COMPETITION AND CONSUMER PROTECTION COMMISSION

SUBJECT: ASSESSMENT OF THE PAY TELEVISION SERVICE SECTOR IN ZAMBIA

ECONOMIC SECTOR: SERVICES (BROACASTING AND MEDIA)

September 2023

Executive Summary

Introduction

In March 2023 the Competition and Consumer Protection Commission ("the Commission") instituted a market inquiry into the pay television sector with a view to obtain a clear understanding of the pay television services value chain, to assess the state of competition and levels of consumer protection in the market. On 7th March 2023, the Commission published the Terms of Reference and the Call for submissions.

Legal Basis for the Market Inquiry

The Pay Television Market Inquiry was initiated in accordance with Part V of the Competition and Consumer Protection Act No. 24 of 2010 ("The Act") and Part III of the Regulations

Scope

This market inquiry was a general inquiry into the state, nature, and form of trading in the pay television market, rather than a narrow inquiry of specific conduct by any firm.

Market Definition

The relevant markets for consideration are;

(i) The supply of retail subscription premium audiovisual content whether linear (such as DTH and DTT) or not (OTT) and;

(ii) The supply of budget audiovisual content whether through subscription

Relevant Findings

The Digital Migration Policy and the current legal framework had resulted in (i) consumers not having access to Free to Air (FTA) channels when out of subscription despite the DMP providing so (ii), some aspects of the policy not being fulfilled as the sector lacked a legal instrument to protect the process as well as (iii) a segment of broadcasting particularly Direct to Home (DTH) and Over the Top (OTT) not being included in the regulatory space.

While OTT provided an alternative, current infrastructure and prevailing technology would not support the widespread adoption of streaming as an alternative to DTT and DTH. Alternative billing such as A La carte, Pay -Per -View and Fractional billing are likely to be detrimental to consumers as they would result in higher subscription fees. With regards to content providers and signal distributors, it was found that a revenue sharing mechanism would compensate content creators while a mechanism for access fees for content transmission would need to be regulated to protect and promote the content creation sector.

Recommendations

- Revise the Digital Migration Policy to create an all-encompassing policy position and provide for a legal framework to support the digital broadcasting space in order to create a structured and fair sector as well as to provide clear delineation to ensure a firewall between signal distributors and content service providers.

- Signal distributors be evaluated to ensure universal coverage as provided for in the DMP. In the alternative, at the expiry of current licenses, conditions for licensing must include demonstrable capacity to invest in universal coverage and ability to support an expanded sector to enable content service providers establish independent bouquets separate from the current arrangement.

- The regulator must ensure that the character of the five (5) mandated FTA channels in the DMP are defined and appropriate mechanisms are put in place for consumers to access FTA for free as well as establish appropriate mechanisms for revenue sharing to ensure that content service providers are not subjected to unfair trading practices.

- All current exclusive contracts by MultiChoice and Topstar must be notified with the Commission subject to section 14 of the Act. In turn, the Commission should take appropriate action to ensure that outcome of the review promotes market access, growth and serves the interest of a broad scope of stakeholders.

- That IBA put in place mechanisms for approving subscription adjustments as well as guidelines on permissible programming (quality and number of repeat programs) in order to protect the interest of consumers.

Acronyms

ABN	Agribusiness Network
AV	Audiovisual
CCPC	Competition and Consumer Protection Commission
CDNs	Content Delivery Network
CTPD	Centre for Trade Policy and Development
CUTS	Consumer Unit Trust Society
DTH	Direct-To-Home
DTT	Digital Terrestrial Television
DVR	Digital Video Recorder
EMPEG	Moving Picture Expert Group
EPG	Electronic Program Guide
EU	European Union
FAZ	Football Association of Zambia
GDP	Gross Domestic Product
HD	High Definition
HEVC	High Efficiency Video Coding
IBA	Independent Broadcasting Authority
ICT	Information and Communication Technologies
ITU	International Telecommunication Union
ZMW	Zambian Kwacha
Kbps	Kilobites per second

MAH	MultiChoice Africa Holdings
MAL	Multichoice Africa Limited
Mbps	Megabites per second
MCTI	Ministry of Commerce, Trade, and Industry
MNO	Mobile Network Operators
MoM	Ministry of Information and Media
MoTS	Ministry of Technology and Science
MoU	Memorandum of Understanding
MVPDs	Multichannel Video Program Distribution
OFT	Office of Fair Trade
OTT	Over-The-Top
PPV	Pay per view.
SLA	Service Level Agreements
SMS	Subscriber Management Services
STB	Set Top Box
SVoD	Subscription Video on Demand
ToR	Terms of Reference
TV	Television
TVRO	Television Receiver Only
UHD	Ultrahigh Definition
USD	United Stated Dollar
VOD	Video-On-Demand
ZACA	Zambia Consumer Association
ZAMCOM	Zambia Institute of Mass Communication

ZBS	Zambia Broadcasting Service
ZICTA	Zambia Information and Communications Technology Authority
ZNBC	Zambia National Broadcasting Corporation
ZTV	Zambia Television Service

Table of Contents

Chapter one

Introduction

1. Pay television, also known as subscription television or premium television, refers to a television service that requires viewers to pay a subscription fee to access premium or exclusive content. Unlike free-to-air television, which is available to viewers at no cost, pay television services offer a wider range of channels and programming options that are not accessible without a subscription.[1] Pay TV providers typically offer a wide range of channels and programming options, including movies, sports, news, and entertainment, which are not available through free-to-air broadcasting.

2. The pay-tv market has seen growth on the continent, characterised by new entry and expansion of existing service providers. Zuku TV from Kenya continues to expand its operations across the continent having set up in Kenya, Tanzania, Uganda, Malawi and most recently Zambia with aggressive plans to roll out to more countries soon[2]. In terms of content, Zuku TV has differentiated itself from Multichoice, offering a combination of a very strong Asian package and African soaps, along with lower prices for its bouquets[3]. StarSat, a Chinese firm which is a subsidiary of Star Times, has made inroads into the pay-tv market in the continent with a footprint in about 30+ countries[4]. The coming on board of Zuku and StarSat TV now means Multichoice no longer has a monopoly in the pay-tv market in most of Southern African. StarSat, also set up its home satellite TV service towards the end of 2014 in Kenya, increasing competition to Multichoice and Zuku. Star Times has recently acquired the rights to broadcast Germany's Bundesliga football

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[1] M Medina, M Herrero, I Portilla (2019): "The evolution of the pay TV market and the profile of the subscribers". Revista Latina de Comunicación Social, pp. 1761 a 1780, http://www.revistalatinacs.org/074paper/1409/92en.html DOI: 10.4185/RLCS-2019-1409en

[2] https://zuku.co.zm/about-zuku/

[3] https://static1.squarespace.com/static/52246331e4b0a46e5f1b8ce5/t/55c3125be4b08d7d8b853ae7/1438847579997/DSTV+CCRED+Review6.pdf

[4] https://m.startimestv.com/browser/aboutus

games across the continent starting in August this 2023[5]. StarTimes now is the only brand which is simultaneously running DTT, DTH and OTT businesses in the African market, and the only company which is engaged in Business to Business (B2B) and Business to Consumer (B2C) business at the same time.

3. Similarly, US internet-based content provider Netflix has also entered the African market. The entry of Netflix is likely to challenge Multichoice which currently holds exclusive rights to broadcast some top American TV shows which are also screened by Netflix. Although Netflix has entered the market using an internet-based model, its proven ability to provide some of the top content means that consumers are presented with an alternative which is potentially more tailored to the specific needs of customers who prefer to only watch certain programmes and not a bouquet of channels. However, their ability to compete will be based on the availability of internet and sporting content. The continent had around 570 million internet users in 2022, a number that more than doubled compared to 2015[6].

Matters of Concern

4. The television broadcasting sector particularly pay television has been faced with several challenges. While the challenges are many, the following present the common and recurring problems.
    a. **ZNBC Channels availability:** This involves the distribution of ZNBC channels. Despite ZNBC being a public broadcaster with universal service obligations supported through public funds to sustain its universal service obligations, it is still not freely universally accessible as it is distributed through signal distributors (Topstar as a public distributor and GoTV as a private distributor) to the exclusion of consumers on other

[5]https://static1.squarespace.com/static/52246331e4b0a46e5f1b8ce5/t/55c3125be4b08d7d8b853ae7/1438847579997/DSTV+CCRED+Review6.pdf
[6] https://www.statista.com/topics/9813/internet-usage-in-africa/#topicOverview

platforms such as DTH from Multichoice who are required to pay for it as part of the bouquets. Further, consumers accessing television through other means such as Cable and Over the Top have no access to ZNBC channels.

b. **Content availability, quality, and pricing:** There have been concerns of discrimination in content provision and the pricing of bouquets especially high-end packages from xxxxxxxxxxxxxxxx which have equally raised concerns whether justifiable or not. Largely, this is because of the premium programs such as the xxxxxxxxxxxxxxxx sourced exclusively in high end bouquets that have made these bouquets inelastic given limited choices and high switching costs. Content quality and perceived repeat programing have also raised several concerns from consumers calling on the Commission and Government to review the pay television broadcasting space and calling on service providers like xxxxxxxxxxxx to provide pay per view (and “a la carte” bouquets) services.

c. **Insufficient regulatory space:** Technology has outpaced regulation with television currently distributed through multi channels and through different receptors. Distribution modes currently include Satellite Direct-to-Home, Terrestrial networks (e.g., Cable, IP and DTT distribution) and OTT (Over-the-Top) with streaming (including on social media platforms) and individualised satellite distribution promising to be the future of television broadcasting. While regulation exists, it does not cover all aspects and future developments of broadcasting leaving one section regulated and subject to statutory fees in competition to the other which is unregulated and not subject to such fees.

Regional matters

5. Africa's pay television industry is projected to add 16 million new viewers over the next five years as top players step up the battle for compelling and affordable local content. Between 2022 and 2028, the continent's Pay-TV subscribers are projected to rise by 38% to 57 million[7]. While Pay-TV revenues on the continent are forecasted to reach US$6.44 billion by 2028, a 29% increase from US$4.99 billion in 2022, subscriptions are forecasted to rise by 38% over the same period signalling that consumers are likely to benefit from falling monthly subscription rates[8].

6. When it comes to operators, Multichoice (DStv) remains the dominant player with 13.37 million subscribers, showing significant growth from 10.99 million in 2020. In the year 2026, StarTimes/StarSat, operating as distinct providers, are projected to boast 12.39 million and 4.47 million subscribers, solidifying the Chinese company's substantial presence and influence across the African continent.[9]. Elsewhere, Vivendi will add to its 5.16 million Canal+ subscribers to reach 7.28 million, while GOtv will be at 6.29 million. Easy TV will have a modest 619,000 subscribers, while an amalgam of other players will hit 6.27 million[10].

7. The Multichoice group has continued its strategy of differentiation through local content. It launched two more local channels in sub-Saharan-Africa and produced 3 084 hours of local content, an increase of 15% year on year. This ongoing investment in local content accounted

[7] https://digitaltvresearch.com/product/africa-pay-tv-forecasts/
[8] https://digitaltvresearch.com/product/africa-pay-tv-forecasts/
[9] https://www.digitaltveurope.com/2021/01/04/africa-set-to-exceed-50-million-pay-tv-subs/#close-modal /
[10] https://digitaltvresearch.com/product/africa-pay-tv-forecasts/

for 48% of total general entertainment spend and brought the total content library to more than 73 000 hours[11].

Legal Basis for Market Inquiry

8. On 7th March 2023 the Competition and Consumer Protection Commission ("the Commission") published a notice of its intention to conduct an inquiry ("the Inquiry") into the pay television market in Zambia. The Pay Television Market Inquiry was initiated in accordance with Part V of the Competition and Consumer Protection Act No. 24 of 2010 ("The Act") and Part III of the Regulations[12]. The inquiry was in keeping with the purpose and functions of the Commission as set out in objectives of the Act and section 2 of the Act. Pursuant to Regulation 4(1) (a-e), the Commission is required to initiate a market inquiry based on a complaint(s) made to it by enterprises, consumers or representative bodies, studies conducted by any relevant bodies on a particular sector, its own research, its experience in regulating restrictive business and anti-competitive trade or representations made to it by the Government regarding a particular sector or type of agreement.

9. This Pay Television Market Inquiry was conducted in response to numerous consumers' complaints. The concerns of the consumers relate to;
    a. Availability and quality of content
    b. Pricing of pay television.
    c. Access to free to air content

10. Having considered the concerns from consumers, the Commission initiated a market inquiry because it had reason to believe that there were features of the sector that prevented, distorted, or restricted

[11] https://investors.multichoice.com/pdf/interim-results/1h-fy23/mcg-executive-review-of-our-performance.pdf

[12] The Competition and Consumer Protection (General) Regulations 97 of 2011

competition within the sector, and/or has elements of unfair trading that hinder achievement of the purposes of the Act. Section 2 of the Act calls on the Commission to, inter alia, "*review the trading practices pursued by enterprises doing business in Zambia, act as a primary advocate for competition and effective consumer protection in Zambia*" and to "*advise Government on laws affecting competition and consumer protection"* as well as "*do all such acts and things as are necessary, incidental or conducive to the better carrying of its functions under this Act"*.

Terms of reference

11. On 7th of March the Commission published the Terms of Reference ("ToR") pursuant to Regulation 5(1) and 5(2) of the Competition and Consumer Protection (General) Regulations 97 of 2011 (Regulations). Regulation 5(1) and 5(2), mandates the Commission to inform the public about the market inquiry through the placement of the Notice on the Commission website or in a daily newspaper of general circulation in Zambia. Regulation 5(2) requires that the Notice indicate the scope of or the terms of reference for the market inquiry and request all interested parties to make submissions to the Commission.

Scope And Purpose of the Inquiry

12. The purpose of the inquiry was to understand what factors or features of the market(s) and value chain led to non-availability and quality of content, unfair pricing of pay television and non-access to content from the Public Broadcaster, the Zambia National Broadcasting Corporation (ZNBC). This inquiry covered market participants involved at all points in the value chain.

13. This market inquiry was thus a general inquiry into the state, nature, and form of trading in the pay television market, rather than a narrow inquiry of specific conduct by any firm. Although the Terms of Reference

(ToRs) delimited the scope of the market inquiry, other related matters not identified in the ToRs were considered during the conduct of the inquiry.

Objectives

14. The main objectives of the market inquiry were to:

i. Obtain a clear understanding of the pay television services value chain, including the interaction and commercial relationships between different levels of the value chain, and the relationship with other parts of the pay television industry and the broader economy.
ii. Assess the state of competition and levels of consumer protection in the market at every stage of the value chain for the provision of pay television services to identify areas of market power where customers or consumers may be exploited or excluded by firms and to identify any other structural, behavioural, or regulatory factors that may influence competition or pricing, or matters related to consumer protection.

15. The assessment included but was not limited to:
- Market structure;
- The general adequacy and impact of the current regulatory regime;
- Strategic behaviour by pay television providers;
- The adequacy of regulation to promote new entrants,
- Establish whether pay television services quality and coverage is adequate.

16. The outcome of the market inquiry was meant to inform and motivate the taking of action on any matters covered in the ToRs, including the following:

1. In so far as the practices identified by the inquiry are capable of being addressed as matters falling within section 8, sub section 1 of Section 9, sub section 1 of Section 10 or sub section 1 of Section 16 of the Competition and Consumer Protection Act, deal with them in accordance with the provisions of the Act relating to such matters.
2. In so far as the adverse effects of competition cannot be remedied under the Act, or are the result of other applicable laws, make recommendations through the Minister of MCTI for such further action, including amendments to applicable laws as is required to provide an effective remedy even for other institutions.

Call for submissions.

17. On 7th March 2023, the Commission issued a call for submissions inviting any and all stakeholders who wished to participate in this Inquiry to make formal submissions to the Commission. The stakeholders included State and non-State actors who in one way or the other have an interest, influence, or concern in the Pay Television Services market. This included but was not limited to Consumers, Service Providers, Regulators, Researchers and Academicians. The submissions were to be in line with the Rules of Procedure for the Pay Television Services Market Inquiry published on the Commissions website https://www.ccpc.org.zm/legalframework.

18. Submissions were not limited to the specific issues identified. Stakeholders were given the liberty to extend their submissions to other issues relevant to the Inquiry that had a potential to impact the Pay Television Services market by businesses, government, and consumers in Zambia. All submissions were expected to be detailed and where possible supported with documentary evidence.

Chapter 2

Historical perspective of television in Zambia

19. Television in Zambia has experienced significant growth and transformation since its inception, reflecting both global trends and the country's own socio-economic development. The history of television in Zambia can be traced back beyond the establishment of the Zambia National Broadcasting Corporation (ZNBC), which was established pursuant to Section 3 of the Zambia National Broadcasting Corporation Act, Chapter 154 of the Laws of Zambia[13]. The Zambia National Broadcasting Corporation (ZNBC) was established in 1987 through the merger of the former Zambia Broadcasting Services (ZBS) and the Zambia Television Services (ZTV)[14]. ZNBC initially offered a single free-to-air terrestrial broadcasting channel, providing limited programming to the population primarily concentrated in urban areas. Throughout the 1970s and 1980s, television broadcasting in Zambia expanded, with ZNBC introducing additional channels to cater to different interests. However, ZNBC remained the sole television broadcaster in the country until the late 1990s when the government started exploring the liberalization of the broadcasting sector. The Zambian broadcasting sector was liberalized in 1993 following the enacting of the Zambia National Broadcasting Corporation (ZNBC) Licensing Regulations and the Telecommunications Act in 1994[15]. This led to the emergence of private broadcasters both radio and television, from one (ZNBC) to 63 (7 television broadcasters and 56 radio broadcasters)[16] by 2014.

[13] https://www.znbc.co.zm/about/ accessed on 29th May 2023
[14] https://tunza.eco-generation.org/ambassadorReportView.jsp?viewID=43153 accessed on 30th May 2023
[15] Organisation for Economic Co-operation and Development (OECD), Competition Issues in Television and Broadcasting, 22nd January 2013, https://one.oecd.org/document/DAF/COMP/GF/WD(2013)21/En/pdf, accessed on 30th May 2023.
[16] Digital Migration Policy, 2014, Ministry of Information and Broadcasting Services, Zambia

20. The liberalization process gained momentum in the early 2000s, allowing for the establishment of independent television stations. These private broadcasters, such as Muvi TV, Mobi TV and Prime TV, provided alternative programming options to Zambians, including local content, news, entertainment, and sports. ZNBC TV continued to enjoy monopoly status particularly in the provision of free-to-air television services in Zambia as it was the broadcaster with reach to most parts of the country, including rural areas while the rest of the players broadcasted within a radius of 50kms[17].

21. Alongside the growth of private television stations, the introduction of pay television services in Zambia marked another significant milestone. MultiChoice, a South African company, launched its Digital Satellite Television (DStv) service in Zambia, offering a wide range of international channels and content through satellite technology. MultiChoice Zambia was set up as a joint venture between ZNBC and MultiChoice Africa Holdings (MAH) which is part of the MultiChoice Group[18]. ZNBC has a 49% shareholding while Multichoice Africa has 51% shareholding therein[19]. The coming of Multichoice allowed Zambians to access a more extensive selection of programming, including news, movies, sports, and entertainment from around the world.

22. Over time, competition in the pay television sector increased as more companies entered the market. MultiChoice Zambia continued to dominate the market, offering a wide range of channels and packages to subscribers. Other pay television providers such as GOtv, StarTimes, My TV, GTV, Strong Zambia, Top Star, Kwese and Zuku also established their presence in Zambia, offering different packages and pricing options to attract subscribers. Zambia saw the entry of other providers who offered

[17] Organisation for Economic Co-operation and Development (OECD), Competition Issues in Television and Broadcasting, 22nd January 2013, https://one.oecd.org/document/DAF/COMP/GF/WD(2013)21/En/pdf, accessed on 30th May 2023.
[18] https://www.dstv.com/en-zm/about/dstv-zambia accessed on 30th May 2023
[19] Organisation for Economic Co-operation and Development (OECD), Competition Issues in Television and Broadcasting, 22nd January 2013, https://one.oecd.org/document/DAF/COMP/GF/WD(2013)21/En/pdf, accessed on 30th May 2023.

free to air services like Diamond TV, Prime TV and TBN offering more alternatives to MultiChoice Zambia. Additionally, several pay TV providers and some Mobile Network Providers (MNOs) have also launched their own VOD services in Zambia, providing video-on-demand (VOD) platforms allowing viewers to stream movies, TV shows, and other video content on-demand, like Netflix, Amazon Prime Video, Disney+ and DSTV Showmax which use OTT streaming. Other options include non-subscription VODs such as Airtel TV and MTN TV. The new entrants increased competition and provided consumers with more options. These providers utilized different delivery technologies, including satellite, digital terrestrial, and internet-based platforms, to deliver their services.

23. The growth of pay television in Zambia has had challenges. Affordability remains a significant factor limiting access to pay television services for many Zambians, particularly those in rural areas and lower-income households. Additionally, the availability and quality of internet connectivity in some parts of the country affects the performance of internet-based television services.

Technological Advancements and Content Offerings

24. The pay TV market in Zambia has witnessed significant technological advancements and a wide array of content offerings in recent years. These developments have transformed the way Zambian consumers access and enjoy television programming, offering a greater choice and a more immersive viewing experience.

25. Since the inception of broadcasting in Zambia, the country relied on analogue television to broadcast programmes. One notable technological advancement in the Zambia pay TV market is the widespread adoption of digital broadcasting. Digital TV provides superior picture and sound quality compared to analogue signals, delivering a more immersive and enjoyable viewing experience. This transition has been facilitated by the

government's efforts to promote digital migration and the availability of affordable digital TV receivers in the market.

26. The introduction of video-on-demand (VOD) services has revolutionized the way audiences consume television content. VOD platforms allow viewers to stream movies, TV shows, and other video content on-demand, offering them greater flexibility and convenience. Popular global streaming platforms like, Netflix, Amazon Prime Video, and Disney+ have gained popularity in Zambia, providing access to a vast library of content which is viewed via subscription VOD through OTT streaming. Pay TV service providers have also tapped into this market to give customers more viewing options, for instance the Multichoice's DSTV Showmax and the Star Times On.

27. To cater for the local market, several pay TV providers have also launched their own VOD services in Zambia. These platforms offer a mix of local and international content, including movies, TV series, documentaries, and children's programming. This expansion of VOD services has not only increased the variety of content available to Zambian viewers but has also spurred competition among providers, driving innovation and improving the quality of offerings. The emergence of internet-based streaming services, such as Airtel TV, YouTube, Facebook and TikTok has provided alternative options for viewers to access content. These services have gained popularity, particularly among younger audiences, who prefer on-demand and personalized viewing experiences.

28. Furthermore, technological advancements in set-top boxes and smart TVs have enhanced the viewing experience for Zambian consumers. Many pay TV providers offer advanced set-top boxes with features like high-definition (HD) and ultra-high-definition (UHD) support, digital video recording (DVR), and interactive capabilities. Smart TVs equipped with

internet connectivity have also become more prevalent, allowing viewers to access online streaming services directly through their television sets.

29. With regard to content offerings, pay TV providers in Zambia typically offer a mix of local channels that broadcast news, sports, entertainment, and cultural programs targeting the local audience. Subscribers can access a variety of international channels, including popular ones from Africa, Europe, the Americas, and Asia. These channels cover genres such as movies, series, sports, documentaries, lifestyle, and children's programming. Pay TV providers often include dedicated sports channels that offer live coverage of local and international sporting events, including soccer, rugby, cricket, athletics, and more.

30. Many pay TV providers offer dedicated channels for movies and entertainment, showcasing a range of popular films, TV series, reality shows, and other entertainment content. Some pay TV providers include educational channels and documentary networks that cater to viewers interested in learning, nature, science, history, and other informative content. Pay TV providers in Zambia offer premium channels, which require an additional subscription fee, providing access to exclusive content such as premium movies, live events, and specialized programming. In terms of price, the higher bouquets fetched more money compared with the lower bouquets. Examples of bouquet offerings are elaborated in the **Table 1** below:

Table 1: Bouquet offerings

Product	**Bouquet**	**Number of Channels**	**Monthly Subscriptions (2023)**
DSTV	Premium	150+ Channels	K1,200
	Compact Plus	135+ Channels	K750
	Compact	120+ Channels	K500
	Family	95+ Channels	K325

	Access	75+ Channels	K180
	Lite	27+ Channels	K120
Topstar	Classic	55+ Channels	K160
	Basic	41+ Channels	K110
	Nova	33+ Channels	K60
StarSat	Nova		K75
	Smart		K160
	Super		K230
GOtv	GOtv Super	65+ Channels	K300
	GOtv Max	55+ Channels	K250
	GOtv Plus	40+ Channels	K185
	GOtv Value	25+ Channels	K110
	GOtv Lite	15+ Channels	K35
Muvi TV	Muvi Bouquet	23+ Channels	K130
Zuku	Zuku Premium	82+ Channels	K104
	Zuku Classic	68+ Channels	K85
	Zuku Smart Plus	46+ Channels	K65
	Zuku Smart	41+ Channels	K45

Status and Trends in Pay TV Broadcasting in Zambia

31. The Pay television market was from 1996 dominated by Multichoice Africa Limited (MAL). The market later saw the entry of My TV which was launched through Strong Technologies and later GTV. However, due to the 2008/2009 financial crisis, GTV exited the market. In December 2013, Muvi TV a locally owned TV station entered the Pay TV market by first launching 6 channels, which later increased to 12 in 2014 and 40 by April 2015. In addition, Wananchi Satellite Services, a Kenyan Zuku pay TV provider entered the Zambian Pay TV market in December 2014 through Strong Technologies. In 2011, MAL introduced GOtv, a DTT targeting the lower income groups.

32. The Market currently offers broadcasting through DTT, DTH as well as OTT. In the recent past, there has been mushrooming of broadcasting

through OTT, with players including Netflix, Airtel TV becoming common. OTT is provided using data bundles.

Content Providers

33. The number of content providers have increased over the years. Content is gathered from all over the World including Asia, the Americas, Europe, and Africa. Local content forms a critical part of content provision as it reflects the culture and history of the local people. Content providers include content creators and content aggregators who create international content, for instance Super Sport, Mnet, Telemundo, Asian Drama. Local TV Stations like ZNBC, Prime TV, Diamond, CBC Television, TBN, Zambezi Magic form local content aggregators. Local content producers include Kazadi TV and other personalities such as Frank Sibbuku (Mpali Drama Series) and Mutale Mwanza. **Table 2** below elaborates some market players' status, describing when they joined the market, content aggregation and how the content reaches consumers.

Table 2: Pay TV Market Players' Status

Market Entry	Station Aggregators	Product	SMS	Distribution	Nature of Distribution	Market Exit	Modes of Operation
1996	MAH	DSTv	Multichoice Zambia Ltd	Satellite	Private	Active	DTH
2003	Muvi TV	Muvi TV	Muvi TV	Satellite	Private	Active	DTH
2006	Wananchi	My TV	Strong Technologies	Satellite	Private	2014	DTH
2007	British Gateway	GTV	-	Satellite	Private	2009	DTH
2011	MAH	GOtv	GOtv Broadcasting	Terrestrial	Private signal distribution	Active	DTT
2013	StarTimes	Top Star	Top Star	Terrestrial	Public signal distributor	Active	DTT DTH
2014	Wananchi	Zuku TV	Strong Technologies	Satellite	Private	Active	DTH
	Airtel TV, Netflix	Airtel TV, Netflix	-	Internet	Private	Active	OTT

Market Players

Multichoice Africa Limited (MAL)

34. Multichoice Africa Limited is a company registered in Mauritius and is a wholly owned subsidiary of the Naspers Group which is a South African Company[20]. Multichoice Africa operates from satellites over Africa, this includes the Eutelsat W7 satellite which stretches from Senegal in the West to Mauritius in the East and the KU Band IS 20 satellite which covers Southern Africa[21]. Multichoice Africa is a multi-channel pay television platform providing services to countries across the African continent and adjacent Indian Ocean islands. Its operations include subscriber management services which are run by subsidiaries based in the countries in which they operate while the management of a digital satellite television platform (DStv) is done in South Africa and Dubai. Multichoice Africa Limited (MAL) operates in various territories across Sub Sahara Africa, East Africa and West Africa. It covers countries including Angola, Botswana, Eswatini, Ethiopia, Ghana, Kenya, Malawi, Mauritius, Mozambique, Namibia, Nigeria, South Africa, Tanzania, Uganda, Zambia, Zimbabwe[22].

35. The MAL pay television services included bouquets of video and audio channels and related subscription management activities. MAL obtains channels from certain affiliated and external companies. The subscriber management activities include the operation of call centers. Monthly billing, cash collections, over the counter customer care services and the sale of set top boxes and associated components services span across digital satellite television platforms [23].

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[20] https://www.multichoice.com/about-us/our-history viewed on 8th June 2023
[21] Multichoice Africa Cements Longstanding Relationship with Eutelsat Through a 20 Transponder Lease on the W7 Satellite http://www.eutelsat.com/news/compress/en/2010/html/PR%2002%2010%20MultiChoice%20Africa/PR%2002%2010%20MultiChoice%20Africa.html viewed on 8th June 2023
[22] https://www.multichoice.com/about-us/our-history viewed on 8th June 2023
[23] https://www.multichoice.com/about-us/our-history viewed on 8th June 2023

Multichoice Zambia Limited

36. Multichoice Zambia Limited (MZL) is a joint venture between the Zambia National Broadcasting Corporation (ZNBC) and Multichoice Africa Holdings (MAH). The establishment commenced its operations in 1995 as a provider of Subscription Management Services (SMS). Under the Joint Venture, XXXXXXXXXXXXXXXXXXXX in the fig below.

Figure 1: Shareholding Structure of Multichoice Zambia Limited

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37. MZL holds a Subscriber Management Service Licence issued by the Independent Broadcasting Authority and a Landing Rights Licence for the reception of the DStv services in Zambia.

GOtv Broadcasting

38. GOtv Broadcasting was established in 2015 and provides subscription based multi-channel digital terrestrial television (DTT) broadcasting under the GOtv brand. GOtv hold a Subscriber Management Service Licence (SMS) issued by the Independent Broadcasting Authority and is owned jointly by XXXXXXXXXXXXXXX as shown in the fig below.

Figure 3: Shareholding Structure of GOtv Broadcasting

X

StarSat Digital Television

39. StarSat Digital Television (StarSat) is Zambian distributor of StarTimes Communication Technology Limited (StarTimes)[24] products and is registered by the Independent Broadcasting Authority as a commercial free to air provider[25] and as a satellite television provider[26]. StarSat Digital Television launched its services on the Zambian market in 2015 and provides affordable digital television services for the majority Zambian viewers. At the launch, a bouquet of 27 television channels and 25 audio music stations cost K39 while 60 television channels, 25 audio music was at K99 and K199 will allow for 91 television channels with 25 audio music.

Zambia National Broadcasting Corporation (ZNBC)

40. The Zambia National Broadcasting Corporation (ZNBC) is a Zambian state-owned television and radio station. It is the oldest, widest, and largest radio and television service provider in Zambia. It was established by an Act of Parliament in 1987, which was passed to transform the Zambia Broadcasting Services from being a Government Department under the Ministry of Information and Broadcasting Services into a statutory body called the Zambia National Broadcasting Corporation (ZNBC).

SIGNAL DISTRIBUTORS

41. Signal distribution is undertaken by signal distributors. These entities provide network infrastructure that receive content after aggregation from Content Service Providers for signal distribution. The signal distributors further provide for Subscriber Management Services (SMS), which are interfaces between the Content Service Providers and the subscribers.

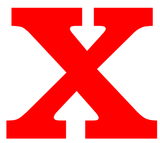
[24] StarTimes is a Chinese electronics and media company in Sub-Saharan Africa. StarTimes offers digital terrestrial television and satellite television services to consumers and provides technologies to countries and broadcasters that are switching from analogue to digital television.
[25] https://www.iba.org.zm/content-service-providers/
[26] MISA Zambia State of the Media Report For the Fourth Quarter (October – December) 2017

Each signal distributor is required to develop Service Level Agreements (SLAs) with Content Service Providers[27].

GOtv Zambia Limited

42. GOtv Zambia Limited (GOtv) is a private signal distributor established in 2018 to supply end to end digital terrestrial television signal distribution services which are used to securely deliver retail audio-visual services (television bouquets) to various parts of the country for access by subscribers. GOtv Zambia currently holds the Signal Distribution Licence and Broadcast Frequency Licence (Spectrum). GOtv is a joint venture owned by ZNBC and MultiChoice Africa whose shareholding is as presented in the fig below.

Figure 2: Shareholding Structure of GOtv



Topstar

43. Topstar is a joint venture company created by the Zambian government between the Zambian National Broadcasting Corporation (ZNBC) and Africa's leading digital TV operator StarTimes of China. The company has been given the full mandate to carry out the countrywide digital migration of television signal from the current analogue to digital.

44. Topstar is a public signal distributor that provides nation-wide coverage and services to Content Service Providers (licensees) on a non-

[27] https://www.iba.org.zm/signal-distributors/

discriminatory basis to provide universal access[28]. The establishment is a joint venture with ZNBC XXXXXXXXXXXXXXXXX as shown in the fig below.

Figure 4: Shareholding Structure for Topstar

X

[28] https://www.iba.org.zm/signal-distributors/

Chapter 3

Market Definition

45. Market definition provides an analytical framework for identifying the competitive constraints faced by individual firms. The purpose of defining a market is to identify, in a systematic way, all the products and suppliers that provide a significant constraint on an individual firm. Although it will often not be possible to define the boundaries of the relevant market with precision, the process of identifying competitive constraints is an important first step in assessing whether firms either individually or collectively are likely to possess market power[29]. The definition of the relevant market also includes an analysis of demand side substitution, which is the ability of customers to switch to rival products. Supply side substitution should also be considered when defining the relevant product market, specifically the ability of firms to switch their capacity to producing products/services of the alleged dominant firm[30]. In defining the relevant product market, the Commission is guided by regulation 3 of Statutory Instrument No.97 of 2011.

46. The television space has had several ways the market was defined understandably so due to high technological innovations on both product offerings and delivery channels. For example, in 1996, the UKs Director General of Fair Trading defined the market as pay television while in 1999, the Monopolies and Mergers Commission concluded that pay TV was a separate market from free-to-air TV, whilst recognising that the existence of free-to-air broadcasters placed some upper limit on the prices of pay TV broadcasters. In 2002, the Office of Fair Trading (OFT) determined through their investigation that the pertinent market encompassed the wholesale and retail provision of sports content exclusive to pay television.

[29] United Kingdom Office of Communication - Market definition and market power in pay TV Annex 13 to pay TV market investigation consultation (December 2007)
[30] ICN Workbook on Assessment of Dominance presented at the 10th Annual ICN Conference in Netherlands, May 2011

[31]. Conversely, the European Union (EU) has consistently identified distinct markets for pay television and free-to-air television, both in terms of wholesale and retail aspects, reaffirming this stance. The EU has also held there to be separate markets for the supply of premium content, with premium sports and premium movies channels being in separate markets. However, in the more recent Telia/Telenor6 case, the EU noted that there was significant substitution between platforms, although it left the market definition open[32].

47. Furthermore, in traditional models of publicly or license-fee funded television, the product was media content, while the viewers were the consumers. This reflected the traits of a single product market, akin to that of other standard economic products. However, advertising-driven commercial television operates in a dual product market, that is, on the one hand, it entails a market for viewers, where the product is the content (that is, programmes, news stories and others), like in traditional public television; but simultaneously, there also exists a market for advertisements or airtime, wherein the product is the audience who are sold to advertisers (to provide revenues to produce the content)[33]. The inquiry in addition to typical television issues also includes the carriage market of content channels, (which involves the construction, managing and leasing of signal distribution infrastructure), the peculiar appearance, use, price-range, quality characteristics, uniqueness and any other feature or characteristic of the product that sufficiently distinguishes it from other products.

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[31] United Kingdom Office of Communication - Market definition and market power in pay TV Annex 13 to pay TV market investigation consultation (December 2007), https://www.ofcom.org.uk/__data/assets/pdf_file/0013/50602/an13.pdf

[32] United Kingdom Office of Communication - Market definition and market power in pay TV Annex 13 to pay TV market investigation consultation (December 2007), https://www.ofcom.org.uk/__data/assets/pdf_file/0013/50602/an13.pdf

[33] Parthasarathi, Vibodh () "The Conundrum of 'Relevant Market': Market Definition in India's Complex TV Distribution Business,"
Indian Journal of Law and Technology: Vol. 15: Iss. 2, Article 9. Available at: https://repository.nls.ac.in/ijlt/vol15/iss2/9

48. MultiChoice, in their response to this market inquiry submitted that the entry of OTT players with global scale, large content libraries and huge budgets including Netflix, Amazon Prime, Apple TV, Google TV coupled with declining data prices, bundling of services with MNOs, advancements in technology and proliferation of internet capable devices had changed the competitive dynamics of the audiovisual content provision. Further, traditional content suppliers such as Disney, FIFA and Formula 1 now had their own direct-to-consumer offerings while MNOs were also getting involved such as Airtel with their free offering to its data subscribers, and MTN and Zamtel streaming bundles and therefore, different providers of retail audio-visual services (paid for or free) were credible options depending on a consumer's affordability and choice.

a. The peculiar appearance, use, price-range, quality characteristics, uniqueness and any other feature or characteristic of the product that sufficiently distinguishes it from other products.

49. Television is a system for transmitting audiovisual content that is reproduced on screens. It is mainly used to broadcast programs for entertainment, information, and education. Today television consumption (audiovisual content) occurs in a wide range of environments, on multiple platforms and via different devices. The device used to access the audiovisual content ranges from static televisions to mobile device like a tablet or a laptop. The technology development has brought new business opportunities and changed the fundamental habits of audiovisual content consumption[34].

50. In the Zambian context, audiovisual content is delivered through several platforms that include Direct to Home (DTH), Digital Terrestrial Television (DTT) and Over the Top (OTT). While DTT and DTH were scheduled linear

[34] CIM NORDLING etal (2020) Video consumption in 2020 - A STUDY ON CONSUMER BEHAVIOUR AND CONSUMER MOTIVES

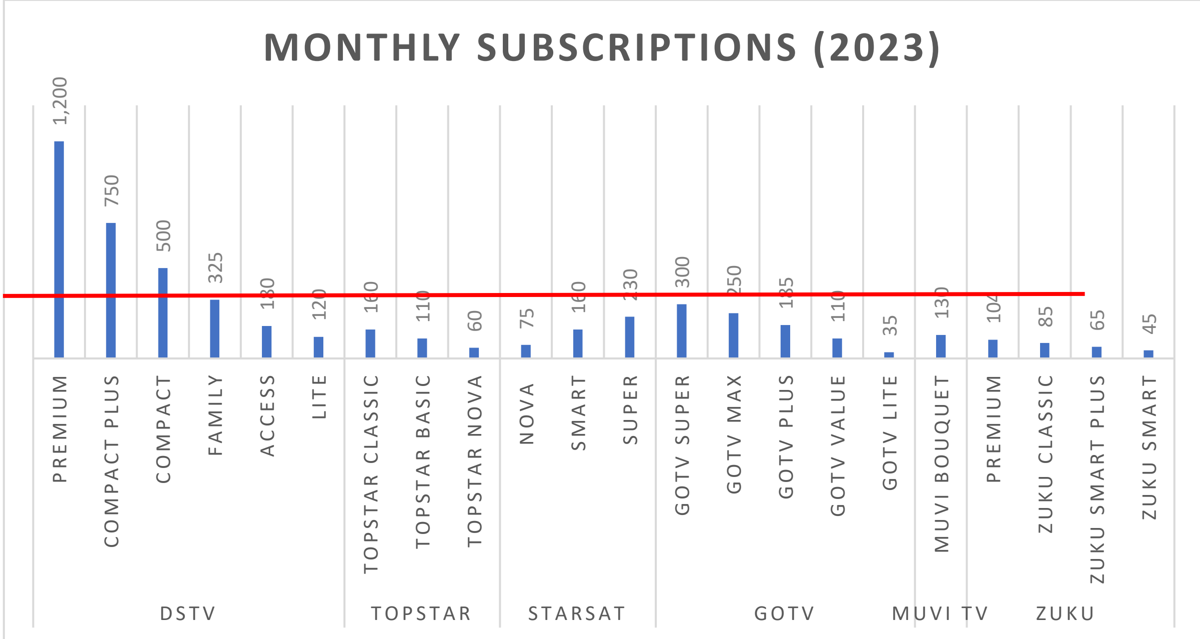
content deliveries, OTT provided dynamic access to vast content libraries with consumers having the options of choosing what to watch and when to watch. Retail television is also either subscription based such as DStv/GOtv, Zuku, Topstar/Startimes, Muvi TV, Netflix and other similar OTT platforms or accessed free through normally subscription to a data option such as MNO television offering, Youtube, Facebook and other content providers. There is equally non subscription video on demand television such as Airtel TV and other televisions offered by Mobile Network Operates (MNOs) such as MTN and Zamtel.

51. The 2023 subscription fees for subscription television range from K45 to K1200 for DTH and DTT depending on the provider and the quality and variety of content available. Budget subscription television range from K45 to K325 while premium television from DStv range from Compact K500, Compact Plus K750 and to Premium K1200.

b. Whether targeted consumers consider the product to be different in terms of inter alia, benefits, taste or usage, to the extent that it affects purchase decisions.

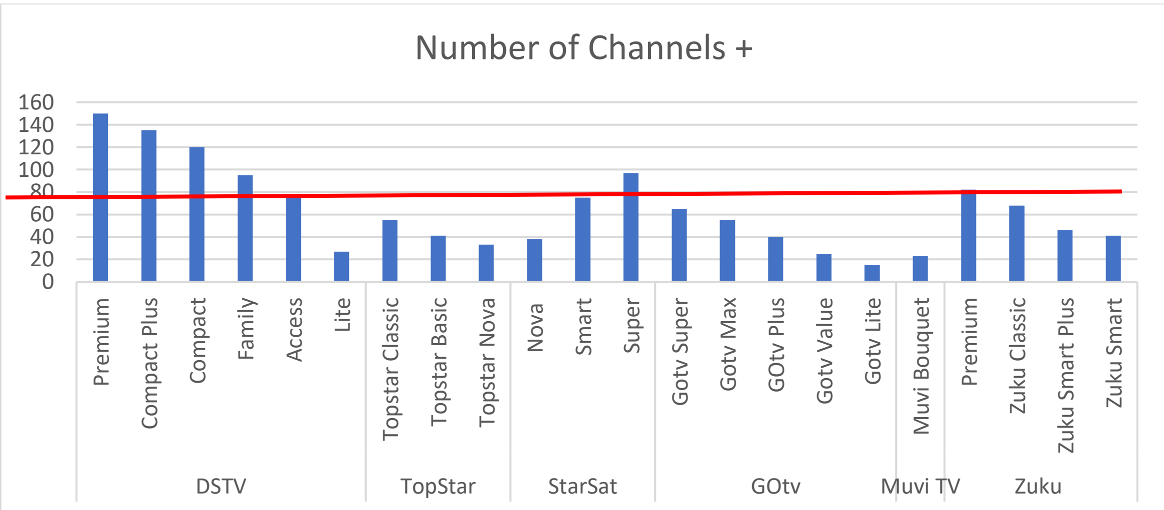
52. The DStv Compact, Compact Plus and Premium are classified as premium bouquets as they are outside the overage price range of wider pay television in Zambia as depicted in Fig 5 below. For OTT television such as Netflix, the prices range from USD3.99 (around K76) for the basic package, USD7.99 (around K152) for the standard package and USD9.99 (K190) for the premium package. It should be noted that there is currently no Free to Air television as all television is available through a subscription through data options.

Fig 5: Monthly subscriptions



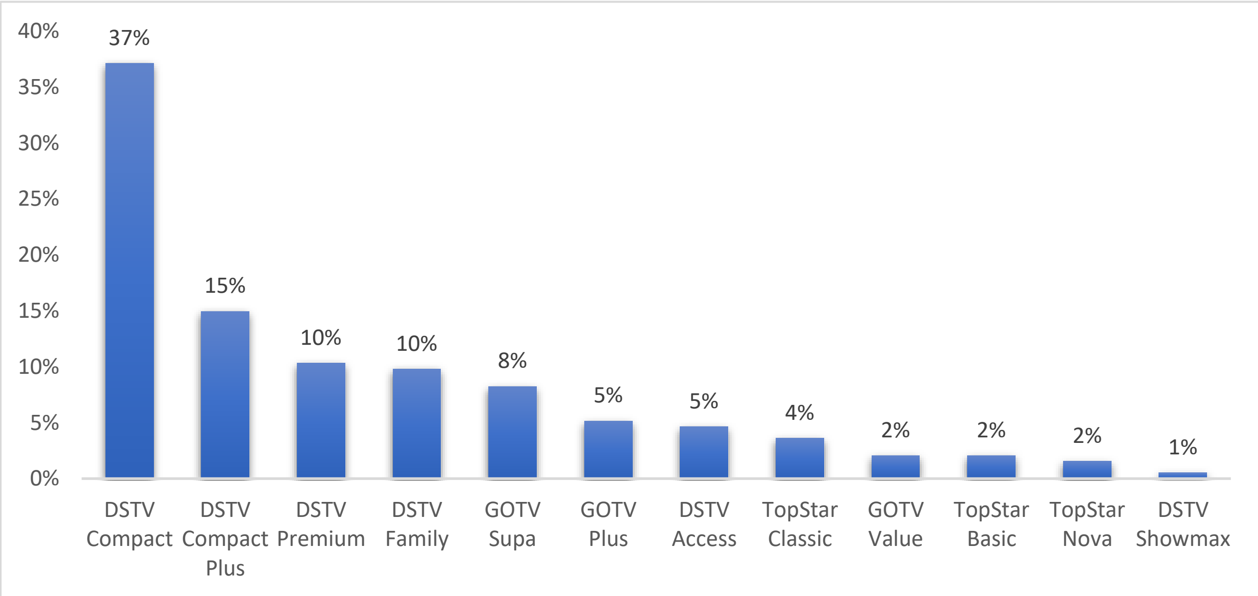
53. In addition to the price range, DStv compact, compact plus and premium hosts premium content such as the Zambian Super League, English Premier League, and popular Zambian telenovelas such as Mpali and Zuba. In addition, they have the largest collection of channels from 120+ channels for compact to 150+ channels for the premium bouquet as depicted in Fig 6 below. The price range and availability of quality content is thus a huge determinant of subscription to audiovisual content consumption.

Fig 6: Number of Channels



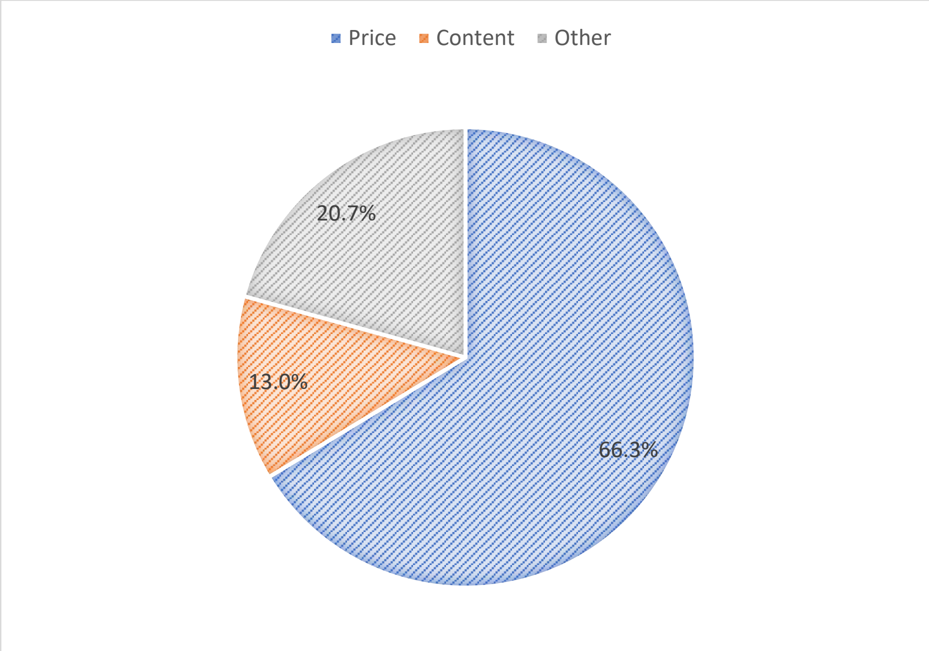
54. As part of the inquiry, the Commission ran a public consultation through an online questionnaire seeking to establish the subscribed to bouquets. Two hundred and fifty-five (255) consumers participated. Findings indicate that 62% of the respondents subscribed to DStv compact, DStv compact plus and DStv premium bouquets offered by MultiChoice Africa as depicted in Fig 7 below while the rest subscribed to the audiovisual content providers.

Figure 7: Respondents Subscription by Bouquets



55. Further findings from the survey indicate that content and price were the main determinants of subscribing to a particular pay television as shown in the Fig 8 below.

Fig 8: Main determinants of subscribing



The Fig above shows that 66.3% of respondents were driven by the pricing in subscribing to a service with 20.7% driven by the quality and availability of content. 13% of the respondents were driven by other factors other than price and content such as non-availability of substitutes.

c. Whether in the event of shortage, lack of availability, a price increase or any other constraining factor, another product could be used or substituted by the consumers for the same use;

56. While budget audiovisual content appears to be price sensitive as shown by the small variations in subscription fees over several bouquets from different providers, premium audiovisual appears to have no near substitutes. It is possible to downgrade to budget audiovisual content from premium though that would not constitute a perfect alternative.

Fig 9: % change in price that would make consumers unsubscribe

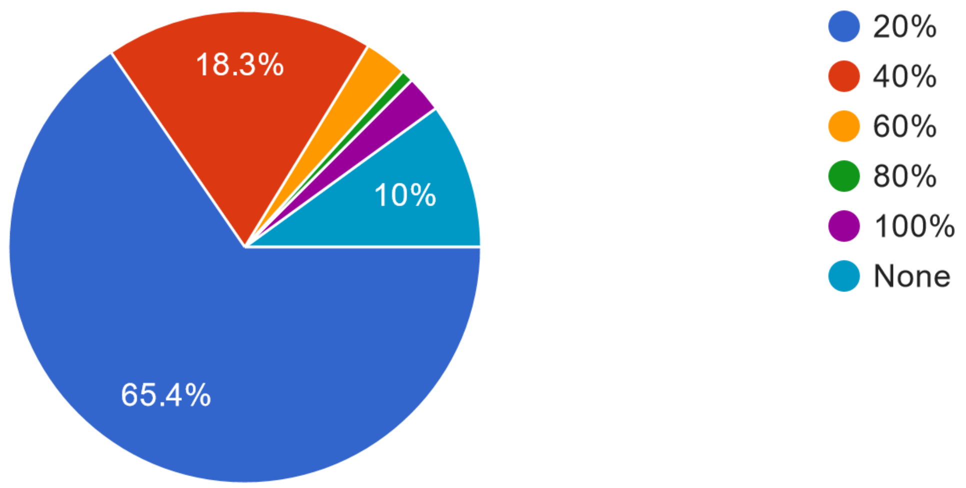


Fig 9 above shows the level of price sensitivity with 65.4% of the respondents submitting that they would unsubscribe from a bouquet if its price was to be adjusted by 20%. Adjustments below 20% may thus not trigger a large shift of the subscription base.

d. *Whether competitors have failed or are likely to fail to supply a similar product*

57. Audiovisual products are differentiated both in the means of delivery and in the content of the programming packages offered. The three main delivery systems of OTT, DTH and DTT cover different but partially overlapping segments of the population. Audiovisual content providers in Zambia compete by purchasing the rights to broadcast programmes and then selling subscriptions or other forms of access such as data to viewers. Therefore, access to premium programming is widely viewed as being crucial for attracting customers. For example, the Zambian Premier League has sold the exclusive rights to broadcast live football matches to Multichoice over the years so is the English Premier League through Supersport, a product of Multichoice. While there are overlaps and generally budget audio-visual content provide some degree of competition, holders of exclusive rights to premium content enjoy reasonable price inelasticity and have products that are not easily replaceable by competitors.

e. *The geographical location within Zambia in which the bulk of sales or supply of the product takes place;*

58. The geographical delineation of the supply of audiovisual content in this market inquiry is restricted to Zambia. Given the modes of delivery of the audiovisual content, largely the products are delivered throughout Zambia though the availability of certain infrastructure such as tower stations for DTT and suitable technology for data access for OTT may affect access to audiovisual content in some places of the country.

59. It therefore follows that in the retail audiovisual content market in Zambia, the relevant markets for consideration are;

(iii) The supply of retail subscription premium audiovisual content whether linear (such as DTH and DTT) or not (OTT) and;

(iv) The supply of budget audiovisual content whether through subscription (e.g. GOtv, Zuku e.t.c.) or not (Airtel TV) and whether linear or not.

LEGAL FRAMEWORK

Independent Broadcasting Authority (IBA)

60. The IBA was established to regulate the broadcasting industry in Zambia through the IBA Act No. 17 of 2002, read together with the IBA Amendment Acts No. 26 of 2010 and the Television Levy Act of 2017. Through this enactment the Ministry of Information and Broadcasting Services (MIBS) was divested of its broadcasting regulatory functions. This

was a key benchmark towards attaining media reforms in Zambia. The objective of the IBA Act was to create an independent broadcast regulator in Zambia, to regulate broadcast content, issue out licenses, and enforce a code of ethics by receiving and addressing complaints from members of the public and applying relevant sanctions and penalties on guilty licensees[35].

Licensing regime

61. The IBA Amendment Act No. 26 of 2010, mandates the Authority to issue Broadcast Licenses. The following are the three categories: (i) Public Content Service Provider, (ii) Private Commercial Service Provider and (iii) Private Non-commercial content service provider.

The table below shows the classes under the broad types of Licences and the associated licence duration:

LICENSE	PERIOD
Public TV Broadcasting	10 years
Public Radio Broadcasting (Non-Commercial)	5 years
Public TV (Commercial)	10 years
Public Radio Broadcasting (Commercial)	5 years
Commercial Free To Air	7 years
Commercial Free To air Radio	5 years
Cable Subscription TV	7 years
Community Free To Air TV	10 years
Community Free To Air Radio	5 years
Terrestrial Subscription Broadcasting	7 years
Satellite Subscription Broadcasting	7 years
Subscription Management Service (SMS)	5 years
Digital Mobile TV	10 years
Landing Rights	No duration

[35] https://www.iba.org.zm/publications/IBA%20Strategic%20Plan%202019%20to%202021.pdf

62. As per provision of the IBA (Amendment) Act of 2010 Part IV, specifically Section 20 (1), all applications for the provision of broadcasting services (both Radio and Television) must be solicited for by the Authority. The licenses are renewable periodically, as and when the license expires. Licensees are required to notify the Authority that they are renewing the license at least 6 months before expiry. The IBA has developed guidelines on how to deal with non-compliance matters. Apart from mandatory license fees, licensees are also required to pay annual operating fees which are the same as the license fee. It has been established that IBA has a total of 52 TV stations and 146 radio stations licensed under their Act.

63. The broadcasting fee structure provides that community radio stations should pay K2,000, community TV K5,000, K20,000 for commercial TV and K40,000 for the subscription providers and $10,000 for landing rights. IBA are currently reviewing the fee structure to consider zoning and classification to address the uniformity of licensing fees regardless of size, location, and revenue of the broadcaster.

The Zambia Information and Communications Technology Authority (ZICTA)

64. The Zambia Information and Communications Technology Authority (ZICTA) is a statutory body established under the Information and Communication Technologies Act No. 15 of 2009 to regulate the Information and Communication Technology (ICT) sector.

Licensing regime

65. The Zambia Information and Communications Technology Authority (Authority) is provided for under section 4 of the Information and Communications Technologies Act No. 15 of 2009 (ICT Act). Section 6 of the ICT Act empowers the Authority to regulate the provision of electronic communications services and products and monitor the performance of

the sector, including the levels of investment and the availability, quality, cost and standards of the electronic communications services.

66. Under Parts III, IV and VI of the Act, the Authority is empowered to prescribe the manner of application for electronic communication licences and assignment of scarce resources as well as providing for related terms and conditions. Under section 7 of the Act, the Authority is empowered to make guidelines for the better carrying out of its mandate. The Zambia Information and Communications Technology Authority (ZICTA) also awards radio frequency spectrum in terms of frequency band in accordance with Section 54(6) of the ICT Act No. 15 of 2009.

67. The Zambia Information and Communications Technology Authority - Licensing Guidelines of 2022 stipulate that the Authority has been mandated to issue licenses of electronic communications under section 10 of the Act under these broad categories; (i) Network Licence (Facilities and Service), (ii) Network Licence (Facilities) and (iii) Service Licence. Currently, ZICTA has issued two network licenses for signal distributors that is, one for Topstar (a public distributor) and GOTv Zambia Limited (a private distributor). ZICTA had set guidelines on the applicable wholesale rates for carrier fees which served as the basis for retail fees by the signal distributors.

Competition and Consumer Protection Commission (Commission)

68. The mandate of the Commission cuts across all economic sectors. The Commission regulates the Zambian economy to prevent restrictive business practices, abuse of dominant position of market power, anti-competitive mergers and acquisitions and cartels as these erode consumer welfare. The Commission is also mandated to enhance consumer welfare. In general terms therefore, the principal aim of the Commission is to safeguard competition and ensure consumer protection.

Regulatory Regime

69. The Commission draws its powers from the Competition and Consumer Protection Act No. 24 of 2010 ("The Act"). The Pay Television Market Inquiry was initiated in terms of Part V of the Act and Part III of the Regulations and in keeping with the purpose and functions of the Commission as set out in the objectives of the Act and in section 2 and the Act.

70. Pursuant to Regulation 4(1) (a-e), the Commission may initiate a market inquiry based on a complaint(s) made to it by enterprises, consumers or representative bodies, studies conducted by any relevant bodies on a particular sector, its own research, its experience in regulating restrictive business and anti-competitive trade or representations made to it by the Government regarding a particular sector or type of agreement. The Pay Television Market Inquiry was being conducted in response to numerous consumers complaints. Specifically, the concerns of the consumers relate to; (i) Availability and quality of content (ii) Pricing of pay television (iii) Access to content from the Public Broadcaster, the Zambia National Broadcasting Corporation (ZNBC).

Chapter 4

Digital Migration

71. Digital migration is a process in which broadcasting services offered through traditional analogue are replaced with more advanced and efficient digital networks. Analogue terrestrial television has been in existence since the 1940s but was rendered obsolete due to advancement in technology and its inefficient use of the frequency spectrum which is a limited resource[36]. The Regional Radio Communication Conference of 2006 (RRC06) and the subsequent Geneva 2006 Agreement (GE06) of the International Telecommunication Union (ITU) resolved that all countries (101 countries in Europe, Africa, and the Middle East) including Zambia which are signatory to the agreement must migrate from analogue to digital broadcasting services by 17th June 2015[37]. Analogue Terrestrial Television used a lot of bandwidth frequency to transmit one programme channel while Digital Terrestrial Television (DTT) uses one frequency to carry multiple programme channels resulting in lower costs[38].

72. Following the ratification of the ITU agreement, Zambia through ZNBC began the simulcast[39] on 17th June 2015. The objectives of digital migration in Zambia encompassed improving broadcast quality, optimizing spectrum efficiency, increasing channel capacity, expanding services and features, enhancing coverage and access, and facilitating technological advancements in the broadcasting sector. These objectives aim to enhance the overall broadcasting experience for Zambian viewers

[36] Digital Television Migration in Zambia: Who are the Real Beneficiaries? Elijah Mutambanshiku Mwewa Bwalya Ph.D; MacPherson Mutale; Lt Col. Emmanuel Kunda, https://www.ijsrp.org/research-paper-0722/ijsrp-p12745.pdf, accessed on 3rd June 2023.

[37] 37 Digital Television Migration in Zambia: Who are the Real Beneficiaries? Elijah Mutambanshiku Mwewa Bwalya Ph.D; MacPherson Mutale; Lt Col. Emmanuel Kunda, https://www.ijsrp.org/research-paper-0722/ijsrp-p12745.pdf, accessed on 3rd June 2023.

[38] Digital Television Migration in Zambia: Who are the Real Beneficiaries? Elijah Mutambanshiku Mwewa Bwalya Ph.D; MacPherson Mutale; Lt Col. Emmanuel Kunda, https://www.ijsrp.org/research-paper-0722/ijsrp-p12745.pdf, accessed on 3rd June 2023.

[39] Dual illumination period between the switch on and switch off at each phase.

and listeners, ensuring the country keeps pace with global technological developments in the industry.

Objectives of the Digital Migration

73. One of the primary objectives of digital migration was to enhance the quality of television and radio broadcasts. Digital broadcasting provides sharper and clearer images, high-definition (HD) or even ultra-high-definition (UHD) resolutions, and improved sound quality compared to analogue signals. Digital broadcasting further opens opportunities for value-added services and features. These can include interactive features, electronic program guides (EPGs), subtitles, multiple audio tracks, and multimedia content. Viewers can have access to additional information, interactive elements, and personalized viewing experiences, enhancing their engagement and satisfaction with the broadcasting services.

74. Digital migration also aims to optimize the use of limited radio frequency spectrum. Digital broadcasting also allows for more efficient use of spectrum, enabling the transmission of multiple channels within the same frequency band. This results in the effective utilization of the available spectrum resources, allowing for more broadcasting services and reducing the congestion of airwaves. During the analogue terrestrial television, one frequency carried one program channel. With the introduction of the DTT through the Digital Migration, one frequency caries multiple program channels thereby allowing for transmission of many television programs using fewer frequencies and at a lower cost[40]. Broadcasters can transmit multiple channels within the same frequency spectrum that was previously used for a single analogue channel. This increased channel capacity allows for the provision of a broader range of programming options, including niche channels catering to specific interests and diverse content preferences.

[40] Digital Migration Policy, 2014, Ministry of Information and Broadcasting Services, Zambia

75. Digital migration aimed to improve broadcasting coverage. Digital signals have the potential to reach more remote and rural regions, ensuring broader access to television and radio services for the population. This objective aligns with the goal of bridging the digital divide and providing equal access to broadcasting services across the country.

76. Digital migration also facilitates the adoption of new and evolving technologies in the broadcasting sector. It opens opportunities for the introduction of advanced transmission techniques, such as High-Efficiency Video Coding (HEVC) for video compression, enabling the efficient delivery of high-quality content. The transition to digital also lays the foundation for the integration of broadcasting services with other digital platforms and the convergence of various media technologies.

Digital Migration Implementation

77. To achieve the objectives of digital migration, the Zambian government required technological know-how and financial resources which it did not have. To support digital broadcasting, there was need for the installation of digital transmitters, broadcasting towers, and other equipment to facilitate the transmission and reception of digital signals across the country. As such, the Zambian government entered into a partnership with Star Times, a Chinese company that had the technology useful for digital migration. Star Times was initially awarded the contract of USD 220 million in May 2013 through its Star Software Technology subsidiary, for the supply, delivery, and commissioning of a national digital terrestrial television (DTT) broadcast network. However, the tender for the digital migration was later cancelled by Ministry of Information and Broadcasting due to irregularities. The tender was cancelled following a recommendation from the Zambia Public Procurement Authority (ZPPA) which cited irregularities in both the original tender document and the award process following appeals from two of the four unsuccessful bidders

– Huawei Technologies, ZTE Corporation, Gospel Digital Technology Company Limited, and King Tai investments Zambia Limited[41].

78. Following the cancellation of this tender, Star Times and the Zambian Government created a special purpose investment vehicle they called Top Star, which then bid for the tender and ultimately won. Top Star then entered into a joint venture agreement with Zambia National Broadcasting Corporation (ZNBC), through which the government XXXXXXXXXXXXX XXXXXXXXXXX from the XXXXXXXXXXXX for the implementation of phases two and three of the Digital Migration programme. Furthermore, in this agreement Top Star xxxxxxxxxxxxxxxx XXXXXXXXXXXXXXXXXXXXXX. Top Star started providing the technology and the resources needed for the digital migration and the Zambian government set 1st October 2017 as the date for a complete switchover to digital broadcasting from analogue television services along the line of rail.[42]

79. In October 2015, the Zambia National Digital TV Migration Project was officially started, transitioning from analogue to digital broadcasting. The digital migration included the construction of the national digital TV centre and the transmission network platform, the digitization of the state TV station of Zambia, the digitization of the provincial radio and TV buildings and TV stations, the construction of the state operation centre and business hall and the digitization of all terminal receiving systems. This shift opened new opportunities for pay television providers to offer a more diverse range of channels and enhanced services.

80. The implementation of digital migration in Zambia adopted a phased approach to digital switch on and analogue switch-off. The Zambian

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[41] Digital Television Migration in Zambia: Who are the Real Beneficiaries?, Elijah Mutambanshiku Mwewa Bwalya Ph.D; MacPherson Mutale; Lt Col. Emmanuel Kunda, https://www.ijsrp.org/research-paper-0722/ijsrp-p12745.pdf, accessed on 3rd June 2023

[42] Digital Television Migration in Zambia: Who are the Real Beneficiaries?, Elijah Mutambanshiku Mwewa Bwalya Ph.D; MacPherson Mutale; Lt Col. Emmanuel Kunda, https://www.ijsrp.org/research-paper-0722/ijsrp-p12745.pdf, accessed on 3rd June 2023.

government developed a policy framework to guide the digital migration process. The Digital Migration Policy and the Information and Communication Technologies (ICT) Act provide the foundation for the country's digital switchover. The Digital Migration Policy of 2014 sets out the objectives, strategies, and timelines for the transition from analogue to digital broadcasting. Digital migration requires the allocation of radio frequency spectrum for digital broadcasting. The Information and Communication Technologies (ICT) Act provides the legal framework for digital migration and the regulation of broadcasting activities. In this regard, the Zambia Information and Communications Technology Authority (ZICTA) is responsible for the allocation of radio frequency spectrum for digital broadcasting. The authority identified and assigned specific frequency bands for digital television and radio broadcasting services[43].

81. Digital migration initiatives also involved public awareness campaigns to educate citizens about the benefits and requirements of the transition. The campaigns aimed to educate the public about the benefits of digital migration, the need for set-top boxes or integrated digital TVs, and the changes in signal reception and equipment. The campaigns utilized various media channels, including television, radio, print, and online platforms, to reach a wide audience. This included information regarding the need for a set-top box to enable viewers with analogue televisions to receive digital signals. These devices convert digital signals into a format compatible with analogue TVs. The government worked with broadcasting stakeholders and industry players to ensure the expected availability and accessibility of set-top boxes to the public to ensure widespread access to digital television services.

82. Zambia aimed to complete the transition by 2015, in line with the global deadline set by the International Telecommunication Union (ITU).

[43] The Information and Communication Technologies Act No. 15 of 2009

However, there were delays and extensions in the switchover process, with multiple revised timelines being announced to ensure a smoother transition. Factors such as funding constraints, limited public awareness, technical issues, and coordination difficulties between stakeholders contributed to the extended timeline for migration. While digital migration in Zambia has faced some challenges, progress has been made in transitioning from analogue to digital broadcasting.

Digital Migration Coverage[44]

83. The digital migration coverage aimed to encompass all the provinces of Zambia covering all population areas. The objective was to ensure that viewers across the country have access to digital broadcasting services, promoting equal access to information and entertainment. The digital migration process in Zambia was broadly categorized into the following phases:

(i) Phase I: Line of rail - Switch on to digital TV done by 31st September 2014,
(ii) Phase II: Provincial Centres - Switch on to digital TV done by 31st December 2014
(iii) Phase III: Remote Sites - Switch on to digital TV done by 30th April 2015.

84. Digital migration initially focused on major urban centres, including the capital city Lusaka, as well as towns such as Kitwe, Ndola, Livingstone, and Kabwe. These urban areas were prioritized due to their higher population density, better infrastructure, and existing broadcasting facilities. The digital migration process also aimed to extend coverage to rural areas of Zambia.

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[44] Ministerial statement on the progress made on implementation of the Digital Migration Project presented to Parliament by Hon. Chisihimba Kambwili MP. minister of information and broadcasting services June 2015

85. Digital transmitters have been installed in various locations across Zambia to facilitate the transmission of digital signals. Broadcasting towers and infrastructure upgrades have been implemented to support the coverage of digital television and radio services. The distribution of transmitters is determined based on population density, geographical considerations, and the need to reach as many viewers as possible. Digital migration also included efforts to improve signal reception and availability which involved conducting signal testing, assessing signal quality, and addressing any technical issues or reception challenges.

86. The availability of set-top boxes or integrated digital TVs was crucial to ensure viewers can receive digital signals on their analogue television sets. Initial plans included making affordable set-top boxes accessible to the public, including both urban and rural areas.

87. With regards to licenses, state-owned and private broadcasters were involved in the digital migration process. The Zambia National Broadcasting Corporation (ZNBC), as the national broadcaster, played a significant role in ensuring digital coverage. Private broadcasters, such as Muvi TV, Prime TV, and Diamond TV, also contributed to the expansion of digital broadcasting services.

Implications of the Digital Migration

88. The intention behind digital migration in Zambia was to achieve several goals, such as improving broadcast quality, increasing channel capacity, enhancing coverage, and enabling technological advancements. However, the reality of the implementation has faced challenges and experienced delays, leading to a gap between intention and reality. While the digital migration is now in place, the following appear to be unclear or unresolved.

Signal distribution

89. The Digital Migration Policy of 2015 (DMP) provides for Signal distribution to be undertaken by signal distributors. These entities are expected to provide network infrastructure that receive content after aggregation from broadcasters for multiplexing and signal distribution and to provide Subscriber Management System (SMS). In addition, the signal distributors were required to provide up to five (5) free-to-air program channels for public service and to establish and operate help desks. The policy provides for two distributors namely public and private with the public distributor being required to provide national-wide coverage and services to Content Service Providers (licensees) on a non-discriminatory basis to provide universal access. Equally, the private signal distributor is required to provide national-wide coverage and service to Content Service Providers (licensees) on a competitive and non-discriminatory basis. The private signal distributor shall be established through competitive open tender.

90. The current public signal distributor is Topstar while the private signal distributor is Gotv Zambia Limited XXXXXXXXXXXXXXXXXXXXXXXXXXXXX which was given the mandate of rolling out universal coverage. See fig below for shareholding.

X

91. With regards to the market structure and licensing framework, the DMP provides that the licensing framework would be transformed into two broad licensing categories namely; content service provider licence and signal distributor licence. In addition, no single entity would be allowed to hold both types of licenses at the same time. This was meant to avoid discrimination which normally would happen if a signal distributor was

also a content service provider in competition with other content service providers.

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Free to Air

92. The DMP provides that Free-to- Air television services are those that are capable of being received without the payment of a subscription fee. Signal distributors are thus required to ensure that free-to-air program channels are accessible on all STBs across signal distributors. The signal distributors are required to provide up to five (5) free-to-air program channels for public service and to establish and operate help desks. In a Ministerial Statement delivered to Parliament, it was submitted that to receive digital signals, the public would need to buy a decoder (set top box) and these decoders were available for sale in the ZamPost offices along the line of rail and later throughout the country. It was submitted that the decoders were approved by the Zambia Bureau of Standards and the cost was K130 and for those that would require an outdoor aerial, this would cost K80[45].

93. In their submission to the Commission, Multichoice stated that there was no legal requirement to have ZNBC as a mandatory Free to Air channel and that currently it was part of the paid for bouquets. MultiChoice also submitted that offering FTA channels on payment of an access fee would not be commercially viable and that since they already had a lower priced GOtv bouquet, it could be accessed as it had several FTA channels. It was

[45] Ministerial statement on the progress made on implementation of the Digital Migration Project presented to Parliament by Hon. Chisihimba Kambwili MP. minister of information and broadcasting services June 2015

submitted that incorporation of FTA content on the MultiChoice bouquets was based on commercial considerations and that agreements with the FTA content providers were not standard as they were dependant on commercial negotiations. Multichoice bouquets included a total of 15 FTA channels of which 7 were radio stations and 9 were television stations. It was further submitted that it was impossible to include all the available FTAs as this was subject to commercial valuation and technical feasibility, such as available capacity, amongst others.

94. The xxxxxxxxxxxxxxxx provides the scope of business of the Joint venture which includes the provision of two free channels for digital TV universal access to viewers who fail to pay the monthly subscription fee of USD3 and to provide the very poor families (identified by Government) with STBs at half the price (the initial price of STBs is USD10). In their submissions, Topstar submitted that in the event of out of subscription, its customers were able to access free to air channels, but it was not a legal requirement. It was submitted that the licensing regime was not adequate because even if the DMP was clear on how many channels were to be free to air, they were channels that claimed to be free to air when they were not listed on the mandatory five. It was submitted that there was need for the IBA to clarify which channels were free to air post migration from analogue to digital.

95. Diamond Media submitted that after getting their IBA licenses free to Air service providers have no choice but to negotiate with the two signal distributors and platform holders for them to be broadcast. It was further submitted that providing free to air services through signal distributors was a license infringement because viewers are then forced to pay to view content from free to air service providers. It was further submitted that in addition to viewers paying subscription, the free to air channels are made to pay to be on the broadcasting platforms and xxxxxxxxxxxxxxxx. Diamond Media submitted that in the case of Topstar they were made to pay per site across the country. It was submitted that for GoTv and

Multichoice they broadcast country wide at a flat fee. xxxxxxxxxxxxxxxxxxxxxxxxxxx into Service Level Agreements that provided for a partial payment and advertising barter arrangement. Diamond Media submitted that free to air channels purchase content in the same manner that Pay TV channels do, except the free to air channels are charged less than the Pay TV for the same content. Diamond Media submitted an example of football content such as the World Cup where the rights holders charge different rates for free to air channels and Pay TV channels. It was submitted that for free to air channels the rights holders of the content charge lower rates than they charge the channels that are paid for.

96. QTv submitted that all the licenses issued by IBA are free to air licenses, but consumers cannot view without paying the subscription fee. It was further submitted that the current structure meant that there was no way for FTA content providers to be free.

97. Topstar submitted that when out of subscription, consumers still had access to FTA channels. xxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxx. Xxxxxxxxxxxxxxxxx . It was submitted that Topstar had xxxxxxxxxxxx the xxxxxxxxxxxxxxxxxxxx as it was required to maintain the infrastructure used in the transmission of local content and cover the operational costs of providing the service. xxxxxxxxxxxxx submitted that according to the Digital Migration Policy, the Public Signal Distributor (Topstar) as a carrier of carriers was required to on-board local TV stations for free and in turn the public would have access to local channels on a Free-To-Air (FTA) basis. FTA meant that in instances where clients did not pay subscription, they should have had access to local content at no additional cost.

Content Providers

98. A Content Service Provider has been classified as a service provider on a digital broadcasting platform who develops and/ or aggregates content offering whether it is in the form of an audio or video or data service and delivers it to a signal distributor for broadcasting[46]. The DMP requires that the Signal Distributor provide national-wide coverage and service to Content Service Providers (licensees) on a competitive and non-discriminatory basis.

99. Content Service Providers were thus expected to deliver their content to signal distributors for countrywide distribution in accordance with appropriate arrangements. In addition, signal distributors were expected to provide SMS services to content providers. Given that the current signal distributors xxxxxxxxxxxxxxxx, content providers are thus being carried as part of the bouquets. In addition, there is limited capacity especially on the xxxxxxxxxxxxx to provide nationwide coverage. In their submissions, xxxxxxxxxxxxxxxxxxxxxxxx It was submitted that enhancing capacity would require added investment to the infrastructure in the form of multiplexers, transmitters as well as applying for additional spectrum resources (frequencies) from the Zambia Information and Communication Technologies Authority (ZICTA). It was submitted that the number of channels capable of being carried per given frequency depended on the content being transmitted, such as, standard definition (SD) or High Definition (HD) as well as other components required for transmission. It was submitted that content transmitted in HD required more capacity compared to content transmitted in SD.

100. The above situation does not seem to support the growth of content providers who overtime were expected to provide their own bouquets packaged for distribution over the network infrastructure of signal distributors. Instead, it has reduced content providers to mere program

[46] https://www.iba.org.zm/content-service-providers/

channels of the various bouquets of Topstar/StarTimes and MultiChoice (DStv and GOtv).

Revenue Sharing

101. xxxxxxxxxxxxx submitted that they had requested for a revenue sharing arrangement with xxxxxxxxxxxxxxxxx was not agreeable to it. It was further submitted that when xxxxxxxxxxxxxx decided not to renew its contract with xxxxxxxxxxxxxx they were offered to be carried for free across the country but not to share the information with other stations. xxxxxxxxxxxxx submitted that they did not get any revenue from the arrangement they have with xxxxxxxxxxxxxxxxxxx were not paying for the content from xxxxxxxxxxxxxxxx, but provided other incentives. It was submitted that the two broadcasting platforms paid for content from the international stations but not the free to air stations and that this was due to lack of a legal framework.

Chapter 5

Industry Structure and Consumer Preference

102. Pay TV is provided via several signal broadcasting modes, and these include Digital Terrestrial Television (DTT) and Direct to Home (DTH), Over-The-Top (OTT), Video on Demand (VOD) and Cable. Signal broadcasting modes in Zambia include public signal distribution and private signal distribution. Public Signal Distributor provides nation-wide coverage and services to Content Service Providers (licensees) on a non-discriminatory basis to provide universal access. The Public Signal Distributor in Zambia is Top Star. Private Signal Distributor provides nation-wide coverage and service to Content Service Providers (licensees) on a competitive and non-discriminatory basis. The Private Signal Distributor in Zambia is GOtv. Signal Distributors are licensed by ZICTA [47].

Digital Terrestrial Television (DTT)

103. In Zambia, GOtv and Top Star provides pay TV services using DTT. Other players provide pay TV services through Direct-To-Home (DTH). DTT and DTH have significant differences. DTT uses transmitters on the ground to broadcast the signal which is received using a TV aerial and set top box[48]. DTT is broadcast entirely over earthbound circuits where a satellite is not used for any part of the link between the broadcaster and the end user. DTT signals are broadcast over essentially the same media as the older analogy terrestrial TV signals. The most common circuits use coaxial cable at the subscriber end to connect the network to the TV receiver. Fibre optic and/or microwave links may be used between the studio and the broadcast station, or between the broadcast station and local community networks[49].

[47] https://www.iba.org.zm/signal-distributors/ viewed on 7th June 2023
[48] https://www.gov.za/sites/www.gov.za/files/DTT-everything-you-need-to-know-2015.pdf viewed on 1st June 2023
[49] Report on allegations of Abuse of Dominance Against Multichoice Africa Limited, 2016, File No. CCPC/RBP/107, Competition and Consumer Protection

104. DTT provides a clearer picture and superior sound quality when compared to analogue TV, with less interference. DTT offers far more channels, thus providing the viewer with a greater variety of programmes to choose from. DTT can be viewed on personal computers. Using a split-screen format, a computer user can surf the Web while watching TV[50].

105. DTT utilizes specific frequency bands allocated by regulatory authorities. The specific frequencies depend on regional and national frequency allocation plans. The available bandwidth for DTT services varies between countries and depends on factors like channel allocation and national spectrum policies.

Direct to Home (DTH)

106. The Direct-To-Home (DTH) service is a digital satellite service that provides television services direct to subscribers anywhere in the country. Since it makes use of wireless technology, programs are sent to the subscriber's television direct from the satellite, eliminating the need for cables and any cable infrastructure. This is particularly valuable in remote and difficult to reach areas where cable and in many cases, terrestrial television services are poor or non-existent. DTH services also provide the finest of picture and sound quality which is second to none worldwide.[51]

107. DTH transmission utilizes specific frequency bands for efficient communication between satellites and receiving equipment. The two primary frequency bands used in DTH are the Ku-band (11-14 GHz) and the C-band (4-8 GHz). The Ku-band is commonly employed for high-power DTH services due to its higher frequency and narrower beams, allowing for smaller dish sizes. The C-band, with its lower frequency, offers better resistance to rain fade but requires larger dish sizes[52].

[50] Report on allegations of Abuse of Dominance Against Multichoice Africa Limited, 2016, File No. CCPC/RBP/107, Competition and Consumer Protection

[51] Report on allegations of Abuse of Dominance Against Multichoice Africa Limited, 2016, File No. CCPC/RBP/107, Competition and Consumer Protection

[52] Pratt T. and Bostian C., 2003. **Digital Satellite Communications**. Second Edition. Cambridge University Press

108. The basic function of the DTH headend is to aggregate content into a format suitable for broadcasting directly to the homes of customers who have signed up and are authorized to receive the service. The source content, as available to the DTH headend, may not be in format suitable for reception at the home. The source content may arrive from multiple sources, such as downlinks from existing satellite feeds, terrestrial links, local broadcasters, or be locally stored at the headend for play-out. The required content conditioning varies, based on the format of the respective sources. In most cases the content is available in an encoded (compressed) format, such as Moving Picture Experts Group 2 (MPEG2) at certain data rate. If a format other than MPEG2 is required, such as MPEG4, the video needs to be transcoded (decoded and re-encoded). If the format is correct, but the data rate is too high, translating (rate reduction) equipment is required. If the video is in an uncompressed format, MPEG2 or MPEG4 encoders are required[53].

109. Once in the correct format, the content is aggregated using multiplexers. There is one multiplexer corresponding to each satellite transponder. The content is aggregated to a data rate fully utilizing the transponder bandwidth and power. Content is encrypted (scrambled) to preclude unauthorized viewing. For a given DTH service provider, the user community is managed with a SMS (subscriber management system (SMS)), which interacts with the encryption system via a conditional access (CA) system. The content is then modulated and transmitted from the DTH headend to the satellite for downlinking to customers. To view the content, a customer requires a TVRO (Television Receive Only) antenna, a LNB (low noise block downconverter), and an authorized STB (Set-Top-Box). The STB outputs the video in a format compatible for TVs

[53]http://www.intelsat.com/wp-content/uploads/2013/02/5457-DTH-White-Paper.pdf; https://selectra.in/dth/how-to/dth-works; https://www.gov.za/sites/www.gov.za/files/DTT-everything-you-need-to-know-2015.pdf viewed on 8th June 2023

and/or monitors[54]. Example of DTH content providers include Multichoice Africa Holdings whose user community management is done by Multichoice Zambia Limited. Other service providers for DTH include Strong Zambia, the distributors of Zuku brand, Muvi television (satellite service) as well as Startimes.

Over The Top

110. Over-The-Top (OTT) refers to the delivery of video, audio, and other media content over the internet, bypassing traditional distribution channels like cable or satellite TV providers. OTT has gained significant popularity in recent years, thanks to advancements in technology and the widespread availability of high-speed internet connections.

111. Over-the-top (OTT) platforms allow users to create their own OTT media streaming services. OTT streaming services have become popular content channels since content creators can distribute their work without using traditional cable or broadcast platforms. Additionally, most services do not require viewers to purchase or install any proprietary hardware for access. These platforms act as the driving force behind popular internet streaming services and can include features like subscription management, built-in advertising, and content management. While most OTT platforms are intended to build video-based streaming services, some products also allow users to create audio-based streaming services. There are 5 main OTT service providers in Africa based on their market shares. These include Netflix, Showmax, Amazon, Apple TV+ and Disney+

112. Zambian customers of OTT services are thus required to have internet enabled platforms or gadgets and applications for the OTT providers in order to access the OTT services. It should be recognised that service providers such as MultiChoice and Startimes have developed their own

[54] http://www.intelsat.com/wp-content/uploads/2013/02/5457-DTH-White-Paper.pdf; https://selectra.in/dth/how-to/dth-works; https://www.gov.za/sites/www.gov.za/files/DTT-everything-you-need-to-know-2015.pdf viewed on 8th June 2023

OTT platforms MyDStv and ON respectively as an alternative to DTT and DTH.

Over-The-Top (OTT) market share estimates in Africa

113. Based on the SVOD subscriptions statistical projections for Africa as shown in the figure below, Netflix is a dominant player in the market, followed by Showmax, Amazon, Apple TV+ and the other platforms combined. Table 3 below presents the percentage market shares for each player in the OTT sector.

Table 3: OTT market Shares

	2021	2022	2023
Netflix	56%	57%	47%
Showmax	18%	17%	15%
Amazon	12%	11%	19%
Apple TV+	1%	1%	1%
Disney+	0%	2%	8%
Others	14%	13%	10%

Substitution and Consumer Preferences

114. The rise of alternative options and technological advancements has led to a shift in consumer preferences in Pay TV. From the proliferation of streaming platforms, video-on-demand services, other digital media and aspects such as advertisement free viewing, conventional pay Tv has become increasingly substitutable.[55]. Consumers are increasingly concerned about how much they are paying when digital media is providing entertainment that is either affordable or free. In Zambia

[55] Leung, M. (2019). "Cutting the cord": The impact of pay-TV on cord-cutting behavior. Journal of Media Economics, 32(4), 168-183.

consumers have increasingly exhibited a desire for this shift driven by convenience, flexibility and affordability. The alternatives brought about by technological developments also offer more customised content, allowing viewers to only pay for content that they watch as opposed to scheduled programming. The Pay TV substitution does not necessarily imply the complete abandonment of traditional television services for now. Some consumers still prefer pay TV for live sports events, news, and a broader channel selection.

115. It should be noted that Zambia has witnessed increase in the total number of active internet subscriptions reflecting a marginal increase in the internet penetration rate from 56.7 per 100 inhabitants reported in 2021 to 56.8 per 100 inhabitants attained in 2022. This increase however was partly attributed to the increased investment in 3G/4G networks as well as other emerging technologies[56].

116. The trend towards pay TV substitution and the increasing popularity of streaming platforms that has been observed around in other countries where the internet infrastructure is well developed, indicates a significant shift in consumer preferences and viewing habits. Pay Tv businesses have had to consider offering cost-effective pricing, a wide range of content choices, convenience, and personalization.[57] To this effect Multichoice has launched the Showmax streaming platform and DSTv on demand as a value-added product to the existing service.[58] Streaming platforms are also investing in the production of their own exclusive content which places them in direct competition with the traditional broadcasters.[59]

[56] **ZICTA press release:** March 7, 2023. **The ICT Sector Recorded Positive Growth in 2022**, retrieved from https://www.zicta.zm/storage/posts/attachments/IfCnl5CiPfRDCjjWk45SnMyFGRRekZBZbsB0L9mV.pdf

[57] Deloitte. (2021). Digital media trends survey. Retrieved from https://www2.deloitte.com/us/en/insights/industry/technology/digital-media-trends-consumption-habits-survey.html

[58] https://www.multichoice.com/media/news/multichoice-and-comcast-s-nbcuniversal-and-sky-partner-to-create-leading-streaming-service-in-africa

[59] The future of the TV and video landscape by 2030

Value Chains

117. The pay TV industry has a very dynamic and complex value chain that involves multiple stakeholders and activities. Broadly it is categorised into 3 parts that is, production of content, aggregation of content and delivery of content. At the base of the value chain are Content providers. Content providers are crucial players of the production part in the pay TV value chain as they create or acquire the programming that is distributed to viewers. The providers include studios, production houses, and TV stations. They produce a wide range of content, including TV shows, movies, documentaries, sports events, and news programs. Content providers can be studios that produce content for sale or tv stations that aggregate content onto a channel. Examples of content providers in Zambia include Tv stations such as Diamond TV and production houses like Kazadi films.

118. Broadcasters are responsible for acquiring content rights from content providers and aggregating programming into subscription packages. They also offer value-added services like video-on-demand and interactive features for distribution to pay TV operators. Broadcasters may be national or regional networks, cable and satellite companies, or internet-based platforms. These aggregators may also provide value-added services, such as program guides, metadata, and content recommendation algorithms. They ensure the quality of content and manage scheduling, advertising, and compliance with regulatory requirements. xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

119. Pay TV operators, also known as multi-channel video programming distributors (MVPDs) or Subscription Management Service (SMS) providers, are in the delivery part of the value chain as they are responsible for delivering the content to consumers. They manage the infrastructure, distribution networks, and customer relationships. Pay TV operators include satellite companies, tower companies, IPTV providers, and telecommunications companies. They negotiate carriage agreements

with broadcasters. In Zambia, such service providers include MultiChoice Zambia as well as Strong Technologies Zambia among others.

120. Technology providers play a crucial role in the pay TV value chain by supplying the equipment, software, and systems required for content delivery and consumption. This includes set-top boxes, satellite receivers, headend systems, conditional access systems, content delivery networks (CDNs), and streaming platforms. Technology providers ensure the secure and efficient transmission of content from the source to the end-user devices.

121. Advertisers play a significant role in the pay TV value chain by funding a portion of the content through advertising revenue. They purchase advertising slots or sponsorships from pay TV operators, targeting specific viewer demographics. Advertisers benefit from the wide reach and engaged audience that pay TV platforms provide.

122. Regulatory bodies oversee the pay TV industry, ensuring compliance with broadcasting standards, licensing requirements, and consumer protection regulations. They set rules and policies governing content distribution, pricing, competition, and market entry. Regulatory bodies vary by country and region, and they play a vital role in maintaining a fair and competitive pay TV landscape[60].

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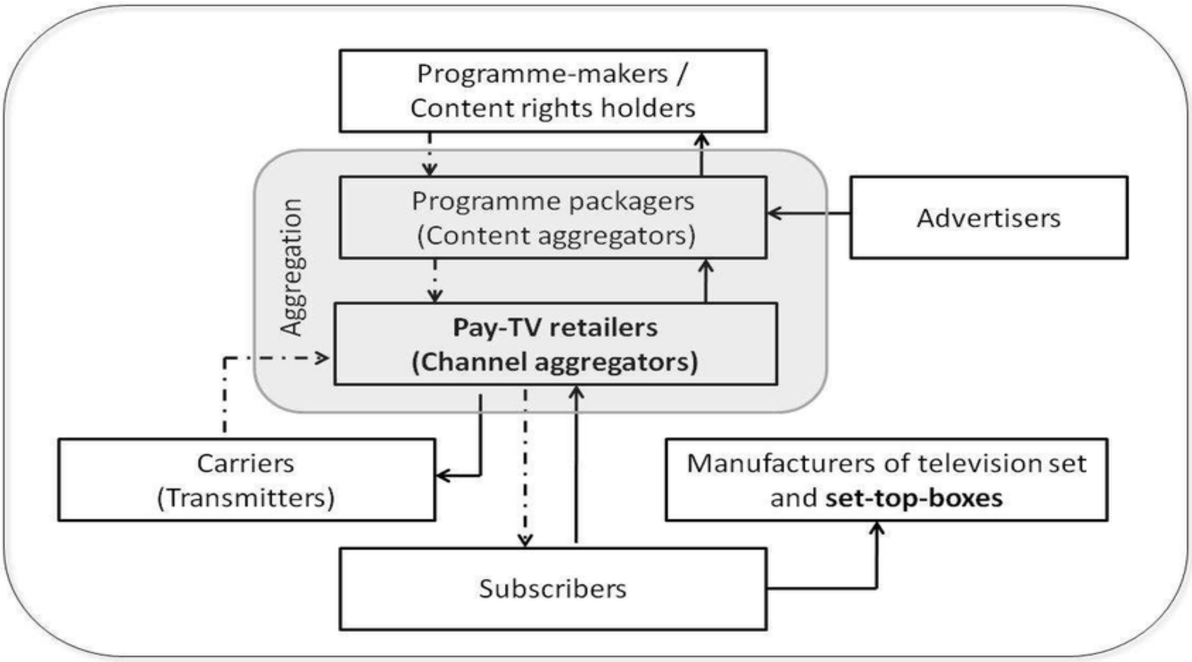
[60] *Source: D'Arma, Alessandro. (2011). Content aggregation in the age of online video: An analysis of the impact of internet distribution on the television business. Journal of Media Business Studies. 8. 1-17.*



Notes: Solid lines represent monetary flows; dotted lines represent supply/distribution relationships; in bold new actors/functions

Coverage of DTT, DTH and OTT

123. Over the last decade Zambia has witnessed the adoption of various broadcasting technologies, including Digital Terrestrial Television (DTT), Direct-to-Home (DTH) satellite broadcasting, and Over-the-Top (OTT) streaming services. DTT refers to the transmission of television signals using digital technology through terrestrial transmitters. In Zambia, DTT services were introduced as part of the country's migration from analog to digital broadcasting. The coverage of DTT in Zambia has expanded over the years, offering improved signal quality and a wider range of channels to viewers as compared to analogue. There are two distributors of DTT in Zambia namely Topstar and GOtv Zambia limited. Together the two distributors cover most of Zambia with at least 73 transmission sites in both rural and urban areas.

124. The availability of these modes of transmission (DTT and DTH) in rural areas may vary, with DTH satellite services having a broader reach compared to DTT and OTT services. Due to the existing infrastructure set

up by ZNBC, DTT has a reasonable reach even in the rural areas as the infrastructure is available in most parts of the country.

Coverage of 4G and 5G Network to support OTT.

125. In Zambia, the telecommunications sector has been making significant strides in expanding mobile network coverage and introducing advanced technologies like 4G and 5G. Both 4G and 5G are only accessible in designated zones and with the use of a device that has 4G and 5G capability. There are currently three internet service providers that provide 4G internet, that is, MTN, Airtel and Zamtel and only two that provides 5G, that is MTN and Airtel which launched its 5G in late July 2023 offering limited coverage to select areas of the capital, Lusaka[61].

126. Some of the challenges to the growth of the sector have been attributed to the high corporate tax. The ICT sector continues to face a tax rate of 35% despite the reduction from 40 percent previously applied for profits above K250,000. In addition, the excise duty of 17.5 percent applied on airtime has a direct effect of increasing the cost of services and consequently reduced the pace of adoption as well as intensity of usage of ICT services. The cost of diesel which is a key input in the provision of services increased significantly over time[62]. In addition, the frequency of adjustments in the pricing were changed to monthly leading to more periodic variations in the price of fuel. Operators indicated that there were delays by ZICTA in obtaining approvals for installation of infrastructure such as the laying of fibre. The delays posed challenges in providing commitments to their customers on the delivery of services and posed a risk on their competitive advantage. In addition, there were concerns on

[61] https://www.connectingafrica.com/author.asp?section_id=761&doc_id=785922. Retrieved 11/09/2023
[62] Low Sulphur Diesel is currently at K26.88. see press release at https://www.erb.org.zm/wp-content/uploads/PressStatements/CurentFuelPumpPrices.pdf: retrieved on 11/09/2023

cost and delivery time associated with the compulsory requirement for concrete poles to be used in deployment[63].

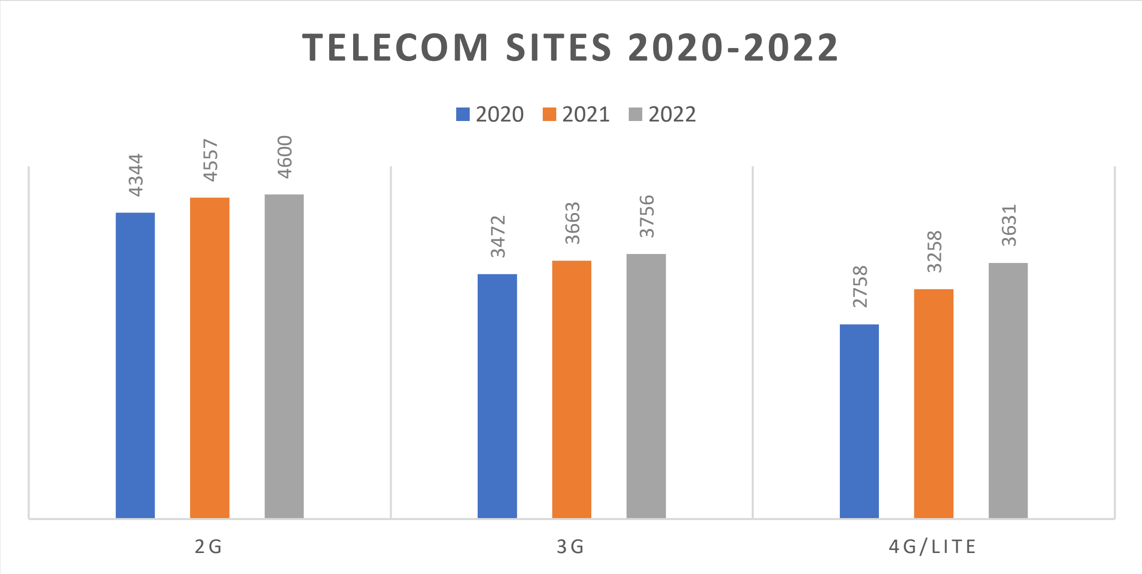
127. Zambia has witnessed notable improvements in 4G coverage over the past few years but only in the urban areas, though still sporadic. Major cities such as Lusaka, Kitwe, Ndola, and Livingstone have experienced relatively good 4G network coverage. Service providers have been working to expand 4G availability in urban areas and along major highways, improving internet speeds and enabling faster data connections for users.

128. By the end of June 2022, there was a total number of 10, 574 sites relative to 10, 303 sites recorded at the end of June 2021. The increase in the number of sites over the period was estimated at 3 percent with substantial improvements observed amongst the 3G sites. The total number of 2G sites decreased over the period from 5,081 sites to 4,344 sites while the number of 4G sites increased by 19 percent from 2,316 sites to 2,758 sites. Despite the decline in number of 2G sites, they accounted for the largest proportion of telecommunications sites in the country with a share of 41 percent. The proportion of 3G sites increased from 28 percent to 33 percent of the total number of sites over the reference period while that of 4G sites increased from 22 percent to 26 percent as shown in the fig 10 below[64].

[63] **ZICTA - Information and Communication Technologies Sector 2022 Mid-Year Market Report** January — June, 2022

[64] **ZICTA - Information and Communication Technologies Sector 2022 Year Market Report G.**

Fig 10: Site proliferation



129. 5G is essentially fifth-generation mobile network technology which offers faster speeds, better security and stability and the ability to handle high volume connections and mobile data. According to MTN 5G network is at least 10 times faster than 4G network.[65] In Zambia MTN and Airtel offer limited 5G coverage commercially. It is available to about 65% of the population in the cities of Lusaka, Kitwe and Ndola as well as parts of Chingola, Solwezi and Kalumbila for MTN while Airtel is currently limited to Lusaka. This translates into about 15% of the entire population.[66] While 5G technology has gained significant traction globally, it is yet to be extensively deployed in Zambia. The level penetration and the quality of the internet are evidently not at the ideal levels as shown Fig 11 below.

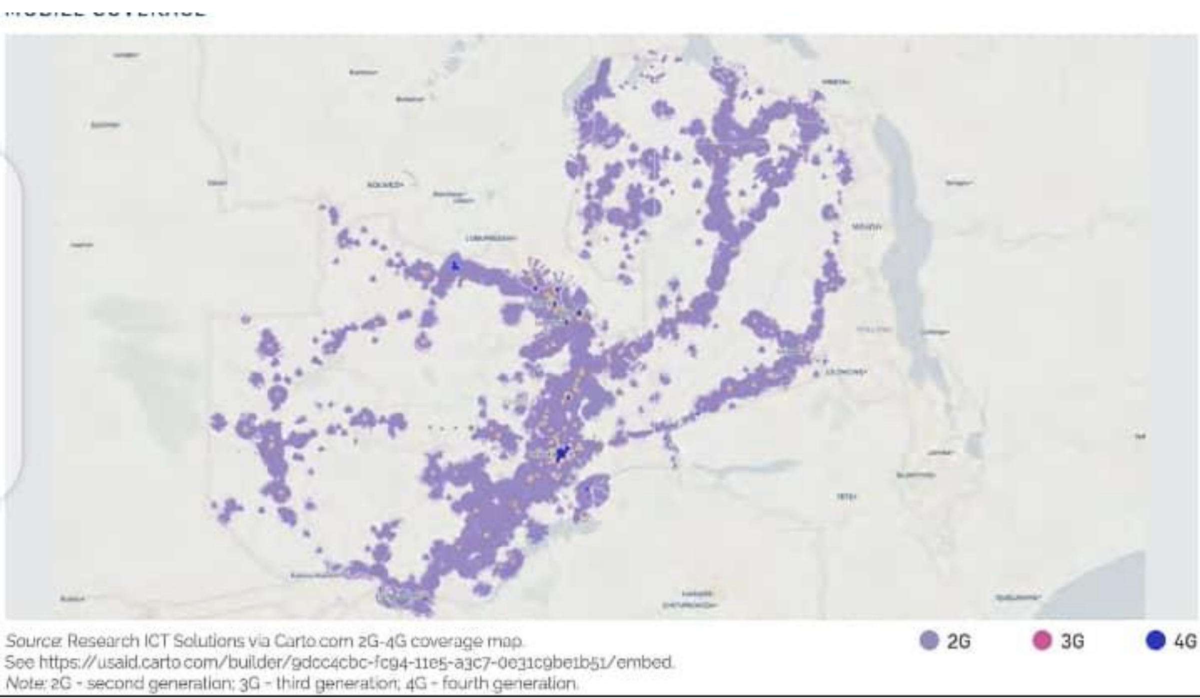
130. The total number of active mobile cellular subscriptions reduced from 20.2 million subscriptions reported at the end of 2021 to 19.8 million subscriptions at the end of 2022 representing an annual decline of 2 percent[67]. The decrease could mainly be attributed to the drop in

[65] ZICTA 2022 midyear report
[66] https://www.mtn.com/mtn-zambia-launches-the-countrys-first-5g-network/
[67] **ZICTA press release:** March 7, 2023. **The ICT Sector Recorded Positive Growth in 2022**, retrieved from https://www.zicta.zm/storage/posts/attachments/IfCnl5CiPfRDCjjWk45SnMyFGRRekZBZbsB0L9mV.pdf

subscription numbers following the decommissioning of over 2 million SIM cards to curb the rise in matters of fraud and other cyber related crimes and incidents[68].

131. Nearly 99 percent of the internet users are mobile internet users implying most internet services are accessed through SIM card-based technology. This could partly be explained by the ease of accessing mobile internet services, the relatively lower cost of accessing the services compared to fixed internet services and portability of the service. Subscription to fixed internet services decreased by 1.2 percent from over 85 thousand subscribers reported in June 2021 to over 84 thousand subscribers in June 2022. Most users with fixed internet subscription are corporates mainly due to reliability of service. The high cost associated with fixed Internet services serves has deterred most potential household users[69].

Fig 11: Distribution of Gs in Zambia



[68] ZICTA - Information and Communication Technologies Sector 2022 Mid-Year Market Report January — June, 2022

[69] ZICTA - Information and Communication Technologies Sector 2022 Mid-Year Market Report January — June, 2022

Coverage of Broadband

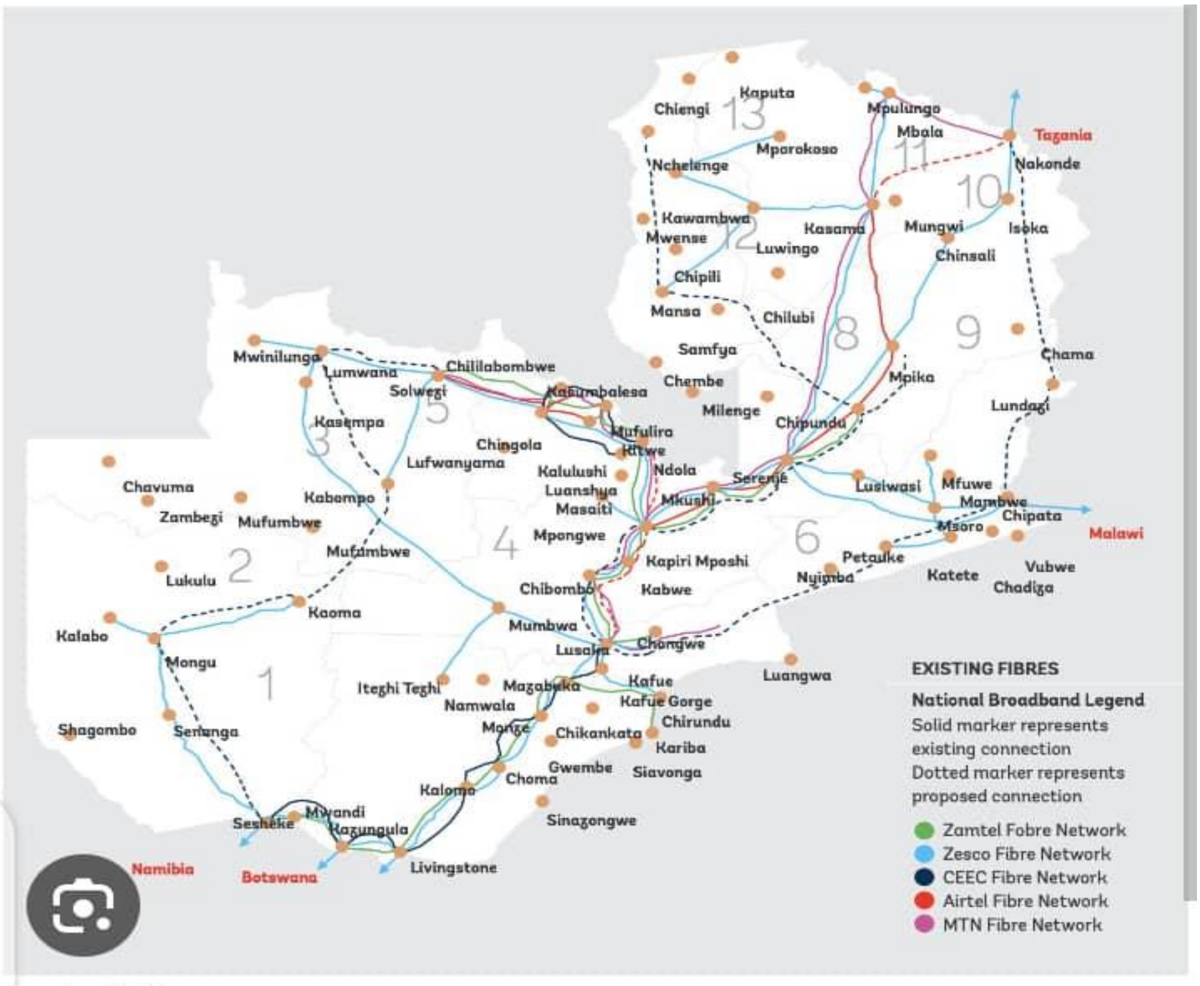
132. Broadband refers to a high-speed internet connection that allows for fast and efficient transmission of data. It encompasses all connections from cable modem, fibre optic, satellite, and wireless connections like Wi-Fi and 4G/5G cellular networks. Unlike traditional dial-up connections, broadband offers significantly higher data transfer rates, enabling users to access the internet, download and upload large files, stream multimedia content, and engage in online activities with minimal delays and interruptions.

133. The term "broadband" emphasizes the wide bandwidth capacity of these connections, which enables the simultaneous transmission of multiple data streams and supports high-speed internet access. Broadband has become essential in today's digital age, enabling individuals and organizations to communicate, collaborate, and access a wealth of online resources and services.

134. There are still many areas, especially in rural and remote regions, that lack adequate broadband coverage. This is emphasised by the fact that only slightly less than half of all residents (45%) live within cities. [70] Limited access to electricity, high costs of infrastructure deployment, and geographical constraints pose obstacles to extending broadband services to these underserved areas. Zambia is lagging in the expansion of broadband internet connections. Around 21 percent of all residents have access to the internet.[71] Initiatives to bridge the digital divide, such as the National Broadband Plan, aimed to increase broadband penetration and expand coverage, access and quality. Fig 12 below shows the distribution of fiber network in Zambia.

[70]https://www.worlddata.info/africa/zambia/telecommunication.php#:~:text=Broadband%20internet%20in%20Zambia%202000,than%20256%20kbit%2Fs).
[71]Ibid

Fig 12: Distribution of Fibre Networks



Internet Penetration

135. Internet penetration refers to the percentage of the population that has access to the internet. It is a measure used to determine the extent of internet usage within a specific country or region. Internet penetration is usually expressed as a percentage and indicates the level of connectivity and digital inclusion in a given area. Zambia internet penetration stands at 21%, approximately 4.30 million internet users in Zambia by January 2023.[72] A high internet penetration rate indicates that a large portion of the population has access to the internet, while a low rate suggests limited

[72] https://datareportal.com/reports/digital-2023-zambia

internet availability and usage. Factors that influence internet penetration include infrastructure development, affordability, availability of devices, government policies, education, and socio-economic factors.

Fibre to home

There are five companies that have built out fibre-optic networks, especially critical for ensuring access to submarine cables for the landlocked country. The largest is that of Fibrecom, a subsidiary of the ZESCO whose network reaches all 10 provincial capitals and stretches to about 6,000 km. The fibre network infrastructure is built on the electricity pylons across the country. Fibrecom has direct connections to undersea cables through Tanzania, Malawi, Zimbabwe, Namibia and Botswana. Liquid Technologies has also deployed metropolitan and national fibre-optic networks via underground cable and in some cases overhead. MTN and Airtel collaborate on an underground metropolitan network in the capital Lusaka. ZAMTEL also has an extensive network with access to several international submarine cables. These links have enabled access to undersea fibre-optic cables since 2011.[73]

Internet Speeds

136. Streaming video is one of the most bandwidth-intensive technology done online in the audiovisual space. Therefore, this means to access a seamless service, one must have an internet plan that meets the basic speed requirements with sufficient data. Streaming services such as Netflix and others have gone to the extent of recommending minimum speeds for a seamless access of their services. Table 4 below provides a compilation of the types of available technology and associated speeds as well as recommended speeds by various OTT providers.

[73] Measuring the Information Society Report Volume 2. ICT Country Profil

Table 4: Types of Technology and Internet Speeds

Technology Type[74]	**Peak download speed**	**Average download speed**	**Selected streaming and recommended speeds**	**Mbps**		
2G – GPRS	171.2 kbps	30-50 kbps		SD	HD	UHD
2G – EDGE	384 kbps	130-200 kbps	Netflix	3	6	25
3G – UMTS	2 Mbps	384 kbps	Apple Tv		5	25
3G – HSPA	14.4 Mbps	5 Mbps	Hulu	3	8	16
3G – HSPA+	42 Mbps	5-8 Mbps	Amazon	3	5	
4G – LTE	300 Mbps	15-20 Mbps	Disney		5	25
4G – LTE+	1-3 Gbps	50-80 Mbps	Youtube	3	5	25
5G – NR	10 Gbps	150-200 Mbps				

Levels of Substitution or complementarity

137. In the context of Pay TV services in Zambia, the levels of substitutability and complementarity can vary based on the specific offerings and consumer preferences. Here's a breakdown of how Pay TV services in Zambia can exhibit different levels of substitutability and complementarity:

Substitutability or complimentary

138. Globally, developments and innovations in television technology, including the launch and growth of over-the-top television services (OTT TV), have affected traditional Pay-TV operators' ability to grow a subscriber base and retain existing customers[75]. As people increasingly

[74] https://commsbrief.com/mobile-data-speed-with-2g-3g-4g-and-5g-cellular-networks/
[75] https://etd.cput.ac.za/handle/20.500.11838/3248

access movies, user-created content, and linear television programs through the Internet, it is worth paying attention to the effect of online video services on various media markets, including the broadcasting market[76]. A study done in Latin America covering 17 countries from 2011 to 2020, suggests no substitution of Pay TV for OTT. However, during the more recent period (2015-2020), there appeared to be evidence of substitution, that is, similar enough, although not completely equivalent for consumers between these audiovisual services. This confirms, although only partially, the existence of the so-called cord-cutting[77] and cord-saving phenomena, due to the expansion of fast internet and the richer OTT offers, and their relatively lower prices[78].

139. Statistics predicts that the Zambian subscription-based Video-on-Demand services (Subscription-VoD or SVoD), e.g. Netflix and Amazon Prime Video is expected to reach 2.59 million users by 2027[79] as shown in Fig 13 below. SVoD offer unlimited access to content libraries for a monthly subscription fee. Movies and TV series can be streamed to various supported connected devices. The SVoD market does not include ad-supported services, pay-per-view offerings or services that require a pay-TV subscription (e.g. HBO Go). However, the degree or existence of code cutting, code shaving[80] or code stacking[81] is country specific and depends on the availability of alternatives and the infrastructure to support such alternative.

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[76] https://www.sciencedirect.com/science/article/abs/pii/S0747563215002745

[77] In broadcast television, **cord-cutting** refers to the pattern of viewers, referred to as **cord-cutters**, cancelling their subscriptions to multichannel television services available over cable or satellite, dropping pay television channels or reducing the number of hours of subscription TV viewed in response to competition from rival media available over the Internet. This content is either free or significantly cheaper than the same content provided via cable.

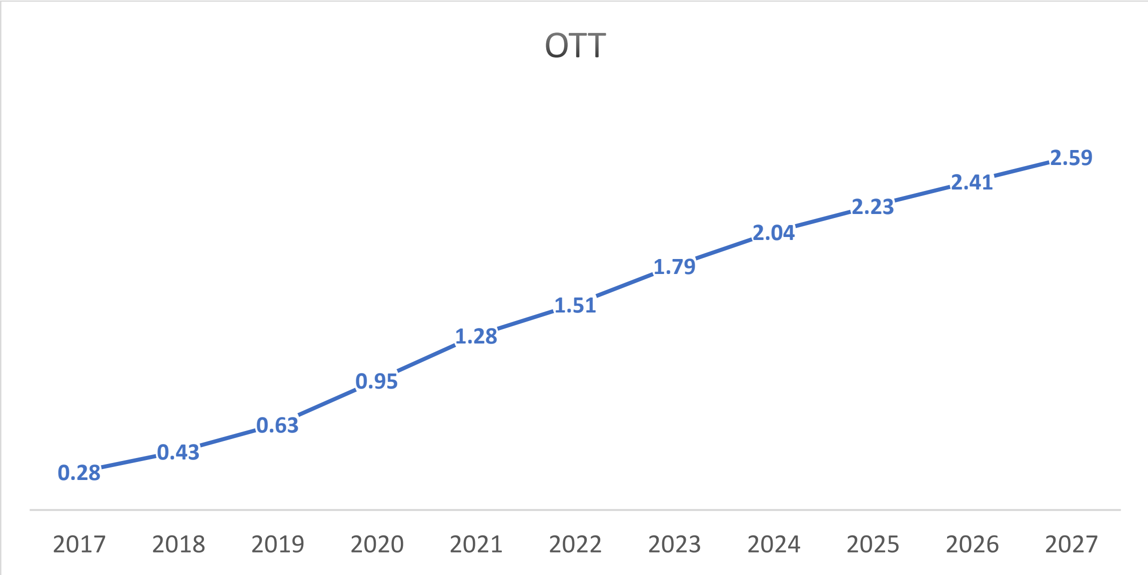
[78] **Juan Jung** etal (), **is your *Netflix* a substitute for your *Telefunken*? Evidence on the dynamics of traditional pay tv and OTT in Latin America - Accessible on** https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3959317

[79] https://www.statista.com/outlook/dmo/digital-media/video-on-demand/video-streaming-svod/zambia#revenue

[80] Code shaving refers to the downgrade of subscriptions in response to certain factors such as a price increase. Moving from DStv premium for example for DStv compact would be regarded as code shaving

[81] Code stacking refers to the adoption of multiple pay television platforms

Fig 13: SVoD users in Zambia



140. While OTT and other streaming services may be an option, they currently do not offer creditable competition to traditional audiovisual content provision such as DTT and DTH. Findings from the consumer survey done as part of the inquiry shows that 98.8% were subscribed to an audiovisual content with the 13% out of the remaining 5.2% (about 18 respondents out of 255) subscribed to a streaming service. Further findings show that those subscribed to a streaming service such as Netflix had another subscription of either DTT or DTH indicating more of code stacking instead of code cutting or code shaving. There is evidence however of movements of subscriptions from more expensive ones to less expensive [redacted] which amounts to code shifting and not necessarily code cutting.

141. Despite the projections of streaming services and the submissions that OTT is an alternative to the traditional OTT and DTT linear audiovisual programming, [redacted] firm from 2018-2022 while those of the more elastic offering [redacted] as shown in Fig 14 below.

Fig 14: Subscribers [redacted]

The Advertising Market in Zambia

142. Advertising is a key component of audiovisual programming and provides revenues to advertisers. As of 2014, the Zambian advertising market was estimated at K4 billion up from K3.6 billion in 2013[82]. The proliferation of advertising mediums including digital advertising[83] has increased the reach of advertisers to their audiences. The digital advertising is projected to reach USd49.23 million in 2027 with banner, search and video advertising remaining prominent. It is however projected that influencer adverting will reach USD4 million in 2027 from USD280,000 in 2017.

143. In addition to the sale of airtime, advertising was a significant portion of the free to air television providers (now content providers). The entry of more content providers, the expansion of advertising platforms and the participation of subscription television providers has meant squeezed margins for the participants. TBN submitted that it significantly depended on advertising for its businesses while ABN TV submitted that its advertising revenue had gone down due to too many players in the market. Equally, MUVI television submitted that it had lost a significant proportion of its advertising clients because of their limited coverage across the country. Diamond Media submitted xxxxxxxxxxxxxxxxxxxx were not supposed to be in the advertising business competing for clients with free

[82] Estimated from the merger between Prime Media and Lamise authorised by the Commission.
[83] Digital Advertising refers to the practice of promoting products or services through online channels by purchasing ad placements with the aim of driving traffic, increasing brand awareness, and generating leads or sales using data-driven strategies. This form of advertising Digital Advertising uses the internet to deliver marketing messages to internet users in various forms. This includes **digital video, search engine, social media, digital banner, digital audio, digital classifieds, connected TV, in-app, and influencer advertising**.

to air channels because their source of revenue xxxxxxxxxxxxxxxxxxxxx. Qtv submitted that the key to the issues in the market is revenue sharing. It was submitted that TV is no longer profitable as advertising is dying.

Chapter 7

Alternative billing for subscription television

144. There have been calls for alternative billing for subscription television by the Zambian consumers. Largely the frustration from the current bouquet system which is the dominant billing system relate to perceived poor content, program repetition and high subscription fees. Alternative billing options cited include fractional billing, a la carte billing and pay per view.

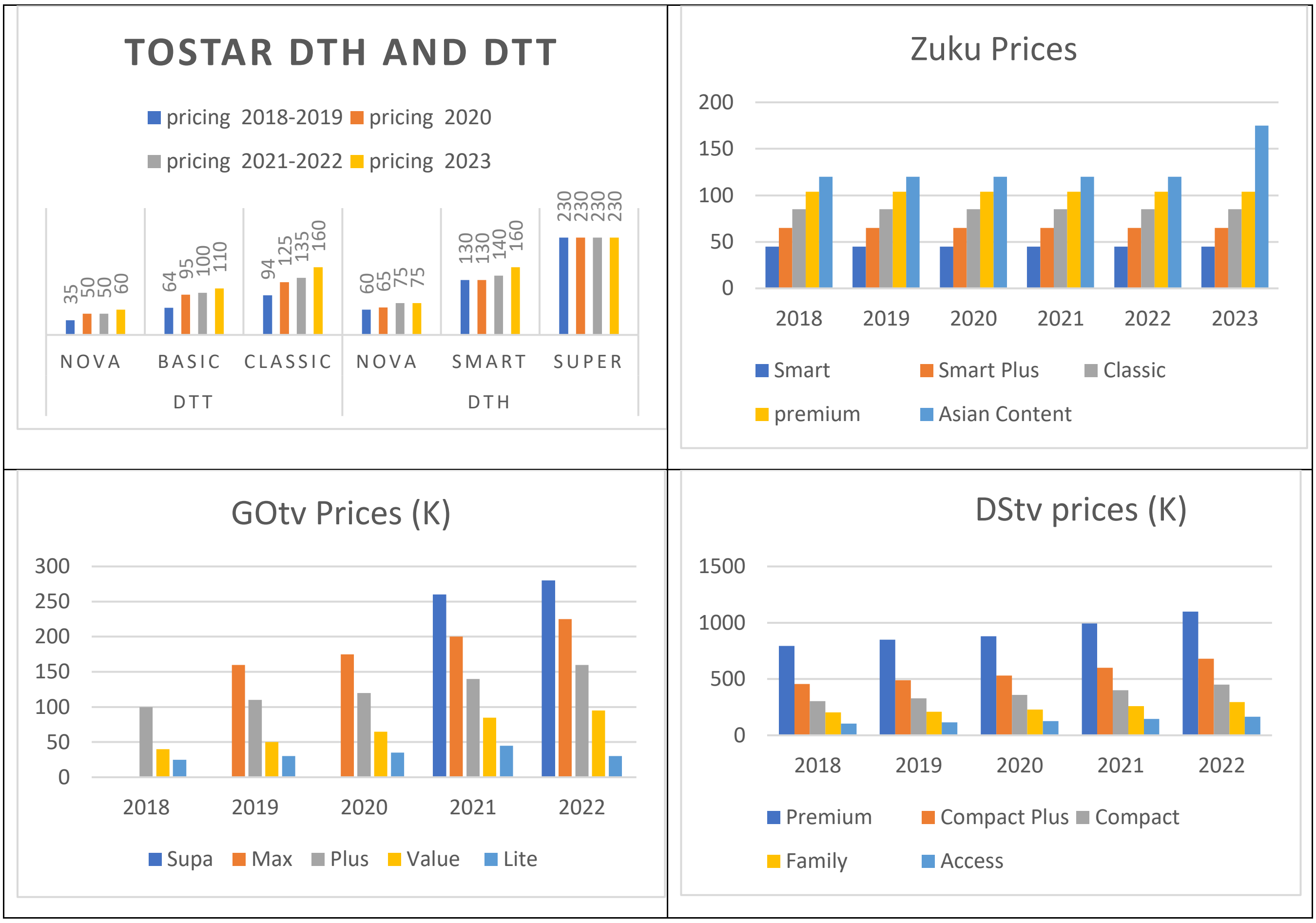
Available Bouquets and Pricing

145. Zambian consumers access audiovisual content through DTT and DTH and to some degree OTT. DTH and DTT are scheduled linear retail[84] paid for audiovisual services while OTT is nonlinear[85] paid for audiovisual services. The bouquet offering is the dominant billing method and currently for DTH, Zambian consumers have bouquets such as those offered by Multichoice through their DStv, Topstar (DTH), those offered by Strong Zambia under the Zuku service and those from Muvi television. DTT offerings include those offered by Gotv and those from StarTimes (DTT). The fig 15 below provides the pricing of the various bouquets from 2018 to 2022/23.

[84] Linear retail refers to scheduled programs that are consumed as and when they are scheduled. These include services offered by DTT and DTH

[85] Nonlinear services are those that provide consumers with an option of choosing what to what from the provided library. Such services include those provided by service providers such as Netflix, Multichoice with their MyDStv and Startimes with the ON platform.

Fig 15: Bouquets and prices.



Concerns with pricing

146. Over the years consumers have raised concerns over the price of pay television which has been perceived to high compared to the quality of content offered. On 8th April 2015, the Commission initiated investigations xxxxxxxxxxxxxxxxxxxxxx following the public outcry over the prices of xxxxxxxxxxxxxxxxxxxxxxxxxxx. Further, in 2020, the Commission received two concerns of unfair trading practices against xxxxxxxxxxxxxxxxxxxxx alleging that (i) several channels were irrelevant to the Zambian audience and (ii) the programming (movies and kids programs included) was mostly repeats. The consumers demanded that xxxxxxxxxxxxxxxxxx be compelled to “a la carte” or pay per view system as they were of the view that they

were paying a lot of money when they were not getting value from their subscriptions. Following these complaints, the Commission inquired into the market and found at the time that the a la carte programming would be significantly higher than bundled provisions to the detriment of the consumer. In 2022, following the appreciation of the Kwacha, the public demanded for a reduction in prices prompting the Commission and the Independent Broadcasting Authority (IBA) to issue a joint statement in which the public was informed that both the Commission and IBA had no legal power to regulate the price of pay television.

Submissions by pay television on pricing.

147. Multichoice submitted that pricing was a complex balance of various factors affecting pricing, at times acting in different directions. These factors included the costs of providing the services (e.g., content, technology, transmission costs, other costs associated with distribution of the services etc.), general economic and commercial conditions. The cited commercial conditions included inflation, affordability and willingness to pay, evolution of demand and consumer preferences which influence product adaptation and composition and may necessitate incurring costs and demand and supply dynamics including the impact of the price points on subscriber numbers, subscriber mix, revenue

À LA Carte

148. A la carte pay television also referred to as pick-and-pay, is a pricing model for pay television services in which customers subscribe to individual television channels[86]. India and Canada have put in place laws that compel providers to sell programs in packages/bouquets/bundles or a la carte. The USA has had entrenched industry resistance to a la carte programming. Submissions by opponents to A la carte in Zambia point to difficulties “a la carte” model would raise which include (i) that it would

[86] https://dbpedia.org/page/A_la_carte_pay_television

raise the cost of the back-end technological infrastructure for pay television operators as it would require substantial modification or upgrades of technological systems to cope with the demand to organize and customize the unique channel selection sign ups of subscribers. (ii) customer support services such as call centres would require increased capacity to cope with the complexities associated with the impossible number of individual subscriber choices occasioned by an à la carte model and(iii) consumers would lose on other fillers channels[87]. Further, the inquiry done by the Commission in 2020 concluded that it was in the best interest for consumers to be provided with a bouquet type of service as opposed to the a la carte type due to the high cost of a la carte program which would entail consumer bearing the full cost of the limited content.

Pay per view.

149. Pay-per-view (PPV) is a television service through which subscribers can buy events to watch via private telecast. PPV is used for the broadcast of high-ticket, one-off events that include feature films, live sporting and entertainment events. There are two types of PPV service, distinguished by their distribution. A direct-to-home (DTH) PPV service may only be distributed by a DTH broadcasting distribution undertaking (BDU), whereas a terrestrial PPV service may only be distributed by a terrestrial BDU, such as a cable or digital subscriber line-based service[88].

150. Pay Per View (PPV) offering is significantly more expensive for consumers. For example, the Mayweather vs Pacquaio 2nd May 2015 fight cost US$89.95 (K649.44) to watch for the duration of the fight which would be extraordinarily expensive for consumers as part of their regular viewing entertainment.

[87] Summary of submissions from Multichoice, Strong Zambia, Econet Zambia and Topstar during the2020 investigations of abuse of dominance by Multichoice. Case **No. CCPC/AOD/029**
[88] Broadcasting Regulatory Policy CRTC 2013-561.pdf

Fractional Billing

151. Fractional billing, also known as prorated billing, is a billing practice commonly used by most pay TV providers worldwide. This billing method is employed when subscribers sign up or cancel their services in the middle of a billing cycle. Instead of charging the full monthly fee, pay TV providers calculate and charge customers for the portion of the billing period they have used. The concept of fractional billing is commonly employed in various industries, including pay TV, telecommunications, and software subscriptions. It offers several benefits to both the customers and the service providers which include the ability to consumer what is only required at that particular moment.

152. Practise in the Zambian situation which includes weekly offerings has shown that fractional billing is more expensive compared to monthly offerings. Topstar's fractional billing for example results in a significantly higher cumulative per month bill than a monthly subscription. Current fractional billing practices indicate that weekly prices on a cumulative basis would be 33% to 60% higher than monthly subscription payments as shown in the fig 14 below.

Fig 14: Topstar Fractional Billing

Bouquet

153. Bouquet offerings, also known as channel packages or subscription plans, play a significant role in the pay TV industry. Pay – tv bouquets can be classified into different types, such as Basic, Premium, and Value-added services. Basic services usually include a limited number of channels,

while Premium services offer a wide variety of channels, including exclusive content. Value-added services include features such as time-shifted TV, and interactive TV[89]. These packages vary in numbers of channels, prices, and features[90]. The packaging of channels or television programmes into bouquets is the prevailing business model by pay television providers due to the benefits that accrue to consumers largely because of the efficiencies achieved by pay television operators. Offering bouquets as opposed to individual channel choices ("an à la carte offering") makes a pay television service more affordable to the consumer, despite the widespread belief to the contrary.

154. They are several bouquets packages with the most popular being the pay television bouquet. These bouquets usually require a subscription fee and are offered by providers such as Multichoice. They involve several retail audiovisual channels offered on a scheduled and linear basis. The non-subscription though non-existent in the Zambian content can also be provided or packaged as a bouquet. Pay per view bouquets typically includes a selection of movies and other special events that can be purchased on a pay-per-view basis. Bouquet offers a wide range of channels, from news and sports to movies and music, and is often seen as a cost-effective way to access a variety of content. The primary benefit of using bouquets is the wide range of channels available with viewers able to access hundreds of channels from around the world giving them access to a much larger selection of content than they would have with a traditional cable or satellite package. Bouquets are often much cheaper making them an attractive option for those on a budget. Additionally, satellite bouquets often offer special discounts and promotions, making them even more affordable. The downside of the bouquet offering is that they are often scheduled, and linear meaning viewers may not be able to access all the content they want[91].

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89 https://www.openpr.com/news/3044485/pay-tv-market-size-analysis-report-by-type-cable-tv-satellite
90 Ibid 15
91 https://ts2.space/en/satellite-terms-bouquet/

Chapter 8

Consumption of OTT products and services

155. The Zambian video and OTT market, comprising digital video (TVOD, EST, and SVOD) remains exceedingly small in volume and value. Among the main obstacles to the development of the online video market are the lack of payment methods, the insufficiency of adapted content in terms of localization and language and the low level of broadband penetration, quality, and affordability. Showmax (MultiChoice), iROKOtv, Netflix, Trace Play (Trace TV) and Amazon Prime Video are competing in the SVOD market[92].

156. According to a report by the Digital TV Research (2023), streaming subscriptions in Africa are set to triple in the next five years. The report states that Africa will have 13.64 million paying SVOD subscriptions by 2027, up from 4.90 million at the end of 2021. The increasing subscriber numbers will see an increasing penetration of SVOD households, though the figure will remain low by comparison to more mature markets like Europe. Some 6.6% of TV households will pay for at least one subscription by 2027 – up from 3.9% at end-2021[93].

consumer survey and findings

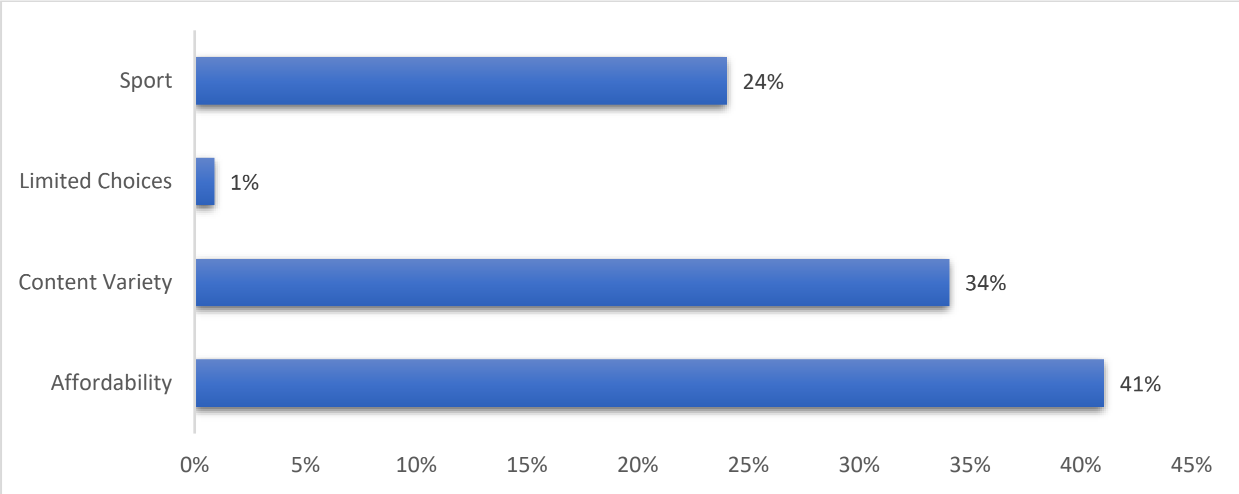
157. Part of the market inquiry involved collecting consumer sentiments on audiovisual content consumption with a total of two hundred and fifty-five (255) consumers responding to the questionnaire. The analysis below provides a summary of responses. Of the 249 valid responses on subscription to audiovisual content, 94.8% indicated that they were subscribed to some form of audiovisual service. Fig 16 below shows the

[92] Dataxis, 2022. OTT and Video Zambia market report - https://dataxis.com/product/market-report/ott-and-video-zambia/

[93] Jonathan Easton, 18th August 2022, SVOD subscriptions in Africa set to triple. https://www.digitaltveurope.com/2022/08/18/svod-subscriptions-in-africa-set-to-triple/

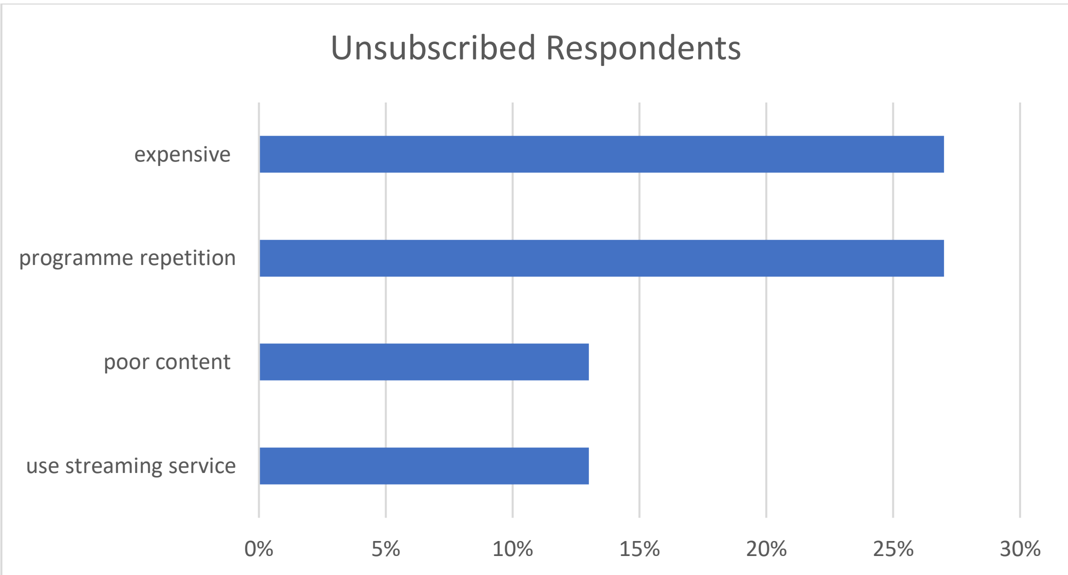
motives or drivers of subscription. The large percentage makes the expressed sentiments based on experience and not mere opinions.

Fig 16: Reasons for subscribing.



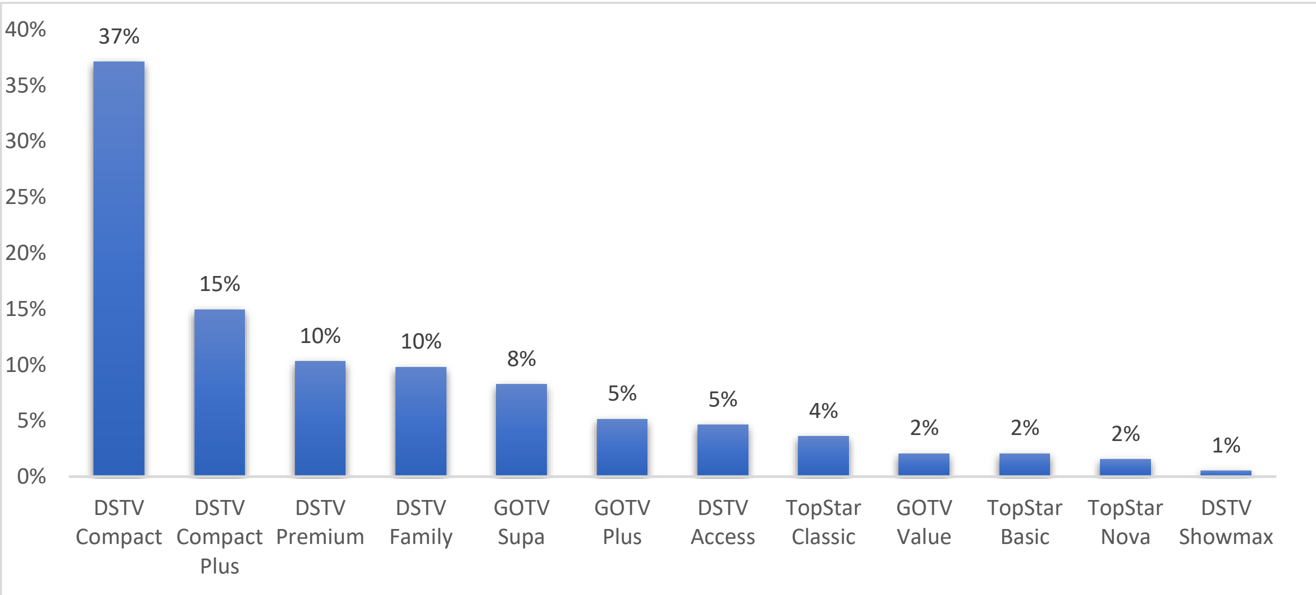
158. The reasons for the unsubscribed 5.2% included affordability, perceived limited content variety compared to online content and content that does not meet expectations at premium prices as shown in Fig 17 below.

Fig 17: Unsubscribed Respondents



159. With regards to the specific audiovisual providers, 73.6% subscribed to only one audiovisual provider while 19.2% were subscribed to two and the rest (7.2%) to more than two audiovisual providers. It should be noted that those subscribed to OTT services among the respondents were very few constituting less than 1%. In addition, 78% indicated that they subscribed to DSTV, 15% to GOtv and 7% to Topstar. The specific % of the product subscription are shown in Fig 18 below with most subscribed to the DStv Compact bouquet for MultiChoice.

Fig 18: Audiovisual subscription



160. Despite the uptake of audiovisual services, a significant number (88%) of respondents expressed dissatisfaction with the content they received from their providers. Factors contributing to this include mismatch between subscribers' preferences and available content, issues with content quality and relevance, and limited genre and theme options. Reasons for subscribing to audiovisual services included affordability (41%), content variety (34%) and sports channels (24%).

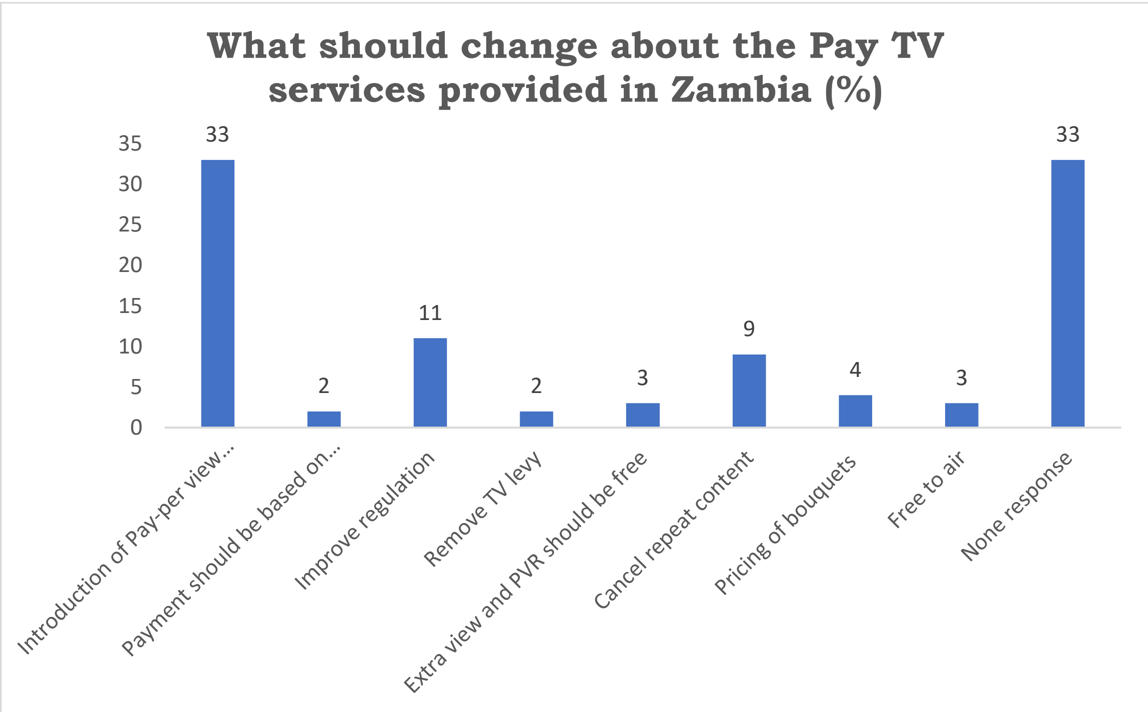
161. Two surveys were further run on the Commission's Facebook page with each survey requesting public interaction to a single question. The Questions asked were (i) *what do you think should change about the way*

pay TV services are provided in Zambia and *(ii) are you satisfied with the amount of local content provided by your pay TV service provider.*

what do you think should change about the way pay TV services are provided in Zambia?

162. 164 participants interacted with this question and findings in fig 19 below show that 33% preferred the introduction of pay per view, 11% advocated for the improvement in regulation while 9% advocated for the cancellation of repeat programs. Other concerns related to perceived high prices of pay television and none availability of free to air.

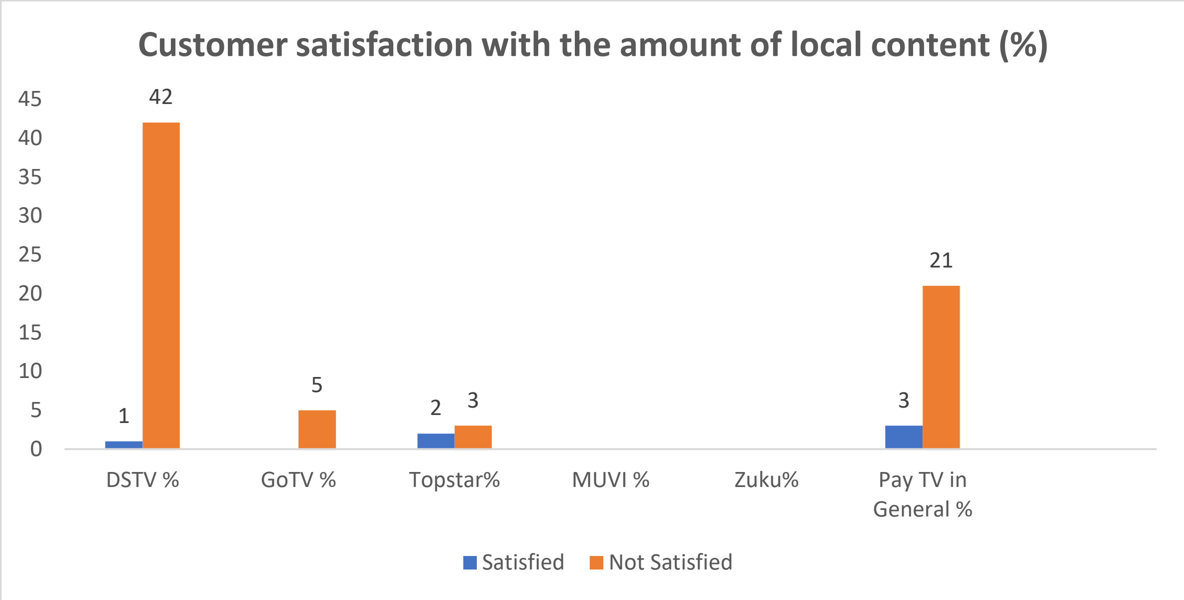
Fig 19: Changes to Pay Television



are you satisfied with the amount of local content provided by your pay TV service provider?

163. 148 participants interacted with this question and findings in fig 20 below show that 42% were not satisfied with the DStv services while 21% were not satisfied with pay television in general.

Fig 20: Local content satisfaction



Submissions from Key Respondents

164. In addition to consumer sentiments, the Commission obtained submissions from key respondents to the Inquiry. The respondents engaged include regulators specifically the Independent Broadcasting Authority (IBA) and the Zambia Information and Communications Technology Authority (ZICTA). Other stakeholders included consumer organizations, research institutions and market players.

SUBMISSIONS FROM THE REGULATORS

Zambia Information and Communications Technology Authority (ZICTA).

165. ZICTA submitted that the network licence related to the physical infrastructure (network). Aside from issuing of the spectrum licenses, ZICTA did not have interface with the customers of signal distributors. There were other traditional, community channels that still held the spectrum license even though they were considered as content providers now and no longer need spectrum licenses.

166. ZICTA submitted that they had issued two network licenses for signal distributor that is, one for Topstar (a public distributor) and GOtv Zambia Limited (a private distributor). It was submitted that entry into the sector was currently xxxxxxxxxxxxxxxxxx due to the Digital Migration Policy which only recognised one private and one public signal distributor. It was submitted that increasingly internet companies such as Liquid Intelligent Solutions had the capability of transmitting signals as people were able to access video of demand through the internet. It was further submitted that the only determining factor was whether they had multiplexers.

Carrier fees

167. It was submitted that ZICTA had set guidelines on the applicable wholesale rates for carrier fees which served as the basis for retail fees by the signal distributors. It was submitted that while the analysis and subsequent wholesale indicative prices for xxxxxxxxxxxxxxxx were currently out of date, they still served the purpose of guiding in the application of carrier's charges.

Infrastructure Sharing

168. ZICTA submitted that co-sharing of infrastructure was out of the question because prior to allocating the two signal distribution licenses, the companies had already deployed their networks.

Service Licence (Spectrum)

169. ZICTA submitted that the spectrum was a finite resource and for standardisation, the International Telecommunications Union was responsible for the standardisation. It was submitted that spectrum was like physical land which could not be moved from one area to another. It was submitted that the allocation of the licence depended on location and

nature of the licence. Some licences were given on the first come first serve basis while high value scarce licences were subjected to tender including the satisfaction of the economic needs test.

170. It was submitted that spectrum had different characteristics depending on the spectrum bands. Some of the bands had spectrum characteristics that were more appropriate for long-haul transmission because of the way the waves in that spectrum propagate. ZICTA also submitted that where a signal distributor required additional spectrum it was dependent on availability of the resource as ZICTA could only allocate a finite amount.

171. It was submitted that within each band, there was a certain capacity and beyond that capacity no one else could be accommodated. It was submitted that the amount of content accommodated in each frequency depended on the quality of the content with high quality content taking up more space than standard definition content. ZICTA also submitted that they had more spectrum use in the urban areas than in the rural areas. It was submitted that there were several frequency bands ranging from low frequencies like 87.7 to 5000MHz. ZICTA submitted that within these ranges some were for radio stations, TV broadcasting, mobile network, and satellite and this was planned out at an international level by ITU.

172. ZICTA added that there was a distinction in how they priced the spectrum, that is, the rural spectrum was way cheaper than in the urban area. ZICTA submitted that spectrum was not transferable for instance from rural to urban areas and that the only way to create room was by replanning the use of the spectrum as was the case with digital migration. ZICTA added that the digital migration from analogy created some space and allowed ZICTA to allocate new spectrum because of replanning and reallocation. ZICTA further submitted that there are 2 considerations that are made for the number of programs that can be carried by spectrum, that is, the capacity, how much data can push and carry, as well as the distance it is

able to propagate. ZICTA submitted that for instance, certain bands that have the higher propagation capacity only needed 2 towers and there would be no need for the middle repeater because of how far it was able to propagate.

Independent Broadcasting Authority (IBA)

173. IBA submitted that before the IBA began its operations in 2013, there were amendments to the Independent Broadcasting Act of 2002. The amendments were done in 2010 to remove the licencing of the public broadcaster from the IBA and the removal of the select Committee to appoint the board of the public broadcaster in 2010. In 2018 the SI No. 18 was formulated which authorised IBA to be collecting TV levy and not the national broadcaster.

174. IBA submitted that they were currently undergoing a process of repealing and replacing the current IBA Act with some of the amendments seeking to revert to fully regulating ZNBC. This was because ZNBC operated through an Act of Parliament and thus were not licenced or regulated by IBA. Therefore, reconciling the two Acts would level the playing field in that IBA would accordingly superintend over all broadcasters through licensing, approval of subscription fees, carrying channels, and acquisition of exclusive rights to broadcast public interest content and approve additional channels. xxxxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.

175. IBA submitted that in 2014 the government introduced the digital Migration policy (“the policy”) which was formulated to guide the transition from analogue television to Digital Terrestrial Television. It was submitted that the policy detailed the stages the transition would take until the switch-off of analogue was completed. IBA submitted that in the policy, the market structure and the licensing framework was such that there

were two separate licenses, one for content providers and a separate one for signal distributors. It was submitted that these two licenses would not be held by a single entity. IBA also submitted that the policy introduced license names that were technology neutral. They further submitted that the policy had however not been fully implemented and was due for review as the law and the policy had not been harmonised. The IBA submitted that the ownership structure for investment in Pay TV enterprises was at 75% Zambian ownership and 25% for foreign investors, and that this somewhat discouraged foreign investment into the sector.

176. The IBA submitted that the fees under the Ministry responsible for broadcasting and information were initially insignificant, regardless of the type of service with licensees paying K2,000.00 across the board. It was submitted that these fees were used from 2013 to 2017 when the new fee structure was set up. It was submitted that in setting up the new fee structure IBA bench marked with the Kenyan fee structure and set up the current fee of K2,000 for community radio, K5,000 for TV, K20,000 for commercial TV and K40,000 for the subscription providers and $10,000 for landing rights. IBA further submitted that the fee structure was under review to consider zoning and classification to address the uniformity of licensing fees regardless of size, location, and revenue of the broadcaster.

Management Subscriber Service Licence (SMS Licence)

177. The IBA shared that the SMS license was not a broadcasting license but an interface between the content provider and the recipient. It was submitted that their role in the sector was to manage subscriptions and selling decoders.

Free To Air

178. The IBA submitted that the digital migration policy required that free to air channels would be accessible on all Set-Top Boxes (STBs) which were supposed to be sold to consumers cheaply. It was submitted that at the time of campaigning for digital migration, the messaging to consumers was that set top boxes capable of accessing free to air channels would be made available at a small fee. This however did not happen because the route taken involved the contracting of a loan to set up a public signal distributor who in turn was expected to raise funds for loan repayments. If the obligation to repay the loan could be assumed by Government, then the issue of free to air television would be possible.

Over the Top Transmission

179. The IBA submitted that they were advised by the Attorney General (AG) that the current Act was not sufficient to regulate online television. The IBA further submitted that they were looking to provide for such regulation in the repeal and replacement of the Act.

Pay Per View

180. IBA shared that the Zambian economy would not manage pay per view due to the models used, its affordability and that it was event driven. Pay-per-view (PPV) or pay-per-view video streaming is a business model for selling live events, pre-recorded movies, and television shows for one-time payments or subscriptions. Users can use it to pay a set price to watch a single event on television or online. PPV streaming is frequently used for special occasions like movies, concerts, and other live events that are not available for free watching. Consumers can pre-purchase the event for offline viewing or order as it is aired. In addition, there are many applications for PPV, including IPTV, cable, satellite, and on-demand

streaming video[94]. For example, ESPN offers bundle deals and normally, a year's subscription to ESPN+ would cost you $100, while the price of a UFC PPV ticket is currently at $80[95].

SUBMISSIONS FROM SECTOR PLAYERS

MultiChoice (DStv and GOtv)

181. MultiChoice Group submitted that competitor had emerged overtime and that the market was filled with a variety of entertainment for better consumer choice as shown in table 5 below. In addition to the variety of choices, there was also piracy.

Table 5: Competitors

	2014	2018	2023
OTT **Sports**			DAZN FIFA Netflix Airtel TV Showmax Twitter Facebook
Telcos-Data **Video** **SVOD**		Netflix Airtel TV Showmax	Instagram Youtube Zuku ZNBC
Avod/Social **Broadcasters**	Youtube DSTV ZNBC GOtv Starsat	Twitter Facebook Instagram Youtube Zuku ZNBC GOtv	GOtv Stasat Muvi TV DZTV MTN ZAMTEL Apple TV plus

[94] https://www.vplayed.com/blog/what-is-pay-per-view/ retrieved 11/9/2023
[95] https://www.digitaltrends.com/movies/ufc-ppv-how-much-does-it-cost-on-espn/ retrieved 11/9/2023

	ZUKU Muvi TV FB	Stasat Muvi TV DSTV	Prime video VIU GOtv Video
Summary	Local, traditional linear broadcast-oriented providers.	Entry of other providers, primary internet based.	Multiple providers in a highly competitive OTT driven global market.

182. It was submitted that competition dynamics were now more complex as it was between providers with different business models and delivery technologies. The complexity was enhanced with the entry of OTT players with global scale, large content libraries and huge budgets including Netflix, Amazon Prime, Apple TV, Google TV. It was further submitted that declining data prices, bundling of services with telcos, advancements in technology and proliferation of internet capable devices had enabled the uptake of OTT with traditional content suppliers such as Disney, FIFA and Formula 1 having their own direct-to-consumer offerings.

183. It was submitted that MNOs such as MTN, Airtel and Zamtel were increasingly becoming involved in the television space with free streaming offering to data subscribers. Traditional broadcasters were equally responding with the launch of their own OTT services such as StarTimes ON. FTA broadcasters were equally streaming their content and services on apps, social media platforms e.g., YouTube and Facebook. It was submitted that there was a shift in consumer behavior with providers of retail audio-visual services (paid for or free) being credible options depending on a consumer's affordability and choice.

Pricing

184. Multichoice submitted that pricing was a complex balance of various factors affecting pricing, at times acting in different directions. These factors included the costs of providing the services (e.g., content,

technology, transmission costs, other costs associated with distribution of the services etc.), general economic and commercial conditions such as inflation, affordability and willingness to pay, evolution of demand and consumer preferences which influence product adaptation and composition and may necessitate incurring costs and demand and supply dynamics including the impact of the price points on subscriber numbers, subscriber mix, revenue and performance. Other factors included the competitive environment including competitor activity on services and price – prices need to be competitive relative to quality and composition of services, value-added services, exchange rate volatility and in-country factors such as taxes, levies, and regulatory licensing fees among others.

Exclusivity

185. It was submitted that differentiation was a key part of the competitive process in addition to competitive price offerings. High-quality differentiated content was often achieved through exclusivity on licensed, commissioned, or self-produced content including local content.

Re-Broadcasts

Multichoice submitted that re-broadcasts were an important component of the traditional Pay TV business model given that consumers did not watch linear programming content at the same time (within and across channels). It was submitted that re-broadcasts provided as many consumers on the bouquet as possible with an opportunity to watch the content and help to ensure that broadcasting schedules run smoothly, allowing for continuous consumption of services while giving subscribers a wide variety of content. Re-broadcasts of content on lower-priced bouquets enabled lower income consumers to watch high-quality content without having to subscribe to higher priced bouquets, since subscribers to higher bouquets watched channels available on lower-priced bouquets, they receive both the initial and re-broadcasted content. Re-broadcasts also helped recoup content costs effectively ensuring that a return on investment in the content is realized overtime. It was submitted that re-broadcasts were an important aspect of the functioning and sustainability of the value chain allowing content creators/suppliers to better monetize content and generate more income to continue to re-invest in new content.

À LA Carte and PPV Models

186. It was submitted that Pay Per View (PPV) typically refers to a situation where consumers pay a fee to watch an event for example a boxing match. This offering is significantly more expensive for consumers. For example, the Mayweather vs Pacquaio 2nd May 2015 fight cost US$89.95 (K649.44) to watch for the duration of the fight. It was submitted that DStv subscribers watched the same match as part of their standard subscription (K631.00 per month) which included a much wider variety of content. It was submitted that À la carte offering refers to consumers choosing their own channels, that is, creating their own bouquets which would be more expensive as costs of content would be recovered from a smaller subscriber base leaving consumers with less quantity, quality, and variety of content.

187. It was submitted that MultiChoice' pricing model was based on monthly billing. This considered all costs incurred in delivering the service including costs of acquiring/procuring content, transmission costs etc. MultiChoice had put in place arrangements that allowed its subscribers to access their content anywhere and anytime through streaming, it's MyDStv app, CatchUp as well as the option to download, record and watch later.

Fractional Billing

188. It was submitted that fractional billing would entail allowing subscribers to subscribe for a shorter period than a month, such as, for a week. It was submitted that such kind of billing would be costly for consumers as seen

with the Topstar fractional billing which was significantly higher cumulatively per month than a monthly subscription.

Content

189. MultiChoice Group submitted that they provide a wide range of content due to diversity of household content choices and preferences. It was shared that selection of content was also backed by research on consumer preferences. With regards to local content, the MultiChoice Group shared that their involvement in local content production had helped create jobs for local content suppliers. For instance, Mpali employed close to 100 direct and indirect people spanning from the production team as well as studio makeup artists, salons, and players in the clothing industry.

Spectrum and Capacity

190. It was submitted that incorporation of FTA content on the MultiChoice bouquets was based on commercial considerations and that agreements with the FTA content providers were not standard as they were dependant on commercial negotiations. Multichoice bouquets include a total of 15 FTA channels of which 7 were radio stations and 9 were television stations. It was further submitted that it was impossible to include all the available FTAs as this was subject to commercial valuation and technical feasibility, such as available capacity, amongst others.

191. With regard to signal distribution, it was submitted that currently GOtv Zambia, as a private signal distributor, had no capacity to carry additional content service providers. It was submitted that enhancing capacity would require added investment to the infrastructure in the form of multiplexers, transmitters as well as applying for additional spectrum resources (frequencies) from the Zambia Information and Communication Technologies Authority (ZICTA).

192. With regards to capacity of the spectrum, it was submitted that the number of channels capable of being carried per given frequency depended on the content being transmitted, such as, standard definition (SD) or High Definition (HD) as well as other components required for transmission. It was submitted that content transmitted in HD required more capacity compared to content transmitted in SD.

Challenges and Opportunities

193. It was submitted that the risk in Zambia was not one of under-regulation, but rather over-regulation creating significant commercial uncertainty and undermining investments. It was submitted that the current framework was underpinned by historical and traditional delineations hence lagged technology and market developments. It was submitted that current regulation heavily focused on traditional Pay TV services (satellite or DTT) despite the growth of streaming as a mode of service delivery even though technology disruption of the audio-visual market provided an opportunity for the market to evolve.

194. It was further submitted that regulatory uncertainty and the risk of over-regulation restricted the sector growth and created a market skewed towards OTTs. There was thus need to have regulatory parity / level playing field to grow the Zambia audio-visual services sector to a greater level.

Free to Air – local channels

195. It was submitted that there was no legal requirement to have ZNBC as a mandatory Free to Air channel and that currently it was part of the paid for bouquets. It was submitted that offering FTA channels on payment of an access fee would not be commercially viable.

196. xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

Topstar

197. Topstar submitted that it was incorporated on the 8th of June 2016 as a Pay television and signal distributor. It was submitted that Topstar offered family-oriented content through its two types of decoders that is for DTH and DTT. Under the DTT distribution, Topstar submitted that its bouquets were Nova, Basic and Classic while under DTH, it had Nova, Smart and Super bouquets. The pricing of the bouquets was submitted as presented in the table 6 below. Topstar submitted that it considered Muvi TV, DStv, ZUKU tv and GOtv as its competitors in the market.

Table 6: Topstar Bouquets and pricing

TOPSTAR			**Pricing**			
	Bouquet	Channels	2018-2019	2020	2021-2022	2023
DTT	Nova	33	35	50	50	60
	Basic	41	64	95	100	110
	Classic	55	94	125	135	160
DTH	Nova	38	60	65	75	75
	Smart	75	130	130	140	160
	Super	97	230	230	230	230

198. Topstar submitted that the main determinants of bouquet pricing were the dollar to kwacha exchange rates, demand for local content which triggered subscriptions and market trends. It was submitted that Topstar programming was Asiacentric, afrocentric and had educational local and western channels such as St Kids, ZNBC TV4 and Rambo TV for the school going children. In order to access the bouquets, it was submitted that one had to have a combo decoder which comprised a dish, decoder, antenna as well as StaTimes Smart card for DTH while for DTT, a DTT decoder would be required.

199. Topstar submitted that it had free to air channels that it provided for free after one's subscription had expired and these included ZNBC TV1, ZNBC TV4, ZANIS TV, Parliament TV and France 24 and were found on both the DTH and DTT platforms. It was submitted that there was no legal

requirement to provide free to air channels but that it was a requirement under the Digital Migration Policy.

200. With regards to re-broadcasting, Topstar submitted that it was a carrier and had no role in the determination of re-broadcasting. It was however submitted that its content providers repeated non-live programs such as movies, a minimum of twice per week.

201. It was submitted that Topstar held a Radio Broadcast License which required a payment of K556,669.6 annually and a Subscription Management License (SMS) which required an annual payment of K40,000.00. The Network license was renewable after 15 years from the date of issue and the SMS license was renewable annually. It was submitted that the regulatory environment was not clear because even when the Digital Migration Policy was clear on how many stations should be free to air, there were still some channels that claimed to be free to air when in fact they were not listed among the mandatory five free to air channels. There was need for the IBA to clarify which channels were free to air post the migration to digital.

202. Topstar submitted that while the regulatory framework was supportive of growth, there remained issues of revenue sharing on subscription and that this issue had never been addressed by the regulator. It was submitted that Topstar has thus been accused of not sharing with the local channels and that it was the firm belief of Topstar that only IBA could address this issue.

203. Topstar submitted that the current market structure was not adequate to promote competition and that it had not created value for consumers. It was submitted that certain players in the market had abused their dominance by acquiring exclusive rights over certain content thereby closing the opportunity for other players to have access to popular content. It was submitted that high costs incurred in securing exclusive rights meant consumers also paying high prices. It was therefore

submitted that dominant players should not be allowed to acquire exclusive rights to premium content in order to create fair competition and accord consumers more choice. It was submitted that the Commission should thus consider pushing for selective distribution as it allowed more than one distributor access to the content. It was submitted that while it may be argued that exclusivity was easy to control and negotiate for discounts, this should not be done at the expense of the Zambian consumer.

Zambia National Broadcasting Corporation (ZNBC)

204. ZNBC submitted that it made its channels (TV1, TV2, TV3 and TV4) available to the public through DTT and DTH on the Topstar and MultiChoice platforms. It was submitted that Topstar carried all the ZNBC television on both platform DTT and DTH while GOtv carried TV1 and TV2 on DTT with Multichoice carrying TV1 and TV2 on the DTH platform.

205. It was submitted that with digital migration, ZNBC revenue generation had been affected as it no longer enjoyed the monopoly of analogue. It was submitted that many private TV stations had come up as a result of the migration. It was further submitted that viewership had increased because signal distribution now covered the entire country through the combination of DTT and DTH. It was further submitted that ZNBC did not pay spectrum fees as these were now paid by signal distributors namely Topstar and GOtv Zambia Limited.

206. To be carried on the signal distributor platform, ZNBC submitted that it had entered into agreements with signal distributors for use of multiplexers, distribution, and transmission facilities. It was submitted that ZNBC ensured that there was a link from the source (content provider) to the signal distributor which met the performance requirements. It was submitted that ZNBC was also required to pay a

multiplex, distribution, and transmission fee per month per channel per service area per signal distributor as provided in table 7 below.

Table 7: Sites with Muxes

Rates K	2019	2020	2021	2022
16 Major sites with two muxes operated HEO	8,021	8,260	8,512	8,775
57 District sites with two muxes	4,376	4,481	4,592	4,709

207. It was submitted that.

   i. TV1 and TV4 were free to air on the public signal distributor (Topstar)
   ii. TV2 was part of the paid for bouquets pay on Topstar, GOtv and DSTV
   iii. TV3 was exclusive to Topstar (Not on GOtv and DStv)

208. It was submitted that for linear TV, ZNBC had no other alternative for broadcasting the channels. However, through OTT media services, it was possible to offer services to viewers over the internet. It was submitted that this alternative was not viable now due to the poor internet penetration in the country and the high cost of internet bundles and smart phones, tablets and computers required to access OTT services.

Diamond Media

209. Diamond Media submitted that the current management and ownership of Diamond Media took over from the previous ownership of Mobitel Zambia Limited in 2016 and rebranded the trading name from Mobi Tv to Diamond TV. It was submitted that Diamond TV officially started airing in April 2017 and first got their content provider license the same year. It was submitted that they were initially broadcasting with xxxxxxxxxxxx and were subsequently available on the xxxxxxxxxxxx and as of 2020 they were

available on xxxxxxxxxxx . It was further submitted that they were presently on both DTT and DTH in 5 countries in the region namely, Malawi, Namibia, Botswana, Zambia, and Zimbabwe.

Licencing

210. It was submitted that because of the Digital Migration Policy ("the policy") licensing framework, Diamond Media only had the content service provision license from IBA. It was submitted that before the policy, Mobitel had frequency licenses from ZICTA but after rebranding Diamond only had the content license and now operates as a commercial free to air station.

211. Diamond Media submitted that the policy had not been implemented fully and gave an example of the policy having dictated that signal distributor and content service provider regulations would be developed, however, that has not been done. It was further submitted that based on the policy alone content providers were restricted to content provision only. It was further submitted that they were concerned with the number of licenses being issued by IBA because the market was not big enough for all of them. Diamond added that the market was being liberalised however not all the businesses had the capacity to make money and survive.

212. Diamond Media submitted that they had attempted to get a licensing framework for their social media broadcasting from ZICTA, but they were advised by ZICTA that the Information and Communication Technology Act did not cover that type of broadcasting.

Growth

213. Diamond Media submitted that expansion was very challenging because the power was all in the hands of the two signal distributors. It was submitted that it was expected that the policy would bring about a more affordable and efficient way to broadcast content. However, the policy resulted in a market structure where the players were at the mercy of the

two signal distributors because they neither own the set top boxes nor the broadcasting platform.

214. It was further submitted that in most African countries the Government oversaw the platform for signal distribution which allowed free to air channels to be free in practice however they prioritised the public service channels. It was further submitted that the policy was meant to foster growth in terms of the revenue and the model of the businesses; however, only the public broadcaster had benefitted from that growth. Diamond Media also added that for the private signal distributor the expression of interest was not publicised.

Local Content

215. Diamond Media submitted that the policy meant more channels on the few frequencies, however the signal distributors through their multiplexers and transponders have limited space for local content as they aggregate local and foreign content in the same limited space. It was additionally submitted that the content providers were unable to dictate to the signal distributors which channels to include on their platforms.

Free to Air

216. Diamond Media submitted that after getting their IBA licenses Free to Air service providers have no choice but to negotiate with the two signal distributors and platform holders for them to be broadcast. It was further submitted that providing free to air services through signal distributors was a license infringement because viewers are then forced to pay to view content from free to air service providers. It was further submitted that in addition to viewers paying subscription, the free to air channels are made to pay to be on the broadcasting platforms and enter into exclusive agreements. Diamond Media submitted that in the case of Topstar they were made to pay per site across the country. It was submitted that for xxxxxxxxxxx they broadcast country wide at a flat fee. It was further

submitted that the xxxxxxxxxxxxxxxxxxxxxxxx service level agreements that provided for a partial payment and advertising barter arrangement.

217. Diamond Media submitted that free to air channels purchase content in the same manner that Pay TV channels do, except the free to air channels are charged less than the Pay TV for the same content. Diamond Media submitted an example of football content such as the World Cup where the rights holders charge different rates for free to air channels and Pay TV channels. It was submitted that for free to air channels the rights holders of the content charge lower rates than they charge the channels that are paid for.

218. Diamond Media further submitted that ideally the owners of the platforms were not supposed to be in the advertising business competing for clients with free to air channels because their source of revenue was subscriptions from consumers. Diamond Media further submitted that the owners of the platforms have also created their own content and aired it on their own channels and further bid for exclusive rights to content such as xxxxxxxxxxxxxxxx. It was submitted that this crowded out the free to air channels because they had no choice but to be carried by the same platforms they needed to feature on.

219. Diamond further submitted that the market was being distorted as the community stations and religious stations were getting into the space for advertising as they needed to survive and manage to pay the platforms and signal distributors. It was further submitted that this also distorted the rates as religious stations were more affordable because they paid less in terms of taxes and other requirements.

Revenue Sharing

220. Diamond submitted xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxx. It was further submitted that with xxxxxxxxxxxxx they had requested for a revenue

sharing arrangement; however, xxxxxxxxxxxxxxx were not agreeable to it. It was further submitted that when Diamond Media decided to not renew with xxxxxxxxxxxxx they were offered to be carried for free across the country but not to share the information with other stations.

221. It was submitted that other countries have not fully migrated such as South Africa and Nigeria. Diamond added that Kenya and Uganda only have a public distributor which allows for free to air channels to be carried and operate as such. Diamond Media submitted that they did not get any revenue from the arrangement they have with Multichoice as Multichoice were not paying for the content from Diamond Media but they provided other incentives. It was submitted that the two broadcasting platforms paid for content from the international stations but not the free to air stations and that this was due to lack of a legal framework.

222. Diamond Media that channel rating were given by the platforms that carried their channels such as xxxxxxxxxxxx without any means to verify. It was submitted that such made it difficult to leverage any good performance of the channel as its rating was taken as given by the platform. It was submitted that as content providers, Diamond Media was given performance benchmarks for the ratings which were used for content carriage renewal negotiations. Diamond Media submitted that it used the ratings from other platforms to negotiate in addition to the ratings provided by the platform.

Distribution

223. Diamond Media submitted that xxxxxxxxxxxxxx did not limit the distribution sites as Diamond TV was available country wide. It was submitted that the only limitation was in terms of which bouquet they were placed on and also geo-blocking for the regional access. It was submitted that the Topstar per site fee structure was such that it only made sense for the TV stations to pay for sites along the line of rail or in the major urban areas. It was submitted that

xxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxx xxxxxxxxxxxxxx .

OTT

224. xxxxxxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxxxx xxxxxxxxxxxxx xxxxxxxxxxx xxxxxxxxxxxxx xxxxxxxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxxxxx xxxxxxxxxxxxx xxxxxxxxxxxxxxx xxxxxxxxxxxx. It was submitted that internet speed and quality was a limiting factor but considering that the development of the necessary technology was where the rest of the world was going, it was only a matter of time before the limiting factors were improved. It was submitted that the major issue for Zambia was that the legal framework and technical standards needed to catch up to where the international standard was dictating. It was submitted that the equipment that was used in Zambia by consumers was manufactured for the international standard, however, Zambia's infrastructure was below those standards, hence content providers often had to reduce the quality of the content they were broadcasting. Diamond Media submitted that OTT was the way to go but there were barriers to entry in terms of infrastructure.

225. Diamond Media submitted xxxxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxxxxx xxxxxxxxxxxxxxx xxxxxxxxxxx. It was submitted that they had deliberately made Facebook specifically for their news platforms and that Facebook helped them to penetrate the market and it gave them statistics and analytics. They further submitted that they were using xxxxxxxxxxxxxx x xxxx xxxxxxxxxxxxx xxxxxxxxxxxxxx xxxxxxxxxxxxx xxxxxxxxxxxxxxx xxxxxxxxxxxxxxx xxxxxxxxxxxxxx xxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxx xxxxxxxxxx xxxxxxxxxxxx xxxxxxxxx xxxxxxxxxxx xxxxxxxxxxxx xxxxxxxxxxx xxxxxxxxxxxx xxxxxx. It was submitted that they are now starting to xxxxxxx xxxxxxxxxxx xxxxxxxxxx xxxxxxxxxxx xxxxxxxxx. Diamond submitted that social media was also making single content providers broadcasters that were unregulated.

Regulation

226. Diamond Media submitted that IBA did not regulate digital broadcasting and neither did ZICTA. It was submitted that the telecoms had the infrastructure therefore the content providers could broadcast their content through the telecoms. However, that playing field was not fair because of the lack of regulations for online broadcasting. It was submitted that the Country needed to review the legal framework. It was further submitted that Zambia was losing revenue on the services offered by OTT platforms. It was added that the OTT platforms had lower costs and were more affordable. It was submitted that OTT was the future but there was need for a reduction on data costs and scaling up of the infrastructure.

Qtv

227. Qtv submitted that signal distributors were licensed to carry tv stations on their platforms. It was submitted that xxxxxxxxxxx was the first one to be licensed and the second one was xxxxxxxxxxx . QTv submitted that the Digital Migration Policy ("the policy") was established for the purpose of providing a roadmap on how digital migration was to be carried out. QTv submitted that before digital migration they were able to transmit their content directly to the viewers homes but after the policy they were no longer allowed to transmit their signal.

Broadcasting chain

228. QTv submitted that they broadcast their content through a xxxxxxxxx to ZNBC where there is a head end for xxxxxxxxxxx to receive the signal and distribute it. QTV submitted that before the signal is distributed it needs to be carried from Qtv to xxxxxxxxxxx and to xxxxxxxxxxx . It was submitted that the difference between the two was that Topstar do not pay for that carrying cost so QTv engages Zamtel and bears that cost. It was submitted that after the signal it transported, the signal distributors decide where to place the station in terms of DTT or DTH depending on

where they have space. It was submitted that they also decide what locations they broadcast them to.

229. QTV submitted that with top star they sign service level agreements which entail a partial cash payment with the balance being paid via adverts on the Qtv station. It was additionally submitted that there was a time when Topstar included third party adverts in the service level agreements. It was further submitted that Qtv refused to sign that agreement because it would mean revenue loss for them and that they would then be competing for clients with their carrier. QTv submitted that the policy is very clear that signal distributors were not allowed to participate in the market as their only business was to carry the stations on the platforms.

Content Provision

230. It was submitted that the same signal distributors are also producing content and placing the content on the same platforms as their clients. It was further submitted that xxxxxxxxxxxx produce content and sell it to content providers. It was submitted that they initially had their own station which was subsequently removed after complaints from other content providers.

231. QTv submitted that IBA do not have any documentation for Zambezi magic, a channel which competes with local content producers that are licensed and regulated by IBA. It was submitted that Multichoice have created a channel that is in HD xxxxxx xxxxxxxxxxxx xxxxxxxxxxxxxxxx xxxxxxxxxxxxxx xxxxxxxxxxxx. It was submitted that this means that the playing field is xxxxxxx xxxxxxx as the stations owned by the platforms are shown in better quality. It was further submitted that Multichoice are very selective with which content providers they place on the platform. It was submitted that xxxxxxxxxxx r are not selective however they require content providers to pay to be carried and the high cost of being carried is a deterrent for most content providers. It was submitted that the policy

does not allow content providers to have their own set top boxes and have spectrum and frequency licenses.

Growth

232. It was submitted that because content providers had no say in where they are placed in terms of DTH or DTT, SD or HD and also in terms of location their viewership is affected. It was submitted that they are informed that this is due to a lack of space. It was further submitted that the policy has affected their revenue because the owners of the platforms have also gone to the market which means they receive revenue from content providers, advertisers, and consumers.

233. Qtv submitted that the key to the issues in the market is revenue sharing. It was submitted that TV is no longer profitable as advertising is dying. It was submitted that the drafters of the policy are not implementing the policy. It was also submitted that IBA who are he regulators of the content have allowed wrong content to be aired as signal distributors are airing adverts as content providers.

234. It was submitted that the platforms pay the international content providers to have them on the platform, but local content providers are made to pay the platform owners. It was submitted that the policy lacks safeguards for the local content providers. It was submitted that the platforms are also offering exclusive agreements with stations which further limits their bargaining power.

OTT

235. It was submitted that the only alternative broadcasting option they have is broadcasting online. It was submitted that the online space is not yet a viable business medium because of the high cost of data for the consumers and the lack of infrastructure. It was further submitted that

they use social media for promotional purposes and broadcasting the news.

Free To Air (FTA)

236. It was submitted that all the licenses issued by IBA are free to air licenses, but consumers cannot view without paying the subscription fee. It was further submitted that the current structure means there is no way for FTA content providers to be free. Qtv submitted that before the policy they used to distribute their own signal via their own satellite uplink which they subsequently shut down following the launch of the policy. It was further submitted that before the policy they had invested in set top boxes as well and uplink equipment.

Regulation

237. It was submitted that the way that the market has developed after the policy has made it difficult for stations to have their own boxes as they would be competing with platforms that had more stations on them. It was submitted that the platform owners being content providers as well has distorted the market. It was submitted that IBA must step in and not allow the platforms to participate in the market. It was submitted that the platforms must declare interest in the market and IBA must intervene.

238. It was submitted that IBA has issued many licenses, but the signal distributors have selected just a few content providers to carry. It was submitted that the IBA should integrate the DMP in the law. It was further submitted that Topstar have not followed the conditions that were given by the xxxxxxxxxxxxxxx xxxxxxxxxxxxx xxxxxxxxxxxxx xxxxxxxxxxxx xxxxxxxxxxx.

Muvi Satellite

239. Muvi is the First Private Zambian Owned Commercial Television Station in Zambia[96] that was established in 2003. Muvi TV operates both as a TV station (Muvi TV) and Subscription Management Service (SMS) Provider (Muvi satellite). Muvi TV was introduced at inception as an analog terrestrial channel and Muvi Satellite was introduced in 2009. When Muvi migrated to satellite, it could be accessed through the MyTV subscription platform that was managed by Strong Technologies. In 2014, Muvi decided to launch its own Satellite Subscription Management Platform that had a bouquet package with additional channels.

Position On Digital Migration

240. Muvi submitted that in as far as the pay television market is concerned, and, the digital migration process and the governing legislations, there is no level playing field for signal distributors to compete. Muvi submitted that prior to the digital migration, it had applied for two signal distribution frequencies to be able to distribute its content via Digital Terrestrials Transmission (Decoder and Antenna) and Direct-to-Home (Decoder and Satellite). x xxx xxxxxx xxxxxxxxx xxxxxxxxxxx xxxxxxxxxx xxxxxxxxxx xxxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx xxxxxxxxxxx xxxxxxxxxx xxxxxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxxxx xxxxxxxxxxx. The meeting was further informed that at the time of Muvi's DTT frequency application and prior to the digital migration process, ZICTA had informed them that no players had a license for DTT. However, players such as xxxxxxxxxxx were already transmitting via DTT even when signal distribution licenses were introduced. Even when Muvi probed this situation with the regulator, they were denied the DTT frequency.

241. In addition, Muvi submitted that the digital migration process was initially supposed to allow for a transitional period where the public could still

[96] This classification was given by the Independent Broadcasting Authority.

view the broadcast channels via analogue transmission while the introduction of the DTT and Satellite platforms were in progression. However, the National Switch Off for analogue transmission was instantaneous such that viewers of analogue broadcasting channels such as Muvi TV were immediately cut off. This resulted in players like Muvi losing a significant percentage of its viewers as it had not reached out to many of its viewers with information on how they could access Muvi channels.

Competition At Signal Distribution Level

242. Muvi submitted that the Government is not providing a level playing field for competition among signal distributors. This is so because, its competitors were allowed to have two frequency licenses that enabled them to carry their content on both DTT and DTH. This has made Muvi unable to compete effectively with its competitors as the license for DTT enables members of the public that cannot afford satellite television to watch television on a much cheaper platform.

243. Muvi submitted that it has additionally lost a significant proportion of its advertising clients because they have limited coverage across the country. Muvi stated that most businesses generally want to reach out to a wider audience with their advertisements. Hence most prospective clients are reluctant to advertise with Muvi based on the assumption that they do not have a wide audience as compared to their competitors. This has significantly affected its revenue in as far as advertisement is concerned.

Licensing And Costs

244. Muvi submitted that it had a VSAT license from ZICTA that it required to transmit via satellite. The cost of the VSAT license is K4000 renewable annually. In addition, Muvi submitted that ZICTA had introduced a network license with a validity period of 10 years that Muvi was required

to pay K100,000 annually and K10 million over the validity period. Justification given by ZICTA for the introduction of the network license was that Muvi was using a satellite that is owned by a foreign entity therefore, it was classified as a network. xxxxxxx xxxxxxxxxxx xxxxxxxxxxxxx xxxxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxxxxxx xxxxxxxxxxxxx xxxxxxxxxxxxxxx xxxxxxxxxxxx xxxxxxxxxxx xxxxxxxxxxxx xxxxxxxxxxx xxxxxxxxxxxx xxxxxxxxx xxxxxxxxxx xxxxxxxxxxxxx xxxxxxxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxxxx xxxxxxxxxxxxxx xxxxxxxxxx xxxxxxxxxx xxx.

245. Muvi further informed the meeting that it had two licenses from IBA of which one is a content provider license for its broadcasting channel (Muvi TV) and the other is a satellite license. The content providers license is K20,000 while the satellite license is K40,000 and both licenses are renewable annually. Prior to the establishment of IBA, Muvi submitted that it paid K14,000 to the Ministry of information for the content provider license.

ON-boarding of content providers on a signal distributor's platform

246. Muvi submitted that broadcasting channels/content providers are supposed to be carried by either the public signal distributor or a private signal distributor in order for them to broadcast their channels. Given that content providers cannot broadcast without the pay television platform provided for by signal distributors, they are required to pay in order to be on-boarded. xxxxxxxxxxx Topstar, for instance which is the signal distributor that is mandated to provide a platform for local channels requires that the content providers pay about Kx per month in order for them to be on-boarded under DTT. On the other hand, content providers pay about $x per month to be on-boarded on the xxxxxxxxxxx satellite platform.

247. Muvi further submitted that several content providers have been unable to broadcast their content as they do not have the financial capacity to pay signal distribution provided for by xxxxxxxxxxxx . To resolve this, several broadcasters have entered into an agreement with xxxxxxxxxxxx to make only a part payment for on-boarding and the balance is paid in non-monetary advertisements that the signal distributor runs on these TV channels.

248. With regard to the on-boarding of channels on the public signal distributor, Muvi had engaged xxxxxxxxxxx with a proposal of onboarding some of its channels on xxxxxxxxxxxxx DTT platform. However, Muvi was informed that it could only on-board one channel as there were other content providers that needed to be carried by the xxxxxxxxxxxxx signal distributor. Muvi also informed the meeting that the IBA had issued about forty-six (46) broadcasting licenses that all need a signal distributor in order to be carried but this has not been possible because xxxxxxxxxxx had indicated that it did not have sufficient capacity to carry all channels.

249. xxxxxxxxxxx xxxxxxxxxxx xxxxxxxxxxxxx xxxxxxxxxxxxx xxxxxxxxxxxxxx xxxxxxxxxxx xxxxxxxxxxxxx xxxxxxxxxxxxxx xxxxxxxxxxxxxxx xxxxxxxxxxxxxx.

250. The decision for Muvi to remove its channel on the xxxxxxxx platform resulted in xxxxxxxxxxx receiving several complaints from subscribers inquiring as to why Muvi Tv was no longer available on the platform. Consequently, xxxxxxxxxxx has since re-engaged Muvi to have its Muvi TV channel on-boarded on xxxxxxxxxxxx platform for an agreed upon fee that will be paid by xxxxxxxxxxxx. For Muvi, this is an indication that most subscribers have a general liking and preference for its content.

Provision Of Free-To-Air Channels

251. According to the Digital Migration Policy, the Public Signal Distributor as a carrier of carriers was required to on-board local TV stations for free and in turn the public would have access to local channels on a Free-To-Air (FTA) basis. Therefore, even in instances where clients did not pay subscription, they should have had access to local content at no additional cost.

252. Muvi submitted that this was not the case as the xxxxxxxxx signal distributor was xxxxxxxxxxxxx xxxxxxxxxxxx on the subscribers in order for them to access local content only. These channels are bundled in a bouquet for which xxxxxxxxxxxx charges K75. xxxxxxxxxxxx has xxxxxxxxxxx xxxxxxxxxx of this xxxxxxxxxxx xxxxxxxxxxxx as it is required to maintain the infrastructure used in the transmission of local content and cover the operational costs of providing the service. In addition, Muvi submitted that the drafters of the Digital Migration Policy did not foresee the costs associated with broadcasting free to air content to the public. Given the above, the signal distributor is forced to bill the maintenance costs on the consumer to recover the costs they incur in broadcasting local content. Consequently, this has resulted in the unavailability of FTA content.

Submissions from Strong Zambia Limited

253. Strong Zambia submitted that the company started operating in 2004 with free to air television which had no payment options. They also submitted that in 2006 they progressed to MY TV which was closed in 2014 when they took onboard Zuku which is based in Kenya partnering with Wananchi Group Ltd.

Services

254. Strong Zambia submitted that they were operating under the subscriber management licence and they offered Zuku channels at a fee to their

customers. They submitted that they offered DTH, Zuku decoder, LMB and the full kit is K399. Strong Zambia submitted that they had an option to deal with individual content providers internationally or deal with an already packaged content like Wananchi. They further added that, the agreements could be where you are asked to pay an extra amount per subscriber, or you pay a flat fee or make a percentage on the subscriptions. They also submitted that with this business model they could have as many providers as possible.

Bouquets

255. Strong Zambia submitted that they had 5 bouquets under Zuku namely, Smart K45, Smart Plus K65, Classic K85, Premium K104 and Asia standalone K175. it was also submitted that there is an Asian by-through which is an addition to any of the bouquets if a customer was interested in the Asian package in addition to any other bouquet.

Prices 2018-2022

256. Strong Zambia submitted that their prices had not changed since 2018 because their business model is to try and be affordable to as many people as possible. It was also submitted that the premium bouquet had been at 104 which includes the TV levy for a long time. They further submitted that the only thing that had changed in the last few months was on the Asian content which used to be K120 and now K175 because of the exchange rate.

Determinants of prices

257. Strong Zambia submitted that the cost of content was primarily the biggest component of pricing, followed by the exchange rate because the services were paid for in dollars. They also submitted that they usually negotiated the cost of the content, but suppliers had more bargaining power. They further submitted that Pay-Tv was moving away from exclusive contracts which meant that the negotiations gave more power to

the supplier. They also submitted that currently they were the provider of Wananchi products exclusively such that if a new entrant wanted to set up and start offering Wananchi products it would not be possible. They submitted that they had a 5-year running contract which was subject to renewal and right of first refusal was given to them.

Products and character of content

258. It was submitted that Strong Zambia was targeting every household in Zambia because of their very low prices. The Asian package was meant to target the Asian community in Zambia, but it was not restricted to Asians only even Zambians were free to subscribe to the Asian package. They also submitted that consumers had different tastes and preferences. They also submitted that Wananchi was just not in Zambia but in Southern and East Africa so people from these countries also had a chance to view want they wanted. They further submitted that Wananchi did not produce content but just provided already packaged content. Strong Zambia also submitted that channels were packaged with repeat content, but they usually engaged with the provider at a point when content was repeated too much to manage the repeating.

Subscribership 2018-2022

259. Strong Zambia submitted that they had seen growth especially in the Smart category because it offered Zambian content and international content as well. They also submitted that the business had not been growing as expected thus, they projected their growth to be at about x% across the board.

Free to air content

260. Strong Zambia submitted that their content was strictly paid for and none of their channels were free to air channels. They submitted that free to air channels were free but unfortunately the digital migration process was distorted and immediately free to air channels like ZNBC fell off. They

further submitted that initially during the digital migration process there was a digital terrestrial box that was supposed to decode those channels and access was supposed to continue to be free, but the signal carrier was encrypted and if a customer runs out of subscription, they would not be able to access the free to air channel. With regards to pay-per-view Strong Zambia submitted that the service was very costly and was normally used for live events like boxing matches (once off events).

Regulation and Licensing

261. Strong Zambia submitted that they had 2 regulators that is, IBA and ZICTA. They also submitted that initially they had to pay K3,000 but with the establishment of IBA the license fee was now at K40,000. Strong Zambia felt that the huge jump in the cost needed to be justified because it created barriers to entry for new entrants. Strong Zambia further submitted that the introduction of IBA was a welcome move and has really helped the industry because of their open-door policy. With regards to ZICTA, Strong Zambia submitted that ZICTA monitored conformity to standards of the hardware. They submitted that ZICTA did the master approval of the hardware and in the event that the hardware was upgraded then ZICTA had to look at the new hardware. Strong Zambia also submitted that the other licensing that was required is the spectrum from ZICTA in the event that Wananchi wanted to carry signal from Zambia to Kenya. Strong Zambia further submitted that when sending signal outside Zambia ZICTA needed to be informed but there was no fee required.

Digital migration policy 2014

262. Strong Zambia submitted that there was need to go back and review the policy to create a level playing field for the industry players. They also submitted that the industry was lobbying for the policy to be turned into the law to protect the process.

Submissions from Trinity Broadcasting Network (TBN)

263. TBN Zambia is the First Private Zambian Owned Christian Broadcasting television station that was established in 1998. The setup of the television station infrastructure and equipment was financed by TBN International. Subsequently, the station was handed over to its affiliate TBN Zambia that currently runs the day-to-day operations. TBN Zambia transmits its broadcast through Topstar which is a Public Signal Distributor, and its current coverage is Lusaka province.

Position On Digital Migration

264. TBN Zambia submitted that at inception it was broadcasting via analog transmission which made it possible for viewers across the country to access the transmission with an analog arial. It was submitted that upon the introduction of the Digital Migration, all broadcasters were required to on-board their channels onto either a Public or Private Signal Distributor (Muvi, GoTV, DSTV, Zuku and Topstar). They submitted that this process came with a significant cost to TBN as it was now required to pay Topstar a monthly on-boarding fee.

265. TBN submitted that it is a community broadcaster and therefore, it does not operate primarily for commercial purposes. TBN Zambia submitted that it sustains its operations via donations, advertisements, and church offerings. It was submitted that TBN Zambia faced several challenges in raising the required funds to on-board their channel on Topstar. It was submitted that when the Digital migration was first enforced, TBN Zambia could be viewed countrywide. However, due to the inability for the broadcaster to raise adequate funds to pay for on-boarding, its coverage was reduced over the years and currently the coverage was only in Lusaka Province.

Competition At Signal Distribution Level

266. TBN Zambia submitted that the Signal Distribution Market is monopolized and highly concentrated. This has caused unfair competition amongst broadcasting entities to try and negotiate with signal distributors to carry their channels. Specifically, TBN Zambia submitted that they have found it extremely difficult to onboard their channel on xxxxxxxxxxx as the Signal Distributor has constantly reported that their content is significantly similar to that being aired by TBN Africa and Faith TV which are channels currently on the xxxxxxxxxxx platforms.

267. TBN Zambia added that it had observed that there are several channels on xxxxxxxxxxx bouquets that have duplicate programming content despite carrying different channel names. Therefore, TBN Zambia did not understand why the signal distributor used the reason for duplication of programmes when several of its channels had duplicate content. In addition, TBN Zambia submitted that other broadcasting channels that are seemingly not as creative and entertaining as their channel were on-boarded to be carried by the signal distributor.

268. Consequently, TBN Zambia is currently unable to switch to any another signal distributor and therefore, they have no option but to maintain their broadcast with Topstar. TBN Zambia submitted that it could but then xxxxxxxxxxx has limited coverage and therefore, they would be unable to get advertising business from the business environment. As a result, this would further reduce its revenue from advertising and make it difficult to pay the distributor on-boarding fees.

Licensing And Costs

269. TBN Zambia submitted that it had no challenges in paying the annual broadcasting license fees of K5000 for community television broadcasters. However, it faced a challenge in raising funds to on-board its signal on the Topstar signal distribution platform. This is so because broadcasters are

required to pay for on-boarding of their signal. This had driven TBN Zambia to change its business model to that of a commercial broadcaster to raise resources for on-boarding fees. As a result, TBN is significantly dependent on advertising for businesses to raise revenue for the signal distributor.

270. TBN Zambia submitted that it was not privy as to whether the signal distributor applied similar conditions to all players. In addition, they submitted that the distributor did not have any price schedule that is public and available to all players.

On-Boarding of Content Providers on a Signal Distributor's Platform

271. TBN Zambia submitted that broadcasting channels/content providers are supposed to be carried by either the public signal distributor or a private signal distributor for them to broadcast their channels. Given that content providers cannot broadcast without the pay television platform provided for by signal distributors, they are required to pay to be on-boarded.

272. TBN Zambia further submitted that several content providers have been unable to broadcast their content as they do not have the financial capacity to pay signal distribution provided for by Topstar. Therefore, the coverage for TV stations such as TBN Zambia has been limited to only a small audience (i.e., Lusaka province).

Adequacy of Legislation and Regulation of Pay Television

273. TBN Zambia submitted that the regulations and legislations need to be reviewed as the migration process has not only made it difficult for broadcasters to on-board their channels, but the process is costly and unsustainable especially for non-commercial broadcasters. TBN further added that signal distributors should create flexible and favorable pricing

models for on-boarding fees. In addition, there should be a level playing field for all players to encourage competition.

Liquid Intelligent Solutions

274. Liquid Technologies submitted that they provide internet connectivity to customers who choose how to use the provided internet. Liquid Technologies stated that they give complimentary access to Netflix which was zero rated for their customers who had an active data bundle. Liquid technologies also indicated that Netfllix arrangement was a marketing tool and that other marketing tools available included the complimentary Education access. Liquid Technologies submitted that their key role was to sell the bundles, therefore, the marketing tools could be accessed for as long as the bundles were valid, usually for a month. The Company submitted that they did not have any arrangements with Netflix, nor did they have any pay TV connected to them. They stated that they only looked at strengthening and broadening their internet service provision.

275. Liquid Technologies informed the meeting that their greater role was to continue to provide internet access, larger access to more people at high speed. They submitted that they had approximately xxxxxxxxxxxxxxx customers (x%) having access to Netflix. Liquid Technologies shared that their customers for bundles mainly accessed, Google, YouTube and Pay Television. The most accessed Pay Television networks in descending order included:

i. Netflix
ii. DsTv
iii. Amazon prime
iv. Showmax and other options at the least.

276. Liquid Technologies submitted that it does not determine which site their customers go to, their business is to just provide the connectivity. They mentioned that their major customers were corporate however, they still

provided the connectivity to individuals as they had observed a growing demand.

i. Fibre to the home – x% market share
ii. Mobile data - small space

Relevant Market Scope

277. Liquid Technologies submitted that internet has created an imbalance in Pay TV thereby changing its classification, such that, online broadcasting can be classified as Pay TV. They submitted that Pay TV was in competition with free platforms like YouTube and Facebook which provided more affordable and accessible broadcasting options for broadcasters like Al Jazeera and BBC. It was submitted that there was an increased uptake of online TV of approximately 30% to 40% increase annually. Liquid Technologies submitted that some local networks were streaming online and strengthening competition in the Pay TV market.

Regulation

278. Liquid technologies suggested that it would be good to consider regulating the online market as the current regulations seem to be lagging. They further submitted that regulation should embrace change as for instance, customers can access news and entertainment via free online platforms. Liquid technologies submitted that regulation should be extended to the online market space which should include adverts to ensure that people's rights are upheld as advertising which traditionally was regulated on traditional TV is now online. Liquid Technologies stated that regulation should not prevent or stifle growth, but it should be sensitive to technological advancement. They further submitted that regulation should ensure that the information published on sites accessed in Zambia, like Facebook conform to existing regulation regarding vices like false advertising.

279. Liquid technologies submitted that there is currently no protection of consumers in the cyber space from vices like false advertising and fraud, therefore, a solution to mitigate such vices would be necessary. Liquid technologies submitted that accrediting genuine online sellers could mitigate such vices as this would signal to users to avoid fraudulent vendors. It might be necessary to create guidelines like general community rules that would suit the Zambian market that are aligned to the Zambian laws and regulations.

African Agribusiness Network (ABN)

280. ABN TV submitted that they got their broadcasting license in January 2016 and started operating in September 2016. They submitted that their license was obtained during the period of digital migration so there were no stories of encryption, and they could be watched on any DTT enabled platform. At this point there was what was called multicasting (dual broadcasting both on analog and digital). ABN TV also submitted that at this point they were having meetings with the Ministry concerning digital migration and the discussion was that the only thing that was changing was the mode of receiving signal and nothing to with subscription. ABN TV submitted that the Ministry message was that digital migration would improve picture quality and it would free up the waves for other activities like internet so that they shift to something more sustainable. ABN TV submitted that digital migration was a good idea because it helped to reduce the cost of transmission because under analog every TV station was running on their own transmitters but under digital migration one transmitter can carry about 25 channels.

Broadcasting of content

281. ABN TV submitted that they were currently broadcasting on Topstar since 2017. It was submitted that by the end of 2016 the message had changed to complete roll out to digital migration and Topstar had started rolling

out more transmission sites to different areas which were about 72 at present. It was submitted that a month before the switching, Topstar encrypted their signal. ABN TV submitted that they were not sending their signal directly to GOTV, but they were picking through the ZNBC transmission headend so when it was encrypted, GOTV had to take Topstar to court to get them to lift the encryption. It was submitted that from that, GOTV made a business decision that ABN TV were not aware with regards to carrying TV stations on their platform. It was submitted that by the time ABN TV was finding out, the bandwidth was full, and they remained on Topstar. ABN TV submitted that when they started to push to join GOTV, they started having issues with xxxxxxxxxx because they wanted ABN TV to be exclusive to them because their content helps xxxxxxxxxxxx to get subscribers in rural areas where there is a lot of farming activity.

282. ABN TV submitted that they have had conversations with Topstar on paying for their content the way they pay for international content such as, BBC and Aljazeera however, xxxx xxxxxxxxx xxxxxxxxxxx xxxxxxxxxxx xxxxxxxxxx xxxxxxxxxx xxxxxxxxxxxx xxxxxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx xxxxxxxxxxx xxxxxxxxxxxx xxxxxxxx. ABN TV also submitted that they had reached a stage were Topstar was supposed to start paying ABN TV for their content. ABN TV submitted that they had reached a stage of discussing revenue sharing with Topstar, but they have since hit a snag. ABN TV submitted that the broadcasting business no longer makes money through advertising but through subscription. The local content providers are not benefiting because of the lack of revenue sharing. ABN TV further submitted that xxxxxxxxxxx does not provide the content providers with ratings to enable them to assess how their programs are performing. ABN TV submitted that this denies the content providers the opportunity to demand for revenue because they do not have viewership statistics.

283. In addition, ABN TV submitted that advertising revenue has gone down in Zambia because of too many players in the market. ABN TV also submitted that online media like Facebook is the biggest advertising platform at the moment and there are people without TV licenses (Vloggers) who produce content and have many followers and they do not have to follow any rules for instance, they can post anything without verification as opposed to a licensed content provider. ABN submitted that as a result they are getting more of the advertising revenue. ABN TV submitted that the advertising revenue is not the solution for broadcasting business but subscription revenue.

284. ABN TV submitted that on the other hand xxxxxxxxxxxx has begun to offer other local content providers exclusive contracts and they will be paid for their content. ABN TV submitted that they are not on xxxxxxxxxxxxxxx, but they are paying to advertise their content on their channel on xxxxxxxxxxxxx. ABN TV submitted that their contract with Topstar is not exclusive, and they have applied to GOTV to be on boarded.

285. ABN TV submitted that they have another company called Golden Pictures which produces content that is not agricultural. ABN TV submitted that they produce a series under Golden Pictures sponsored by Topstar and they only bought the airing rights. It was submitted that the series is aired for 12 or 24 months on the other platforms it comes back to Golden Pictures.

Adequacy of the regulatory framework

286. ABN TV submitted that the digital migration policy was adequate, but the problem was with adherence to it. It was submitted that there are some issues that need to be ironed out such as a Pay Tv provider was not supposed to be a distributor because the moment they play two roles they disadvantage the other players. ABN TV also submitted that the case of xxxxxxxxx xxxxxxxxxxxx xxxxxxxxxx should be investigated because they are x x xxxxxxxxxxx xxxxxxxxxx xxxxxxxxxxx xxxxxxx. ABN TV submitted that it

would be good to borrow from the model in South Africa were the engineering department of SABC is separate and their job is that of a signal distributor. It was further submitted that content providers pay them to be carried and when a pay tv provider wants that channel they access that channel from the carrier and pay the content provider. In the Zambian scenario xxxxxxxxxxx demands for carriage fees and yet they are charging the content provider when they deliver the content to the subscribers. This has distorted the market for broadcasting in Zambia and this can be resolved by the digital migration policy if there was adherence.

OTT as an alternative

287. ABN TV submitted that they have considered broadcasting their content on OTT platforms, but it is not sustainable for their growth given that their content is educational and just targeting the farmers. ABN TV submitted that for instance, YouTube does not pay content providers in Zambia unless they open an account in another country (America) otherwise they are just using the page to gain numbers. ABN TV submitted that the Bank of Zambia is working on activating pay-pal so that content providers in Zambia can benefit. ABN TV submitted that they had managed to get some partners through their Facebook page for example their partnership with Musika and that the terms of their contracts are based on the content and traffic. ABN TV further submitted that they do not pay on-boarding fees to Topstar because of their unique content.

288. ABN TV submitted that they used to be on both the DTH and DTT Topstar but their channel was dropped from the DTH platform based on the fact that most farmers are on DTT. ABN submitted that this decision was abrupt, and it affected their project with Musika as they had bought solar TV's from Topstar to give farmers in 5 districts to access their content on DTH. ABN submitted that the contractual terms are phrased in a way that they can be dropped from the DTH or DTT platform at the discretion of the provider.

289. ABN TV submitted that the digital migration policy should be followed that is, a signal distributor should only be carrier and not play any other role. ABN TV further submitted that subscriber management service providers should provide content providers with their viewership statistics (monthly ratings) to enable them to make better business decisions.

KBN TELEVISION ZAMBIA (KBN)

290. KBN submitted that it was a private Zambian owned Free-To-Air (FTA) television station that was established in 2020. KBN submitted that it transmits its broadcast through Topstar, GOTv and DSTV signal distribution services.

Position On Digital Migration

291. It was submitted that upon the introduction of Digital Migration, all broadcasters were required to on-board their channels onto either a Public or Private Signal Distributor (Muvi, GoTV, DSTV, Zuku and Topstar). KBN submitted that the Public Signal Distributor (Topstar) was supposed to carry or on-board Free-To-Air content providers on its platform. KBN submitted that this meant that the public could have access to FTA channels without paying for subscription at any given point in time. It was further submitted that when the analog switch off was implemented, the FTA channels were encrypted by xxxxxxxxxxx making them only available to the public when a subscription is paid.

292. KBN submitted that the current situation is such that Content Providers are required to pay carriage fees to xxxxxxxxx. KBN submitted that Content Providers spend significant amount of resources to develop content for their channels, but they do not receive any form of compensation in the form of revenue sharing with the Public Signal Distributor. It was submitted that as a result, the operational costs of running a TV station

have become excessively high due to the on-boarding cost paid to the signal distributors and low revenue margins.

293. It was submitted that xxxxxxxx has international channels (i.e., Aljazeera and BBC) on its bouquets for which it pays for landing rights to carry their feed. It was added that on the other hand xxxxxxxxxxxx does not pay local channels to carry their feed on their platform. KBN submitted that xxxxxxxxx is a signal carrier while at the same time it operates as a content provider.

294. KBN submitted that xxxxxxxxxx has no revenue sharing arrangement with content providers from the subscription revenue it collects from subscribers. KBN added that xxxxxxxxx also does not share with the content providers their viewer statistics. It was submitted that when requested for the statistics, xxxxxxxxxxx submits that it does not compile these statistics even though the content providers have reason to believe that it does. KBN submitted that in instances where a channel has a significant number of viewers as observed by xxxxxxxxxx, the carrier enters into agreements with the content providers where instead of paying the full carriage fees, they enter into a bartering agreement. It was submitted that in this case, the content provider pays a portion of the carriage fees and the remaining amount is bartered through adverts that xxxxxxx airs on the respective channels. It was submitted that the conclusion arrived at by KBN on xxxxxxxxxxx inability to share channel performance statistics is that the public carrier may not want content providers to bargain for better carriage terms based on viewership statistics. KBN submitted that lack of viewership statistics by the content providers puts them in a weaker position to negotiate a better carriage and revenue bartering agreement.

295. Alternatively, KBN submitted that xxxxxxxxxxx do not charge content providers for on-boarding, but the selection process is mainly dependent on the quality of the content that is produced. KBN submitted that it has

a revenue sharing arrangement with xxxxxxxxxxxx based on subscription fees. KBN submitted that in addition, xxxxxxxxxxxx share quarterly statistics of the channel performance based on viewership which allows content providers to improve their content and scrap non-performing programmes.

296. KBN alleged that xxxxxxxxxxxx have signed exclusivity contracts with xxxxxxxxxxxx and xxxxxxxxxxxx . It was further submitted that the two TV stations only air on the xxxxxxxxxxxx platforms and have a regional outreach outside Zambia. Considering this, KBN submitted that it too would consider entering into an exclusivity agreement with xxxxxxxxxxxx because there is more to benefit from such an arrangement as compared to being carried by xxxxxxxxxxxx where there is no financial gain for content providers.

297. KBN submitted that content providers primarily earn their revenue through advertising. It was further submitted that IBA has been issuing several content provider licenses and radio licenses which has led to market saturation of the broadcasting industry. KBN submitted that the stiff competition for clients among content providers has resulted in the closure of some television stations due to their inability to meet their operational costs.

Competition At Signal Distribution Level

298. KBN submitted that the Signal Distribution Market is monopolized and highly concentrated which has caused unfair competition amongst broadcasting entities to try and negotiate with signal distributors to carry their channels.

Licensing And Costs

299. KBN Zambia submitted that it had no challenges in paying the annual broadcasting license fees. KBN also indicated that it does not pay

xxxxxxxxxxx for on-boarding of their channel but that they have a revenue sharing and bartering arrangement for advertising and subscription revenue.

On-Boarding Of Content Providers On A Signal Distributor's Platform

300. KBN submitted that broadcasting channels/content providers are supposed to be carried by either the public signal distributor or a private signal distributor for them to broadcast their channels. It was submitted that given that content providers cannot broadcast without the pay television platform provided for by signal distributors, they are required to pay to be on-boarded. KBN further submitted that several content providers have been unable to broadcast their content as they do not have the financial capacity to pay signal distribution provided for by xxxxxxxxxxx . However, KBN submitted that it is being carried by both xxxxxxxxxxx .

301. In addition, KBN also submitted that other content providers including itself alternatively broadcast their content on platforms such as YouTube and Facebook. However, KBN lamented that despite providing its feed on such platforms, its content is still regulated by the IBA while other players such as social media influencers are not regulated by any government agency. KBN further submitted that several social media personalities even have much larger following than some content providers.

302. Considering this, KBN proposed that regulation should be introduced for social media platforms such as Facebook and Youtube. The regulation should be done in such a manner where any social media personality attains a particular threshold number of followers (i.e., 100, 000 followers), they should be subjected to regulation given that whatever, content they put out on their platforms can influence several individuals. It was submitted that this will ensure that such individuals post verified information guided by regulation.

Adequacy Of Legislation and Regulation Of Pay Television

303. KBN Zambia submitted that the regulations and legislations need to be reviewed as the migration process has not only made it difficult for broadcasters to on-board their channels, but the process is costly and unsustainable especially for non-commercial broadcasters. KBN further added that signal distributors should create flexible and favorable pricing models for on-boarding fees. In addition, it was submitted that there should be a level playing field for all players to encourage competition.

KBN Position on Over-The-Top

304. KBN submitted that players offering OTT service but are not domiciled in Zambia should pay taxes in Zambia given the fact that they are utilizing Zambian technological infrastructure to land their content to their subscribers.

SUBMISSIONS FROM ASSOCIATIONS

Zambia Consumer Association (ZACA)

305. ZACA submitted that prices for pay tv products were high, yet people still paid for the sake of entertainment. Mr. Sakala submitted that most pay television subscribers preferred xxxxxxxxxxx as compared to the other subscription providers. In addition, ZACA noted that most consumers prefer premium bouquets that offer channels with different soccer leagues and several entertainment channels. As a result, the public was reluctant to switch to other service providers despite the high cost incurred.

Substitutability

306. ZACA submitted that the DStv brand had made substantial investment in the pay tv service provision such that they supply a supreme quality of the pay tv services. ZACA submitted that most movies provided by pay television providers were available on xxxxxxxxxxx . In addition, the

content on DStv was more current and had more and better subscriber packages. Therefore, even though other players are more affordable in terms of price, customers still preferred xxxxxxxxxxx xxxxxxxxxxx since it was a superior product.

Public awareness about the Pay Television market

307. ZACA submitted that there is a lot of speculation in the industry due to information asymmetry. This is so as there has never been a deliberate effort by the Government and Pay Television service providers to sensitize and educate the public about how the Pay TV market operates. ZACA further submitted that such information would help consumers appreciate the dynamics of the sector and all the associated costs involved in providing the service.

Customer Preference

308. ZACA submitted that most consumers would prefer selecting a mix of channels that they prefer and pay only for what they enjoy. When asked the implication of the high costs associated with such a service provision, ZACA submitted that consumers can pay higher subscription fees for as long as they are paying for what they wanted to watch.

Consumer Unity and Trust Society (CUTS)

309. CUTS, Zambia submitted that, the pay-tv sector in Zambia is quite new as it started in the last 10 years apart from DSTV being one of the earliest entrants in this market. CUTS also submitted that at the on set of pay tv in Zambia, there was lack of preparation on how consumer complaints would be handled. They had questioned if any research was done on how pay tv complaints were going to be handled as this could have helped with the complaints that are being addressed now.

310. CUTS submitted that consumers found it very difficult to accept the shift from analog to digital because it meant they had to pay for channels like ZNBC that were once free. CUTS submitted that the value chain involved a lot of factors including both human and financial resources and that it was very costly to implement. They also submitted that regulators like IBA were to play an important role in the value chain by ensuring that content providers delivered quality products to consumers.

Value for money

311. CUTS submitted that consumers are not getting value for money from subscriptions they are made to pay for tv bouquets because of repeat content of programs. CUTS also submitted that the pricing by providers may be justified by the costs they incur for providing the service, but the quality of their services was still not good enough. Therefore, there should be a balance in terms of pricing and quality services to ensure consumers get value for their money. CUTS proposed that detailed research should be undertaken to make consumers aware of the cost structures of pay tv entities so that they understand why they are made to pay certain prices for certain bouquets.

312. In addition, CUTS submitted that they were interested in looking at the pay tv market from the perspective of service provision and pricing as well as consumer awareness. CUTS also submitted that they were coming up with a podcast and website where consumers could slot in their complaints and questions regarding different sectors including the pay tv. CUTS mentioned that once consumers were made aware of the cost structure of pay television it would require policy recommendations for Ministry of Information and Media to possibly reduce taxes or subsidies for the service providers.

313. CUTS submitted that xxxxxxxxxxxx offered a more superior product (e.g., the premier league) than the other providers so it was hard for consumers to switch. CUTS also submitted that consumers had preferences so even

if the free-to- air channels were provided for free consumers still had a choice to choose what they wanted to watch. CUTS submitted that most Zambian consumers preferred foreign content than local content. CUTS further submitted that the other providers should be encouraged to compete and match the standard of xxxxxxxxxxx in terms of the number of channels and international content.

Regulation

314. CUTS submitted that so many changes had taken place in this market and hence they felt that the current regulatory framework was not sufficient as regulation was more on the public side with the Ministry of Information and Media, ZICTA and IBA. CUTS submitted that there was need for a private sector driven regulator which could also handle the private sector players. There is need for additional research on how the new regulatory system should operate.

315. CUTS submitted that the digital migration policy increased quality and competition in this sector. On the other hand, they submitted that it may have been a disadvantage for the consumers who could not afford pay tv thus, the recommendation for government to provide subsidies. CUTS further submitted that the digital migration policy should be reviewed to reinforce the regulatory institutions when it comes to consumer protection.

Technological disruption

316. CUTS submitted that there was a shift from traditional tv to OTT TV which may affect viewership for traditional TV. On the other hand, there are just other consumers who prefer traditional TV because it gave them more control in terms of the content that children are watching as opposed to the internet.

Centre for Trade Policy and Development (CTPD)

317. CTPD submitted that the sector had seen very little improvement particularly on programming and in the number of players in the sector. CTPD submitted that one notable change was the shifting of the TV levy payments to ZESCO which implied that even those that did not own TV sets were to pay the TV levy.

Content

318. CTPD submitted that there was a high demand for local content however the supply was not meeting that demand. CTPD further submitted that the content that is supplied was not relatable to the average Zambian. CTPD cited an example of South Africa where the content is produced in the local languages making it more relatable to majority of South Africans and giving the consumers value for their money. CTPD further submitted that the current content supplied had too many repetitions thereby reducing the value that consumers derived from the content.

Competition

319. CTPD submitted that the market was not very competitive and there were very few players, one of which had superior content compared to the other few players.

Regulation

320. CTPD submitted that the current regulation was sufficient particularly the Digital Migration policy. CTPD further submitted that the Digital Migration policy was a good initiative that was intended to create an enabling environment but was however stifled and not executed perfectly. CTPD submitted that the policy was supposed to prepare Zambia to join the rest of the world in terms of broadcasting framework and infrastructure, but it had not been effectively executed. CTPD submitted that the poor

execution was largely due to a lack of infrastructure to facilitate the migration.

321. CTPD submitted that the Digital migration policy created a divide between the urban and the rural population despite the intention being to bridge the gap in access to information. CTPD submitted that it largely favoured the affluent.

322. CTPD submitted that the film industry had not been sufficiently supported by the regulation. CTPD also submitted that there was need for deliberate efforts to support the performance arts. CTPD further submitted that the inability of local content providers to be accessed without subscription was affecting their ability to survive and subsequently affecting industry development.

Free To Air

323. CTPD submitted that the free to air channels are not free as consumers pay double for content i.e. through the TV levy and through subscriptions. CTPD further submitted that this payment has created a limit in access to information.

Future of Pay TV

324. CTPD submitted that there was a likelihood that Pay Tv might be phased out as consumers are now accessing the same content for free online. CTPD submitted that there has been an increase in online content provision by individuals in Zambia and not necessarily TV stations. CTPD submitted that these changes have presented an area of possible revenue collection for the government.

Chapter 9

Content Development

325. The global Audio Visual (AV) industry is expanding and has the potential to reach $325 billion in 2024. This growth coincides with an increase in Gross Domestic Product (GDP). Key factors in the growth of the Audio-Visual industry are an ever-increasing demand for media and entertainment content, a shift to online communication and broadcasting systems as well as smart AV solutions[97]. On the other hand, Africa's film and audiovisual industries has a potential to create over 20 million jobs and contribute $20 billion to the continent's combined Gross Domestic Product (GDP)[98]. However, this potential remains largely untapped despite the significant growth in production across the continent. Many aspects of the film and audiovisual industries in Africa remain informal, with only 44 per cent of countries having an established film commission and 55 per cent having a film policy. Piracy is estimated to waylay from 50 to over 75 per cent of the film and audiovisual industries' revenue. Other challenges include education and training, internet connectivity, gender equality, freedom of expression and the preservation of archives[99].

Zambian AV Industry

326. Although Zambia is slowly awakening to the fact that, the film industry if developed can be a great source of revenue and job creation, the film industry largely remains under-developed. During a press briefing on January 15, 2020, Information Minister then, Hon Dora Siliya MP called on the filmmakers in the country to begin discussions with government on how the film industry could be improved[100]. In 2018, the Zambia

[97] **https://ezo.io/ezofficeinventory/blog/audio-visual-industry/**
[98] https://www.un.org/africarenewal/magazine/october-2021/landmark-report-highlights-untapped-potential-africas-film-industry
[99] https://www.un.org/africarenewal/magazine/october-2021/landmark-report-highlights-untapped-potential-africas-film-industry
[100] https://zambianbusinesstimes.com/film-industry-in-zambia-is-a-low-hanging-fruit/

Institute of Mass Communication Educational Trust (ZAMCOM) entered a Memorandum of Understanding with SOTAMBE Film Institute to commence training in film production throughout the country. The National Film School was also scheduled to commence training in October 2020 with classes in Kitwe and Lusaka on a certificate level. Zambia National Broadcasting Corporation (ZNBC) introduced and added a new department called Department of Media and Creative Services[101].

327. MultiChoice has equally played a significant role in developing the local content industry through local channels, such as Zambezi Magic and oneZED. During the 7 years since Zambezi Magic's launch, more than 20 Zambian production houses have worked with the channel, clocking more than 1,600 hours with locally produced shows like Zuba, Mpali, Date My Family, My Kitchen Party and Our Perfect Wedding[102].

328. Unfortunately, there appears to be no coordinated and deliberate curriculum and schooling in Zambia that teaches learners the various skills involved in the production of audiovisual content such as acting, screenplay, directing, sound technician, cinematographers, producers and later on, profit out of it. Unlike in Hollywood or Bollywood where characters cutter across all age groups, in Zambia most roles are acted by those below the age of 55 years. In addition, most of the Zambian movies are comedy and a fraction of it is romance. For the viewer, this has painted the industry as child's play, less serious and not a lucrative enterprise. Therefore, the film industry has been left to the hands of hobbyists, entertainers, comedians, musicians, and enthusiasts[103].

Government Policy

329. The Digital Migration Policy provides that the Government shall ensure that local content development is enhanced and well regulated. To implement this measure, the Government planned to ensure that the

[101] http://www.daily-mail.co.zm/growing-the-film-industry/
[102] https://www.multichoice.com/country/zambia
[103] https://www.verxelarts.com/articles/the-film-industry-in-zambia/

content and the operations of Content Service Providers was regulated as well as ensure that curricula in learning institutions was reviewed and new ones introduced to accelerate content development. The Government was further to establish the Content Development Fund to finance local content development and to strengthen the copyright enforcement mechanisms. To encourage the growth of the sector, Government was to ensure that a minimum of 35% of content delivered by Content Service Providers was local in addition to Developing public museums, libraries, art centres, theatres, and music venues to international standards to promote content development and consumption[104].

Contractual arrangements and Exclusivity

330. Contractual arrangements and exclusivity agreements play a significant role in the Pay TV industry in Zambia. These agreements define the rights and obligations of Pay TV operators, content providers, and other stakeholders involved in the broadcasting and distribution of television content. Pay TV operators enter into contractual agreements with content providers, including local and international broadcasters, production companies, and sports organizations, to acquire the rights to broadcast their content. These agreements outline the terms and conditions, licensing fees, and duration of the content licenses. Exclusive content rights differentiate the offerings of pay tv operators and attract subscribers as content would only be available to specific Pay TV platform, providing a competitive advantage over other operators. This can include exclusive access to popular sports leagues, premium international shows, or locally produced content.

331. For example, Zambia Super league's broadcaster since 2007 has been South Africa-based SuperSport (subsidiary of Multichoice)[105]. In 2015 Supersport extended the contract with the Football Association of Zambia

[104] Digital Migration Policy (2014)

[105] *SuperSport announces new outside broadcast partner and reaffirms commitment to Zambia". Mwebantu. 15 January 2019. Retrieved 23 July 2022.*

(FAZ) to broadcast Super Division matches for the next five years at an increased cost of US$5 million which deal was expected to run up to December 2020, represents an increase of $750,000 from the previous US$4,750,000 that was signed in 2007 under which each Super Division team receives US$25,000 annually[106]. In 2020, the Football Association of Zambia (FAZ) announced the finalization of a new sponsorship deals with League sponsors MTN and Broadcasters SuperSport[107].

332. xxxxxxxxxxxx in their submissions to the inquiry stated that differentiation was a key part of the competitive process in addition to competitive price offerings. High-quality differentiated content was often achieved through exclusivity on licensed, commissioned, or self-produced content including local content. However, xxxxxxxxxxxx submitted that acquisition of exclusive rights over certain content closed the opportunity for other players to have access to popular content. The high costs incurred in securing exclusive rights meant consumers also had to pay high prices.

Foreclosure and barriers to entry

333. Foreclosure and barriers to entry in the Pay TV industry in Zambia affects competition, market dynamics, and the ability of new players to enter the market. The high costs associated with acquiring premium content, including sports events, international shows, and movies, can act as a significant barrier to entry for new players. Established operators have an advantage in negotiating favourable content deals due to their scale and market presence which often allows them to outbid their competitors. Exclusive premium content is a significant driver of subscriptions ensuring return on investment on those offering such exclusive content which in turn allows the pay television companies to continue outbidding their competitors.

[106] Zambia Daily Mail, September 4, 2015
[107] https://zambianfootball.co.zm/faz-confirm-mtn-and-supersport-deals-finalized-announcement-to-be-made-soon/

Chapter 11

Conclusion

334. The historical perspective of television in Zambia highlights a significant transformation and growth in the broadcasting sector. From the introduction of television broadcasting through ZNBC in 1987 to the liberalization of the broadcasting sector in the 1990s and subsequently the entry of pay television services, broadcasting gradually reached a wider audience and triggered investment opportunities in other sectors such as sports, advertising, content creating and telecommunication. It showcases the growth and evolution of the broadcasting sector.

335. Technological advancements, increased competition, and the availability of diverse content offerings transformed the television landscape, providing viewers with more choices and enhancing their viewing experience. With ongoing developments and a focus on affordability and accessibility, television in Zambia is poised to continue its growth trajectory, offering a wide range of content options to cater to the diverse preferences of its audience. However, the developments have not come without challenges. Affordability of pay television services is a barrier for many Zambians, especially those in rural areas and lower-income households. Limited internet connectivity and low-quality connectivity in certain regions affects the performance of internet-based television services thus restricting competition as consumers are forced to rely on conventional television.

336. The process of digital migration was a measure intended to address many such a challenge. It involved the transition from traditional analogue broadcasting to more advanced and efficient digital networks. This transition was necessary to improve broadcast quality, optimize spectrum efficiency, increase channel capacity, expand services and features, enhance coverage, and access, and facilitate technological advancements in the broadcasting sector. However, the implementation of the migration

itself came with its own challenges. The Digital migration policy was not backed by a legal framework to protect the process. This resulted in several unintended consequences which include (i) the convoluted space for signal distribution and content provision which has created fertile ground for discrimination and market foreclosure to the detriment of the sector growth and consumers, ii) the lack of clear definitions and scope for characterisation of free to air channels and delivery to consumers as was supposed to be. The process of digital migration which involved the creation of a special purpose vehicle Topstar narrowed the scope of the free to air provision (iii) the lack of mechanisms for revenue sharing by subscription providers to content providers and lack of a robust on-boarding fee management across the board has narrowed the scope of revenue generation by content providers on the back of an increasingly crowded advertising market space.

337. The television space has had several ways the market was defined understandably so due to high technological innovations on both product offerings and delivery channels. The entry of OTT players with global scale, large content libraries and huge budgets including Netflix, Amazon Prime, Apple TV, Google TV coupled with declining data prices, bundling of services with MNOs, advancements in technology and proliferation of internet capable devices had changed the competitive dynamics of the audiovisual content provision has been touted as responsible for cord cutting, shifting, and shaving. However, the trend towards pay TV substitution especially with OTT and the increasing popularity of other streaming platforms which has been observed in other countries is not the case with Zambia due to (i) relatively high cost of smart gadgets required to access streaming services (99 percent of the internet users are mobile internet users implying most internet services are accessed through SIM card-based technology and not broadband due to associated high cost) and (ii) relatively undeveloped network infrastructure across the country to deliver streaming capacity. Therefore, the market remains largely that is the supply of retail subscription premium audiovisual

content whether linear (such as DTH and DTT) or not (OTT) and the supply of budget audiovisual content whether through subscription (e.g. GOtv, Zuku e.t.c.) or not (Airtel TV) and whether liner or not.

338. Consumers of retail subscription audiovisual services in Zambia have had a long list of dissatisfaction ranging from perceived high prices, repeated content, and poor content provision from the providers of retail subscription audiovisual services. At the back of non-availability of real free to air and a nascent market for streaming services, consumers have largely been left to the traditional DTT and DTH providers and subjected to both premium and budget markets. While regulatory space for price control is limited and retail subscription audiovisual services retain editorial independence, consumer concerns still require attention so that value is delivered for every kwacha spent. Compounding this has been the long-nurtured practice of exclusivity which, though different product offerings by retail subscription audiovisual services, has largely contributed to (i) possible market foreclosure and (ii) consumers being subjected to high prices for bouquet carrying such premium exclusive content that is premium acquired at huge costs which are then passed to consumers.

339. The growth of the Zambian audiovisual sector has been without adequate policy support and funding despite the potential for the sector to contribute to job creation and to the economy. Projections, on a global scale point to sector expansion with capacity to reach $325 billion in 2024 while Africa's film and audiovisual industries has a potential to create over 20 million jobs and contribute $20 billion to the continent's combined Gross Domestic Product. It appears Zambia may not be part of the contributions due to what appears to be uncoordinated and a lack of deliberate curriculum and schooling in Zambia that teaches learners the various skills involved in the production of audiovisual content such as acting, screenplay, directing, sound technician, cinematographers,

producers and later, profit out of it. Although the Digital Migration Policy has clear intentions of the sector, the intentions have not thus far been actualised wither through regulatory framework and specific policies as well as resource allocations.

Recommendations

340. Based on the conclusions of the inquiry, the Technical Committee makes the following recommendations :

Issue	**Concern**	**Recommendation**	**Expected Impact**	**Key Actors for Implementation**
Digital Migration Policy	The Digital Migration Policy largely focuses on DTT to the exclusion of DTH and OTT in turn creating a gap in Government position with regards to the growth of the audiovisual delivery space	Revise the Digital Migration Policy to create an all-encompassing policy position	Coordinated approach to audiovisual space to attract appropriate interventions and investments	MCTI, MoIM
	The migration process has not only made it difficult for broadcasters to on-board their channels, but the process is costly and unsustainable especially for non-commercial broadcasters.	Provide for a legal framework to support the digital broadcasting space in order to create a structured and fair sector	Growth of the sector and enhanced consumer protection	MoIM/IBA
Convoluted signal distribution and	Despite the DMPs intention to separate signal distribution and content provisions, the current set up has enabled indirect	Revise the DMP to provide clear delineations and support the process through a legal instrument to ensure a firewall	Eliminate potential market foreclosure and abusive conduct and encourage the growth of the content	MCTI, MoIM

Content Provision Space	participation in both segments of the market by some players through their related companies	between signal distributors and content service providers	provision sector for job creation and contribution to GDP	
Signal Distribution	Seemingly limited capacity in deployed infrastructure and spectrum capacity has a potential to hinder the growth of the audiovisual sector in Zambia	Signal distributors should be evaluated to ensure universal coverage as provided for in the DMP. In the alternative, at the expiry of current licenses, conditions for licensing must include demonstrable capacity to invest in universal coverage and ability to support an expanded sector to enable content service providers establish independent bouquets separate from the current arrangement	Encourage content creation, increase returns for content service providers and encourage entry into the sector. These have the potential to spur growth and contribute to job creation	ZICTA MoTS MCTI
Access to Free to Air content	Is it unclear what constitutes free to air content and consumers have no access to channels offered by ZNBC ZNBC obligated to provide universal access	The regulator must ensure that the character of the 5 mandated FTA content in the DMP is defined and appropriate mechanisms are put in place for consumers to access FTA for free	This will create competition and serve to provide a price capping mechanism for retail subscription audiovisual content providers	IBA
Revenue sharing	Despite content from Zambia content providers being access by consumers	Establish appropriate mechanisms for revenue sharing to ensure that content	Unlock revenue streams for content services providers for increased contribution	CCPC/IBA

	through a subscription platform, such content providers are not rewarded for their content	service providers are not subjected to unfair trading practices	to the economy and to job creation	
Consumer protection	Consumers have been subjected to perceived high prices, repeat content and poor programming	The Independent Broadcasting Authority should institute investigations based on the findings to establish appropriate legal interventions	Establish appropriate programming commensurate with pricing in the sector for the benefit of consumers	IBA
Exclusivity	Exclusive access to premium content has the potential to foreclose the market, stifle growth and subject consumers to high content prices	All current exclusive contracts must be notified with the Commission subject to section 14 of the Act. In turn, the Commission should take appropriate action to ensure that outcome of the review promotes market access, growth and serves the interest of a broad scope of stakeholders	Encourage uptake of exclusive content by other audiovisual providers and increase consumer choice to strengthen competition	CCPC
Signal distribution market	Highly concentrated Signal Distribution Market which has caused unfair competition amongst broadcasting entities to try and negotiate with signal	Regulation to provide for pricing review of approval of conditions of on boarding	This will provide a nondiscriminatory on-board process that is price fairly in order to promote the content provision sector	**IBA**

	distributors to carry their channels.			
Pricing	Consumers are not getting value for money from subscriptions they are made to pay for tv bouquets because of repeat content of programs.	Subscription adjustments must be subjected to regulatory review and approval in order to protect consumers	Fair pricing of pay television will benefit consumers who have for long complained of costs that are not commensurate with quality of content	IBA
Program Repetition	Repetitions of programs that has reduced the value that consumers derived from the content for linear programs	Regulations to provide the minimum number of repeats of programs	Value for consumers	IBA