

**A CRITICAL ANALYSIS OF THE ‘INDEPENDENCE’ OF THE INDEPENDENT
BROADCASTING AUTHORITY’S (IBA) REGULATION OF THE PRIVATE MEDIA**

By

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DECLARATION

I, Kapembwa Chungu, declare that this dissertation:

- (a) Represents my own work
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ABSTRACT

This study was aimed at examining the ‘independence’ of the regulatory practices of the Independent Broadcasting Authority (IBA) towards the private media in Zambia. In order to achieve this, it specifically analyses the IBA practices in regulating the private media; the factors influenced the IBA’s capacity to regulate the private media in Zambia; the operations of the private media in relation to media regulation and the effects of IBA regulation practices on media freedom in the country.

Therefore, the study employed qualitative methods and an explorative research design was used. Data was collected through document analysis and in-depth interviews from IBA, news editors and station managers from two television stations and media experts. The data collected was analysed using thematic analysis. The findings of the study found that the process of appointing members of the Board exposes the Authority to political interference because the Board is solely appointed by the Minister of Information and Media without names being scrutinised by Parliament. Due to this appointment procedure, media experts, news editors and station managers feel that the decisions made by these Boards are biased and do not hold the interests of the private media. It was also found that the IBA does not have technologically advanced equipment to monitor the activities of the media institutions that it regulates.

The study also found that the practices of the IBA in the past five years also hindered press freedom as media institutions were being closed on political grounds. The study also found that the independence of the IBA was likely to be compromised because its funding mainly came from central government. In line with the findings the study recommended that firstly, in order to safeguard the independence of the practices of the IBA, the IBA Act should be repealed in order to put in place a new Act that will address the issues that compromise the independence of the Authority. Secondly, the Authority should procure technologically advanced equipment and lastly funding to the regulator should be increased so that the can be able to perform their duties.

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DEDICATION

This work is dedicated to my beloved daughter Tasheni Mwenya Kaumba and Husband Joseph Kaumba. Your presence in my life has made me stronger. I love you.

LIST OF ACRONYMS

IBA	Independent Broadcasting Authority
MMD	Movement for Multi-Party Democracy
Muvi TV	Muvi Television
PF	Patriotic Front
Prime TV	Prime Television
TV	Television
UPND	United Party for National Development
UNIP	United National Independence Party
ZNBC	Zambia National Broadcasting Corporation

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CHAPTER ONE

INTRODUCTION

1.0 Introduction

Broadcast media in most countries is regulated by regulatory agencies that are assumed to be ‘independent’. Independent regulatory agencies are a new type of regulating the media in Southern Africa. Therefore, this study is an analysis of the ‘independence’ of the Independent Broadcasting Authority (IBA) in regulating the private media and its impact on media freedom. It has been alleged by some sectors of society that the IBA’s decisions are highly influenced by external factors. For instance, a report by African Media Barometer (2017:46) indicates that the independence of the IBA Board is contentious and questionable. In other countries in the region, like Malawi, lack of independence of Malawi Communications Regulatory Authority (MACRA) is attributed to institutional deficiencies (legal and inherent), (Juwayeyi, 2017: 222). It is for this reason that this research was undertaken to understand the practices of independent regulatory bodies in relation to regulating the private media using the case of the IBA.

Zambia’s broadcast industry has steadily grown over the past years, with the numbers significantly tilted towards private broadcast media institutions. Banda (2006) attributes this to a number of factors, including the liberalisation of the broadcast industry in 1991, advancement in Information, Communication and Technologies (ICT) in the media industry as well as the need for information services across the country’s diverse communities. However, the industry does not operate without government regulation. He further notes that in 1996, a policy was formulated that proposed the creation of the IBA that would oversee the regulation of the broadcast media in the country. In 2002 an Act of Parliament was passed for the creation of the IBA (Banda, 2006).

1.1 Background of Media Regulation

McQuail (2010) describes the media as the public means of mass communication, especially the press, radio and television, but also including film and recorded music as well as a number of newer means of distribution by way of cable, satellite, discs, tapes, the internet among others.

According to Baldwin & Cave (1999: 2), regulation refers to an arrangement limiting certain behaviour while at the same time facilitating specified actions to take place in an ordered manner.

Harvey (1999: 2) states that “regulation involves intervention by the state in areas of economic, social or cultural life according to whatever political norms are characteristic of that nation state. Regulations may be issued by presidential decree, by religious prescription or by legislative action within a system of representative democracy.” McQuail (2010) asserts that regulation by its very nature sets limits to freedom, therefore, this entails that they should be clear and convincing reasons for regulation, although general justifications can be given that help to reconcile it with principles of freedom and governance, the underlying tension cannot be escaped.

Therefore, McQuail (2010) postulates that media regulation refers to the whole process of control or guidance, by established rules and procedures, applied by governments and other political and administrative authorities to all kinds of media activities.

According to McQuail (2007:1), media regulation had its beginnings in the restraints placed by church and state authorities on printers and authors to protect the established order. He further states that regulation in the form of censorship and licensing did not cease until democratic reform movements gained freedom of the press as a basic right guaranteed by the state itself. The first statutory right to freedom of the press was gained in Sweden in 1769, ahead of the more famous First Amendment to the United States (US) Constitution in 1791 that outlawed any federal law-making in respect of the press. In many societies freedom of the press came very late and it has often been intermittent or not respected in fact (2007:1). McQuail (2010:2) posits that a new dimension to regulation was introduced by the invention of new media during the nineteenth century, especially the electric telegraph, then the telephone and wireless, which led to public radio broadcasting from 1920 onwards. He argues that all these media were closely regulated by national laws that were more or less required by international agreements relating to technical requirements, for example, radio frequency allocation. They also served other interests of state, including military and economic considerations. Often regulation took the form of control by state bodies or public monopolies.

McQuail (2007: 4-5) suggests broadcast media (radio and television) were the most closely regulated of all media nearly everywhere during the twentieth century and they have never achieved the degree of freedom enjoyed by print media. Although there has been deregulation of media, it is often remarked that, in response to the advent of new media and changed conditions,

we are really in a period of reregulation where regulatory frameworks are amended to reflect new economic and/or political priorities rather than simply removed (McQuail, 2007).

The means for regulating media are not considered very effective in practice or are uncertain in their efficacy. There are several reasons for this general situation. One lies in the attachment to freedom of expression and publication which inhibits any drastic interference in what the media do (McQuail, 2007). A second reason lies in the fact that most media operate in the free market and market disciplines are expected to take care of many external expectations or requirements of performance. The very fact of media operating under market conditions inhibits regulation, except where there is clear evidence of market failure, since this involves interfering in the working of the market and disturbing its operation. Where the market principle dominates there is a strong presumption that regulation should not require any aspect of performance that cannot be supported in economic terms. Despite these obstacles, one of the more effective instruments of regulation is action to limit concentration of ownership or cross-ownership, since this is widely accepted in general as in the public (and market) interest, (ibid:5).

1.2 Approaches to Broadcast Regulation in Zambia

Media regulation in Zambia and across the world is mainly influenced by the political and economic situation of a country; according to Ndlela (2007:70) the early 1990s witnessed intense debates on the nature of broadcasting across the world and a major shift in approaches to broadcasting regulation. The dynamics of the global political economy raised new imperatives for deregulation.

Ndela (2007) stresses that the political significance of broadcasting cannot be ignored, as this is one of the main reasons why governments in the Southern Africa region have been reluctant to liberalise broadcasting in spite of pressures, both internal and external. He alludes this to the belief that if control was not exercised, these powerful institutions would fall into wrong hands bent on undermining the political establishments and promoting sectarian interests.

1.2.1 Colonial Era

Zambia's broadcasting industry dates from the 1940's when the British colonial authorities initiated an African radio service. According to Miller (2007) before the second World War radio broadcasting was exclusively for the Europeans and it was accessed from stations in Johannesburg,

Salisbury and Nairobi. Hamasaka (2008) and Miller (2007) both agree that in 1941 the British colonial government launched the first radio broadcasting in Lusaka now the capital city of Zambia.

According to Hamasaka (2008), the development of broadcast media was directly linked to the objectives of the British Empire of using the media as a tool for communicating and controlling the governed. Miller (2007) states that from the outset, the Lusaka station addressed programs to Africans in their own languages, becoming the pioneer in the field of local vernacular broadcasting. However, the name of the radio station is not well documented.

Furthermore, Miller (2007) states that Northern Rhodesia could not afford such a specialized service of broadcasting local languages on its own, the administrations of Southern Rhodesia and Nyasaland were persuaded to share in the operating costs, while the British Government agreed to provide capital funds. Thus, the Central African Broadcasting Station came into being. In 1950 the government established the Central African Broadcasting Station (CABS), renamed the Central African Broadcasting Service in 1958, and later the Federal Broadcasting Corporation of Rhodesia and Nyasaland (FBCRN). CABS continued to operate as an 'African' station, despite a transfer in control to Salisbury.

Twenty years later after the coming of radio, in 1961, television arrived in the country, courtesy of the privately owned London Rhodesia Company (Miller: 2007). However, the Digital Migration Policy of 2014 accounts that immediately the country gained its independence, the Zambian government purchased the television station, and it became part of the Zambia Broadcasting Services (ZBS), the forerunner to the Zambia National Broadcasting Corporation (ZNBC). From then on, it became an integral part of the development of Zambian society. It can be said that the broadcasting services were a sole monopoly of the government.

1.2.3 First Republic (1964- 1973)

Zambia gained independence from Britain in 1964, Makungu (2004:14) states that the new government continued to see and use the mass media as tools for the mobilization of the people to achieve whatever goals it thought were good for the country. He further states that, the history of the Zambian press, especially after independence revealed that the media had been shaped and moulded to pander to the whims of UNIP and its Government under President Kenneth Kaunda.

According to Hamusokwe (2018) the media appeared to be more independent in this republic. During this period there was only one radio station and television station, this can be attributed to the few people with financial power to establish media stations and the other reason could be that the government did not allow many people to own media. This assertion is supported by Hamusokwe (2015) who posits that state participation in the economy at the time was limited to very few activities, such as the provision of railways, electricity, water and other social services. However, he notes that this changed after the 1968 Mulungushi Declaration which marked a change towards a more restrictive policy environment with a heavy role for the state in national development.

1.2.4 Second Republic 1964-1991

Hamusokwe (2019: 2) states that after Zambia became a one-party state in August 1973, the country witnessed a firmer control of the media. During this period the country was declared as a ‘one-party participatory democracy’. He, further accounts that the regime was described as a ‘mild dictatorship’, mostly because of the reduction of toleration for internal dissent and a general contraction of civil liberties.

It is also asserted by Hamusokwe (2015) that during this period the state took control of the economy. During this period, the media were nationalized and cautioned against opposing the government, (Hamusokwe, 2019: 2).

According to Makungu (2004:14), in 1975 just two years into single-party rule, the role that the media was supposed to play in the country’s social and economic development was defined by President Kaunda. Makungu further states that during the period of nationalization, the media was expected to promote ‘human morals’ in line with Zambia’s ‘Philosophy of Humanism,’ and to promote ‘cultural values.’ Until 1987 broadcasting services were an integral part of the state, being placed directly under government control through the Ministry of Information. In 1987 there was a major policy shift through the enactment of the ZNBC Act. The Act transformed the Zambia Broadcasting Services into a nominally autonomous corporation. The stated intention was to minimize the role of the state and enable ZNBC to be self-sufficient relying less on state capitalization, (Ndlela, 2007: 75).

However, Kasoma (1994) and Banda (2004) contend that the reforms that were made by the UNIP government did not have any impact on ZNBC as it remained firmly in the hands of government and this can be attributed to the fact that the reforms were made under the one-party establishment. It is argued that during this period that media freedoms dwindled as it was heavily curbed and journalists were harassed and intimidated (Mushingeh, 1994).

Makungu (2004) and Hamusokwe (2018) state that the broadcast media (both radio and television) became a mouthpiece of the ruling government, and the state introduced media laws aimed at maintaining their strong grip on the industry in Zambia. However, this changed in 1991 when the country reverted to multiparty democracy and the broadcasting sector was liberalised under the Movement for Multi-Party Democracy (MMD) under the leadership of President Fredrick Chiluba (Digital Migration Policy 2014).

1.2.5 Third Republic (1991 to present)

This republic has lasted for 30 years as of 2021, and has seen three political parties ascend to power, that is the MMD, Patriotic Front (PF) and the United Party for National Development (UPND).

In 1991, Zambia returned to multiparty democracy after the opposition Movement for Multiparty Democracy (MMD) won the elections. Banda (2006: 461) states that the 1990's saw the unfolding of the process of liberalization across Southern Africa, with attendant deregulatory process and legislative implications. At the time was caught up in a political reform toward embracing liberal democracy. The political change in 1991, was expected to bring about change in the media landscape as well (Hamusokwe, 2015). During this period most African countries were transitioning from authoritarian or military rule to democracies (Global Campaign for Free Expression report 2003:2).

Banda posits that in 1991 the new government introduced new broadcasting regulations to end the monopoly of ZNBC and to open the broadcasting sector for private investment. It can be argued that when the MMD under president Chiluba took over power attempted to make some changes in the media space (Banda 2006; Hamusokwe 2015). According to Hamusokwe (2015), liberalisation of the media (especially broadcasting industry) became a top priority, stimulated by market reforms. Since liberalisation entails an attempt to achieve pluralism of views and ideas, the MMD

enacted the ZNBC (Licensing) Regulations Act of 1987, which facilitated the proliferation of private media houses.

Banda further argues that this was cautious deregulation as licenses were mostly issued to Christian applicants. He suggests that ‘in embracing a cautious deregulation of the broadcasting market, the MMD wanted to be seen to be reformist, while at the same time remaining firmly in command of broadcasting’. Further, the Telecommunications Act of 1994 and the Radio Communications Act of 1994 were enacted, (Banda, 2006:461). With the introduction of these Acts, the sector became more liberalized, with new entrants appearing on the scene. Whereas there were only twelve (12) radio stations in 2000, there were about twenty-six (26) in 2005, an increase of about one hundred and seventeen percent (117%) (Banda, 2006:16). Radio Christian Voice became the first privately-owned radio station in the country when it began operations in 1994, two years before the end of the MMD’s first term in office, (Makungu, 2004:19). In spite of this effort, a lack of political will at the time, the MMD government failed to put in place laws that would stimulate independence of state-owned media, facilitate the establishment of independent regulatory body and allow enactment for access of information, (Hamusokwe, 2015).

However, growth was slow for private television due to relatively high initial operating costs. As a result, only one new private broadcasting station – Trinity Broadcasting Network (TBN), was set up in the country. In addition, two television companies had been able to beam programmes from foreign-based stations into the country. These companies are Multi-choice Zambia Limited, and Cable and Satellite Technologies Limited (CASAT), which are both pay channels. In 2002, Muvi TV, another free-to-air television channel, was established (Banda, 2006).

Private radio and television organisations perceived to be critical of government have also suffered from legal and extra-legal harassment. In 2000, the government withdrew Radio Phoenix’s broadcast license, arguing that the license had expired. There have been some suspicions about an ulterior motive for this action. One interpretation was that this was done as a reaction to the airing of the station’s flagship programme (a talk show), *Let the People Talk*. The programme featured individuals who were critical of the government. The station was reopened following the renewal of the license, as well as public protests by civil society organisations and stakeholders.

It is important to note that 30 years of multiparty democracy, Zambia's broadcasting industry has greatly grown. The country has 111 licensed radio stations and 42 licensed television content providers (Independent Broadcasting Authority, 2021)

In 1996, after increasing pressure from local Non Governmental Organisations (NGO) and the international community the government came up with the Information and Media Policy document in 1996. The document whose one of the objectives was the creation of an independent broadcasting authority (Phiri, 2010:196). However, this Act was only enacted in 2002 during the reign of Levy Patrick Mwanawasa, the third president of Zambia.

Currently, the private broadcast industry in the country is regulated and supervised by the the Independent Broadcasting Authority pursuant to the Independent Broadcasting Act 2002 as amended in 2010. The Act provides for the control and regulation of broadcasting services in the country.

1.3 Establishment of IBA

The enactment of the Independent Broadcasting Act was seen as a progressive move as it allows for a conducive broadcasting environment that paves the way for a three-tier broadcasting structure and an independent board (African Media Barometer, 2017:8).

1.3.1 Functions of IBA

The IBA was created by an act of parliament in 2002. Section 5 of the enabling Act, outlines the specific functions of the IBA, including:

- a) *Promote a pluralistic and diverse broadcasting industry in Zambia;*
- b) *Establish guidelines –*
 - (i) *For the development of broadcasting in Zambia through a public process which shall determine the needs of citizens and social groups in regard to broadcasting*
 - (ii) *For the issuing of licences, giving due regard to the need to discourage monopolies in the industry in accordance with the Competition and Consumer Protection Act*

- (iii) *On the required levels of local content and other issues that are relevant for a pluralistic and diverse broadcasting industry*
- c) *Safeguard the rational and efficient use of the frequencies allocated to broadcasters by developing a frequency plan for broadcasting, which shall be a public document, in compliance with international compliance;*
 - d) *Grant, renew, suspend and cancel licences and frequencies for broadcasting in an open and transparent manner;*
 - e) *Enforce the compliance of broadcasting with the conditions of the licences issued;*
 - f) *Issue to any or all broadcasters, advisory opinions relating to broadcasting standards and ethical conduct in broadcasting;*
 - g) *Oblige broadcasters to develop codes of practice and monitor compliance with those codes;*
 - h) *Develop program standards relating to broadcasting in Zambia and to monitor and enforce compliance with those standards;*
 - i) *Receive, investigate and decide on complaints concerning broadcasting services, including public broadcasting services;*
 - j) *Develop regulations in regard to advertising, sponsorship, local content and media diversity and ownership;*
 - k) *Perform such other functions as may be conferred on it by the IBA Act or any other Act;*
 - l) *Do all such other acts and things as are connected with or incidental to the functions of the Authority under the IBA Act; and*
 - m) *As per the 2017 Amendment Act, collect Television Levy Amendment Act, the IBA is responsible for administering and collection of the Television Levy;*

Furthermore, section 6 of the IBA Act provides that “except as otherwise provided in this Act, the Authority shall not be subject to the direction of any other person or authority”.

It then spells out how the IBA board is to be selected under section 7. Particularly that nine (9) part-time members should be appointed by the minister responsible for information and

broadcasting, on the recommendation of the appointments committee, subject to ratification by the National Assembly. However, this was amended in 2010 to allow for the nine (9) members to be appointed by the minister of information and media.

1.4 Statement of the Problem

In their role as ‘the fourth estate’, the media play a vital role in support of democracy by acting as a counterbalance to the state or government, especially in facilitating the calling to account of government, (Mcquail, 2010:168). It is assumed that a democratic society cannot function properly without the participation of the media. The media also play a special role as the watchdog of society by providing the public with information that enable them to make informed decisions of governance (Ibid: 194). To achieve these indispensable roles, the media must be independent. However, lately, it has been observed that some private stations in Zambia have been harassed in the form of suspension of licences for being perceived as anti-government (Ndawana :2021). For instance, two radio stations and a television station; Muvi TV and Komboni radio, Itezhi- Tezhi radio had their broadcasting licenses suspended and their equipment seized by the IBA in August 2016, which exposes lack of effective media freedom in the country, (African Media Barometer, 2017:26). It is against this background, that some sectors of society suggest that the IBA is not independent and that they have heavily regulated the private media to the detriment of media freedom.

In the past five years, it has been observed that Zambia’s performance on the ‘freedom in the world index’ has mainly performed as partly free. The methodology of the freedom in the world report is mainly derived from the Universal Declaration of Human Rights, adopted by the UN General Assembly in 1948. *Freedom in the World* is based on the premise that these standards apply to all countries and territories, irrespective of geographical location, ethnic or religious composition, or level of economic development (Freedom House, 2022). Another review by Reporters Without Borders, an international non-profit and non-governmental organization with the stated aim of safeguarding the right to freedom of information, ranked Zambia 115 and 120 in 2021 and 2020, respectively. Zambia’s 2020 ranking position represented a one place drop from its 2019 position and this was attributed to the harassment of the independent media. The index looks at a total of 180 countries and how they perform in terms of freedom of information. Reports for the past seven years indicate that Zambia has declined on the rankings. The reports indicate that between 2013

(when it scored 72) and 2017 (114) the country's ranking decreased by 42 points. In 2018 the country recorded a score of 113 showing an improvement of one (1) from the previous year's ranking. Between 2018 (113) and 2020 (120) there has been a drop of 7 scores, (Reporters Without Borders, 2020).

Scholars Ihechu (2013) and Juwayeyi (2017) in other countries have argued that the media in some countries with independent regulatory bodies are not free because the regulatory bodies are not independent from government influence. However, it is not clear here in Zambia whether this was the status quo. The IBA amendment Act of 2010 permits the Authority to cancel or suspend broadcasting licenses. This, together with the amendments made towards the appointment mechanism of the Boards, "has left questions" as to whether the Board is independent, (African media barometer 2017:46).

Despite some media associations in the country criticising the IBA for suspending licenses of media institutions, the trend has continued. In 2019, Media Institute for Southern Africa (MISA), Zambia Chapter One Foundation and African Freedom of Expression Exchange (AFEX) maintained that the IBA is supposed to be independent of any form of influence from any quarters including the ruling government, (MISA Zambia, 2019).

Despite such calls, the problem has persisted and has led to the closure of private media institutions. In April 2020, Prime TV's license was cancelled in the interest of public safety, security, peace, welfare or good order, (Independent Broadcasting Authority, 2020).

Such actions impact on the ability of the media to undertake its watchdog function, which ultimately affects the freedom of the media and leaves the public with no alternative to air divergent views. Further, even those media institutions that are private would rather support the status quo than provide divergent views.

Although some scholars in different countries have written about regulatory bodies (Hlongwane and Moyo, 2009), (Juwayeyi, 2017), this is not the case in Zambia as research by scholars like Makungu (2004), Banda (2006), Phiri (2010) and Hamusokwe (2019), appear to be mainly focused on issues of press freedom, policy reform and ignore the influence or role of the regulatory bodies

such as IBA. It is against this background that this research will seek to fill the gap by analysing the regulatory independence of the IBA regulations with regards to the private media.

1.5 Significance of Study

Seeing that the operations of IBA have come under a lot of public scrutiny lately, it is imperative that a study should be carried out to understand how the IBA operates and its role in ensuring a broadcasting environment that reflects democratic principles (media freedom). The study is going to inform the IBA if it is fairly regulating the media in the country.

With this knowledge at hand, the private media will understand the operations of the IBA and it is hopeful that this study will bring about more stake holder engagement between the private media and the IBA.

The study might also help bridge the research gap that is pending in this area because no research has been conducted to assess the regulatory independence of the IBA in Zambia; hence this study may help the IBA know whether regulation is impeding on media freedom or not. The findings might also be used in the formulation of media policy.

1.6 Purpose of the study

This study is aimed at providing information and understanding on the autonomy of the Independent Broadcasting Authority in its mandate of regulating the private media in the country.

1.7 Objectives

1.7.1 General objective

To examine the independence of the regulatory practices of the IBA towards the private media in Zambia.

1.7.2 Specific objectives

1. To explore the IBA practices in regulating private media institutions in Zambia.

2. To investigate the factors that influence the IBA's capacity to regulate the private media in Zambia.
3. To examine the operations of the private media in relation to media regulation.
4. To determine the effects of IBA regulation practices on media freedom.

1.8 Research questions

In this context, the study will seek to answer the following main questions:

1. What are the IBA practices in regulating the private media?
2. What factors influence the IBA's capacity to regulate the private media in Zambia?
3. What are the operations of the private media in relation to media regulation?
4. What are the effects of IBA regulation practices on media freedom?

1.9 Scope of Study

The study was carried out in Zambia's Lusaka province in Lusaka town. It was conducted from the IBA, two TV stations (Muvi TV and Prime TV) and media experts. These provided interviewees for in-depth interviews and documents (annual reports, newsletters, Act, press statements, news items etc.).

Lusaka city was favoured because it has an advantage over other cities as it has a lot of radio and TV broadcast stations (Independent Broadcasting Authority, 2020). This attribute provided the researcher with a greater chance of reaching several respondents at a reasonable cost. Additionally, the IBA is housed in Lusaka

1.10 limitations

Very little research on this subject has been done in Zambia, this made literature and comparison of findings difficult.

1.11 Theoretical and Conceptual Framework

1.11.1 Political Economy of Communication Theory

This research will employ the Political Economy of Communication theory. Political economy originally referred to a tradition of economic thinking that addressed the production, distribution and consumption of resources used to sustain human existence. For Adam Smith, the eighteenth-century Scottish enlightenment thinker, political economy was the study of ‘wealth’, and was concerned with ‘how mankind arranges to allocate scarce resources with a view to satisfying certain needs and not others’ (Smith 1776: 161). For Smith this was also the study of political decision-making, a branch of the science of a statesman or legislator concerned with the activities of government to aid economic growth, (Hardy, 2014).

Political-economy of communication theory is a socially critical approach that focuses primarily on the relation between the economic structure and dynamics of media industries and the ideological content of media. From this point of view, the media institution must be considered as part of the economic system, with close links to the political system, (McQuail, 2010:96). Marxist theory theorises a direct link between economic ownership and the dissemination of messages that affirm the legitimacy and the value of a class society. These views are supported in modern times by evidence of tendencies to great concentration of media ownership by capitalist entrepreneurs.

According to McChesney (2000:110), the scholarly study of the political economy of communication entails two main dimensions, first it addresses the nature of the relationship between media, and the communication systems on the one hand and the broader social structure of society. In other words, it examines how media and communication systems and content reinforce, challenge or influence existing class and social relations. It does this with a particular interest in how economic factors influence politics and social relations. He further states that the political economy of communication looks specifically at how ownership, support mechanisms (e.g. advertising) and government policies influence media behaviour and content. This line of enquiry emphasizes structural factors and the labour process of production, distribution and consumption of communication. Although the political economy of communication can be applied to the study of pre capitalist and post capitalist societies and communication systems, it is primarily concerned with capitalist societies and commercial media systems, as these models dominate across the world, (McChesney, 2000:110).

A political economy approach to communication was influenced by the changes that began to take place in the press industry, electronic media and telecommunications. In the past these modest enterprises were often family owned but later transformed into major corporations, (Mosco, 1996).

Initially, the political economy approach tended to focus more on production through the examination of the growth of the communication industry. As the industry grew and these products were being consumed on an increasingly mass scale, political economists began looking at other aspects, such as social relations and the organisation of consumption. They began seeing the growth in consumption as a "structural response to the economic crisis of overproduction and as a social response to the political crisis" (Mosco, 1996: 74).

McQuail (2010:235), claims that the main differences in the degree to which governments can intervene are becoming less distinct, especially because of deregulation and technological convergence. In relation to the Zambian concept, Hamusokwe (2018:14) states that power remains in the state and a few local political elites. The result of state ownership and concentration is the limited degree of deregulation and negotiated liberalization. The state continues to regulate and reign over the media and communication industry. Those that have economic and political power control the media, for instance before the cancellation of the Prime TV license government ceased cooperation with the TV station and reporters were not allowed to cover any ruling party events, (Zambia National Broadcasting Corporation, 2020). The station was also switched off from TopStar, a public signal distributor (television content service provider), in which government has shares (Lusaka Times, 2020).

1.11.2 Concepts

The key concepts were isolated and defined for the benefit of the readers. In this study, the key words used include:

a. Media

Media are channels of communication that serve many diverse functions, such as dissemination of news and information, entertainment, sport with either mass or specialised appeal. Types of media include print and electronic (Taylor 2006). The media for mass communication are radios, newspapers, televisions, magazines, the internet and other specialised communication media.

b. Broadcasting

According to the IBA Act broadcasting means the distribution of television or radio, by means of terrestrial or satellite transmitter received on suitable apparatus by the public.

c. Media Regulation

Media regulation refers to all means by which media organizations are formally restrained or directed in their activities. In this context, the reference is primarily to external control by way of public policy, law, and regulation, although it also includes some forms of self-regulation, especially when these are intended to meet public concerns, (McQuail, 2007).

d. Independent Broadcasting Authority Act (IBA)

An Act to establish the Independent Broadcasting Authority and to define its functions; to provide for the control and regulation of broadcasting and diffusion services; and to provide for matters connected with or incidental to the foregoing.

CHAPTER TWO

LITERATURE REVIEW

2.0 Introduction

This chapter presents information from various literatures that were reviewed concerning the subject at hand. The review shows how an independent regulatory body ought to operate and it highlights how some selected Independent Regulatory Authorities globally and in Africa operate. The chapter ends by presenting the Zambian situation.

2.1 Concept of Independence

To understand regulatory independence, it is important to define the term independence. According to Capello (2019: 28), independence has been recognised to be a multi-faceted concept whose interpretation depends heavily on context. Further, some scholars like Polyak and Rozgonyi (2015:4) state that independence means the ability to weigh the facts and make a decision free of any external pressure that could sway the decision-making process to disregard professional considerations in favour of, or to the disadvantage of, certain parties. Schulz et al, (2011) in the INDIREG report states that independence is understood to connote self-determination in the sense that actors can judge and follow their own interests and values. They further claim that the central characteristic for independence is the ability to transform self-set values into authoritative actions.

Furthermore, Capello (2019: 28) argues that independence is better conceptualised as a necessity for a regulator to keep an equal distance from all possible interests in order to balance them impartially and aim at achieving long-term results benefiting all stakeholders as contrary to serving short-term interests of various groups.

However, Capello (2019) notes that regulatory independence cannot be easily defined. He adds that the independence of the media and its regulatory agencies has long been established as a cornerstone of a vital democracy. Scholars like Majone (1997) look at Independent Regulatory Agencies (IRAs) as ‘specialized agencies’, operating at arm’s length from central government. From this definition it can be deduced that regulatory independence involves delegation of

regulatory powers to an agency separate from government as a way of enhancing the credibility of the regulatory strategies or policies emanating from this independent body (Capello, 2019).

According to De Somer (2012: 94) independent regulatory authority is an instrument of the concept of “autonomous government”. it is a fundamental guarantee of autonomous and unbiased professional work, in any field of regulation. However, Lamanauskas (2006: 97) points out that independence of a regulator is not “an absolute freedom from influence of interests of various stakeholders of the regulatory process but rather a necessity for a regulator to keep an equal distance from all possible interests in order to balance them impartially and aim at achieving long-term results benefitting all stakeholders as contrary to serving short term interests of various groups.” Furthermore, Capello (2019: 28) agrees with Lamanauskas that independence is better conceptualised as a necessity for a regulator to keep an equal distance from all possible interests in order to balance them impartially and aim at achieving long-term results benefiting all stakeholders as contrary to serving short-term interests of various groups.

In the same vein, Melody (1997:179) notes that the term ‘independence’ is often misunderstood. Melody argues that the term does not imply independence from government policy or usurping the power to make policy, but rather independence to implement policy without undue interference from politicians or industry lobbyists. This can be understood to mean that government retains the primacy to legislate and sets the statutory frameworks, including the scope of the regulators’ competences, within which the regulator can be independent on the level of (subordinate) policy formulation and policy implementation (Schulz et al, 2011: 28).

2.1.1 Characteristics of an Independent Broadcasting Authority

From the above discussion, it can be seen that independence is a term that cannot be defined absolutely. It is in this regard that certain benchmarks have been put in place in order to determine whether a regulatory body is independent or not. On the African continent, Justine (2021:45) draws the characteristics of an independent broadcasting authority from international charters such as the Article 2 of Part I of the African Charter on Broadcasting, principle 17.1 to 17.5 of the African Principles on Freedom of Expression and Access to Information Declaration, and principles 11,12,13.2,17.2 of the Access to the Airwaves Principles.

According to Justine the following international charters provide guidelines for the characteristics;

- *Article 2 of part 1 of the African Charter on Broadcasting states that ‘all formal powers in the areas of broadcast...regulation should be exercised by public authorities which are protected against interference, particularly of a political or economic nature, by, among other things, an appointments process for members which is open, transparent, involves the participation of civil society and is not controlled by any political party.’*
- *Principle 17.1 of the African Principles on Freedom of Expression and Access to Information Declaration states ‘A public regulatory authority that exercises powers in the areas of broadcast... infrastructure shall be independent and adequately protected against interference of a political, commercial or other nature.’*
- *Principle 17.3 of the African Principles on Freedom of Expression and Access to Information Declaration states ‘Any public regulatory authority that exercises powers in broadcast... infrastructure shall be accountable to the public.’*
- *Principle 12 of the Access to the Airwaves Principles provides, in its relevant part, that ‘Regulatory bodies should be required to ... act in the public interest at all times.’*
- *Principle 13.2 of the Access to the Airwaves Principles provides, in its relevant part, that ‘Only individuals who have relevant expertise and/or experience should be eligible for appointment [to governing bodies of public entities which exercise powers in the areas of broadcast regulation]. Membership overall should be required to be reasonably representative of society as a whole’ Justine (2021: 45).*

Further Justine summarises the characteristics of an independent broadcasting authority as; firstly, one which is formally accountable to the public through a multiparty body such as a parliament, secondly the body acts in public interest, further it is not subject to any political or commercial interference. Additionally, the authority is not influenced by funding processes and lastly the members are appointed in an open and transparent process characterized by public participation and is not controlled by a single political party.

In the same line, the INDIREG report (2011) by Schulz et al identifies five indicators of independence which include the following; firstly, Status and Powers, the regulator needs to have

sufficient independence attributed through its legal status and competences; if any other body or person other than a court that can overrule decisions and or give instructions the autonomy decreases, and it must have competences to issue binding decisions that go beyond recommendations

Secondly financial autonomy is identified as another characteristic of an independent regulator, like all organisations, regulators depend on resources to fulfil their tasks in an adequate and especially impartial manner. Furthermore, autonomy of decision makers of the regulatory authority is another characteristic, it is necessary that the nomination and appointment procedures are constructed in a way that prevent a considerable structural bias in decision-making.

The report also identifies knowledge as paramount in the independence of a regulatory authority, it becomes more and more important, both for fulfilling the regulatory task effectively and for wielding counteracting power when actors are trying to put pressure on a regulatory body. Lastly, accountability and transparency is another key characteristic that has been identified these mechanisms can help to deter undue influences by other actors or their attempts to influence public opinion. The body (regulator) must have a minimum obligation of transparency and be accountable for its decisions that balances its relative autonomy.

2.1.2 Independence and Media Freedom

The extent of independence of a regulatory body is critical to media freedom in a country. According to Polyak and Rozgonyi (2015: 4), a free and diverse media system can only emerge if the players can rely on equal treatment by the authority, from market entry criteria over the conditions of operating in the market all the way to how infringements of the law are assessed.

According to McQuail (2000), the concept of media freedom covers both the degree of freedom enjoyed by the media and the degree of freedom and access of citizens to media content. He states that the essential norm is that media should have certain independence, sufficient to protect, free and open public expression of ideas and information. Further, the second part of the issue raises the question of diversity, a norm that opposes concentration of ownership and monopoly of control, whether on the part of the state or private media industries.

Furthermore, Weaver (1977) identified three components of press freedom: the relative absence of government restraints on the media, the relative absence of non-governmental restraints and the existence of conditions to ensure the dissemination of diverse ideas and opinions to large audiences.

According to Capello (2019: 5) media in modern democratic societies is often highlighted in support of independent media regulation as this is believed to promote freedom of expression and freedom of the media. Capello further states that the importance for democratic societies of the existence of a wide range of independent and autonomous means of communication in order to reflect the diversity of ideas and opinions is recalled.

2.1.3 Deregulation

Scholars like McChesney state that deregulation refers to the process whereby the state gives up its monopoly of the broadcasting sector by permitting for private participation; deregulation in practice in media markets is synonymous with increased commercialisation, McChesney (2003: 125). For Temin (1992) it means total elimination of the whole regulation system to allow the market to regulate itself.

McChesney (2003) argues that the real issue is not regulation versus free markets, but, to the contrary, regulation in the public interest versus regulation to serve purely private interests. He further states that the latter is often called deregulation, but that is not the case. Deregulation is better thought of, in most instances and certainly in the case of media, as a misleading term for unabashed and unacknowledged regulation on behalf of powerful self-interested private parties. Similarly, Watson and Hill (2012: 76) studying the concept of deregulation describe it as a “process whereby channels of communications, specifically radio and television, are opened up beyond the existing franchise-holders”.

2.1.4. Public Interest

The idea of public interest in relation to mass media according to McQuail (2010) is that the media carry out a number of important and even essential, tasks in contemporary society and it is in the

general interest that these are performed and performed well. McQuail explains that this implies that a media system that is operated according to the same basic principles governing the rest of society, especially in relation to justice, fairness, democracy and reigning notions of desirable social and cultural values. For Feintuck and Varney (2006) the term ‘public interest’ is used in relation to the entire range of media regulation issues such as privacy and media intrusion through to general matters of the relationship between the state and the media.

Additionally, Napoli (2001) states that in the context of communications policy making, the overriding concern is with the public interest as a decision making- tool for policy makers and as an evaluative tool for policy analyst. Some scholars Blumler (1998) and Feintuck (1999) have argued that the concept of public interest is vulnerable to abuse by those given the power. Blumler (1998: 54) states in concrete terms that public interest can never be definitely pinned down but can only be exploited by those given the power to determine it. Similarly, Feintuck (1999: 55) argues that due to the lack of a precise definition of the public interest, the ‘concept’ has been left ready to capture and reinterpretation thus becoming vulnerable to manipulation. McQuail (2000) argues that media are usually established not to serve the public interest as such, but to follow some goal of their own choosing which is sometimes defined in cultural, professional or political terms but more often it is the goal of making a profit as a business. He further states that this points to the key problem of determining just what the public interest might be and who should decide it. McQuail (2000) alludes that there are always diverse and conflicting versions of what is good for a society as a whole, and there is even support for the view that it is better for the media not to pursue any normative goal at all. Rather the many different media should be left free to do what they want, within the limits of the law, (ibid).

2.2. Broadcast Regulation: A Global Perspective

2.2.1. United States of America (USA)

According to Creech (2007) the broadcasting regulation in the United States of America (USA), is rooted in the First Amendment of the American Constitution. The regulation in the US is handled by the Federal Communications Commission (FCC) which is charged with the implementations of Fairness Doctrine. Creech explains that the FCC began formal operation on July 11, 1934. The Commission was created by the Roosevelt administration as an independent regulatory

commission, the FCC employs two broad classes of regulatory tools, structural (ownership) rules and behavioural (content) regulation. In addition, Alexander & Brown (2007) state that the FCC's structural rules often take the form of ownership limits on the number of broadcast stations a single entity may own within and across local markets.

According to Schulz et al (2011) the highest decision-making organ of the FCC is the Board of Commissioners which is composed of five commissioners, including a chairman. The report shows that there is no representative of civil society, government, parliament or industry in the Board and all Commissioners inclusive of the Board chairman are appointed by the president of the USA and are subject to confirmation by the USA senate. The report further reveals that the appointments take place on a staggered basis, however, which reduces the likelihood that any one president will be able to appoint all Commissioners. However, it is expected that they will have political affiliations; the only relevant restriction is that no more than three commissioners can be from the same party. Hence, the decision-making process was reported to be transparent (Schulz et al, 2011:223).

Further Schulz et al (2011) establishes that the FCC publishes an annual report to the US government on its work and finances. It is subject to audit by the Government Accountability Office or the Office of the Inspector General, both federal government agencies, on a semi-annual basis or based on a demand by congress (the legislature) or executive arm of government. The report shows that all decisions of the FCC are subject to appeal through the US court system and the US courts have full powers to overturn FCC decisions.

2.2.2. Netherlands

According to Capello (2019: 84), Commissariaat voor de Media (Dutch Media Authority or CvdM) regulates the media in the Netherlands and it was established in 1988. Capello describes CvdM as an independent administrative authority which is governed by the Framework Act for Dutch Media Act 2008 as a public entity with legal personality.

Additionally, Capello states that as an independent administrative authority, the CvdM has public authority and is not hierarchically subordinate to a minister. However, he notes that the Media

Act, also somewhat limits the scope of the CvdM's tasks by assigning certain areas of competence by law to the Minister responsible for media policies rather than to the CvdM.

According to findings by Schulz et al (2011: 143), the Board of Commissioners is the highest decision-making organ of the CvdM, which consists of a chair accompanied by either two or four other commissioners. They scholars note that there is no formal possibility for anyone to give instructions to the CvdM or the Board of Commissioners. Capello adds that decisions taken by the CvdM must be sent to the minister in the shortest time as the minister has the power to annul or suspend decisions of the CvdM within eight weeks after receipt of a copy of a decision. The minister has seldom used this power (Capello 2019: 85). Schulz et al (2011: 144) explains that the minister can suspend or annul a decision of the board of the CvdM only in two exceptional cases: being against the public interest, or a violation of law. This decision to suspend or annul has to be published in the 'Staatscourant' (government Gazette).

Capello (2019) states that the Minister for Education, Culture and Science can dismiss an individual board member, but only for well-defined reasons, which are specified in the law (e.g. incapacity, or because the board member requested it).

In terms of funding, Capello (2019) and Schultz et al (2011) note that the Ministry of Education, Culture and Science provides three-quarters of the Authority's funding this is after an approval by the minister on the basis of a budget proposal from CvdM. The CvdM also publishes an annual report, which is sent to parliament after the minister has approved it. The annual report and the annual accounts are published on the CvdM's website (Schultz, 2011: 43).

2.3. Broadcast Media Regulation: African Perspective

2.3.1 Nigeria

According to Mbuba (2018: 42) the National Broadcasting Commission (NBC) was established in 1992. Beli and Inuwa (2014: 4) note that from the inception, NBC was empowered with the mission to evolve defined standards, in all aspects of broadcasting, to effectively license, monitor and regulate an environment that encourages investment and development of quality programming

and technology for a viable industry, which competes favourably in the Global Information Society.

The management Board of the NBC is appointed by the president on the recommendation of the Minister of Information. However, a report by the African Media Barometer Nigeria 2019 indicates that panellists claimed that in practice the president ignores the recommendations by the Minister of Information and positions are given to political allies. Furthermore, the report revealed that some panellists felt that there was no fairness demonstrated in the actions of the NBC particularly in awarding licenses as it was felt that political applications were granted speedily whereas other applications had been waiting for decades. The panellists also mentioned that the criteria for delivering licenses was not clear to the public and that the unfair allocation had resulted in cross-ownership and licenses in the hands of a few.

Beli and Inuwa (2014) argue that despite all the power given to NBC by the law, NBC seems to be very weak in arresting the broadcasting situation in Nigeria. Similarly, Mbuba (2018: 60) states that the NBC has regularly come under fire by the media practitioners in the private sector who have criticised the way in which the commission seemingly favours the public broadcasting organisations like Nigeria Television Authority (NTA) and Federal Radio Corporation of Nigeria (FRCN) in its regulating functions. To support this claim, Mbuba refers to the licence suspension of Adaba FM, a private radio station that violated the Nigeria Broadcasting Code when covering governorship elections in Ekiti and Ondo State.

2.3.2 South Africa

The broadcast media in South Africa is regulated by the Independent Communications Authority of South Africa (ICASA). According to Hlongwane and Moyo (2009: 279), South Africa has notably been pioneering in terms of the establishment of Independent Regulatory Authority (IRA's) as in the communications sector, beginning with the Independent Broadcasting Authority (IBA) in 1993 and the South African Telecommunications Authority of South Africa (SATRA) in 1995. Hlongwane and Moyo state that the two IRAs were merged in 1999 to form the Independent Communications Authority of South Africa (ICASA) – ostensibly in response to the global hype around convergence of technologies, which is said to have necessitated regulatory convergence.

According to research by Hlongwane (2008) on ICASA, findings indicate that in terms of ministerial independence, the Authority is not absolutely independent of undue influence from the Minister of Communications. Hlongwane states that the Minister is not only involved in certain regulatory issues, but is also central to the appointment and removal process of councillors. The Minister does not approve the list of councillors, but plays an important role in submitting a specific number of names to the National Assembly. This gives the minister the power to select partisan individuals that they feel will not question them if they interfere in the administrative duties of the Authority, (Hlongwane, 2008:118).

Further the study established that ICASA is an independent regulatory agency; but that it does not independently regulate the sector to the extent that it should. Additionally, regulatory Interference by the Minister of Communications in certain areas does not allow the Authority the necessary independence it should have. An independent Authority should not share its duties with any other institution or office under any circumstances (Hlongwane, 2008: 121).

According to Zwakele (2006: 66) the Minister of Communications may at times require ICASA to conduct special investigations and inquiries to determine priorities for the development of the broadcasting industry. Although the Minister may also issue policy directions to ICASA, the authority is not required to follow these policy directions but only to take them into consideration (ibid).

In the same vein a report by the African Media Barometer of 2018 indicates that in as much as section 192 of the South African constitution requires ‘an independent authority to regulate broadcasting in the public interest...to ensure fairness and a diversity of views broadly representing South African society’, some panellists indicated that ICASA only had ‘paper independence.’ It was further highlighted that there is nothing independent about the appointment of its board. The report reveals that one has to be affiliated or sympathetic in some way to the ruling African National Congress (ANC) to be appointed to the board. Furthermore, on paper the legislation which sets out the broadcasting regulator, appears to be one of the best internationally, with public nominations for the board and parliamentary recommendations for the shortlist, it remains dominated by the ANC (African Media Barometer, 2018:37).

2.3.3 Malawi

According to Kanyangwa and Mhagama (2011) the 1998 Communications Act establishes (d) Malawi Communications Regulatory Authority (MACRA) as an independent body to allow a level playing field in the practice of broadcasting. Justine (2021) states that MACRA consists of nine members, three of whom are *ex officio* and six others appointed, the appointed members hold office for three years and are eligible for reappointment for one additional term.

According to Justine (2021) the communications Act provides that before suspension or revocation of a licence, MACRA needs to inform the licensee by written notice, as soon as practicable, of its intention to suspend or revoke the licence and the reasons therefore. Furthermore, the affected licensee must be given reasonable opportunity to make written submissions to MACRA within a period specified in the notice which shall be at least 14 days. MACRA is required to consider such submissions before deciding concerning the suspension or revocation of the licence, and the suspension or revocation shall take effect only on the expiry of 30 days after the notice is given to the licensee. Justine adds that MACRA is required to publish notice of the suspension or revocation of a licence in at least one daily newspaper, but failure or a delay in doing so does not affect the validity of the suspension or revocation.

However, Kanyangwa and Mhagama (2011: 286) argue that MACRA has been a tool of government's interference with the media especially those which seem to be sympathetic with the opposition parties. They refer to an incidence in 2007 when MACRA using powers in its jurisdiction, blocked a private television station owned by former president Bakili Muluzi from broadcasting, and confiscated its equipment because of its critical reporting of the DPP led government. In the same year, Kanyangwa and Mhagama (2011: 291-292) ... "MACRA threatened Joy Radio with punitive action after it aired an unfavourable recording of the president. Shortly afterwards, the information minister directed the agency to bar all private radio stations from airing live broadcasts without government permission."

Additionally, Juwayeyi's (2017:216) explains that the law is clear on the need for MACRA to be independent from any undue influence, stating: "The Authority shall be independent in the performance of its functions." However, the research by Juwayeyi reveals that in reality, the

contention among various observers and stakeholders is that the Authority is used by which ever political party is in government at any given time to keep political opponents from speaking through the broadcast media or to elevate the government's voice through the same. It states that critics use the Joy Radio decision mentioned earlier to silence a political opponent.

Juwayeyi (2017: 218) states that in 2011, the Authority shut down the operations of three radio stations that were involved in live coverage of ongoing demonstrations against the economic failures of the government of Bingu wa Mutharika, the ostensible reason was that it had done so to keep them from broadcasting information that was detrimental to national security. He claims that the real reason, however, was likely that it was a blatant attempt by the government to control public opinion by silencing political critics using the control it had over the Authority.

2.4 Broadcast regulation in Zambia

The broadcasting sector in Zambia is regulated by the IBA Act 17 of 2002, however, the public broadcaster Zambia National Broadcasting Corporation (ZNBC) is not regulated by the IBA. It is regulated by the ZNBC Act. Amendments to the ZNBC Act were made in 2002, authorising the Minister of Information and Broadcasting Services to appoint the ZNBC Board without seeking nominations from an appointment committee, as initially was the case. In the same way, in 2010, the IBA Act was amended to remove the establishment of an appointment committee and granting the Minister sole powers to directly appoint the IBA Board, which is responsible for issuing licences. The independence of both Boards is, therefore, contentious and questionable. The IBA Act does provide for a three-tier system of public, commercial and community broadcasting service (African Media Barometer, 2017:46).

According to a Parliamentary report of the media, information and communication technologies, some stakeholders have raised concern regarding the operations of the IBA. They submitted that the IBA was not functioning as it was intended to function because it was perceived as a channel through which the Government punished media houses whose content was seemingly against the Government. They acknowledged that the Independent Broadcasting Authority Act, No. 17 of 2002 provided for the control and regulation of broadcasting industry countrywide. However, the Zambia National Broadcasting Corporation (ZNBC), which was part of the broadcasting industry

was being regulated by the Zambia National Broadcasting Corporation Act, No. 16 of 1987. They were of the view that while it was important for the IBA to regulate the broadcasting industry, the Act should be amended so that the Authority could also regulate ZNBC to level the playing field in the industry, (National Assembly, 2019:19).

After the 2016 general elections, two radio stations and a television station; Komboni Radio, Itezhi-Tezhi Radio and Muvi TV, had their broadcasting licences suspended and their equipment seized by the IBA. The IBA chairman then, Brigadier General Justin Mutale, accused the three independent media houses of conducting themselves in an unprofessional manner and cited them as being in contravention of the provisions of the IBA Act. Critics questioned the timing of the suspension order, asking why they were closed after the election and not before if they allegedly posed a risk to national peace and security due to professional misconduct before the elections. However, pressure from civil society and media lobby groups pushed for an earlier hearing and the radio stations were subsequently reopened and their equipment returned (African Media Barometer, 2017:7-8).

As shown in this chapter, there have been studies on the ‘independence’ of broadcast media regulatory authorities in other countries. Some studies concentrated on how independent regulatory authorities function from one country to another in Europe while other studies assessed the independence of media regulatory bodies. However, in Zambia there is a dearth of literature on the independence of the IBA. Therefore, this calls for research into assessing the independence of the IBA in regulating the private media. Bridging this gap is important because independence of a regulatory body in doing its work has an impact on a country’s press freedom as it can either impede or promote it.

CHAPTER THREE

RESEARCH METHODOLOGY

3.0 Introduction

This chapter presents the research design and methodology that were used to carry out the study. This study employed qualitative methods of data collection. It involved the collection of both primary and secondary data. Interviews were conducted to complement various documents as data. The chapter presents the research design, target population, sampling procedure, data collection, data analysis techniques and ethical considerations.

3.1 Research Design

The study adopted a design which was inclined towards an explorative approach. According to Kumar (2011) exploratory research is when a study is undertaken with the objective either to explore an area where little is known or to investigate the possibilities of undertaking a particular research study. Kumar adds that exploratory studies are also conducted to develop, refine and or test measurement tools and procedures. Kothari (2004) states that exploratory research design deals with exploring into a phenomenon and that it is used in cases when the problem must be defined more precisely, and to gain additional insights before an approach can be developed. Furthermore, Kothari notes that the major emphasis in such studies is on the discovery of ideas and insights.

This study adopted the exploratory approach because it intended to critically analyse the ‘independence’ of the IBA’s regulation of the private media by gaining understanding on the operations of the IBA and how the private media views them.

3.1.1 Research methods

To accomplish the stated objectives, the research employed qualitative methods. Bogdan et al, (2016:7) states that qualitative methodology refers in the broadest sense to research that produces descriptive data that is peoples own written or spoken words and observable behaviour. It can be argued that the role of the researcher is not passive. Leavy (2014) asserts that the qualitative

approach is used to explore, to robustly investigate and learn about social phenomenon; to unpack meanings people ascribe to activities, situations, events, or artifacts; or to build a depth of understanding about some dimension of social life.

Strauss and Corbin (1998) explain that qualitative methods can refer to research about persons' lives, lived experiences, behaviours, emotions, and feelings as well as about organizational functioning, social movements, cultural phenomena, and interactions between nations. Mason, (2002) posits that qualitative research produces holistic understandings of rich, contextual, and generally unstructured, non-numeric data by engaging in conversations with the research participants in a natural setting.

Qualitative method is said to be subjective, and this might have an impact on the outcome of the findings (Wimmer & Dominick, 2011). However, it is important to note that gathering qualitative data involves the researcher relying on the participants to offer in-depth responses to questions about how they have constructed or understood their experience, Camara et al. (2007:23). It is for this reason that this researcher decided to use this method in order to critically analyse the independence of the IBA in regulating the private media as only themselves and the private media institutions can explain their operations well. To strike objectivity there was a great possibility that respondents that were picked would have divergent views on the independence of the IBA as well as its regulatory role.

The qualitative method was preferred because it sought to answer open ended questions as well as to provide an in-depth understanding of the problem at hand and the solutions herein. Qualitative methods increased the researcher's depth of understanding the problem at hand.

3.2. Study population

The research drew its population from the IBA, media institutions and experts in the media. The total population of media institutions according to the IBA website was estimated to be around 111 radio stations and 42 television stations as of March 2021.

3.3 Sampling Techniques and Procedures

According to Leavy (2017:76) sampling is the process by which a number of individual cases are selected from a larger population. In terms of selection of the respondent's nonprobability sampling was adopted. According to Kothari (2004) non-probability is a sampling procedure

which does not afford any basis for estimating the probability that each item in the population has of being included in the sample. Kothari further explains that in this type of sampling, items for the sample are selected deliberately by the researcher; their choice concerning the items remains supreme. Non-probability sampling was used because the researcher needed to select correct respondents who directly understand the problem.

Further, the researcher used purposive sampling which according to Patton (2015) and Morse (2010) is a strategic approach to sampling in which “information-rich cases” are sought out to best address the research purpose and questions. Purposive sampling was used to allow for the interviewing of people who are knowledgeable about the subject by virtue of their position or experience in the media.

A total of two (2) media institutions provided owners and news editors who could share experiences, knowledge and information to the researcher. The media institutions included Muvi Television and Prime Television. Muvi television was selected on the basis that it was one of the oldest private TV station in the country while Prime TV was selected because it had been suspended and later its license was cancelled.

3.4 Data Collection

Collection of data mainly comprised of gathering secondary and primary data. Secondary data is data that is already available, that is, it refers to the data which has already been collected and analysed by someone else Kothari (2004:111). In the case of this study the key sources of secondary data used were books, journals, laws, annual reports among others.

The secondary data collected complimented the primary data obtained. Primary data is collected for the purpose of the assessment, directly from the source. Primary data was collected to get qualitative information from the affected population regarding their views and proposed solutions to the problem at hand.

3.5 Data collection methods

During the study, the researcher used the following data collection methods; -

3.5.1 In-depth Interviews

For the researcher to gain more understanding of the phenomenon, in-depth interviews were conducted. Leavy (2017:139) describes in-depth interviews as inductive or open-ended and range from unstructured to semi structured. Kothari (2004:110) adds that depth interviews are those interviews that are designed to discover underlying motives and desires. Thus such interviews are held to explore needs, desires and feelings of respondents (Ibid: 2004).

The in-depth interview was used to gain the necessary information needed to answer the research questions and achieve the objective of the research. It is also important to note that using this type of interviews for this study allowed the researcher to collect adequate volumes of information because it allows the respondent to explain their responses and the interviewer to ask follow-up questions. As Seidman (2013) noted, “At the root of in-depth interviewing is an interest in understanding the lived experience of other people and the meaning they make of that experience.”

3.5.2 Document Analysis

This study also used document analysis method to collect information from secondary data. According to Bowen (2009:29) document analysis is a systematic procedure for reviewing or evaluating document both printed and electronic material. Flick (2011) adds that document analysis involves using already existing materials such as texts or images, which can be analysed in a qualitative or quantitative way depending on the research question.

Document analysis helped the researcher review several literatures written in relation to the Independence of broadcasting Authorities. This helped in identifying areas of importance to the study that would later be used in thematic analysis of data.

3.6 Data collection instruments

The instruments that were used to collect data were as follows;

- a. Recorder: with the consent of the interviewees a recorder was used to record some in-depth interviews.

b. Questionnaire (Interview Guide)

Three separate interview guides were designed, one for IBA staff, media and media staff. These were designed with questions relating to topics concerning the subject matter. The research adopted more open-ended questions to get more information from the interviewees. Freedom was also given to the interviewees to explain their responses further.

3.7 Methods of Data Analysis

According to Kothari (2014) data analysis to the computation of certain measures along with searching for partners of the relationship that exists among data groups. Thematic Analysis was used to analyse data. Thematic analysis is a type of qualitative analysis that is used to analyse classifications and present themes (patterns) that relate to the data (Alhojailan, 2012:40). It can more simply be defined as a method of analysis for coding or scoring verbal materials to make inferences about characteristics and experiences of persons, social groups, or historical periods (Smith, 1992).

Thematic analysis was used because of its capability to detect and identify factors or variables that influence any issue generated by the respondents. The researcher was able to note most mentioned indicators and put them in themes. Alhojailan (2012) states that the participants' interpretations are significant in terms of giving the most appropriate explanations for their behaviours, actions and thoughts and this fits in well with the features that are involved in the process of Thematic Analysis.

Furthermore, thematic analysis was used because the researcher wanted to understand from the perspective of the IBA, Media Institutions and other media experts whether the IBA was independent in the way it regulated the private media. Alhojailan (2012) explains that Thematic Analysis could be appropriate when the study aims to understand the current practices of any individual. In particular, the influence of any variable, which is utilised by participants in a practical way to investigate and identify how current situations are influenced by their points of view.

Additionally, the study also used the process of transcribing after the interview data was collected. Tracy (2013:178) states that transcribing is the process of transforming embodied interviews into usable data or creating typewritten records from audio recordings.

3.8. Ethical considerations

Leavy (2017) alludes that ethics are central to social research. She adds that because we are human beings engaged in understanding other human beings—social realities—ethics are of the utmost importance so that our research is not harmful. Therefore, this study followed a set of ethics when collecting information.

Firstly, informed consent was sought from individuals that were selected to take part in the study. This was done in writing and verbally. The IBA and the two selected television stations were written to for consent, particularly on the interviews with employees. The researcher further explained to the employees the purpose of the research and enlisted their participation. Secondly, the aspect of confidentiality was taken into consideration as the information collected would be used only for the purpose of this study. Thirdly, the respondents were informed that their participation was voluntary and that they could withdraw at any stage of the process.

Due to the COVID 19 outbreak, respondents were mostly interviewed remotely (phone call and emails) and the few that opted to for in person interviews were interviewed whilst adhering to laid down health regulations including masking up and social distancing.

3.9 Trustworthiness and credibility

To achieve trustworthiness and credibility; replication, verification of information given by participants was done by interviewing different people in an organisation on the same subject matter. Multiple data sources were used to get information (that is two media institutions, media experts and the IBA) this enhanced credibility of the data that was collected.

CHAPTER FOUR

PRESENTATION OF FINDINGS

The Mandate of the IBA: Perspectives of Journalists

4.0 Introduction

This chapter examines the mandate of the IBA in relation to the perspectives of the private media institutions under study. It uses the lenses of journalists in the selected media institutions to explore the supposed role of the IBA. As an Act of Parliament, the IBA is established as an independent body to regulate the media. Accordingly, the IBA has a defined mandate contained in section 5 (2) (see chapter 2 for detailed functions). Generally, there appears to be discrepancies between the mandate of IBA as prescribed in the Act, and what journalists understand the work of the IBA to be vis-a-vis what it does. The data was collected over a period of seven months through in-depth interviews that were conducted with IBA officials, media practitioners from Prime television and Muvi television and other media experts. The findings of the study are presented in themes that answer the specific objectives of the research.

4.1 Appointment of the IBA Board

The appointment process of the IBA Board has been amended from the IBA Act of 2002 to the current amendment Act of 2010. According to section 7 (2) of the amended Act of 2010 “the Board shall consist of nine part-time members appointed by the Minister.” In this case the Minister being referred to is the Minister of Information and Media. It is important to note that initially before the Act was amended section 7 (2) stated that “the Board shall consist of nine part-time members appointed by the Minister, on the recommendation of the appointments committee, subject to ratification by the National Assembly”. This provision in the law to some degree managed to neutralize the powers of the Minister. However, section 7 of the principal Act was amended by the deletion of subsection (2) amendment to this section and the substitution therefore of this section “the Board shall consist of nine -part time members appointed by the Minister,” (IBA Amendment Act 2010). Furthermore, the Amendment Act of 2010 repealed section 8 which laid down the composition of the appointments committee. Section 8 (1) of the IBA Act of 2012 stated that the Minister shall, for the purposes of section seven, constitute an ad hoc appointments committee consisting of the following:

- (a) one member nominated by the Law Association of Zambia;*
- (b) one member nominated by a Non-Governmental Organisation active in human rights;*
- (c) one member nominated by religious organisations;*
- (d) one member nominated by a media support organisation; and*
- (e) one member nominated by the ministry responsible for information and broadcasting.*

Consequently, because the law has now solely left the powers of appointment in the hands of the minister, it leaves media institutions vulnerable because they have no one to counter check the appointment of Board members. For instance, the then Minister of Information in 2004, did not approve the names of the people that were appointed on the ZNBC and IBA Boards. The minister said that some names were not suitable, and told the appointments committees to remove them, or add more names. Banda (2006) posits that the implication of the minister's latter request was that she needed greater latitude to make her own choice as to who was 'suitable' to sit on either the ZNBC or IBA board. Banda further states that the appointments committees would have none of this because the Acts clearly stated that the appointments committees "shall determine their own procedure." This action by the minister prompted media associations to take the matter to the High court. On December 23, 2004, the Lusaka High Court ordered the minister to present to Parliament the names of Board members recommended to sit on both the IBA and ZNBC Boards, (Banda:2006).

Therefore, the amendments largely give powers to the Minister to be the sole appointer of the Board. However, such changes are what have prompted Mr. Ernest Chanda, *The Mast* Deputy Managing Editor to state that the "IBA Board is appointed by a politician from government and hence it is not independent because its survival solely depends on the politician and that is where IBA ceases to be independent" (Chanda, personal interview, 2022).

The Act was amended from its original concept by the MMD government in 2010, *The Mast* Deputy Managing Editor recalls covering the parliamentary debate on the bill as a reporter at *The Post* newspaper;

"I covered this entire debate and I remember the then Vice President the late Mr. George Kunda argued strongly that there is no way you can deny the Minister powers to appoint a Board for the IBA. He argued that these powers should be restored otherwise the position of Minister of Information will be rendered irrelevant. What they wanted was to have political control over the media, especially the electronic media."

In addition, it is felt that the selection process is done on patronage and not on merit as politically inclined people are appointed to the Board. Muvi Television News Editor, Innocent Phiri, argues that there was a “moral compromise” in the appointment of former IBA Board Chairperson Mrs. Mable Mungomba who happened to be a sister to a sitting minister in the Patriotic Front government (Phiri, personal interview, 2021). However, in accordance with IBA Act of 2002 section 7 (5) a person shall not be appointed as a member of the Board if that person —

- a. is not a citizen of Zambia;*
- b. is not permanently resident in Zambia;*
- c. is a member of Parliament or local authority;*
- d. is an office-bearer or employee of any political party;*
- e. is a director or has direct or indirect financial interest in the broadcasting industry;*
or
- f. is an immediate family member of a person referred to in paragraph (d) or (e).*

Arising from sub section 5 (f) it is not clear under what circumstances the then Minister of Information Honourable Dora Siliya appointed an immediate family member of a sitting minister. It is important to note that section 7 (5) was not repealed in the 2010 amendment Act.

Muvi television Station Manager, Mabvuto Phiri, adds that there is nothing wrong with government appointing Board members for the IBA, but the only problem was having the Minister as the ultimate selector. He states that “what we need is to build stronger institutions. Let us appoint people on this Board who are able to stand up to the government that appoints them, (Phiri, personal interview, 2022).

There is no specific clause in the IBA Act that spells out the academic or professional qualifications that a Board member should have. However, the IBA Act gives guidance in section 7 (3) on who does not qualify to be appointed to the Board, it states that “a person shall not be qualified to be appointed to the Board unless the person is committed to fairness, freedom of expression, openness and accountability and when viewed collectively the persons so appointed shall be representative of a broad cross section of the population of the Republic.”

It is against this background that the Minister of Information and Media can appoint anyone who has not practiced or studied communication studies. Innocent Phiri felt that it was of great

importance that majority of Board members appointed must have at least practiced journalism so that they can fully understand how the media operates (Phiri, personal interview, 2021). He posits that the “challenge is that people being appointed as regulators are not journalists and some have never practiced journalism.”

In addition, Media Liaison Committee Chairperson Enock Ngoma (email communication, 2022) stated that persons appointed to seat on the IBA Board should be of diverse backgrounds but majority should be people with media background. He suggested that the Board can have eminent people such as a lawyer and any other from professional bodies such as Human Resources. Similarly, Mabvuto Phiri states that there is no problem with having Board members from different professional backgrounds,

“Everyone should be invited to take part in the process of regulation because at the end of the day the people that consume media products are cut crossing. Our role is being eaten up so we need everyone to be invited to take part in the process of regulation so that they see and ensure that oversight that we do not go beyond” (Phiri, personal interview, 2021).

However, in other countries like South Africa, the ICASA Act of 2000 provides the qualifications that one should hold to be appointed to the council. Section 5(3)(b)(ii) outlines that appointees to the council should possess suitable qualifications, expertise and experience in the fields of, amongst others, broadcasting and telecommunications policy, engineering, technology, frequency band planning, law, marketing, journalism, entertainment, education, economics, business practice and finance or any other related expertise or qualifications. In Malawi, the Communications Act in section 8(2) provides that MACRA’s six appointed members must be Malawian citizens who possess qualifications, experience and expertise in the following fields, telecommunications technology, electronic communications, broadcasting, frequency planning, law, information communication technology, economics or finance. This gives a clear guideline on whom is appointed to the board and the debate of who sits on the board.

4.2 Interrogating the IBA’s Mandate: double standards?

According to the IBA Act of 2012, the following are some of the responsibilities of the IBA. Firstly, it is charged with planning for the broadcasting industry and safeguarding the rational use

of frequencies in order to preserve them for the future. If this is not done frequencies might be depleted. Secondly, IBA manages the issuance of licenses development of standards for broadcasters and enforcement of compliance to the set standards. Furthermore, the IBA Act gives the Authority the mandate to manage the issuance of licenses in the broadcasting sector and to ensure that the licensees abide to the conditions of the licenses. The IBA also revokes, cancels or suspends the licenses depending on the circumstances provided for in the Act. In addition, the IBA ensures that there is fairness, professionalism and growth in the broadcasting sector. The authority also promotes fair trading in some way as the Act emphasizes on the discouragement of monopolies or media concentration.

Another mandate of the IBA is attending to consumer affairs, which involves consumer protection. Director, Standards, Licensing and Compliance, Eustace Nkandu (personal interview, 2022) states that the media that have be given the mandate to broadcast should not abuse the facilities. Instead, the media should publish content that does not injure its audience. “For instance, we have issues to do with children, protecting the integrity of children by ensuring that we do not expose them to content that might corrupt their minds.” However, Prime Television, Head of Projects Charles Nkolala mentions that the IBA is more focused or is seen to be more focused on warning stations on news and current affairs issues that involve politics and not any other programmes, “I have never heard a TV station being shut or warned because of other programming’s for example movies that are televised” (Nkolala, personal interview, 2021).

As stipulated in the Act, the mandate of the IBA is to ensure that there is fairness, professionalism and growth in the broadcasting sector. The Authority also promotes fair trading in some way as the Act emphasizes on the discouragement of monopolies or media concentration. Therefore, the Authority promotes pluralism and diversity in the broadcasting sector in the country. In relation to this, IBA Director of Standards, Licencing and Compliance explains the Authority’s mandate:

“We need to have as many radio and television services in the country but there is a catch that they should be diversity, meaning that as much as they are so many they should be different. And this is where the issue of not having monopolies comes in. Diversity is from two perspectives, one from the content perspective and the other from the ownership perspective. Hence there is need then to have an institution that is well vest with issues to do with broadcasting that should be able to provide an environment in which these issues of growth, diversity, pluralism, ethical behaviour and fair competition” (Nkandu, personal communication,2022).

However, Media Liaison Committee Chairperson, Enock Ngoma argues that government regulations such as the IBA Act can never be friendly to operations of the media, “laws such as the IBA Act, the Cyber Crimes and Security Act, the Publications Act, the Public Order Act, the Defamation Act and many other Acts cannot encourage diversity and pluralism” (Ngoma, personal email 2022). He further alluded that regulation in essence should promote media diversity and plurality and this is only possible when regulation is done by the media and not a “government entity” such as IBA. Likewise, Chanda (personal interview, 2022) posits that media regulation should enhance plurality and not restrict it. He further states that the IBA law should be practiced and instituted fairly among the media players as this would make every player feel respected and recognised on the market by the regulator.

On the other hand, Nkandu (personal interview, 2022) explains that the Act is there to ensure the Authority operates according to the law. This is also meant to ensure that the Authority does not take arbitrary actions. He contends that the law is, therefore fair in the sense that it provides guidance to those that have been given the authority and to those that are interested in operating in the broadcast sector.

However, there was a general feeling that there is no equal playing field in the media space in the country because the public broadcaster is not regulated by the IBA and that the regulator does not protect their needs. Prime TV Station Manager Makonkwa Kozi (personal interview, 2021) argues that private stations get punished for airing things that are felt to be contrary to the position of government. He adds that if the private media had behaved the way the national broadcaster behaved during the 2021 general elections, most of them would have been cautioned. Additionally, Ernest Chanda, Deputy Managing Editor for *The Mast* (2022: personal interview), postulates that the media was stifled and contrary views were not entertained, he cites the closure of Prime TV as an example of not promoting diversity in the media. He argues that Prime TV was not closed down because of the lack of license renewal but simply because the television station gave a voice to the opposition, civil society organisation and independent minded citizens who at the time were critical of the Infamous National Assembly Bill number 10 of 2019.

4.3 Monitoring and Enforcement – The technology dilemma

The IBA is mandated to monitor and enforce compliance by licensees and ensure they are adhering to set guidelines and regulations. Any broadcasting license issued by the Authority comes with

conditions which licensees need to adhere to. These conditions, among others, include payment of prescribed fees, development of ethical guidelines, and operating within the confines of the law (IBA Act of 2002). The study revealed that the IBA employs two methods of monitoring content and these include real time, which involves the inspectors and licensing officers watching or listening to programmes as they are going on a daily basis, and post monitoring, which involves reviewing recorded material to identify any compliance issues (Nkandu, personal interview, 2022). Both methods involve officers using a monitoring tool. Further it is explained that monitoring is not just done to spot negative aspects, but it is also done to identify positive aspects in content that is aired,

“When we monitor content, we are not just looking for faults we are also looking for excellency and best practices. We do a lot of commendations for stations that perform exceptionally well in certain areas. We write to them, for instance, if a programme is moderated well and communication is also sent if they do not conduct themselves well in order to remind them of the guidelines.”

However, this type of monitoring has proved to be a challenge to the IBA because the institution does not have modern technology and equipment to use to monitor what is broadcast by media institutions. The Authority does not have enough human resource to monitor these media institutions in real time hence the need for modern technology. It is cardinal for the institution to acquire modern technology as it would help to harvest all signals and monitor them from IBA offices. This will allow for the automatic recording which can be used for future referencing of broadcast items that are Modern equipment can automatically record, allows you to go back and can be used for future reference.

Director Standards, Licencing and Compliance, Eustace Nkandu, (personal interview, 2022) posits that the IBA was trying to tap in into modern technology as the Authority also faces challenges in monitoring broadcast stations that have now gone online due to limited human resource.). The IBA organizational structure in the 2019 annual report shows that the institution has four licensing officers and four inspectors. Compounded to this the IBA only has offices in Lusaka meaning that they can only access those frequencies that are within their reach. However, the law provides that media institutions should keep their real time recordings for ninety (90) days hence within this period the IBA can request for content from them.

However, Media Liaison Chairperson, Enock Ngoma stated that storage equipment for stories was too expensive, “just imagine how much content is supposed to be stored in a day, week or month. It is a cumbersome exercise storing of recordings by media institutions” (Ngoma, personal email, 2022). Similarly, Innocent Phiri (personal interview, 2021) explained that storage space for some media institutions is a challenge and an added cost to running of the institution, “storing information is involving as some stations run live and interactive programmes basically everyday”.

Additionally, IBA admits that the practice of storing content has shown that very few stations abide by it. “It is a challenge for media institutions to save content due to limited space and when we want to listen to recorded programmes as there is a possibility that some people will manipulate those areas for instance where an insult or insulting content was aired and send a clean cut to the IBA” (Nkandu, personal interview, 2022).

4.4 Relationship between IBA and licensees

The IBA is expected to carry out its operations by following the laid down rules in the Act on how it interacts with its licensees. This is supposed to allow a fair play between the regulator and the licensee. The IBA describes its relationship with its licensees as cordial as they are in constant communication with them because they are key stakeholders to their operations. According to Standards and Consumer Affairs Officer, Stephano Mwanza (personal email, 2022) the IBA has an open-door policy where licensees are free to engage with them on various matters including assistance with training needs of members of staff of broadcast stations. He states that “the Authority in this regard has trained a number of licensees on different subjects such as election reporting, complaints procedure and ethical reporting.

However, media institutions expressed mixed reactions on their relationship with the IBA. On one hand, Mabvuto Phiri (personal interview, 2021) describes the relationship with IBA as ‘cordial.’ He mentions that the Authority has acted professionally when the station has appeared before them on both political and non-political inclined issues. Furthermore, he stated that they have had both good and bad moments with the IBA, “some decisions made by the IBA are questionable and leave much to be desired, but we do have engagements with them.”

Head of Projects at Prime Television Charles Nkolala (2021) described the relationship of the IBA and media institutions as that of a “school captain and a pupil.” Additionally, Media Liaison Committee Chairperson stated that;

“In the last 10 years or so the relationship between the IBA and the media industry had been sour. The reason for this being that, IBA was seemingly being used by those wielding political power to silence critical voices by shutting down radio or television stations that gave a platform to such critical voices. With the coming in of the UPND government, things look like there might be changes for the better” (Ngoma, personal email, 2022).

However, Eustace Nkandu, (personal interview, 2022) insists that the Authority had managed to maintain a conducive relationship with their licensees, as the interacted with them at different levels for example all licensees at one point in time, would need the services of a regulator. In order to get a license one needs a regulator. When the license is about to expire, licensees are required to apply for renewal. Prime TV Head of Projects mentions that the interaction of the IBA and TV stations is at the level of license renewal and if there any other issues raised concerning operations of media institutions (Nkolala, personal interview, 2021).

Furthermore, Chanda (personal interview, 2022) argued that, “there is no good relationship between the electronic media and the IBA”. He described the regulator and licensee relationship as sour; “the IBA can be described as a butcher's knife which is used to butcher radio and television stations and they know this themselves because they are not independent of the government.”

4.5 The Licensing Paradox

The IBA amendment Act 2010 in section 22 empowers the Board to issue licenses to broadcasting media institutions. Section 22 (1) states that the Board may issue a broadcasting license subject to the provisions of this Act and to such conditions as the Board may determine provided that (a) a political party or organisation does not qualify to provide a broadcasting service and (b) a person who is not a citizen of Zambia does not qualify to provide a broadcasting service. The IBA Board determines the duration of the license that is issued to a media house. The IBA issues out different types of broadcast licenses which include commercial, community and religious stations. In doing this the Authority promotes media development, pluralism and diversity so as to provide broad perspective of information to the general citizenry.

According to the IBA between the period of 2016-2021 a total number of one hundred and fourteen (114) licenses were granted, thirty-three (33) commercial radio, thirty- six (36) community radio, twenty-five (25) commercial television, eight (8) community television, two (2) subscription Management Service, three (3) Landing Rights Broadcasting Service for radio, one (1) landing rights Broadcasting Service for TV, three (3) public radio and three (3) public television licences.

For instance, in 2017 the IBA licensed three television stations (Content Service Providers). In the very year the Authority held hearings for twenty-six (26) radio and television stations for failure or delay to pay annual operating or initial licences due to the IBA (IBA Annual Report, 2017). The report further indicates that the Authority, suspended fifteen (15) radio stations for thirty (30) days and revoked one (1) television licence for a Copperbelt based television station. The IBA annual reports for 2018 and 2019 indicate that the IBA issued Twenty-two (22) radio broadcasting licences while in 2019 nine (9) radio broadcasting licenses and 2 television content service provider new licences were granted while two stations (Prime TV and Valley FM) were suspended in 2019, although the suspensions were lifted after appropriate measures were put in place.

IBA Director Standards, Licencing and Compliance points out that the role of the regulator is not very easy as every decision that is made evokes mixed feelings. He stated that for instance some media institutions complain when the Authority issues out new TV or radio licenses, “they feel that we are giving out too many licenses which according to them introduces too many hands to deep on a small advertising cake but again if we don’t give the licenses people will complain and accuse us of so many things. It is our mandate to issue out licences” (Nkandu, personal interview, 2022).

Additionally, *The Mast* Managing Deputy Editor states that the IBA should continue giving licenses to media institutions as the world was now competitive and it was up to these institutions to be innovative in order to survive. He said that “as an active journalist, a liberal media and development proponent, I do not subscribe to the idea that IBA should stop giving licenses. I know that is what most people have been arguing for but that is a dictatorial idea, which is also archaic” (Chanda, personal interview, 2022).

Although Chanda understands that the media space is small, he suggests that market players should compete favourably instead of stopping new ones from coming on board. He believes that the challenge was now on the government to provide incentives to media players, “the government

should cut down on certain taxes and remove some of the taxes completely. For example, “if they want to develop the media industry in the country they should put a tax waiver for one year on equipment such as cameras, computers and smart phones,” (Chanda, personal interview, 2022).

However, it seems that the amount required to pay license renewal raises mixed feelings among media players. Media institutions that are awarded licenses are expected to pay license fees as prescribed by the authority in order for them to operate. In 2017 the license fees for commercial radio and television stations were revised upwards from two thousand kwacha (ZMW2000) to twenty thousand kwacha (ZMW20,000). Muvi TV Station Manager, Mabvuto Phiri posits that the license fee of twenty thousand kwacha (ZMW20, 000) paid by commercial stations is fair as this curbs the mushrooming of media institutions that are likely to compromise the media industry, “licensing fees are good for the media industry and it is one of the ways of ensuring sanity” (Phiri, personal interview, 2021). He further argues that the IBA is not doing enough to provide guidance on the standards that the media should uphold, “when there is a challenge in the telecommunications sector, the regulations body (ZICTA) moves in and tells its licencees what is expected of them and the quality they are supposed to offer. I understand there should be pluralism in media institutions in that people should have access to the media in terms of conveying their aspirations, but it should be done correctly.”

However, Prime TV Station Manager argues that the license renewal fee for commercial stations are too much, “running a media station in Zambia is not cheap, the renewal fee should be revised. Stations have to equally pay to be on TopStar which is equally expensive.”

Thus, in a democratic dispensation like Zambia it is imperative that the IBA continues to issue out licences to new players in the media in order to develop the media industry in the country. *The Mast* Deputy Editor said that;

“IBA should have been used to develop the media but they have not brought any development to the media that we can talk about. Someone will argue that they have given more licences to media institutions but they have crippled the same institutions because they want them to operate according to their wishes. Giving licences is not development, but development is bringing about the growth of the media space where the media are able to operate freely. It involves giving independent voices space in the media. Development is also about the growth of the media in terms of the views of citizens which they are representing, are they able to cover the views of every citizen or they are scared to cover certain citizens, if they are scared then it is not development”.

4.6 Financial Independence of IBA

4.6.1 Sources of Funding

The IBA being a public institution receives its funding from government as provided for in section 39 of the 2002 IBA Act. The Act clearly outlines where the authority should get its funds, section 39(1) a states that “such moneys as may be appropriated by Parliament for the purposes of the Authority,” further in section 39 (1b) the authority can get “such moneys or assets as may accrue to, or vest in, the Authority by way of grants, subsidies, bequests, donations, gifts, subscriptions, rents, interests or royalties.” The Act also spells out that sub section (1c) that “such sums as may be realized from the sale of any property by or on behalf of the Authority,” furthermore it permits the Authority to use monies it collects from licensees “fees payable in respect of licences issued under this Act,” and “such moneys or assets as may howsoever accrue to or vest in the Authority.” Additionally, the Act in section 39 (2a) allows the authority to “accept moneys by way of grants or donations from any source in the Republic and, subject to the approval of the Minister from any source outside Zambia.”

The main funding for the day-to-day operations of the Authority comes from the government grant. However, annual reports for the year 2017, 2018 and 2019 indicate that the Authority does not receive enough funding for its operations. For instance, the 2018 annual report highlights that the “Authority continued to grapple with the challenge of inadequate funding from the treasury. The grant was not enough to enable the Authority carry out all its planned activities in the Strategic Plan for 2018.” In 2018, IBA received a grant of ZMW11,199,996 while in 2019 the authority received ZMW8,399,999. In order to overcome the inadequate funding, Director Standards, Licencing and Compliance explained that;

“The Authority just like any other public institution, does not get the necessary funding that maybe required to do operations because of competing needs. A lot of other ministries as well as government agencies ask for the same funding. However, in terms of meeting our basic needs it suffices, it is just that we have quite a lot of operational needs, that we may always want to have a hefty or at least a healthy budget for us to do our work. So, public institutions, will never be fully funded therefore you have to cut your cloth according to what you have been given, so, we also have to adjust operations” (Nkandu, personal interview, 2022).

Additionally, the Authority uses initiative to lobby for funds to help sustain the grant given to them. IBA Standards and Consumer Affairs Officer Stephano Mwanza (personal email, 2022) states that there are times when both government and other donors can partner with the Authority to achieve a common goal, such as safety of Journalists or election reporting. Therefore, in such instances, the funds are spent as specified by the donor.

Director Standards, Licensing and Compliance notes that;

“We also try as much as possible to be innovative by ensuring that we look into other sources of income, by writing project proposals for certain activities, for example, capacity building. We write to different institutions, and then they actually provide funding, or directly fund the activity. So, that reduces the pressure on resources. We also ensure prudence in spending by managing resources well.”

In 2017 the Authority increased upwards by 1000 percent (from K2000 to K20,000) the license fees for commercial radio and TV media institutions this was done in order to improve the income base from licenses, (IBA Annual report 2017). Although there was significant increase the licence fees are not enough to supplement the grant from the government for instance in 2017 the Authority collected ZMW2, 411,253 in licence fees, ZMW2,451,825 was collected in 2018 while ZMW2, 001,263 was collected in 2019 for licence fees.

However, *The Mast* Deputy Managing Editor observes:

The IBA does not survive on the licence fees that they receive from the media players on the market because the amount collected cannot sustain them. Therefore, how do we expect them to be independent when they are largely funded by the central government. This lack of financial freedom has a negative bearing on their independence such that even the buildings they are occupying are government buildings” (Chanda, personal interview, 2022).

Furthermore, Ngoma (personal email: 2022) alluded that funding from the government makes the institution vulnerable to manipulation by the government. He added that since IBA is a statutory body, under the law it is supposed to be funded by the government. The Media Liaison Chairperson explained that what was lacking is true independence of the IBA, “with or without government funding, the IBA can still be a truly independent institution.”

Despite the above argument by media experts the IBA argues that the sources of funds for the IBA do not influence how funds are spent by the Authority. IBA Standards and Consumer Affairs Officer, Stephano Mwanza (personal email, 2022) explained that the IBA has sufficient autonomy to decide on which tasks to spend the money on. Additionally, Nkandu (personal interview, 2022) alludes that the Authority has the liberty of spending money on operations that they deemed relevant for that particular year as it was independent and not subject to direction by any external forces. “The funding system does not have an impact as the Authority operates within the confines of the law and not outside of the law.” The Board that oversees the affairs of the Authority has the mandate to approve the budget after it is prepared by management, once approved by the Board changes cannot be made. Hence there is no interference on how money is utilized at the Authority” (Nkandu, personal interview, 2022).

4.7 Effects of IBA practices on media freedom

Media freedom is vital in a democratic dispensation like Zambia, it basically gives a media practitioner the much-needed liberty to access and gather information to select and publish material in order to serve the public without any interference or censorship from any sections of society provided that the liberty is within the limits set by the individual rights of citizens. However, it is felt that the IBA is muzzling the private media in the country. In his argument, Muvi TV Station Manager, Mabvuto Phiri stressed that, “Press freedom under the Patriotic Front government was under threat, the role of the IBA to regulate was eaten up.” For instance, Muvi TV in May 2021 was given a final warning by the IBA after it featured Economic and Equity Party (EEP), President Chilufya Tayali, on Saturday 15 May 2021 on a Special Assignment Programme. The IBA established a clear case against Muvi TV over the manner it handled its Special Assignment Programme which featured EEP (IBA press statement, 28th May, 2021). The statement further stated that “IBA was incensed with the conduct of the moderator who allowed Mr. Tayali to make serious allegations without providing evidence and further failing to guide him against making unsubstantiated claims.”

Prior to issuing the 28th May, 2021 press statement, the IBA had cautioned Muvi TV on the same matter before a hearing was held. According to a press statement by IBA dated 16th May, 2021 titled “IBA cautions Muvi TV again,” stated that;

“The Authority is concerned that Muvi TV does not seem to observe the highest professional standards as provided in section 24 (1) (e) of the IBA (Amendment) Act No. 26 of 2010 which states that the programming provided by commercial stations must meet the highest standards of journalistic professionalism. IBA wishes to reiterate that it will not hesitate to invoke section 29 of the IBA (Amendment) Act No. 26 of 2010. Which gives the power to suspend, revoke or cancel any broadcasting licensing issued under the Act. Meanwhile the public may wish to know that Muvi TV has since been summoned to appear before the Authority to attend to specific concerns” (IBA press statement, 16th May, 2021).

Similarly, on 30 April 2021, IBA cautioned Muvi TV for failure to exercise good moral and ethical judgment when it featured Poor People’s Party president Alex Mulyokela. In a statement by the IBA, the Authority directed the station to guard against broadcasting material which may cause humiliation, distress and violate human dignity contrary to section 33 of the IBA Act Number 17 of 2002. M. Phiri argued that the caution over Mulyokela left much to be desired and would make one to think that the IBA was indirectly telling the media who to interview. “Why would the IBA tell us not to interview Mulyokela as if they have his mental certificate? Mr. Mulyokela has the right to express himself,” (Mabvuto Phiri, personal interview, 2021).

Prime television Station Manager, Makonkwa Kozi added that the IBA in the past few years had not proved to be independent as it was clear that there was a political hand in its operations. He stated that “If a media house is balanced and fair usually they are perceived to be opposition hence in their operations you will tend to see a lot of warnings and letters written to you” (Kozi, personal interview, 2021). In addition, Ngoma (personal email, 2022) stated that IBA regulation hinders media freedom because by arbitrarily closing down or suspending operating licenses for media houses, the IBA was directly curtailing both the freedom of expression and the freedom of the press.

According to *The Mast* Deputy Editing Manager, Ernest Chanda explained that the IBA had constricted press freedom in the country because of the way they have conducted themselves in terms of regulation. He argues that prior to the 2021 general elections the IBA cautioned some radio and television stations such as Muvi TV, Prime TV and Valley FM among others.

“IBA have not helped much in the promotion of press freedom, before the general elections we reached an extent where media institutions were being advised to inform the police before a source is featured in order to avoid threats from unhappy listeners. This already in itself is an abrogation of the Act which is an infringement on freedom of the press. A

media station should not be compelled to seek permission; on who they should feature on their programme as they already have guidelines. This call by the IBA was wrong” (Chanda, personal communication, 2022).

Similarly, Muvi TV News Editor, Innocent Phiri (personal interview, 2021) echoes the sentiments of his fellow media practitioners. He complains that when government felt that a TV station is not reporting positively about them, IBA would usually shut down or issue a warning. He points out that this was an infringement of media freedom.

In the same way, Muvi TV station Manager, Mabvuto Phiri (personal interview, 2021) posits that the strict and unfair regulation standards of the IBA have killed the spirit of creativity in programming. He contends that standard have gone down in terms of the quality of programming, “all of us have gone it the easy way, and we are just offering current affairs. We had quality programmes but now we are under pressure, we go where politicians are.” He further states that it was difficult for a private TV station to courageously host or run programmes where an individual who is perceived to be critical of government would feature but an on-line page can freely host such programmes on their pages because the IBA does not regulate them, this makes the operations of the private media difficult.

Similarly, Nkolala (personal interview, 2021) explains that the instance government feels that they are not receiving positive reports from a TV station, then you are in trouble with IBA but this is an infringement on the media. Muvi TV News Editor Innocent Phiri (2021) alludes that the IBA should understand that...

“Our job as a private media house is to depart away from the duties of the role of ZNBC as National Broadcasters are playing. ZNBC Act allows it to be a mirror of government no matter how dark the environment is, it is not supposed to show but to highlight the developmental projects and achievements that are being done by the government of the day. On the other hand, the private media is to stand on a neutral ground to highlight the true reality of what is going on the ground,” (Phiri, personal interview, 2021).

Nonetheless, media practitioners are in support of media regulation because they feel that this is a way of holding the media accountable. Prime TV Station Manager Makonkwa Kozi (personal interview, 2021) states that, “media regulation is very important, for any country to attain development they must have a responsible media and for the media to be responsible there has to

be some regulation of some sort.” Furthermore, Kozi posits that press freedom can only go to a certain extent so the media cannot become careless in the name of press freedom, “sometimes media institutions can be excited over nothing, you can only go up to a certain extent and not beyond. That is why there is need for regulation so that we have a responsible media,” (Kozi, personal interview, 2021). Additionally, Muvi TV news editor Innocent Phiri argues that regulation only becomes a problem when government is the one championing it. He further states that government regulation needs people who are impartial and are able to make their own decisions without any political influence. Nkolala (personal interview, 2021) agrees with this notion and states that “government should not be playing a role in regulation because they have an interest, and they will put their interest’s first.”

Furthermore, Chanda (personal interview, 2022) observes that government should not be the regulator but instead they should concentrate on their role as a player. He argues that the media should be left to regulate itself and that is the main reason efforts to set up the Zambia Media Council (ZAMEC) so that it should be regulating the media.

The Mast Deputy Managing Editor explains that;

“What this means is that instead of the government regulating us, we formulate our own law like we have done and take it to parliament to pass it on our behalf. Therefore, we will be regulating ourselves using our own formulated law, as opposed to a law that is formulated by the government. We do not want to be regulated by the government under the IBA, gone are the days when radio and TV stations should be closed down every now and then. The global trend now is that there should be a professional body that should look at the professional operation of journalists and media institutions” (Chanda, personal interview, 2022).

Similarly, Media Liaison Chairperson, Enock Ngoma stresses that government’s role should be to give policy direction and issuance of operating licenses while regulation should be left to the media themselves. Ngoma (personal email, 2022) states that government’s role is to facilitate the processes and provide a conducive environment for media to operate, therefore media regulation should be left to media practitioners who are professionals in their field to better regulate themselves.

There was general consensus amongst media stakeholders that the operations of the IBA in the past five years proved to be a threat to media freedom in the country. They felt that the Authority did not have the interest of its licensees and that in most matters the Authority acted as a judge in in most matters.

CHAPTER FIVE

DISCUSSION OF FINDINGS

The Political Economy of Broadcasting Regulation

5.0 Introduction

This chapter interprets the findings in relation to the objectives, political economy communication theory and literature review. This study reveals that the broadcasting industry has been a major interest of government, before a regulatory body was established the industry was directly regulated by the Ministry of Information and Media. Literature has shown that from time immemorial government has always wanted to have an upper hand in controlling the media because of the influence it has on society. Literature has also revealed that as political power transitioned from one political party to another it shapes how the broadcast media operates (Hamusokwe, 2019). The re-introduction of democracy in Zambia saw the liberalisation of the media meaning that private media came on the scene. During this transition from government monopoly of broadcasting to liberalisation of the airwaves, the Ministry of Information and Broadcasting Services was responsible for licensing and regulating the media.

Therefore, with trends on the continent of having broadcast media regulatory bodies there was need for establishing a body that would regulate the broadcast media. Hence in 2002 the IBA Act was enacted to establish the Independent Broadcasting Authority. The IBA was not operationalised immediately as government wanted to remain in control of the media such that in 2010 the Act was amended which gave the minister of Information powers to appoint Board Members solely.

5.1 Appointment of Board Members

Appointing of Board Members is very essential in determining the independence of the IBA Board. Precedence in the appointment of the two previous Boards shows that the Minister of Information and Media would always appoint the Permanent Secretary of the Ministry of Information and Media as a Board member. It can be argued that such an appointment can cause intimidation amongst Board members when they want to make a decision that can be viewed to be against the government. The fact that the Permanent Secretary is also a political appointee by the president makes matters worse as this compromises the independence of the Authority. The current Board

of the IBA does not have a Permanent Secretary but has an official from the Ministry of Information and Media (Chanda, personal interview, 2022). Thatcher (2005) perceives that appointing individuals with political links reduces the public distance between Independent Regulatory Authorities and partisan politics.

This type of appointments by the Minister of Information and Media can be explained in Mosco's political economy of communication where he explains about structuration as "social life is comprised the mutual structure and agency," (Mosco:1996). He further explains that relevance of structuration lies in the fact that it is "an approach to social life that aims to address goal oriented, reflexive human action without giving up on understanding the sutures of power that mutually constitute social action," (Mosco, 1996:213). Hence from this explanation by Mosco it can be argued that regulating the media industry is goal oriented and reflexive action. Regulation is supposed to be seen to address or rectify certain problems that exist in the media industry. However, this is not the case as forces such as political, economic among others make it difficult for a regulator like the IBA to achieve this goal. No matter how the IBA Board would try to act impartially it is difficult because there is always a political figure that appoints it without ratification from any other body.

Furthermore, forces of economic issues are also at play in the appointment of the Board, for instance government through the Ministry of Information and Media issued a press statement banning all government and quasi government from doing business with a private media station Prime Television. This kind of decision puts the private media in an awkward corner because it leaves them with no place to appeal to. During the time of the issuance of this directive the permanent secretary was part of the Board and the overall appeal is the Minister who issued this statement. This clearly shows that the private media when found in such a predicament have nowhere to run to as the regulatory body that is supposed to mediate on their behalf has a Board that is solely appointed by the minister in charge of information and media.

Furthermore, the Board is not protected from disappointments from the Minister of Information and Media for instance after the UPND assumed power the Minister dissolved the entire Board of the IBA. This proves to be a point of political influence as there is a likelihood that each party that ascends to power will appoint a Board that is 'friendly' to them by dissolving the Board that they find operating. Scholars like Smith (1997) argue that an indication of political influence can be the

premature departure of members from office which has to be assessed in light of the circumstances surrounding the leaving or resignation and whether undue political pressure was asserted. However, a leaf should be taken from the FCC of the USA that has adopted a staggered basis of appointments as this reduces the probability of one president from appointing all commissioners. This type of appointment also allows for continuity as there is always a mixture of old and new members unlike in Zambia where the tenure of office ends at the same time or the entire Board is dissolved at once.

From the findings it can be said that the IBA in the past five (5) years has been seen to be a stumbling block to media that is perceived to be critical of the government of the day. From time immemorial the media has been seen as a critical part of society and has been a source of attraction from politicians because they understand that what is disseminated to the public has the possibility of influencing society. Zambia is not an exception as can be seen from the literature review that the government has been seen to regulate the media from the second republic. Even after the IBA Act of 2002 was passed in Parliament it took a long time for the IBA to be operationalised. This is a clear indication that government failed to let go of its role as a regulator of the media. Further, this grip extended by amending the IBA Act in 2010 that saw the repealing of section 8 of the IBA Act which gave the Minister of Information and media power as the sole appointer of the Board of the IBA.

It can be argued that politicians who mainly run the economy do understand that the main commodity of the media is its content that it gives to the public and this content has power to influence its audience. In addition, the audience is said to be the primary commodity of mass media, and this was popularized by Smythe (1977) that the programmes created primarily are for the purpose of attracting audiences so as to deliver them to advertisers. From this it can be deduced that the theory of political and economic communication power is at play in regulating the media. Even though section 6 of the IBA Act states that, “except as otherwise provided in this Act, the Authority shall not be subject to the direction of any other person or authority.” Other forces (political and economic) always find their way in to hindering the work of the Authority. This aligns with Hamusokwe (2015) findings that there has “been a unification and consolidation of the state machine and a network of alliances between political and economic power in which the state plays a predominant role.”

5.2 Effects of IBA practices on media freedom

In its mandate to promote pluralism and diversity, the IBA issues licenses to media institutions and the Authority has a mandate to suspend or cancel these licenses. However, when the Authority evokes these powers especially on television stations that seem to be critical of the government it appears that there are mixed feelings from the audience and the licensees. During the past five years what was observed was that people in the ruling party would issue warnings to private media institutions that seemed to report negatively about the government. This affects media freedom as it limits or scares media Institutions from reporting on certain matters for fear of being shut down. This can be said to be killing the diversity aspect that the IBA is said to be promoting because the media will start censoring itself and fail to hold appointed leaders accountable.

It is observed that the IBA has issued licenses to media institutions which is a plus for media freedom in the country but the question lies in the sustainability of these media institutions. The question lies in are these institutions given licenses only to saturate the market or is it just cosmetic for instance in 2017 the Authority had held hearings for twenty- six (26) radio and television stations due to failure to pay annual operating or initial license fees due to the IBA (IBA annual report 2017). An outcome of these hearings resulted in the suspension of fifteen (15) radio stations for thirty (30) days and revocation of one (1) television license for a Copperbelt based television station. Further, in 2019 the IBA granted new broadcast licenses to eleven media institution and amongst these two (2) were television stations that is Loyola and ZANIS television Lusaka. In the very year the TV license for Prime TV was suspended for thirty (30) days due to non-compliance (IBA Annual Report 2019).

The other major problem is that when a media institution has its license cancelled they need to appeal to the Minister of Information and Media as stipulated in section 31 (1) of the IBA (Amendment) Act of 2010 “A person who is aggrieved with a decision of the Board under this Part may appeal to the Minister within thirty days” after which they may appeal to the High Court if left unsatisfied. However, the Act does not provide a specific time-frame within which the minister must decide on the matter at hand. This proves to be an institutional loophole because a minister who is a political appointee can delay a case that may involve a media institution that is perceived to be critical of government. This provision of the Act might prove to be a threat to

administration of fair justice because the minister is capable of taking advantage of this unclear clause.

However, it can be argued that in as much as the media in a democracy like Zambia should have the right to communicate information, ideas and opinions or to offer checks and balances there are many hindrances that they face and one of them is that of regulation. It is difficult for an institution like the IBA to show impartiality when regulating media institutions that report negatively about the government or when the ruling party issues threats and banishes media institutions that seem to be reporting things that are not in good taste with the government of the day for instance the former Secretary General of the Patriotic Front is on record of chasing journalists from Prime TV and ordering the station not to be covering the party.

However, these warnings, cancellations and suspensions have an impact on the media institution as found in the findings. It is of great importance to note that the advertising space in the country is small as there are many media institutions fighting for it. Hence when a licensee is warned they lose business and their potential advertisers get scared because they don't want to do business with a media institution that might close down (Mabvuto Phiri, personal communication, 2021) or that is in wrong books with the government. What is more complicated is that government has shares in the main signal carrier Top Star and whichever media institution that finds itself on the wrong side of the government can find itself off the content carrier. Additionally, running a television station is costly so once advertisers are scared away the sustainability of the media hits a snag.

5.3 Monitoring and enforcement - the technology dilemma

It is clear from the personal interview conducted with Nkandu (2022) that the Authority has serious challenges with technology issues. In this digital era, it is expected that the regulating Authority should have modern equipment to ensure that its licensees are abiding to the set standards. Depending on recorded material from media institutions has also greatly proved to be a challenge as revealed by the interviewees. Therefore, it can be argued that this could be the reason why most stations that are cautioned, warned or suspended is mostly on political programmes.

Technology is evolving at a fast pace and hence the regulating body should try by all means to match up. For instance, media stations are able to cover areas that are not within their frequency licence, media stations are able to reach larger audiences on-line hence monitoring with advanced

technological equipment would be a step in the right direction. Media institutions have evolved and the regulator has to match up with this evolution. For Instance, Mosco (2009:173) in his works identified Spatialization, which refers to "the process of overcoming the constraints of space and time in social life." Spatialization is a significant factor in the communications industry today as it shows the extent to which the media are able to present their products with the limitation of time and space. Mosco states that the Institutional structure enables to deliver the media product (news) as fast as it can reach the audiences. With so, Spatialization interpreted as an extension of the institutional media through the corporate form (Mosco 2009:175). In reference to the political economy of communication, it refers to the constraints on the movement or flow of information, goods and services, and also to the effects of communication on the processes of differentiation of corporate operations and their subsequent reintegration.

5.4 Relationship between IBA and licensees

It can be observed from the findings that the main interactions between IBA and its licensees is mainly on hearings and renewal of licenses. It is clear from majority responses that the media feel that the IBA only comes in to reprimand media institutions when they are found to be in the wrong. It is important for the IBA to deliberately carry out interactions with their stakeholders in order for them to have a general feeling of how the media institutions feel about their operations and understanding of the Act. The regulatory body is perceived to be a tool for the government by the media largely because they are seen to be propagating the agenda for the government of the day.

5.5 Funding

The majority of the IBA budget is funded by the central government and funds are also raised through licence fees and from TV levy collections. Funding is an important aspect of the independence of any institution as it protects an institution from economic or political capture because if an Authority is not well funded the will fall into the hands of the highest bidder. In the political economy of communication theory those with the economic muscle tend to be the ones in control of the communication system. Hence 'capture' of the IBA by the government where the largest funding is sourced is likely to occur because the Authority cannot bite the hand that feeds it.

However, the funds that are given to the Authority are accounted for as the IBA is mandated to produce an annual report that includes a financial report of how money was spent. In order to avoid misapplication or misappropriation of funds the Authority is audited by the Auditor General's office.

Additionally, there seems to be transparency in the way the budget for the Authority is prepared as it goes through a series of scrutiny before the Minister of Information and media presents it to Parliament where it is debated by Parliamentarians before approval. However, to some extent this can prove to be a problem despite the many phases it passes through because the Ministry of Information and Media can only choose to support programmes that are deemed important to them

It is important that the Authority should be well funded in order for it to execute its duties well. A well-funded IBA will be able to inspect as many media institutions to ensure that the sector abides to the laid down procedures and enough staff will be recruited to run the day to day affairs of the institution.

5.6 Political and Economic factors

The interactions between the media and government and the general public that its mandated to guard its public interests; and media and its owners has seen the need for a neutral body to calm or offer solutions to conflicts that may arise due to these interactions. McChesney and Schiller (2003) argue that "it is not that the antagonism between the government and private media does not exist. Nor is it the very legitimate concern about state suppression of the press. To the contrary, what is inadequate and wrong about this conventional framing is the notion that the state plays little or no role in establishing the communication system, and that state-media relations naturally tend to be antagonistic, with the further implication that this antagonism leads invariably to a healthy democratic political culture." With this in mind it is imperative to mention that the state plays a significant role in coming up with institutions or bodies of regulation, laws and policies which are negotiated through the political system and guarantees rights and freedoms and sets obligations and limits even to the freest of the media in the public sphere (McQuail: 2010).

In this event through statutory laws made by those with political power, the neutral body is the IBA that is supposed to offer a neutral playing ground. If the media is left to be entirely controlled or regulated by governments this would entirely kill the private sector. Scholars like McChesney

and Schiller (2003:2) suggest that “without government intervention, a healthy media system will invariably rise from the rich soil of political freedom. Let the government intervene, no matter how well intended the intervention may seem, and alarm bells should go off in the minds of all liberal and right thinking people”.

The IBA is meant to neutralize the powers of the state over the private media but the ‘powerful’ hand of politics has found its way in the ‘bedroom’ of the regulator. This can be attributed to the fact that politicians are mandated to make laws in Parliament and in the instance that the ruling party has majority members, Laws to cripple or limit the powers of the regulator can be passed. It is imperative to state that those that have political power also control the economy.

Therefore, as much as the IBA can have qualified staff and a well-defined mandate, powerful political forces will always inhibit their work, interests of the public to be informed on how accountable the elected officials are does not sit well with the powers that be. The IBA cannot act fairly because it does not regulate the public broadcaster hence disadvantaging the private media that will want to reflect things from a different angle. This behaviour by the IBA can be best described by what Herman and Chomsky (1988:298) assert as the ‘societal purpose, of the media which is to inculcate and defend the economic, social and political agenda of privileged groups that dominate the domestic economy and the state’. Further, Herman and Chomsky (1988) state that the media mobilise support for the special interests of the most powerful groups in society and in doing so purvey a systematic bias in coverage. This occurs not just in what is said and reported, but in what is omitted, distorted or marginalised.

CHAPTER SIX

CONCLUSION AND RECOMMENDATIONS

6.0 Introduction

Zambia's media regulation trajectory has evolved from pre independence to independence and post-independence. It has been observed that how the IBA regulates the media has been a source of contention at times. This is largely because broadcast media institutions are considered to be a vital part in transmitting information and ideas which enlightens and change the way the general public perceive things. The process of regulation of the media has since been changing depending on the political and economic situations in the country. These shifts have also been influenced by the political party in power.

6.1 Conclusion

The study has established that, contrary to the liberalisation promises of the 1990s, the government has failed to completely deregulate the media. The study has revealed that government has continued attempting to gain an upper hand in the operations of the regulatory body, the IBA, through the Board of Directors which is directly appointed by the Minister of Information and Media without scrutiny from an independent body such as Parliament. This compromises the independence of the IBA as there is political influence with the way the board is appointed. It has also been found that TV stations have been cautioned over political programmes that were aired.

The study has also established that most media practitioners feel that the playing field in the regulation of the broadcast media is not fair because ZNBC is not regulated by the IBA. As such, most things that get the private media cautioned or suspended are issues that the national broadcaster gets away with. It was also found that some practices of the IBA hinder press freedom because media institutions tend to be scared to air some programmes that may be deemed to be anti- government. This promotes an extreme form of self-censorship.

6.2 Recommendations

Following the findings and the subsequent discussion, with learning on the challenges that the IBA encounters when performing their role as a regulator, the research makes the following recommends.

Firstly, to safeguard the independence of the practices of the IBA, the IBA Act should be repealed and replaced with a new Act that will address the many issues that compromise the independence of the Authority. Among the issues that should be addressed is the appointment of Board members, these are very critical to the running of the IBA. Mechanisms to protect the independence of the Board should be included in the Act to ensure that the Minister's role as sole appointer is checked by a selection committee and proposed names be approved by Parliamentarians. This will enhance transparency in the selection of Board members.

Additionally, when a new Act is passed it should also outline the qualifications that one should hold to be appointed as a Board member. This will address the debate of who is competent to sit on the Board.

Furthermore, the IBA Act should address the issue of the Minister of Information and Media dissolving the entire Board, so that members are protected from being dismissed unfairly. Board members should only be dismissed when they go against the laid down procedures and not for unclear political reasons, especially when a new political party forms government.

It should also be noted that there has been technological advancement since the Act was passed in Parliament in 2002 and amended in 2010. The Act should address the issue of broadcast stations that stream on-line.

Secondly, the IBA should consider it as a sense of urgency to procure technologically advanced equipment that would help them monitor what broadcast stations (TV and radio) are airing unlike depending on recorded submissions from media institutions that has proved to be a challenge to both the IBA and media institutions.

Thirdly, funding should be increased for the Authority in order for it to carry out its mandated duties. It is important to note that funding is a critical component in determining the independence of the institution. IBA should also enhance its lobbying capacity from independent institutions outside and within Zambia.

The independence of regulatory agencies should also be marked by the ability to regulate independently from political and economic influence. Loss of regulatory power means that the Authority does nothing, but simply endorses whatever decision is taken by those who control the regulatory process.

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APPENDICES

Appendix A

Dear participant,

My name is Kapembwa Chungu a Zambian female student at the University of Zambia pursuing a Master's degree in Mass Communication under the school of Humanities and Social Sciences. This research I am conducting is part of my academic requirement. The main objective of carrying out this research is to examine the independence of the regulatory practices of the Independent Broadcasting Authority (IBA) towards the private media in Zambia, to explore the IBA practices in regulating private media institutions in Zambia, to investigate the factors that influence the IBA's capacity to regulate the private media in Zambia, to examine the operations of the private media in relation to media regulation and to determine the effects of IBA regulation practices on media freedom.

There is no direct benefit to you anticipated in participating in this study. However, it is hoped that the information gained from the study will help in adding knowledge and literature it is imperative that a study should be carried out to understand how the IBA operates and its role in ensuring a broadcasting environment that reflects democratic principles (media freedom). The study is going to inform the IBA if it is fairly regulating the media in the country. The study will also help the private media understand the operations of the IBA and it is hopeful that this study will bring about more stake holder engagement between the private media and the IBA.

Kindly be assured that your identity in this study will be kept confidential. No name or any of your personal details will be disclosed, therefore to explain on the findings, the term participant will be used. Further, your decision to participate should be done out of your willingness to contribute to this study. In an event where you are uncomfortable to participate in this research, you have the right to decline or withdraw from participating at any time without penalty. By signing this form, you are agreeing to be part of the study. Your truthfulness in your responses will be of great importance in this study as it will enhance accuracy in the findings.

I have read the foregoing information, or it has been read to me. I have had the opportunity to ask questions about it and any questions I have been asked have been answered to my satisfaction. I consent voluntarily to be a participant in this study.

Name of Participant _____

Signature of Participant _____

Date _____

Day/month/year

APPENDIX B

IN-DEPTH INTERVIEW GUIDE IBA EMPLOYEES

Research Topic: A critical analysis of the ‘independence’ of the Independent Broadcasting Authority’s regulation of the private media.

In-depth Interview No:

Interviewer’s Name:

Sex of respondent:.....

Position:.....

Years in employment at organization:.....

Time of Interview:.....

Date:.....

1. What do you see as the key role of IBA in the media industry?
2. What guidelines do you follow as IBA when regulating the private media?
3. How is the IBA funded?
4. What do you think of the funding system of the IBA? Does it have an impact on the independence of the institution?
5. How would you describe the budget allocated to the authority? Is it sufficient to carry out its tasks and duties?
6. Does the IBA have sufficient autonomy to decide on which tasks to spend its budget?
7. To what extent can government and other external organizations influence the budget of the IBA?

8. Does the tenure of office for board members coincide with the election cycle of the country (general elections)?
9. What is the relationship between IBA and ministry of Information in regards to regulating the media?
10. With regards to making final decisions for the authority, what influence or power does the minister of information and broadcasting have?
11. What is your relationship with your licensees?
12. How do you monitor the media to ensure that they are abiding by the laid-down procedures?
13. Does the Authority have sufficient internal capacity (human resources with expertise and necessary skills)
14. Do you have any technologically advanced equipment that you use to monitor what television stations broadcast?
15. How many TV licences have you issued in the past 5 years?
16. How many TV station licences have you suspended or cancelled in the past five (5) years?
17. How many TV licences have you issued in the past five (5) years?
18. How many TV stations have you cautioned and warned in past five (5) years?
19. What are the challenges you face in implementation of the broadcasting regulations?
20. How do you handle complaints brought to your against media houses?

APPENDIX C

INTERVIEW GUIDE FOR MEDIA INSTITUTIONS

Research Topic: A critical analysis of the ‘independence’ of the Independent Broadcasting Authority’s regulation of the private media.

In-depth Interview No:

Interviewer’s Name:

Sex of respondent:.....

Position:.....

Years in employment at organization:.....

Time of Interview:.....

Date:.....

1. In your opinion what do you think is the role of the IBA
2. What is your relationship with the IBA?
3. How often do you hold interactive engagements with IBA?
4. Do your reporters and editors understand the IBA Act, ethics, laws relating to media regulation?
5. How often do you do in-house training on IBA Act, ethics, laws relating to media regulation?
6. Do you apply the media ethics were carrying out your duties?
7. What do you think about media regulation?
8. Do you think IBA media regulation hinders the operations of the media?
9. Do you think the regulatory practices of the IBA hinder/promote media freedom?
10. In the past three (3) years have you ever received a warning/ caution from the IBA?

11. What is your take on the renewal amount of licences? Do you think it is too costly on the media institution?

12. Do you think government should be involved in the regulation of the media at the same time being a player in the industry?

13. In your opinion how would you define an independent media regulatory body

14. Do you think IBA is independent?

APPENDIX D

INTERVIEW GUIDE FOR MEDIA EXPERTS

Research Topic: A critical analysis of the ‘independence’ of the Independent Broadcasting Authority’s regulation of the private media.

In-depth Interview No:

Interviewer’s Name:

Sex of respondent:.....

Position:.....

Years in media:.....

Time of Interview:.....

Date:.....

1. What do you think is the role of the IBA?
2. How would you describe the relationship between IBA and the media industry (licencees)?
3. Do you think government should be involved in the regulation of the media at the same time being a player in the industry?
4. How best do you think government should be involved in the regulation of the media?
5. What do you think of the funding system of the IBA? Does it have an impact on the independence of the institution?
6. What is your take on the appointment of board members for the IBA?
7. Do you think the IBA has enough financial muscle to carry out its duties and tasks as mandated by the Act?

8. Do you think the IBA is fairly regulating private TV stations?
9. From your observation of News and broadcast items televised; are media institutions knowledgeable about the ACT, ethics and laws relating to media regulation?
10. Do you think regulation of media promote media plurality and diversity?
11. Do you think the regulatory practices of the IBA hinder/promote media freedom? Please explain

