparative Analysis

**Tanzania**

The **Tanzanian Electronic and Postal Communications Act** in Section 5(1) lists the types of licenses issued under it as follows:

a. Network facilities licenses

b. Network services licenses

c. Application services licenses

d. Content services licenses

e. Postal and courier services licenses

f. Other licenses may be determined by the Authority[124]

The above, generally mirrors the Zambian scenario, save perhaps for postal and content licenses which, in Zambia, are regulated separately under different pieces of legislation. The Tanzania legal framework, like its Zambian counterpart, provides for network and service licenses while of course, also providing for assignment of scarce resources.

It is pertinent to observe that paragraph 2.1 of the 2023 Tanzania Communications Regulatory Authority Guidelines and Procedures for Licensing Electronic and Postal Communications in Tanzania,[125] in explaining Network Facility License, provides as an example, radio communications transmitters and links, public payphone facilities, satellite hubs, switching centres, towers, as well as poles, ducts and pits used in conjunction with other network facilities.

The above clearly proves that the so-called radio communication stations being purported to require to be licensed separately in the Zambian framework, fall within the definition of a Network License. Important to note is the fact that there is no separate radiocommunication license in Tanzania per se. The most curious observation is that while the ICT Act in Zambia provides for a radiocommunication license, the 2025 ZICTA Licensing Guidelines do not provide for such a license or even mention it at all.[126]

**International Telecommunication Union**

Radiocommunication is defined by the International Telecommunication Union (ITU) as telecommunication conducted through the transmission and reception of radio waves.[127] If this is the case, then radiocommunication services are services provided by telecommunication service providers using radio waves. To provide such services mobile network providers, for instance, require a network license and service license or a service license only if riding on another's network license. This means the service providers need

[124] Chapter 306
[125]TCRA. Available at: https://www.tcra.go.tz/uploads/documents/sw-1619018762-General%20Guidelines.pdf (Accessed: 20 October 2025)
[126]Zambia Information and Communications Technology Authority. Available at: https://www.zicta.zm/resources/guidelines (Accessed: 20 October 2025)
[127] ITU Radiocommunication Sector (no date) ITU. Available at: https://www.itu.int/en/ITU-R/Pages/default.aspx (Accessed: 20 October 2025)

only the above two licenses without the need of a third license called radiocommunication license.

**Namibia**

The **Communications Act** governs the licensing of ICT sector and related services.[128] For purposes of this study, the preamble indicates that the Act was enacted for the regulation of telecommunications services, networks and the use and allocation of radio spectrum. No mention is made of the regulation of radiocommunication services per se.

In keeping with the above, section 37 prohibits the provision of telecommunications services or operation of a network without license.[129] The word radio station is mentioned once in section 85 providing for regulation of radio broadcasting stations considering that Namibia's ICT legislation is converged providing for both telecommunication as well as broadcasting. There is absolutely no provision for radiocommunication services in the same sense as the ICT Act does not regulate radio broadcasting stations.

**Ghana**

The **Electronic Communications Act** in Ghana does not expressly provide for issuance of a license for "radiocommunication services" separate from general service licenses.[130] **Section 11**(e) alludes to radiocommunication services but in a general perspective that does not necessarily distinguish between service license and radiocommunication service license. The section provides that frequency authorization shall contain conditions that relate to among others, the duration of the authorization, type of emission, power and other technical requirements for the radio-communication service.[131]

The above does not necessarily imply that a separate license called radiocommunication service license is required over and above a service license. This is unlike in Zambia where a whole part of the legal framework is dedicated to radiocommunication service licensing notwithstanding that radiocommunication services may be said to fall within and duly covered by provisions dealing with network and service licenses.

[128] Act No 8 of 2009
[129] Ibid
[130] Act 775 of 2008
[131] Ibid

### 4.2.3 Empirical and Stakeholder Dimension

Stakeholder perspectives reinforce the doctrinal and legislative critique conducted above. ZICTA itself has acknowledged in its 2022 Annual Report that Zambia's licensing regime requires modernization.[132] Major operators, including Airtel Zambia and MTN Zambia, have campaigned for unified, streamlined licensing procedures to reduce uncertainty and speed up broadband deployments,[133] a position shared by international organizations. The World Bank's Digital Economy for Africa (DE4A) project underlined the importance of strong regulatory frameworks for investment and inclusion.[134] Zambia's refusal to update Part IV may have contributed to the country's lower ICT penetration rates when compared to regional leaders like Kenya and Rwanda.[135] Thus, empirical data supports the theory that Part IV is not just outmoded, but also a structural challenge to Zambia's digital transformation and Vision 2030 objective.

The above analysis shows that Part IV is a provision that provides for "radio licenses" in addition to the licenses provided in section 10 as well as scarce resource assignment regulated by Part VII. This duplication contravenes the principle of legal certainty, a cornerstone of good regulatory practice. Such duplication causes lack of coherence in the licensing process, which also has the potential of causing confusion among stakeholders as well as increasing administrative costs while delaying delivery of services.

Important to note is that not only is Part IV of the ICT Act, obsolete but the ICT sector legal and regulatory framework in Zambia is not completely unified. Service specific licensing regimes impose unnecessary transaction costs which prevent market entry. This is so because the ICT environment possesses cross-cutting capabilities that are based on computing, telephony, broadcasting, etc and a rigid license category inhibits innovation and discourages investment.[136] Marsden believes that regulatory frameworks must progress toward co-regulatory models that decrease friction and promote dynamic market circumstances. Zambia is out of touch with other African countries, such as Ghana, whose frameworks do not explicitly provision for radiocommunication services.

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[132] Zambia Information and Communications Technology Authority (ZICTA), Annual Report 2022
[133] Airtel Zambia, Submission on ICT Licensing Reform (2021); MTN Zambia, Response to Public Consultation on Licensing Framework (2021)
[134] World Bank, Digital Economy for Africa Initiative: Zambia Country Diagnostic (2020)
[135] International Telecommunication Union (ITU), Measuring Digital Development: ICT Indicators 2021
[136] Gillwald A, Moyo M and Stork C, 'Spectrum Management in Africa: Challenges and Best Practices'

From a governance standpoint, Part IV exemplifies "regulatory lag," a scenario in which regulations fail to evolve in parallel with technical and market changes.[137] Baldwin, Cave and Lodge argue that regulatory quality must be assessed against criteria of legitimacy, effectiveness and accountability.[138] In all three realms, Part IV fails as its legitimacy is weakened by outdated provisions that no longer reflect industry realities, its effectiveness is reduced by having obsolete provisions which may create unnecessary bottlenecks and accountability is diluted by the absence of clear and articulate reason why Part IV is still being entertained and possibly enforced by the regulator when it has no place in the framework.

In conclusion, Part IV cannot be justified as a historical relic because it serves as a structural hindrance to regulatory modernization, economic efficiency, and digital inclusion. Part IV reform is not only a technical requirement, but also a strategic imperative for Zambia's ICT industry to comply with current best practices and the country's Vision 2030 development goals.

## 4.3 SUMMARY OF THE CHAPTER

This chapter critically evaluated the relevance and applicability of Part IV of Zambia's ICT Act No. 15 of 2009, revealing a regulatory system that, while essential in purpose, is increasingly diverging from contemporary best practices in ICT regulation. The analysis shows that, while Part IV provides a legal framework for radiocommunication licensing, enforcement, and technical oversight, its provisions are out of date and based on portions of the defunct Telecommunications Act, the predecessor to the ICT Act, that were incorrectly carried over into the new ICT Act.

The chapter identified ICT Act, Part IV's significant failure to adequately respond to technological advancements and market dynamics, a regulatory lag fostering legal uncertainty that spills over into the ICT sector. Comparative insights from jurisdictions such as Ghana and Namibia illustrate best practice that is at variance with the position Zambia's Part IV of the ICT Act adopts on the licensing of radiocommunication services.

[137] Howard Shelanski, 'Regulatory Lag and Innovation Policy' (2013) 1 Journal of Competition Law and
[138] Robert Baldwin, Martin Cave and Martin Lodge, Understanding Regulation: Theory, Strategy and Practice (2nd edn, OUP 2012) 25–32

# CHAPTER FIVE

# GENERAL CONCLUSION AND RECOMMENDATIONS

## 5.0 INTRODUCTION

This chapter synthesizes the study's findings and proposes reforms to Zambia's ICT legal framework, with particular emphasis on Part IV of the ICT Act No. 15 of 2009. The recommendations are grounded in the exploration of the concept of regulation, exploration of the ICT sector legal and regulatory framework as well as the critical analysis of the critical comparative and empirical stakeholder perspectives analysis conducted in Chapter Four.

## 5.1 GENERAL CONCLUSION

The analysis has demonstrated that Part IV of the ICT Act is a vestige of analogue-era regulation, duplicating provisions already covered under Part III as read with Part IV while imposing unnecessary burdens on operators. Comparative practice in countries such as Ghana and Namibia coupled with positions taken by relevant international institutions paint Part IV as one with archaic provisions overtaken by the rapidly evolving technology and practice in the ICT sector. From whichever perspective the Part is considered, the result is that it puts forward an outdated licensing regime that not even ZICTA itself implement as is. Part IV is both legally redundant and economically harmful, contradicting Zambia's commitments under Vision 2030 and the African Union's Digital Transformation Strategy (2020–2030).[139]

## 5.2 RECOMMENDATIONS

Considering the foregoing analysis, the following recommendations are proposed to enhance Zambia's ICT regulatory environment:

**5.2.1 Repeal of Part IV**. The most direct and urgent reform is the repeal of Part IV of the ICT Act. Its provisions on "radio licensing" duplicate those of spectrum management under Part VII as read with those on licensing under Part III. This violates the principle of legal certainty. The repeal would align Zambia with comparative jurisdictions that have eliminated outdated licensing categories in favor of converged frameworks.

[139] African Union, Digital Transformation Strategy for Africa (2020–2030) (AU 2020)

**5.2.2 Adoption of a Technology Neutral, Converged Licensing Framework**. Rather than merely repealing Part IV of the ICT Act, Zambia should take this opportunity while at it to transition to a fully unified licensing regime modelled along international best practice. Scrutiny of international practice reveals that several countries have adopted a unified license system, in which a single license is created that covers an extensive range of services (although definitions vary by country) with variations, in many of them. Countries, including Argentina, Botswana, EU member states, Hong Kong China, India, Jordan, Kenya, Nigeria, Peru as well as Trinidad and Tobago are examples.[140]

**5.2.3 Regular Reviews of Legal and Regulatory Framework**. The legal and regulatory framework should come up for review often considering the rapid rate of evolution of technology and ICT sector industry practice, services and service delivery mechanism.

**5.2.4 Stakeholder Consultation**. It is very doubtful that adequate and wide stakeholder engagement was conducted prior to the enactment of the ICT Act as the flaws associated with Part IV would have been unearthed in good time allowing for correction prior to the said enactment of the ICT Act.

**5.2.5 Alignment with Regional and International Best Practice**. Zambia should always study international best practice seeking to, as much as is practicable and beneficial, harmonize its ICT legal framework with such best practice. Among the instruments that may be examined are the African Union's Digital Transformation Strategy and the Southern African Development Community's (SADC) Model ICT policy and Law.[141]

## 5.3 CLOSING STATEMENT

Zambia is at a regulatory crossroads. Reforming Part IV of the ICT Act is not only a matter of legal housekeeping, but rather a strategic requirement for economic competitiveness, technical modernity, and constitutional legitimacy. Zambia requires to adopt progressive

[140] International Telecommunication Union. Regulatory Trends for Adapting Licensing Frameworks to a Converged Environment (presentation at the 9th Global Symposium for Regulators) Page 16 https://www.itu.int/ITU-D/treg/Events/Seminars/GSR/GSR09/doc/Session7_DeLaTorre_licensing.pdf or https://share.google/NTBDgChoWKT7QlVYj

[141] Southern African Development Community (SADC), Model ICT Policy for Member States (SADC 2012)

ICT sector legal and regulatory framework that is abreast the rapidly evolving ICT sector related technology and best practice. This will play a cardinal role in fostering a robust, well-regulated ICT sector that adequately contributes to the economic and social development of the nation. Zambia can, with the above, move from regulatory lag to digital leadership in the region.

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UNIVERSITY OF LUSAKA

**SCHOOL OF LAW**

**L400B – DIRECTED RESEARCH (OBLIGATORY ESSAY)**

**RESEARCH CLEARANCE FORM**

**NAME: AUDREY MALUNGO SAMBOKO STUDENT NUMBER: LLB19218208**

**SUPERVISOR: Mr THOMAS MALAMA TOPIC: A CRITICAL ANALYSIS OF THE RELEVANCE AND APPROPRIATENESS OF PART IV OF THE INFORMATION AND COMMUNICATION TECHNOLOGIES (ICT) ACT NO 15 OF 2009**

| Stage | Comments | Supervisor's Signature & Date | Student's Signature & Date |
|---|---|---|---|
| **Research Proposal** | **Reviewed, Corrected and Approved** | **05/10/2025** | **07/08/2025** |
| **Chapter 1 – Introduction** | Approved following effecting of corrections related to the following comments<br>[a] Deletion of work referred to but not traceable.<br>[b] Renumbering of sections<br>[c] See Research Methodology.<br>[d] Deletion of content entitled " Comparative Perspective" under Literature Review which was misplaced. | **05/10/2025** | **07/08/2025** |
| **Chapter 2 – Exploring the concept of ICT sector regulation:** | The Chapter was approved following effecting of corrections relating to the following comments:<br><br>[a] Cyber Security and Crimes Act 2021 was repealed and split into two. Cyber Security Act on one hand and Cyber Crimes Act in the other hand.<br><br>[b] Full stops should, in relation to quoted text, come immediately after the end of the quotation AND BEFORE the citation number | **11/10/2025** | |

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| **Theoretical and Zambian context** | indicating existence of a footnote. E.g " "John is a good boy."1 Not "John is a good boy"1.<br><br>[c] Content conducting comparative analysis between Zambia and other countries deleted as it is misplaced.<br><br>[d] Note that Armature Radio licenses is not a step towards obtaining a real license. It's stand alone.<br><br>[e] Content sounding like recommendation should be deleted<br><br>[f] Remove " Comparative" from 2.5 heading/title | | **07/10/2025** |
| **Chapter 3 – Legal framework governing the ICT sector in Zambia** | The Chapter was approved following effecting of corrections based on the following comments:<br><br>[a] Why are we considering Cyber Act? Content should be deleted.<br><br>[b] ZICTA functions in Section 6, not 3 and 4.<br><br>[c] ZICTA's Power to regulate competition Not in section 7 but 8.<br><br>[d] Prohibition of operating Network or providing service without licence is in Section 9 NOT 15.<br><br>[e] Part IV is not concerned nor dealing with SPECTRUM - related matters<br><br>[f] Too many UK Cases cited unnecessarily.<br><br>[g] Key Challenges section and contents should be removed as it is NOT FOR THIS CHAPTER. | **11/10/2025** | **07/10/2025** |

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| **Chapter 4 – Critical analysis of appropriateness and relevance of Part IV of the ICT Act No 15 of 2009** | The Chapter was approved following effecting of changes based on the following comments:<br><br>[a] Too much emphasis is being placed on Unified Licensing while the issue is PART IV providing for Radio communication Service License.<br><br>[b] Rwanda, like Zambia, seems to provide for Radio communication Services and may not be the best to compare with.<br><br>[c] Corrected numbering<br><br>[d] Ensure footnotes are correct and lead to works indicated | **19/10/2025** | **18/10/2025** |
| **Chapter 5 – Conclusions & Recommendations** | The Chapter was approved following corrections based on the following comments:<br><br>[a] Ensure footnotes indicate when internet sources were accessed<br>[b] Some works in Bibliography have to be removed.<br><br>[c] Correct numbering. | **19/10/2025** | **18/10/2025** |
| **Table of Contents, Bibliography and Appendices** | **Approved 12/112025** | | **27/10/2025** |
| **First Draft** | | | **27/10/2025** |
| **Final Draft** | **The Draft was approved.** | **12/11/2025** | **12/11/2025** |

***Please return this form to the LLB Research Coordinator at the end of the research.***

Consultation Schedule 2025

L400A

**Name**: AUDREY MALUNGO **Student Number**: LLB 19218208

| Date | Content | Consultant's Comment | Consultant's name and signature |
|---|---|---|---|
| 26th March 2025 | **TOPIC** – A Critical Analysis of the Relevance and Appropriateness of Part IV of the Information and Communication Technologies Act No. 15 of 2009<br><br>**Statement of the Problem**:<br><br>The Information and Communication Technologies Act No. 15 of 2009 (ICT Act) was enacted to, among other reasons, provide for the regulation of Information Communication Technology; Facilitate access to Information and Communication | The topic is very opportune and viable | Thomas K. Malama<br><br>26/03/2025 |

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| | Technologies; Protect the rights and interests of service providers and consumers; as well as Repeal the Telecommunications Act, 1994, and the Radiocommunications Act, 1994<br><br>It seems, however, that though the Radiocommunications Act was repealed, Part Iv which is a word for word rending of part of the Radiocommunications Act was erroneously uplifted from the Radiocommunications Act and placed in the ICT Act.<br><br>The ICT Act, in Section 10, provides for only two licences to be issued – a Network Licence and a Service Licence. The only other permission provided for is one to use scarce resources which in fact, is | | |

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| | not referred to as a licence but rather an Assignment. Part IV of the ICT Act, however, introduces what it refers to as "Radio Licence."<br><br>No such stand-alone licence is currently issued by ZICTA, as the Authority, itself provides. To try and get round the above, ZICTA now issues a Radiocommunication Licence within which is an assignment.<br><br>It is clear from the above that Part IV of the ICT Act is a "hangover" from the Radiocommunications Act which was repealed.<br><br>It is thus, not in order to have a whole Part of a piece of legislation containing obsolete provisions.<br><br>This study aims at critically analyzing Part IV for purposes of recommending | | |

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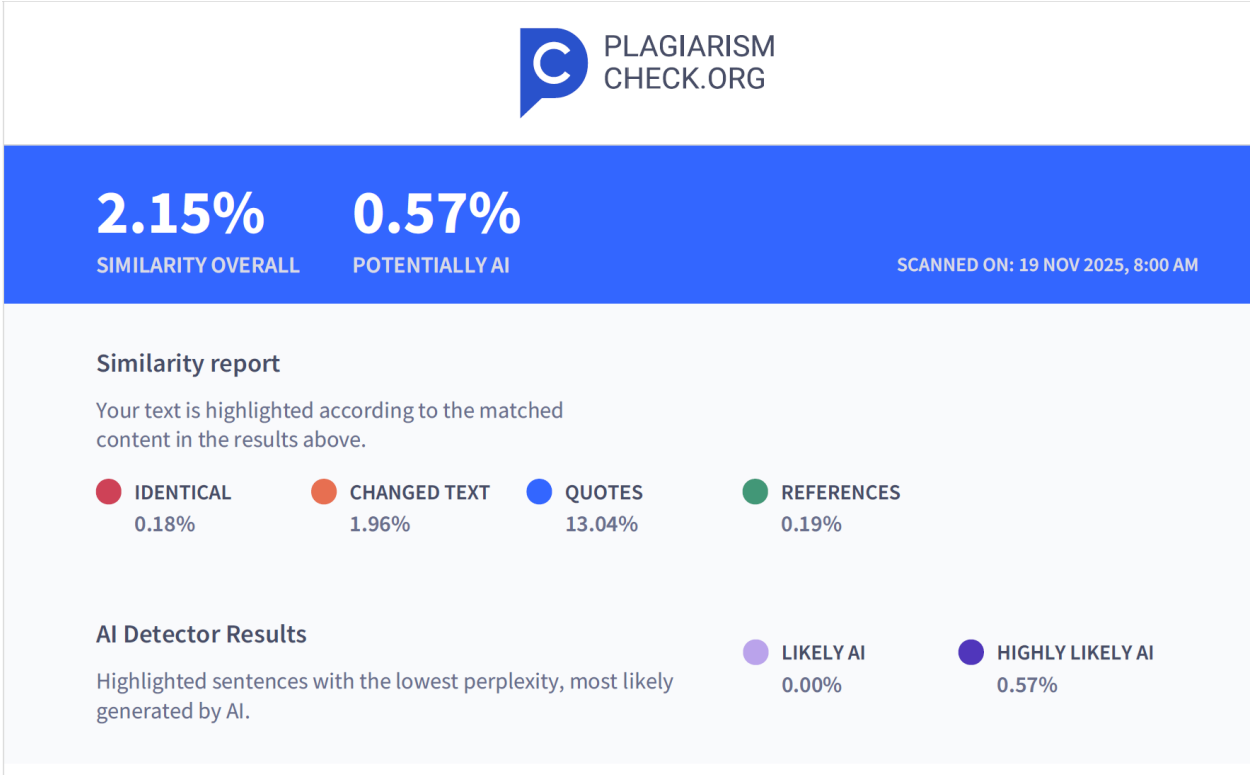
| | amendments which will ensure the ICT Act contains only provisions that are useful.<br><br>Research Objectives<br><br>1. To explore the concept of regulation of the ICT sector<br><br>2. To explore provisions of the legal framework governing the ICT Sector in Zambia<br><br>3. To critically analyze the appropriateness and relevance of Part IV of the ICT Act. | | |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