



THE STATE OF THE MEDIA REPORT.

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State of the Media
-Topical Analysis-

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Executive Summary

The State of the Media-topical study is an in-depth presentation of selected issues affecting the media's operating environment in a given period. This edition covers the period January-June and highlights various issues that had potential to affect the role of the media in the period under review.

The rationale of the study is the nexus between a good operating environment for the media and the facilitation of democratic governance, access to information and freedom of expression.

On the Access to Information Bill, the study concludes that there has not been any meaningful progress evidenced by the promissory notes given by government, as well as indication of undertaking nationwide consultations which will further stall the enactment of the Bill. It is clear that the culture of promises and stalling with regard to the Bill (as evidenced by a list of promises adduced from 2011 to date) is still rife and may be a norm under the *New dawn* administration if no clear roadmap and commitment is given.

With regard to media regulation, the study holds that there is a level of consensus on the need for regulation of the practice of journalism given the lack of professionalism and mushrooming of impersonators among many other reasons. There is, however, a need to review the process of enactment of the Bill to ensure it is fully representative and does not usher in an era of statutory regulation given the lack of a clear regulatory philosophy, evidenced by the misnomer "statutory-self regulation" which has been the mantra of the Bill. Further, there are concerns on the possibility of regulating a stifled profession. This is evidenced by the withdrawal of some stakeholders from the process, including apprehensions on the content of the Bill by other stakeholders.

Other topics considered include the Cybercrimes and Cyber Security Act which remains an issue of concern given its various provisions that have instilled fear in media practitioners as they frequently conduct their work within the bounds of several offenses defined by the Act. This can be noted

through fear of the Act among media practitioners, leading to self-censorship as they are prone to discretionary interception and surveillance under the Act.

The study also undertakes a brief review of the socio-political front where there was no recorded incident of violence against journalists, a stark comparison to previous quarters in which several attacks (sometimes grievous) were noted. During the period under review, there was an instance of interference at Kasempa FM Radio by a civic leader, a case of concern given the potential to instil self-censorship. Notable, also, was the high political will and commitment towards media freedom by the Head of State, President Hakainde Hichilema who officiated at the National media Indaba which was part of the World Press Freedom Day Commemoration activities.

Finally, on the economic front, a positive picture was noted in terms of the key economic variables during the period under review. However, these gains have not trickled down to the media sector which continues to grapple with the impact of the 2020-2021 COVID pandemic era and fluctuation of fuel prices among other factors. As such, this lack of a trickle down continues to threaten the operations of the media.

Overall, the State of the Media in the period under review did not post significant developments (save the political and economic fronts) when compared to the trends in the fourth quarter, 2021 State of the Media.

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1.0. Introduction

The news media are expected to fulfil certain quintessential functions in a representative democracy¹. Firstly, the media are expected to contribute to pluralistic competition by acting as a civic forum for debate. This entails the media providing extensive coverage of news about politics and government as well as providing a platform (equal and proportional) for a wide plurality of political parties, pressure groups and several other actors.

Secondly, the news media are expected to promote conditions for public participation, acting as mobilising agents and in so doing encouraging political learning, interest and participation. The media, in this regard, should stimulate general interest in public affairs as well as encourage citizens to learn about public affairs and political life. The media are also expected to facilitate and encourage civic engagement with the political (and governance) process. It is, therefore, critical for the media to perform their duties professionally in a conducive environment of freedom.

As such, this topical study is a collection and analysis of trends in the application of media freedom as an extension and facilitator of the freedom of expression guaranteed in Article 20 of the Zambian Constitution.

The study details selected topical issues with the potential to affect media freedom whether positively or negatively. The study also highlights events, occurrences and pronouncements of importance in the period observed for advocacy, lobbying and contribution to policy formulation.

The rationale of this topical study is based on the corollary between media performance of certain cardinal functions (in a given environment) and democratic governance. However, the media are affected by various trends and developments that could undermine or enhance their performance such as access to information, regulation, internet freedom, socio-political and economic factors, among others.

¹ According to Norris, P. (2000). *A virtuous circle: political communications in post-industrial societies*. New York Cambridge University Press.

Thus, the study is divided into three major sections: one detailing topical issues of focus in the period under review and another giving a brief highlight of trends and their potential impact on media performance.

The objectives of the study are to:

- Assess issues that have the potential to affect access to information, media regulation and internet freedom
- Report trends in the socio-political, legal and economic environment
- Identify remedies for effects of negative development noted in the period under review

2.0. Design

The study is a highlight of observations regarding selected topical issues and thus, took a general, exploratory approach. In conducting the topical analysis, a desk review of various materials pertaining to freedom of expression and the media was undertaken. This was augmented by a review of media publications (electronic, print and online) as well as MISA media violation alerts to establish the common themes.

The analysis also relied on a focus group discussion (in Kabwe, Central Zambia) which comprised purposely selected journalists on the basis of their knowledge and experience. The district was chosen for its ease of access, cosmopolitan nature of media outlets as well as varied demographics of practitioners. The FGD helped to gather rich, in-depth, narrative explanations of some of the phenomena noted.

Finally, the analysis was also drawn from submissions by journalists at a MISA media engagement Conference ahead of the third African Union Summit.

3.0. Summary-Focused Group Discussions/submissions

3.1. Access to Information

Most of the discussants bemoaned the lack of a law on Access to Information (ATI) and its effect on the practise of journalism in Zambia. The discussants noted the protracted campaign for a law on ATI and the continued impact it had on their need for information to support investigative stories in certain instances. Discussants stated that in some instances, they access public documents and information by relying on the good will of those in public offices while others stated that they sometimes have to use 'check book journalism' to access public information from government sources. The discussants also observed the unnecessary delays in accessing information from Ministries and other spending agencies as they are often referred to the Permanent Secretaries who are not usually forthcoming. As a result, they noted that stories are sometimes published without balance.

3.2. Media operating environment

Discussants generally described the media's operating environment as free, especially in comparison to the same period in the previous year where several facts of hostility against the media, including political violence, were recorded, thereby creating an environment of suppression/fear. The discussants noted that during the period under review, government officials and sources were easily accessible while good will was shown from the office of the President with regard to safeguarding the media's operating environment. Some of the discussants, however, noted the lack of professionalism from some media practitioners as a threat to the continued free operating environment. They noted the influx of individuals masquerading as journalists and the lack of adequate research by some journalists as threats to the operating environment. They also noted the continued practice of intimidation mainly from Police officers at special events despite certain interventions to improve relations between police and the media, a cause for concern, stating that it inhibited their ability to effectively interact with sources at such events.

3.3. Financial independence

In terms of the economic environment, discussants indicated that there had been a deterioration in the media's financial independence despite improvements in some economic variables-that there had not been a trickle-down effect. The discussants noted that during the period there was a continuation (and possible worsening) of the trends of low salaries for media practitioners, lack of resources to conduct news gathering as well as over reliance on news sources for financial support, which had become a trend. They noted that despite these factors, the news judgement of practitioners was not affected as they were still able to collect news objectively. Some discussants, however noted that the dire economic environment for journalists had potential to compromise their work. Discussants noted that during the period under review, journalists stopped providing coverage/attending events/briefings for news sources (mostly government officials) deemed as "stingy" or where monetary gratification was not provided. The discussants further identified negative effects from the fluctuation in fuel prices owing to the monthly adjustment by the Energy Regulation Board.

3.4. Legal environment/Media Regulation

Discussants noted that there had not been any significant development in the legal environment, despite several hopes of enactment of a law on Access to Information as well as media regulation during the period under review. The discussants noted that the lack of any meaningful developments in the legal sector for journalists was disappointing.

The discussants also noted the need for media regulation given several observations such as mushrooming of several online news publications, lack of minimum wage and conditions for journalists as well as lack of clear protection for media practitioners from arbitrary legal provisions. Discussants, however, bemoaned the lack of clear consensus on media regulation, evidenced by the pulling out of certain media bodies from the group spearheading the process. They also noted that the Bill was not fully representative of the needs of media practitioners as the process of consultation was not as wide as expected.

3.5. Cyber Crimes and Cyber Security Act

Discussants noted the Cyber Security and Cyber Crimes Act as being topical with regard to media freedom online, particularly in the process of gathering news from sources. The participants noted that the provisions of the Act has instilled fear in media practitioners as they feel they are monitored by authorities in the course of their duties. As such, this has created a sense of self-censorship for media practitioners, especially when interacting with sensitive or politically exposed sources. Other discussants, however, stated that the Act was positive as it was necessary for the regulation of several vices and offences perpetuated by unscrupulous individuals online, including those masquerading as journalists.

4.0. Discussion/Analysis

4.1. Access to Information

Media practitioners are a critical sector of society affected by the lack of a law on Access to Information, thereby inhibiting their ability to produce quality investigative/in-depth news.

Public information (and documents) are essential for the media to fulfil their function as ‘watchdogs’ of society, in which they are expected to hold government (leaders) accountable on behalf of the citizenry. According to a handbook for Southern Africa by Limpitlaw (2012:37), it is generally held that public bodies hold information as custodians of the public good and as such everyone has the right of access to information held by public bodies. It is for this reason that implicit in the provision on freedom of expression in Article 20 of the Zambian Constitution is access to information². It is, therefore, no wonder that the lack of an ATI law presents limitations on the work of journalists.

During the period under review, no progress was recorded and this is not a surprise as it is reminiscent of the Bill’s twenty-year old journey since it was first mooted in 2002. The journey has been filled with several promises of

² See <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/26620/90492/F735047973/ZMB26620.pdf>

enactment by successive governments, with several retrogressions and stalling to date.

This is even more critical as enactment of a law on Access to Information is one of the UPND's electoral promises contained in the party's manifesto (2021-2026)³. The party's electoral promises on corruption eradication included the making available of unclassified public records for public scrutiny, which would be, in essence, hinged on access to information legislation. However, during the period under review, the access to information Bill did not see the light of day while government indicated plans to embark on a nationwide consultative process⁴, adding to various excuses made by previous regimes⁵. Ironically, the Bill was first withdrawn twenty

³<https://static1.squarespace.com/static/607ecab103ab20228defa27d/t/6093f07e5281d054decacc79/1620308100501/UPND+MANIFESTO.pdf>

⁴ <https://www.znbc.co.zm/news/ati-bill-to-be-taken-countrywide/>

⁵ An early account of the struggle for the ATI Bill is contained in Matibini, P. (2006). The struggle for media law reforms in Zambia. Lusaka: MISA. **Selected pronouncements include:** *In October, 2011*, for example, Vice-President, Dr Guy Scott announced that government would enact the ATI (then Freedom of Information) Bill within ninety days. *In 2013*, then Minister of Information and Broadcasting Mwansa Kapeya disclosed that government had hired a consulting law firm to harmonise the Access to Information (ATI) Bill with other pieces of legislation that may have implications on the Act once it is passed. Mr. Kapeya said the consulting law firm had been given 30 days and that once this was done the Bill would be taken to parliament for enactment. See <https://www.lusakatimes.com/2013/11/01/government-hires-a-consulting-law-firm-to-work-on-access-information-bill/>. *On February 12, 2015*, the Minister of Information and broadcasting informed the nation that he would ensure the ATI bill was tabled in Parliament when the house resumed sitting on February 24th, 2015 (the session adjourned sine die on March 27th, 2015 without the bill being presented still). At a press briefing on *March 2nd, 2015*, the Minister announced that the ATI bill was submitted to the Attorney General's Office for clearance pending presentation to Parliament. See <https://ifex.org/zambian-government-must-move-ahead-with-access-to-information-bill/>. *In May, 2016*, then Minister of information and Broadcasting announced that a committee of Cabinet Ministers would sit to deliberate on the contents of the ATI Bill in preparation for its enactment. See <http://www.daily-mail.co.zm/ministers-to-discuss-information-bill/>. *In March, 2019*, Minister of Information and Broadcasting, Dora Siliya, announced that cabinet had approved the Access to Information Bill, describing the decision as a 'new beginning'. See <https://www.lusakatimes.com/2019/03/19/cabinet-approves-access-to-information-bill/>. *In September, 2021*, Minister of Information and Media, Chushi Kasanda said government would move 'with speed' to ensure the ATI Bill was enacted into law. See <https://diggers.news/local/2021/09/16/well-move-with-speed-to-enact-access-to-information-bill-kasanda/>. *In November, 2021*, Information Minister, Chushi Kasanda said the process to enact the ATI Bill was underway. <https://www.znbc.co.zm/news/access-to-information-bill-underway-kasanda/>. *In May, 2022*, Information and Media Minister Chushi Kasanda said 'tremendous' progress towards the enactment of the Access to Information -ATI Bill had been made. Ms Kasanda said consultations of incorporating the views of stakeholders into the Draft ATI Bill had been concluded. She also stated that soon after coming into office, the New Dawn Government recalled the ATI Bill from the Ministry of Justice and circulated it to stakeholders so that they could have an input in its formulation. The Minister said the bill was being finalised in readiness for re-submission to the Ministry of Justice. See <https://www.znbc.co.zm/news/progress-made-on-ati-bill-kasanda/>. Other promises and excuses can be viewed

years ago to allow for ‘wider consultations’ with the public. The Bill has previously been considered by Cabinet, nearly presented to parliament, with several deadlines given for the enactment, all in vain⁶.

Several consultative processes, reviews and harmonisation of the ATI draft Bill have been undertaken over the past twenty years. It was against this backdrop that in April, 2021, before its dissolution, Parliament unanimously adopted a report of the Committee on Media, Information and Communication Technologies, which recommended for the fast-tracking of the process to enact a law on Access to Information in view of its benefits for the citizenry and potential to enhance investigative reporting in Zambia.

This is, indeed, true and corroborates with some of the sentiments by discussants in the Focus Group Discussion. One of the discussants, a practising journalist, stated that:

Lack of a law on ATI has led to institutions practicing chequebook journalism whereby people start buying sources from or within the institution so that they are given the information they need which is not a good practice.

Another participant, also a practising journalist, stated:

Access to information is very important; in the sense that it helps us share news to the masses. For instance, if one wants to retrieve sensitive information from the Ministry of Health on COVID-19, you find that instead of getting that kind of story that you needed you will be referred to [name withheld] or the people in charge in Lusaka. It gets difficult sometimes; therefore, if the Bill could be enacted into law, it would be easier for us to get information from the Ministry of Health

Most of the submissions from journalists at the MISA forum also pointed to the difficulty of access to public information for their news. The journalists indicated that they sometimes have to publish imbalanced stories as a result or in certain cases they are unable to conduct investigative journalism.

Access to information legislation allows for transparency and citizen participation in the governance processes, thereby fostering an informed

at <https://www.lusakatimes.com/2013/09/27/a-recap-on-excuses-given-by-government-on-the-access-to-information-bill-since-2011/>

⁶ See <https://www.lusakatimes.com/2013/09/27/a-recap-on-excuses-given-by-government-on-the-access-to-information-bill-since-2011/>

citizenry. Such a law would further help to create standards and obligations with regard to integrity of information, thereby reducing vices like corruption, which flourish in an environment of secrecy. It is, thus, important that the enactment of the Access to Information Bill is reconsidered a priority. Further, content of the Bill which is already under consideration by government must be made public as it is a people's document.

It is no wonder, then, that during the period under review some stakeholders expressed reservations on government's plans to conduct nationwide consultation on the Bill, stating that any such move would merely delay the process of enacting the Bill as sufficient consultation had been undertaken in the twenty-one years of the Bill's existence⁷.

Globally, close to 135 countries have enacted ATI laws, including at least eighteen in Africa, among them Kenya, Tunisia, Malawi, Ghana, Tanzania, Angola and Zimbabwe, to mention a few⁸.

4.2. Media regulation

With regard to media regulation, there appears to be agreement on the need for regulation of the media sector in view of the vices observed. Among those vices is the influx of untrained individuals masquerading as journalists, the low wages and lack of protection as well as the lack of professionalism.

As noted by most discussants, and from the materials reviewed, Media regulation has been a need for a long time in Zambia, evidenced by the number of censures on professional misconduct by media houses as well as infringements against the rights of journalists.

For example, one FGD discussant, a practising journalist stated:

Despite the process and all that is going on, I feel media regulation is important in Zambia. There are times I feel embarrassed to be a journalist

⁷ <https://www.lusakatimes.com/2022/03/29/governments-plan-to-take-the-access-to-information-bill-to-10-provinces-for-fine-tuning-opposed/>

⁸ A full list of the 135 countries with ATI legislation and the corresponding Global Right to information Rating can be viewed at <https://www.rti-rating.org/country-data/>

because of the mediocrity I see. Therefore, we need regulation in order to sanitize our profession.

It is worth noting that journalists in Zambia do not have any formal recognition, save the implicit provision in Article 20 (2) of the Zambian Constitution which states that “Subject to the provisions of this Constitution no law shall make any provision that derogates from freedom of the press”. This, however, does not define the press (and journalists), the privileges and protection they enjoy as well as their corresponding responsibilities, thereby leaving them at the mercy of the many derogations promulgated by the same Article and made more explicit by various provisions in subsidiary laws such as the Penal Code, among others.

It has been noted severally that the proposed “statutory self-regulation of the media” as encapsulated in the current Zambia Media Ethics Council Bill is a misnomer. This is because there exist three broad categories of regulation i.e. Self-regulation, statutory regulation and co-regulation.

Self-regulation, by its very nomenclature, is a voluntary process without any coercion or involvement of statutory authorities. Media houses voluntarily come together to agree on standards as well as corrective action to be taken when such standards are breached by those who choose to ascribe. This form of regulation has been pursued in Zambia through the initial Media Ethics Council of Zambia (MECOZ), later succeeded by the Zambia Media Ethics Council (ZAMEC) which remained defunct mainly due to funding challenges.

Statutory regulation on the other hand, is mandatory regulation which is passed by a government and is enforceable by law. It is coercive, includes licensing and may carry punitive sanctions, including imprisonment. It is usually seen to be suppressive to media freedom and the freedom of expression, taking away the independence of media practitioners especially in a country with authoritarian tendencies. This was once mooted by President Kenneth Kaunda in the early 1980s in what is now the infamous 1980 Press Council Bill⁹ and later intimated in the mid-years of the Chiluba regime¹⁰.

⁹ <https://journals.sagepub.com/doi/pdf/10.1080/03064229108535124>

¹⁰ <http://dspace.unza.zm/bitstream/handle/123456789/1004/main%20doc.pdf?sequence=2&isAllowed=y>

This has severally been rejected as a form of media regulation in Zambia as chronicled by Ndawana, Knowles and Vaughan (2021)¹¹.

Co-regulation on the other hand is a hybrid of the two preceding forms of media regulation. In co-regulation, media practitioners and stakeholders come together to agree on standards as well as other industry benchmarks. They (practitioners) determine the content of the regulatory instrument to be used and government only comes in to facilitate the enactment of the Bill and other supporting processes without altering the contents of the Bill (and Code of Ethics) promulgated by the media practitioners. The process is also couched in a strongly protected framework as a safeguard.

While these are broad models, minor variations do exist; it is, therefore, important to ensure the process is in line with generally accepted standards to avoid instituting Statutory Regulation couched in a misnomer of “statutory-self regulation”, as noted by some of the discussants and practitioners surveyed. ‘Statutory-Self regulation’ is, thus, simply statutory regulation with a semblance or “smoke screen” of independence when in fact not.

Ideal media regulation must be based on certain principles for it to contribute to media development. Firstly, media regulation must contribute to freedom of the press and other media. This should be done by ensuring that the provisions of a law on media regulation abide by international instruments such as Article 10 (2) of the African Principles of Freedom of Expression Declaration¹² which holds that the right to express oneself through the media by practising journalism shall not be subject to undue restrictions. Other international instruments of relevance include the African Democracy Charter, the Windhoek Declaration and the SADC Protocol.

Secondly, media regulation must guarantee independence which means being free from governmental, political and economic control or commercial interference. As such, media regulation must not only focus on freedom from

¹¹ <https://www.tandfonline.com/doi/full/10.1080/23743670.2021.1939749>

¹²

https://www.achpr.org/public/Document/file/English/Declaration%20of%20Principles%20on%20Freedom%20of%20Expression_ENG_2019.pdf

the government but must also address the effect of commercial interests. Independence in media regulation could also include protection of media established by public authorities.

Thirdly, media regulation must encourage diversity and pluralism. Media regulation laws must not inhibit the growth of media but instead encourage development and pluralism of media outlets.

Fourth, media regulation must address the need for professionalism. This could be tackled through specialist training or strengthening of the community and associative aspects of the profession.

Fifth, media regulation laws must provide for high standards of transparency and accountability. This essentially entails freedom from interference by authorities in the codes of conduct as well as allowing due process when journalists are found on the wrong side of the law.

It is, perhaps, for this reason that some of the practitioners have described the content as not being fully representative of the aspirations of the media fraternity with the danger of ushering in a regime of statutory regulation. Likewise, during the period under review, some stakeholders, among them the Media Institute of Southern Africa (MISA) and BBC Media Action therefore announced through the media that they would support a pure self-regulatory mechanism that allows media houses and practitioners to take the lead in setting up their own media regulatory mechanism.

The two indicated that they had not withdrawn from supporting the setup of a self-regulation mechanism for the media sector in Zambia but would not support the proposals under the current ZAMEC Bill with the current detrimental clauses and the targeted punitive measures to individual journalists. The two organisations said they would support a purely self-regulation mechanism and stood ready to work with anyone wishing to set up a purely self-regulation mechanism which would help guarantee a good, sustainable, professional media sector in Zambia where reporters and

journalists can do their job to a high editorial standard without unnecessary restrictions and fear of sanctions and censorship.

Others, like the Media Owners Association of Zambia issued the following:

‘.....The media owners believe that media self-regulation must be carried to the latter and in word without cosmetics. Therefore, we are not surprised that the Media Institute of Southern Africa (MISA) Zambia and BBC Media Action have taken this path of leaving the technical working group.

Without MISA Zambia and the BBC Media Action in the technical working group, we wonder who the Media Liaison Committee (MLC) is representing in the media self-regulation process in Zambia.

What we understand is that the Media Liaison Committee was an organizing committee for the World Press Day drawn from various media houses and representatives were supposed to rotate each successive year, based on nominations from media owners.

Therefore, the permanent leadership representative in the Media Liaison Committee has left the group without true membership from media owners and workers. This is the reason Media Owners rarely participate in the Media Liaison Committee meetings.

We therefore wonder which media organizations are represented by the MLC and from which body they draw the mandate to represent the media in Zambia, if the media owners and or their media houses are neither involved nor privy to the said Committee.

As media owners, we are opposed to the final draft of the Zambia Media Council Bill which the Media Liaison Committee has resubmitted to the Ministry of Information and Media to be taken to Parliament.

This is because we have noticed a number of clauses that are detrimental to the development of the media space in Zambia, and if left unchecked, we may find ourselves creating a monster that will create problems for the media in Zambia.

We believe, like lawyers and medical doctors, media personnel cannot be subjected to punishment by people who know little about the profession through an Act of Parliament.

As major stakeholders in the media landscape, we would like to engage with the Ministry of Information and Media (MIM) and the Ministry of Justice on media self-regulation and the current dangers in the final draft of the Zambia Media Council Bill.

The Media owners want an ideal self-regulation mechanism which will protect the profession rather than drive fear in the journalists and other workers whose job is to inform, entertain and educate the public.

In this world where democracies are promoting freedom of speech, it will be a sad day to subject free thinkers to laws which threaten their standing because of jail time and other practices which limit their public participation.

We are inviting the media personnel, cooperating partners, and Government to support the new path which we wish to take in coming up with a truly independent Self-Regulation mechanism.

To this effect, a position paper is being prepared to be submitted to the relevant bodies¹³.

Similarly, one of the FGD discussants noted that:

The type of regulation we need is co-regulation; where there is the government, general public and media. We cannot only have dual-regulation because our client's voices are also important; therefore we need the general public because they also tell us our behaviors, attitudes and issues. Self-regulation is not entirely possible, because already as the media we have failed to manage ourselves; so we need the general public to manage us but not in an authoritative way.

With regard to the current withdrawal from the process by some stakeholders and the prospects of the Bill succeeding, one FGD discussant observed that:

The enactment of the Bill may succeed, except the stage that it is at where some bodies are pulling out is a source of concern. It may be passed but it might not have the support of the owners-us the media practitioners

Another notable issue with the proposed “statutory-self regulation” of the media is the current harsh legal environment which has a cocktail of legal provisions that are arbitrary and inimical to the freedom of the press¹⁴. Further, and as stated in the preamble on media regulation above, there exists very weak protection of media practitioners, who have continued to face various vices such as political violence and intimidation as well as arbitrary arrests. As such, caution must be exercised in introducing further statutory regulations with punitive sanctions that will exacerbate the already grave situation. This could, in essence, lead to a situation of regulating an already “suppressed” profession.

¹³ See <https://www.lusakatimes.com/2022/06/16/media-liaison-committee-expresses-shock-at-the-rejection-of-the-draft-bill/>

¹⁴ In 1999, a report on necessary media law reforms was released in what is now famously called the ‘Sangwa Report’. See https://issuu.com/misa_zambia_publications/docs/sangwa-report-on-law-reform. Several reports and listings of laws in the Constitution and other statutes have been produced, while several journalists have been arrested and arbitrarily charged under some of the identified laws. The laws include Defamation of the President, Sedition, State Security and secrecy provisions, laws on Obscenity and the Cyber Crime and Cyber Security Act, among others.

Alternatively, self-regulation protects the right of journalists to be independent and impartial, and to be judged for professional mistakes, not by those in power but by their colleagues. It aims at establishing minimum standards on accuracy, professional ethics, protection of privacy and other personal rights, preserving editorial freedom and freedom of speech, as well as a diversity of points of view and opinions¹⁵.

Based on this, the proposal for jail terms and hefty fines in any self-regulation mechanism leaves rooms for media control (instead of accountability) and are not very different from other existing laws that regulate publication of news and information, with already existing jail terms and financial punitive measures which at times have had crippling financial stress on the media in Zambia.

From the submissions made by the journalists, it still holds that media regulation should proceed if the profession is to be salvaged. However, various concerns still remain on the representativeness of the contents of the Bill as well as the independence of the process that will be used to enact it. This call must be weighed against existing harsh laws that already carry jail terms and financial punitive measures as these decisions are being explored to promote professionalism in the media.

4.3. Cyber Crime and Cyber Security Act

Another notable issue arising from the literature reviewed as well as the FGD is that of threats to freedom of the media online, and, more specifically the Cyber Crimes and Cyber Security Act of 2021.

The Cybersecurity and Cybercrimes Act No. 2 of 2021¹⁶ seeks to provide for the protection of persons against cybercrime, provide for child online

¹⁵ According to a 2018 UNESCO Professional Journalism Self-Regulation and New Media, Old Dilemmas in South East Europe and Turkey. Available at <https://unesdoc.unesco.org/ark:/48223/pf0000190810>

¹⁶ Available at <http://www.parliament.gov.zm/node/8832>. Shortly after its enactment, the Act was challenged By five Civil Society Organisations in a High Court petition for a declaration that various provisions of the Cyber Security and Cyber Crimes Act be declared unconstitutional and struck off the statute books. The five organisations include Alliance for Community Action, Bloggers of Zambia, Chapter One Foundation, GEARS Initiative Zambia and Peoples' Action for Accountability and Good Governance in Zambia. The matter remains active.

protection and the identification, declaration and protection of critical information infrastructure, inter alia.

As noted by some discussants, and rightly so, the Act has certain progressive provisions which could strengthen the regime against cybercrimes which are on the rise. Prior to the CCA, the legal regime against cybercrime was anchored on the Electronic Communications and Transactions (ECT) Act No. 21 of 2009 and the ICT Act No. 15 of 2009. The two Acts were not as effective given certain limitations posed by rapid advancements in technology as well as the challenges regarding admissibility of electronic evidence for effective prosecution of certain cyber or digital crimes. The CCA was, thus, an attempt to cure this challenge identified in the implementation of the two precursor laws.

However, the 2021 Act has an expanded scope with various provisions which provide remedies beyond the legal ailments identified above. This is against the backdrop of the current legal regime which has several laws that are inimical to freedom of expression as indicated in the discussion on media regulation in the preceding section. As can be noted from sentiments in the Focus Group Discussion, the Cyber Security and cyber-crimes Act in its totality threatens freedom of the media given some excessive provisions which could allow for arbitrary application or targeting of critical individuals as well as undermining investigative journalism. This could in turn create a chilling effect.

For example, an FGD discussant stated that:

The Cybercrimes and Cyber Security Act has affected us as the media personnel; sometimes when dealing with a client face to face, there is a sense of confidentiality one needs to have but if you decide to use a gadget, this means there is a breach. Mostly when conducting interviews with these gadgets we are somehow compromised.

Another discussant noted that:

It is a two-way thing. It somehow is a good move because of the fact that we have a lot of citizen journalism going on and some of it is unprofessional where people will capture without finding out what happened; it is beginning to diminish the actual professionalism of our job. Putting laws and regulations

helps; also, it impacts negatively on the democracy; people are afraid to speak out.

Majority of the submissions from journalists indicated that the Act has instilled fear in journalists whenever they conduct work online.

It is this chilling effect that could have led to many of the respondents affirming that the CCA has instilled fear and self-censorship as the media practitioners feel they are under constant surveillance, given that much of their daily work involves the use of an “information system”, “computer system” and “critical information infrastructure” through offenses identified in the Act may be committed.

Sections of the CCA posing possible challenges to freedom of expression (and the media) are itemised as follows:

SECTION	SPIRIT/SUMMARY	DANGER
3	Subject to the Constitution, where there is an inconsistency between the provisions of this Act and the provisions of any other written law relating to the regulation of cyber security, cybercrimes and digital forensics, the provisions of this Act shall prevail to the extent of the inconsistency.	Generally, this could water down safeguards in other progressive laws such as the Public Interest Disclosure Act; any law must be “reasonably justifiable” in a democracy (especially in relation to freedom of expression) and this is the underlying principle
9, 11	Grants a cyber inspector power to inspect and search a “computer system” or information system, facilities or even persons on such premises as well as make such necessary copies of any relevant data	While obtaining a warrant is included as a safeguard, the generality of “computer or information system” will include even simple media systems qualify as computer systems which input, output, process and store data and information. This could make certain media houses/individuals targets of unnecessary searches given

		the challenges authorities have had previously in obtaining sufficient grounds to enter and collect material from media houses, for example. This is further watered down by Section 29 discussed below which allows search without warrant, based on reasonable suspicion
14	Empowers Minister of Communication to make special regulations or directives compelling any person/organisation identified in the regulations to take certain measures for the purpose of preventing or countering a threat	The list of which areas could be affected by a “threat” is too general and prone to abuse. For example “national security and defence”, “economy” are too open ended and prone to arbitrary application; “public order” as has been the case previously is equally too vague and could be used to suppress individuals or organisations deemed to be critical on online spaces.
15 (4)	Criminalises failure to produce a record or document required by a cyber inspector in the process of investigations	Provides additional means for authorities to obtain documents and records from targeted individuals “in the process of investigation”. This could be used to obtain confidential information/sources from investigative journalists, for example without need for a warrant. A fine and/or two-year imprisonment are a threat enough.
29	Interception of communication to prevent bodily harm, loss of life or damage to property	Interception of communication without a warrant may be prone to abuse by the authorities to target critical voices. While provision is made to account to a Judge after the interception is completed, the grounds on which the reasonable suspicion

		rests are too open to arbitrary application e.g. prevention of damage to property or loss of life. Further, due process of accountability and prior review must be considered in order to avoid abuse/unfettered interception and rerouting of private communication.
40	Interception capability of service provider: mandates a service to use equipment capable of being intercepted for easy routing and monitoring as prescribed	May compromise security/privacy of individual communication and may be prone to abuse as the section is open ended and seems open to interpretation on continuous transmission/monitoring of communication
55	Criminalises aiding, abetting, counselling, procurement, inciting or solicitation of another person to commit or conspiring to commit any offence under the Act	This could be used against persons who come into contact with vital information e.g. journalists and their confidential sources; a journalist could be considered to be aiding and abetting/conspiring when they deal with a source who has information that is considered an offense under the Act regardless of public interest nature of the information.
59	Offenses of obscene matters or things including possession of any one or more obscene, drawings, paintings, pictures, images, posters, emblems, photographs, videos or any	Obscenity is subject to moral interpretation and is thus prone to arbitrary application as has been the case previously ¹⁷ . Journalist, in the course of their duty, are likely to possess or inadvertently come into contact with obscene material or be

¹⁷ In 2009, journalist Chansa Kabwe was arrested for alleged circulation of obscene material after she sent pictures of a mother giving birth outside the University teaching Hospital to politicians who included then Vice-President, George Kunda. Ms Kabwela was eventually acquitted. See <https://cpj.org/2009/11/zambian-editor-acquitted-in-hospital-obscenity-cas/>

	other object tending to corrupt morals	cited for circulation even when done in public interest. The Section is too open and vague.
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The law must thus balance its provisions with public interest, for which media practitioners usually conduct their work. Such a principle is in the spirit of widely accepted conventions such as the 2001 Budapest convention on cybercrime¹⁸ which gives protocols on lawful interception among other issues in fighting cybercrime and as well as the 2013 SADC model law on computer crime and cybercrime¹⁹ which sets the standard for cyber security and cybercrime in the Southern Africa Region. Other international provisions worth taking into account in weighing the CCA include the African Union Convention on cybersecurity and personal data protection, more commonly called the Malabo Convention²⁰.

One case in point during the period under review is that of KBN Television whose journalist, Percy Chanda, was warned and cautioned by Police for the publication and airing of a leaked phone conversation allegedly between two identified government officials²¹. The Journalist was initially summoned for questioning under the Cyber Security and Cyber Crimes Act, bringing the fears of most activists to light.

The Minister of Information, Honourable Chushi Kasanda issued the following after the broadcast of the alleged leaked audio²²:

Government is concerned with the unprofessional conduct of some media houses in their reporting. A case in point is KBN Television station which broadcast a private telephone conversation between two senior Government officials without verifying the authenticity of the recording with the people concerned. This is contrary to media professional ethics and conduct, which demands that a journalist ought to verify any information before publishing it.

¹⁸ See <https://www.coe.int/en/web/cybercrime/the-budapest-convention>

¹⁹ Available at <https://www.itu.int/en/ITU-D/Cybersecurity/Documents/SADC%20Model%20Law%20Cybercrime.pdf>

²⁰ Available at <https://au.int/en/treaties/african-union-convention-cyber-security-and-personal-data-protection>

²¹ See <https://cpj.org/2022/02/police-investigate-journalist-petty-chanda-over-leaked-audio-of-government-officials/>

²² As issued on 20th January, 2022. See https://www.facebook.com/permalink.php?story_fbid=238373591807256&id=100069038505521

Government is, therefore, concerned that KBN found itself in conflict with the law on a matter that it could have avoided had it followed basic principles of journalism. The media profession has adequate guidelines which if observed, can protect journalists from misinforming, misleading and infringing upon other people's rights.

It ought to be stressed that, media freedom is not absolute as it comes with responsibility on the part of the media which include verifying information before publishing it, balance, objectivity and accuracy. This is even more crucial now in the wake of social media where people who are not journalists share information, some of which is not true.

Journalists as professionals must guard against falling prey to publishing any information that they collect without verification. The onset of social media has placed higher responsibility on the media never to compromise their ethical and professional conduct. I wish to restate Government's commitment to freedom of the media as this is key in the promotion and preservation of democracy. This can be demonstrated by Government's hands-off approach to the media in which it is promoting media self regulation, editorial independence and access to information.

With these and other reforms that Government is undertaking, the media is assured of freedom in its role of informing, educating and entertaining the public. But in all this, the media is called upon to play its part by being responsible and professional in their work. I also wish to take this opportunity to advise the media to always seek clarification from designated offices on various national matters.

For all Presidential matters, the designated office is that of the Presidential Spokesperson, for all Government issues, the designated office is that of the Chief Government Spokesperson who is also the Minister of Information and Media, and for all party matters the responsible office is that of the Party Spokesperson. This is to ensure a smooth flow of information to the public.

While the ethical justification of the news story remains debatable, it remains as observed by most respondents that journalists interact with sources and publish news stories every day through the use of information systems, computer systems and other information infrastructure which pits them against the offenses promulgated in the Cyber Security and Cyber Crimes Act. As such, journalists need to remain professional at all times and ensure they acquaint themselves with the provisions of the Act as well as possible techniques that can be used to legally circumvent the general offenses provided in the Act. Notable, from the survey respondents (and the FGD), were some practitioners that did not have adequate information on the provisions

of the Act and could thus not indicate whether the Act had affected their work during the period under review.

5.0. Selected Trend Highlights

5.1. Socio-political environment

The socio-political environment was relatively calm with no major developments save a few events of interest that could potentially affect the media's operating environment.

For example, in May, MISA Zambia issued a reprimand against Kasempa Town Council Chairperson for alleged interference in the operations of Kasempa FM Radio, including intimidation of staff at the media outlet. MISA Chairperson, Fr. Dr. Barnabas Simatende issued the following:

MISA Zambia condemns in the strongest terms the continued harassment, interference and intimidation being exerted at Kasempa Radio Station by the Council Chairperson, Mr Brian Kakonkanya.

Such acts are worrying and disturbing especially that they come days after the commemoration of the World Press Freedom Day which was graced by the Head of State.

Mr Kakonkanya's acts are not only an infringement to media freedom but also a cancer to the right to freedom of information and expression. Mr kakonkanya has no power to decide what programme Kasempa Radio Station should air and who should feature on the programme.

We wish to remind the Council Chairperson that he has no authority to control broadcast media in Kasempa because it is a preserve of the Independent Broadcasting Authority – IBA. MISA Zambia is disappointed that despite the positive efforts and commitment from President Hakainde Hichilema towards media freedom and freedom of expression, there are still people within the system that are trying to frustrate the efforts of the President.

We would therefore, like to urge, the President to discipline such public officials and ensure that democratic tenets of media freedom and freedom of expression are respected by all well-meaning Zambians. We are concerned that on a couple of times, Kasempa Town Council Chairperson has issued threats of intimidation and harassment on Kasempa radio station and has further gone on to threaten

closure of the radio station through his authority and connections if the radio station does not transfer or terminate contracts of certain members of staff.

It is very concerning that his threats have not ended at the station but have spilled over to members of the public who participate in the radio programmes. This is against the democratic principles the people of Zambia have agreed to govern themselves by. Our call is that the Council Chairperson desist from harassing the Radio Station.

The reported intimidation of staff and interference in the operations of Kasempa FM Radio makes sad reading. This is because such actions tend to undermine the functions of the press while instilling fear in media practitioners who may not exercise independent judgement for fear of retribution which was previously meted out through political violence.

The Council Chairperson's action is disappointing as the individual involved is a senior public official expected to be at the forefront of protecting the rule of law and implementing government policy, which includes promotion of a pluralistic media environment.

The action is also irresponsible as the Independent Broadcasting Authority is the only institution mandated to regulate media houses in line with laid down procedures and codes of conduct that allow due process. As such, aggrieved members of the public-including politically influential persons must use the complaints procedure laid down by the IBA in the interest of safeguarding the independence of the media. It is, thus, hoped that the relevant authorities will censure the civic leader for his action.

During the period under review, there was no recorded incident²³ of political violence or physical attack on a media house as was the case in past quarters, particularly in 2021 where numerous cases of political violence against media outlets were recorded²⁴. This is a positive development that could contribute to a conducive operating environment for media practitioners. This was also

²³ Officially reported and recorded

²⁴ The MISA Freedom of Expression Report (2022) cites a total of 34 attacks as reported by journalists surveyed across the country. Of the 34, the majority (11) were at the hands of political party cadres and party officials.

noted in the observations by journalists as well as focused group discussions further identifying a marked improvement in the political environment for journalists. One discussant stated that:

The operating environment for the media has really improved. We are coming from a very hostile environment. I was privileged or unfortunate to witness a situation where we covered a political leader [name withheld] and as we interviewed him, muscular cadres attacked us. That was the first time I encountered the hostility of cadres. This year, however, the pronouncements from the Head of State that he wants the media to be liberated and free violence by cadres has helped to do away with cadres who used to harass us journalists and now we operate in an open environment and the fear we had is no longer there. If one is to be afraid then it is self-censorship not the fear of being reprimanded by the government or cadres

Another discussant, also stated:

Politically, things have been okay, the government has provided a platform and we have seen that people are no longer harassed the way it was in the previous regime. Going forward, what we want to see is that we move in tandem with these other officers, the police and military personnel; we need to move together so that they can understand our work and we also understand their work. Most times, they feel like they are more superior to the journalists. Especially when there is a programme where you have to cover the Head of State, they will feel like they are the owners of the President but meanwhile, people just want to get views and to watch what journalists are going to report on

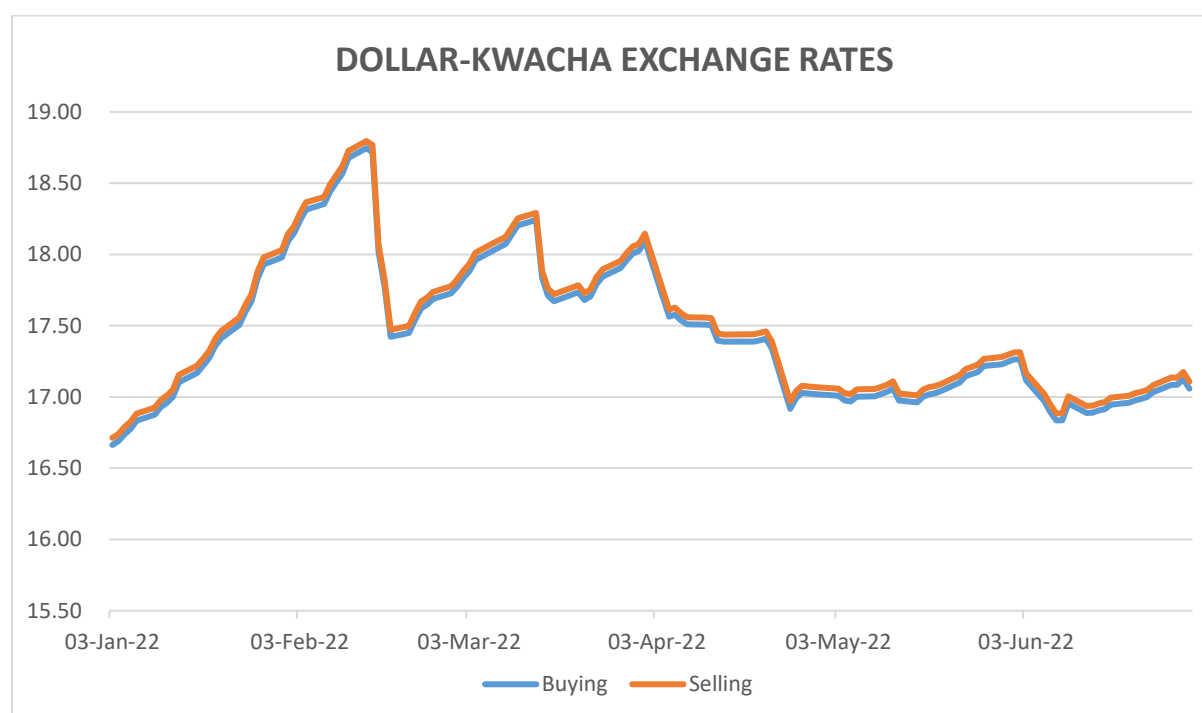
Notable during the period under review was the National Media Indaba held as part of the 2022 World Press Freedom Day commemoration and graced by the Republican President, Mr Hakainde Hichilema. The President made various positive pronouncements including the need for professionalism among journalists and stronger provincial press clubs²⁵. The President also categorically condemned violence against journalists and media outlets, announcing his administration's zero tolerance for the vice and further promising to ensure it is rooted out. The opportunity allowed various journalists and media stakeholders to interact with the President, a show of political will towards the struggle for media reforms.

²⁵ See full story at <https://www.znbc.co.zm/news/hh-challenges-media-to-be-professional/>

5.2. Economic Environment

During the period under review, the economic environment posted some relatively positive gains, a continued improvement from the previous quarters in which a less positive picture was observed.

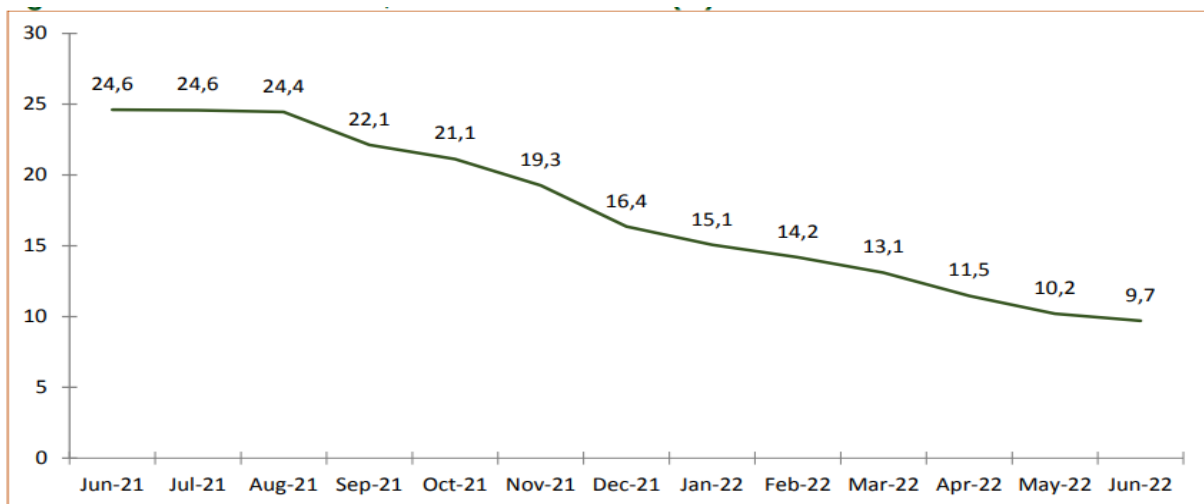
For example, the Kwacha performed fairly well against the Dollar (despite fluctuations), selling at K16.99 for one USD at the end of the period under review on 30th June.



Above: Kwacha-Dollar exchange rates during the period under review²⁶

In like manner, the annual inflation rate posted significant improvement, closing (in June) at a single digit figure of 9.7% from 15.1% in January. The decrease was attributed to favourable price movements in food and non-food items as well as a base effect of both food and non-food items.

²⁶ Based on data in the BOZ Historical Series of daily exchange rates. Data available at <https://www.boz.zm/historical-series-of-daily-zmw-usd-exchange-rates-zmw.htm>



Source: ZamStats
Note: 2009=100

Above: Annual inflation rate-June 2021-June 2022²⁷

According to the Stanbic Purchasing Manager's Index for April, new orders decreased for the first time in eight months during March, albeit only slightly. The fall was linked to a lack of customers and money shortages, leading to a further reduction in output, the fourth in as many months. Further, the rate of overall input price inflation reportedly remained relatively muted, quickening to a seven-month high. The increase in overall input costs was largely said to be driven by higher purchase prices, in turn caused by a combination of currency weakness and rising fuel prices²⁸.

The changes and fluctuation in key economic variables affects the operations of the media both directly and indirectly. Firstly, media houses in Zambia mainly rely on advertising and sponsorship as a source of income. Thus, a drop in orders for various business entities usually entails a reduction in advertisement and sponsorship or meeting of financial obligation by advertisers.

Secondly, media houses rely on various imports for the smooth running of their operations; these include news print as well as other electronic equipment and service subscriptions, among others. A fluctuation or

²⁷ According to the ZAMSTATS Monthly Bulletins, January-June, 2022. Available at <https://www.zamstats.gov.zm/publications/>

²⁸ See <https://www.pmi.spglobal.com/Public/Home/PressRelease/52aa1223f9bd4d09acccef66b4b0ce46>

depreciation of the Kwacha, therefore, entails an increase in the cost of inputs which are usually imported at high cost.

During the period under review, significant increases in the price of fuel were noted, another occurrence that has a notable effect on the operations of news media. This is because news media rely on the use of motorised transport for their journalists to gather news on a daily basis. As such, inconsistent price of fuel (with an upward trend) could have a devastating effect on the cost of gathering news.

	JANUARY	JUNE	DIFFERENCE
Petrol	K19.84	K26.75	K7.35
Low Sulphur Diesel	K18.93	K28.01	K9.08

Above: Fuel prices in February and June²⁹

There was no instance of load shedding as noted in previous quarters, a positive trend that eased media operational costs as noted, also, in the fourth quarter, 2021 *State of the Media Report*. Previously, media houses had to rely on standby generators as well as alternative sources of electricity due to load management by the main power supplier, ZESCO.

As noted by some discussants, however, improvement in some of the economic variables has still not translated into tangible benefits for the media sector, an issue of concern. Most respondents in the survey above described the economic environment in the period under review as “retrogressive” for media practitioners.

It is for this reason, perhaps, that some discussants noted the following:

Most institutions are failing to buy new equipment because had the economy been better, a lot of equipment would have been bought by both public and private media. The cost of equipment has gone up.

Another discussant stated that:

If there are two assignments for instance, one where they are providing transport and refunds and another government assignment without anything

²⁹ As announced by the Energy Regulation Board. See <https://www.erb.org.zm/newsroom>

you find that most journalists will choose the former. We have stopped going for government assignments, only ZANIS is committed. This shows that there is a problem in the economic environment

5.3. Media development

5.3.1. Broadcast Institutions³⁰

COMMUNITY RADIO	68
COMMERCIAL RADIO	73
PUBLIC SERVICE BROADCASTING-RADIO	4
LANDING RIGHTS-RADIO	2
TV (DTT COMMERCIAL)	28
TV (DTT COMMUNITY)	11
PUBLIC SERVICE BROADCASTER	5
SUBSCRIPTION MANAGEMENT SERVICE	6
LANDING RIGHTS BROADCASTING SERVICE-TV	1
TOTAL	198

5.3.2. Major Daily Newspapers³¹

OUTLET	REACH	OTHER EDITIONS	E-PAPER	PRICE
Zambia Daily Mail	Nationwide	Sunday Mail	YES	K10
Times of Zambia	Nationwide	Sunday Times	YES	K10
Daily Nation	Nationwide	-	NO	K10
News Diggers	Selected towns	-	YES	K10
The Mast Newspaper	Selected towns	-	NO	K10

5.3.3. Top Social Media Outlets-Facebook³²

OUTLET	FANS
Mwebantu Media	1, 630, 000+
Zambia Reports	1, 346, 000+
Smart Eagles	1, 100, 000+
Zambian Watchdog	918, 000+

³⁰ According to a list of broadcast media houses supplied by the Independent Broadcasting Authority (IBA)

³¹ According to an observation of newsstands in selected towns in the quarter under review

³² As observed in June, 2022.

6.0. Conclusion

The analysis has highlighted various issues that had potential to affect the role of the media in the period under review as well as sentiments and observations of some media practitioners on issues of concern.

The rationale of this compilation is the nexus between a good operating environment for the media and the facilitation of democratic governance, access to information and freedom of expression.

With regard to access to information, the analysis has shown that there has not been any meaningful progress evidenced by the promissory notes given by government, as well as indication of undertaking nationwide consultations which will further stall the enactment of the Bill. It is clear that the culture of promises and stalling with regard to the Bill (as evidenced by a list of promises adduced from 2011 to date) is still rife and may be a norm with the *New dawn* administration if no clear roadmap and commitment is given.

With regard to media regulation, the analysis has shown that there is a level of consensus with regard to the need for regulation of the practice of journalism given the lack of professionalism and mushrooming of impersonators among many other reasons. There is, however, need to review the process of enactment of the Bill to ensure it is fully representative and does not usher in an era of statutory regulation given the lack of a clear regulatory philosophy, evidenced by the misnomer “statutory-self regulation” which has been the mantra of the Bill. Further, there are concerns on the possibility of an over regulated and stifled profession considering the existence of so many laws that already provide jail terms and punitive financial measures.

The Cybercrimes and Cyber Security Act remains an issue of concern given its various provisions that have instilled fear in media practitioners as they frequently conduct their work within the bounds of several offenses defined by the Act. Respondents indicated their fear of the Act, leading to self-censorship as they are prone to discretionary interception and surveillance under the Act. The Act provides legal opportunity for an oppressive state to

stifle investigative journalism, whistleblowing laws and the watchdog role of the media.

On the socio-political front, there was no recorded incidents of violence against journalists, a stark comparison to previous quarters in which several attacks (sometimes grievous) were noted. During the period under review, there was an instance of interference at Kasempa FM Radio by a civic leader, a case of concern given the potential to instil self-censorship. Notable, also, was the political will and commitment towards media freedom shown by the Head of State, President Hakainde Hichilema when he officiated at the National media Indaba held alongside the World Press Freedom Day Commemoration. The President echoed various commitments that will send a positive message to media practitioners, regulators, law enforcement and other stakeholders in a bid to enhance the media's operating environment.

Finally, on the economic front, a positive picture was noted in terms of the key economic variables during the period under review. However, these gains have not trickled down to the media sector which continues to grapple with the impact of the 2020-2021 COVID pandemic era and fluctuation of fuel prices among other factors. As such, the bleak outlook for the media continues to threaten their operations and could possibly affect their independence.

Overall, the State of the Media in the period under review did not post significant developments (save the political and economic fronts) when compared to the trends in the fourth quarter, 2021 State of the Media. However, respondents and the desk review point to an improved media operating environment save for oppressive legal regime and delays in enactment of good laws such as the Access to Information (ATI) Bill and amendment of laws like the Cyber Security and Cyber Crimes Act of 2021.

7.0. Recommendations

- 7.1. *Immediate publication and enactment of the ATI Bill:* Government must immediately publish the current version of the Access to Information Bill and give clear direction on its commitment towards the presentation of the Bill to Parliament. This is to avoid repeating promises and excuses presented by previous regimes, including that of consultation (which has been done adequately over the twenty years of the Bill's existence). Access to Information legislation is a priority and will strengthen the *New Dawn* regime's fight against corruption which thrives in an environment of secrecy. Enactment of the ATI Bill will thus show the UPND administration's commitment towards enhancing citizen participation, transparency and the fight against corruption.
- 7.2. *Temporary withdrawal of the Media Regulation Bill:* government must halt the enactment of the ZAMEC Bill to allow for full consensus from media and stakeholders to ensure that the final product is owned and represents the aspirations of the profession. Any media regulation to be developed must not make the practice of journalism a crime by including jail terms and including hefty financial penalties that could cripple media freedom which self-regulation seeks to protect.
- 7.3. *Economic incentives for the media sector:* There is need for economic incentives for the media sector which suffered major setbacks at the height of the COVID pandemic as elucidated in the 2020-2021 State of the Media Reports. The effects of the pandemic and the resultant slump in business continue to give a bleak forecast for the media while the few positive gains in the economic variables have not necessarily trickled down to the media. Some of the economic incentives could include empowerment packages for media practitioners and struggling media houses and tax/non-tax incentives and rebates.

7.4. *Review of laws inimical to the freedom of expression (and the press)*: There is urgent need to review laws inimical to the freedom of expression and access to information, including the Cyber security and Cyber Crimes Act. This is important as it will allow media practitioners to fully perform their watchdog role without fear of various discretionary and suppressive laws that are the proverbial ‘sword of Damocles’ hanging over their heads. The review of laws inimical to the freedom of expression is long overdue as several studies, reports and hearings have been undertaken, sometimes with the full support of government.

8.0. Appendices

8.1. Focus Group Discussion Guide

MISA ZAMBIA

STATE OF THE MEDIA REPORT-2022

Dear respondent, MISA Zambia conducts a review and analysis of the state of the media in Zambia, detailing selected trends in the political, legal, economic and technological operating environment. In this regard, your participation in this discussion will be helpful in compiling the analysis for the period January-June. Ensure you answer as elaborately as possible. The information collected is solely for the purpose of the State of the Media Publication.

Q1. Generally, how would you describe the media operating environment in the first half of the year?

- What were some of the notable issues that affected the news media?
- Political, social, legal and economic environment?

Q2. What are your views on access to information in Zambia?

- Should a law on access to information a priority in Zambia?
- What are the major challenges you encounter in accessing public information and documents?
- How can the campaign for a law on ATI be enhanced?

Q3. What is your take on the proposed media regulation Bill?

- What kind of regulation would you want to see?
- Would you say the Bill was representative enough?
- Do you think government will actually pass the Bill?

Q4. What has been your experience as a journalist regarding internet freedom?

- How has the CCSA affected you? How?
- How should the law be implemented to allow for enjoyment of freedom of expression online and of the media?

Q5. In general, what are your observations on the State of the Media in the first half of the year?

- What are your recommendations for the profession and other stakeholders?

8.2. Submission questionnaire administered to journalists

MISA ZAMBIA

STATE OF THE MEDIA REPORT-2022

Dear respondent, MISA Zambia conducts a review of the state of the media in Zambia, detailing trends in the political, legal, economic and technological operating environment. In this regard, your assistance and input by responding to the questions below will be of utmost help in compiling the report for the period January-June. Ensure you give as much information, as clearly as possible. The information collected is solely for the purpose of the State of the Media Report.

1. What is your position/designation?

Editor ☐ Reporter ☐ Presenter ☐ Technician ☐ Other.....

2. In which category does your Institution fall?

Print ☐ Radio ☐ TV ☐ Online ☐ Multimedia (i.e. combination) ☐

3. How would you describe your media house

Commercial ☐ Community ☐ Religious ☐ Public Service/State ☐

4. Was your work as a media practitioner affected by the lack of a law on Access to Information?

YES ☐ NO ☐

5. If yes, how?

Could not access public documents for news..... ☐

Had to access public information using unofficial/illegal means..... ☐

Got arrested for being in possession of public documents..... ☐

Incurred excessive costs in accessing public information..... ☐

Encountered bureaucracy & red tape in trying to access public info..... ☐

Could not get information for (investigative) news stories and published imbalanced stories..... ☐

6. If no, how did you access public information for your news?

Paid someone to access the relevant information..... ☐

Used connections or favours from a source in possession of information... ☐

Used the existing procedure to access the required information..... ☐

Relied on information released to the public at will by government officials..... ☐

7. In your view, should the planned Media Regulation Bill proceed?

YES ☐ NO ☐ NOT SURE ☐

8. In your view, is the planned Media Regulation Bill likely to improve media standards and encourage ethical practice and professionalism in Zambia?

Very likely ☐ Likely ☐ Not Sure ☐ Less likely ☐ Unlikely ☐

9. How has the Cyber Crimes and Cyber Security Act affected your work as a journalist?

It has not affected my work, I am able to conduct my news gathering freely.. ☐

It has instilled fear and self-censorship whenever I work online or use an electronic gadget for my work..... ☐

It has made the online environment safer and more conducive for journalistic work..... ☐

I don't know as I do not understand the Act and its offences..... ☐

10. In your view, does a conducive environment for journalistic work online currently exist?

YES ☐ RELATIVELY ☐ NO ☐

11. Generally how would you rate the period under review in terms of:

Political environment

FREE 😊😊 PARTLY FREE 😊 NEUTRAL 😊 MOSTLY UNFREE 😞 REPRESSED 😞😞

Legal Environment

PROGRESSIVE 😊😊 NEUTRAL 😊 RETROGRESSIVE 😞😞

Economic environment

PROGRESSIVE 😊😊 NEUTRAL 😊 RETROGRESSIVE 😞😞

12. Overall, how would you rate the media landscape in the period under review (January-June)? Circle one

FREE 😊😊 PARTLY FREE 😊 NEUTRAL 😊 MOSTLY UNFREE 😞 REPRESSED 😞😞

13. What are your general observations on the media's operating environment from January-June?

8.3. Alerts/Selected news stories (MISA Media Monitoring System)³³

Source Type	Source	Date & Time	Title/Summary
Online Media	Lusaka Times	26/04/2022 -	<p>Title : <i>People in a habit of propelling falsehoods risk facing the long arm of the law-HH</i></p> <p>Summary : President Hakainde Hichilema has challenged the media fraternity in the country to regulate itself. President Hichilema encouraged the media to take advantage of the conducive environment created by the government by embracing self-regulation.</p> <p>[Click here to access on web]</p>
Newspaper	News Diggers	08/02/2022 -	<p>Title : <i>Observers, media weren't granted full access to tabulation, results verification – EU EOM report</i></p> <p>Summary : THE European Union Election Observation Mission has noted that despite the 2016 EU EOM recommendations for improved stakeholder engagement, shortcomings in the Electoral Commission of Zambia (ECZ) communications and outreach during the 2021 elections continued.</p> <p>[Click here to access on web]</p>
	The Mast	23/02/2022 -	<p>Title : <i>Chifire writes IBA over Preferential treatment of Topstar</i></p> <p>Summary : THE Southern African Network Against Corruption says it has noted with concern the preferential treatment IBA has been giving to TopStar Communications Company Limited at the expense of local television companies.</p> <p>[Click here to access on web]</p>
	Times Of Zambia	14/02/2022 -	<p>Title : <i>Enact ATI Bill before June</i></p> <p>Summary : THE Civil Society Organisations (CSOs) Access to Information (ATI) Coalition has called for</p>

³³ As extracted from the MISA Media Monitoring system on 30th June, 2022

		<p>the enacted of the AT Bill into law before June, this year, failure to which, the coalition says it will mobilise and galvanise the critical mass of the citizenry to join in pushing the Government to deliver on its election campaign promises to enact the bill as a key tool in the fight against corruption.</p> <p>[Click here to access on web]</p>
Daily Nation	24/02/2022 -	<p>Title : <i>Information and Media Minister unveils new IBA Board</i></p> <p>Summary : Information and Media Minister Chushi Kasanda has unveiled the Independent Broadcasting Authority (IBA) Board following the appointment of members on Friday, 18th February, 2022 pursuant to the IBA Act No. 17 of 2002 as amended by Act No. 26 of 2010.</p> <p>[Click here to access on web]</p>
Times Of Zambia	13/02/2022 -	<p>Title : <i>Journalists will be Protected-Kasanda</i></p> <p>Summary : Government says it will NOT condone harassment of the media in their duties by political players or any sections of society as experienced in the previous regime.</p> <p>[Click here to access on web]</p>
Daily Mail	06/04/2022 -	<p>Title : <i>MEDIA SELF-REGULATION KEY TO PROMOTING PROFESSIONALISM-PS</i></p> <p>Summary : GOVERNMENT is of the firm conviction that media self-regulation is the surest way to promote professionalism and to develop the industry. And the fourth quarter of the 2021 State of the Media report shows that there is a marginal improvement in the country's media landscape</p> <p>[Click here to access on web]</p>
Daily Mail	08/04/2022 -	<p>Title : <i>HELP ZNBC DEAL WITH DEBT</i></p> <p>Summary : THE newly-appointed board of directors for the Zambia National Broadcasting Corporation (ZNBC) should urgently help the Corporation deal with its huge debt to statutory bodies.</p> <p>[Click here to access on web]</p>

Online Media	Media Violation Group	07/04/2022 -	<p>Title : <i>TAYALI ARRESTED</i></p> <p>Summary : 7th April, 2022- Police have formerly charged and arrested Mr Chilufya Tayali aged 47 of house number 38 Ngwezi road in Roma township in Lusaka for the offences of Inciting to mutiny Contrary to Section 48 subsection (a) of the Penal Code and communication of certain information Contrary to Section 4 (3) of the State Security Act Chapter 111 of the Laws of Zambia.</p> <p>[Click here to access on web]</p>
	Lusaka Times	21/04/2022 -	<p>Title : <i>Conducting another set of consultations on Access Information Bill is unnecessary – PANOS</i></p> <p>Summary : Panos Executive Director, Vusumuzi Sifile said the institution is hopeful that the New Dawn government will not abandon the plans as had been the case in the past governments that made positive announcements to the effect but did not assent it into law.</p> <p>[Click here to access on web]</p>
	Lusaka Times	26/04/2022 -	<p>Title : <i>Nakachinda slapped with two charges, remains detained in Solwezi</i></p> <p>Summary : Opposition PF Member of the Central Committee Raphael Nakachinda has been charged and arrested. Mr. Nakacinda, 43, has been charged with two offences of defamation of the President Contrary to Section 69 of the Penal Code</p> <p>[Click here to access on web]</p>
Newspaper	News Diggers	08/02/2022 -	<p>Title : <i>ZICTA to deactivate half a million Simcards</i></p> <p>Summary : The Zambia Information and Communications Technology Authority (ZICTA) has commenced the gradual deactivation timeline for more than 10 Simcards registered under one National Registration Card.</p> <p>[Click here to access on web]</p>
	Times Of Zambia	26/04/2022 -	<p>Title : <i>Ministry of Finance has released K7.2 Million towards the installation of FM transmitters in fifteen districts around the country</i></p> <p>Summary : Information and Media</p>

			<p>Permanent Secretary Kennedy Kalunga has announced that the Ministry of Finance has released K7.2 Million towards the installation of FM transmitters in fifteen districts around the country.</p> <p>[Click here to access on web]</p>
	News Diggers	31/05/2022 -	<p>Title : <i>No one forced me to resign – former ZNBC DG</i></p> <p>Summary : FORMER ZNBC Director General Malolela Lusambo has refuted some social media reports that government forced him to resign from his position. In an interview, Monday, Lusambo said the decision to resign was his because he wanted to pursue other ventures.</p> <p>[Click here to access on web]</p>
	News Diggers	31/05/2022 -	<p>Title : <i>Kalaba praises HH for restoring rule of law: "I have seen the change</i></p> <p>Summary : PRESIDENT Hakainde Hichilema has received kudos from Democratic Party leader Harry Kalaba for restoring law and order in the country such that opposition leaders can freely hold meetings in places like Muchinga Province.</p> <p>[Click here to access on web]</p>
	News Diggers	31/05/2022 -	<p>Title : <i>LSK driver gets 1 year for saying HH is a member of the Ant-Christ</i></p> <p>Summary : THE Lusaka Magistrates' Court has convicted and sentenced a 46-yearold driver of Evelyn Hone College to 12 months imprisonment for defaming President Hakainde Hichilema. Convicting Andsen Zulu of Lusaka's Barlastone area, Magistrate Chrispin Hapungani observed that it had become common for people to bring the name of the President into disrepute on social media where there were millions of people</p> <p>[Click here to access on web]</p>
Online Media	Media Violation Group	07/06/2022 -	<p>Title : <i>MISA AND BBC MEDIA ACTION WITHDRAW</i></p> <p>Summary : Media Institute of Southern Africa (MISA) Zambia and BBC Media Action have withdrawn their participation</p>

			<p>from the Media Self-Regulation Technical Working Group (TWG) that proposes to set up the Zambia Media Council -ZAMEC.</p> <p>[Click here to access on web]</p>
Newspaper	Daily Mail	08/06/2022 -	<p>Title : <i>PSAF URGES MEDIA TO SPEACK WITH ONE VOICE</i></p> <p>Summary : PANOS Institute of Southern Africa (PSAf) executive director Vusumuzi Sifile says - the Access to Information (ATI)Bill that the media in Zambia wants enacted into law does not only concern journalists but all citizens</p> <p>[Click here to access on web]</p>
	News Diggers	17/05/2022 -	<p>Title : <i>Byta FM sued</i></p> <p>Summary : On the 17th May 2022 Byta FM requested for legal support to manage the legal processes following a write of summons served against to them for defamation.</p> <p>[Click here to access on web]</p>
Online Media	Media Violation Group	10/05/2022 -	<p>Title : <i>MISA CONDEMNS THE CONTINUED INTERFERENCE, HARRASMENT AND INTIMIDATION OF KASEMPA RADIO</i></p> <p>Summary : MISA Zambia condemns in the strongest terms the continued harassment, interference and intimidation being exerted at Kasempa Radio Station by the Council Chairperson, Mr Brian Kakonkanya.</p> <p>[Click here to access on web]</p>
Newspaper	Daily Mail	14/06/2022 -	<p>Title : <i>Gouvernement for free media</i></p> <p>Summary : GOVERNMENT says its assurance of a free media is evident through its commitment to enacting the Access to Information law and support to the establishment of a selfregulation mechanism for the industry</p> <p>[Click here to access on web]</p>
	Daily Nation	15/06/2022 -	<p>Title : <i>Media Owners Oppose ZAMEC Draft Bill</i></p> <p>Summary : FINAL draft of the Zambia Media Council (ZAM-. EC) Bill which the Media Liaison Committee (MLC) has resubmitted to the Ministry of Information</p>

			and Media to be taken to Parliament has been opposed by the Media Owners Association of Zambia (MOAZ). [Click here to access on web]
	News Diggers	02/02/2022 -	Title : <i>PUBLICISE CAMPAIGN PROGRAMMES IF YOU WANT ZNBC COVERAGE, GOVT TELLS OPPOSITION</i> Summary : CHIEF Government spokesperson Chushi Kasanda says political parties wishing to get live ZNBC coverage during campaigns should publicise their campaign programmes. [Click here to access on web]
Online Media	Lusaka Times	14/01/2022 -	Title : <i>Information Minister warns Nakacinda against abusing the Freedom of Speech</i> Summary : Information Minister warns Nakacinda against abusing the Freedom of Speech Chief Government Spokesperson Chushi Kasanda has said that the government is deeply disturbed by what she described as the blatant abuse of freedom of expression exhibited by the Patriotic Front (PF) Chairperson for Publicity and Information Mr. Raphael Nakachinda. [Click here to access on web]
	Lusaka Times	17/01/2022 -	Title : <i>The corrupt clique that stole from the Zambian people has started fighting back and has warned the media not to fall to the strategy-HH</i> Summary : President Hakainde Hichilema has said that the corrupt clique that stole from the Zambian people has started fighting back. [Click here to access on web]
Newspaper	Times Of Zambia	19/01/2022 -	Title : <i>GOVT ASSURES OF FREEDOM OF EXPRESSION</i> Summary : THE Government will continue to respect freedom of expression as a corner-stone of democracy, good governance and public accountability, Chief Government Spokesperson Chushi Kasanda has restated. [Click here to access on web]

	News Diggers	21/01/2022 -	<p>Title : <i>Minister of Information and Media Defends the Summoning of KBN Television by Zambia Police</i></p> <p>Summary : The Minister of Information and Media Chushi Kasanda has said that KBN Television station's broadcasting of a private telephone conversation between two senior Government officials without verifying the authenticity of the recording with the people concerned is unprofessional.</p> <p>[Click here to access on web]</p>
Online Media	Lusaka Times	25/01/2022 -	<p>Title : <i>Mr. Kawana said the Ministry of Information and Media was concerned that social media is being used to publish false or faked information</i></p> <p>Summary : Ministry of Information and Media Director and Spokesperson Thabo Kawana is calling for responsible use of cyberspace platforms such as social media and websites.</p> <p>[Click here to access on web]</p>
Newspaper	News Diggers	25/01/2022 -	<p>Title : <i>Police record warn and caution statement from KBN TV manager</i></p> <p>Summary : POLICE have recorded a warn and caution statement from KBN TV Station Manager Petty Chanda for allegedly destroying evidence of the leaked telephone conversation between two senior government officials.</p> <p>[Click here to access on web]</p>
	News Diggers	26/01/2022 -	<p>Title : <i>Police warn, caution Tembo for hate speech</i></p> <p>Summary : POLICE have recorded a warn and caution statement from Patriots for Economic Progress president Sean Tembo for the offence of hate speech</p> <p>[Click here to access on web]</p>
Online Media	Lusaka Times	26/01/2022 -	<p>Title : <i>Media should be left alone: Properties recovery is failing because of 1990s privatization process</i></p> <p>Summary : Impartial reporting has always been a tradition for media in Zambia. Specifically independent media.</p> <p>[Click here to access on web]</p>

	Media Violation Group	27/01/2022 -	<p>Title : <i>KASANDA SEEKS MEDIA COOPERATION WITH GERMANY, FRANCE, BRAZIL</i></p> <p>Summary : Information and Media Minister and Chief Government Spokesperson, Chushi Kasanda says the New Dawn Administration has placed high priority on the role of the media in creating a well-informed citizenry that participates effectively in the affairs of the country.</p> <p>[Click here to access on web]</p>
Newspaper	News Diggers	27/01/2022 -	<p>Title : <i>CSOs mount pressure on HH over leaked audio</i></p> <p>Summary : A CONSORTIUM of civil society organisations say they are concerned with President Hakainde Hichilema's silence on the leaked audio which implicates his Political Advisor Levy Ngoma and Ministry of Home Affairs Administration Permanent Secretary Josephs Akafumba</p> <p>[Click here to access on web]</p>
Online Media	Mwebantu	14/01/2022 - 11:50:27	<p>Title : <i>Police charge and arrest, Raphael Nakachinda, for the offences of proposing violence and defamation of the President.</i></p> <p>Summary : POLICE have charged and arrested Raphael Nakachinda aged 43 of plot number 1794 Kafue District for the offences of proposing violence and defamation of the President.</p> <p>[Click here to access on web]</p>
Newspaper	Times Of Zambia	02/02/2022 -	<p>Title : <i>MISA URGES AMENDING OF LAWS TO PRPOMOTE MEDIA FREEDOM</i></p> <p>Summary : THE Media Institute of Southern Africa (MISA) Zambia Chapter has proposed a review and amendment of the Penal Code and other pieces of legislation to promote media freedom in the country</p> <p>[Click here to access on web]</p>
Online Media	Zambian Eye	31/01/2022 -	<p>Title : <i>APPOINTMENT OF LOYCE SAILI ELATES MISA ZAMBIA</i></p> <p>Summary : MISA Zambia would like to congratulate Ms. Loyce Saili for her appointment as Zambia National</p>

			<p>Information Service (ZANIS) Director. This is a major milestone as she becomes the first female ever to be appointed to such a position. [Click here to access on web]</p>
Newspaper	News Diggers	11/03/2022 - 10:35:40	<p>Title : <i>ZDR reintroduces 16% VAT on ePaper, newspaper sales</i> Summary : THE Zambia Revenue Authority (ZRA) has introduced a 16 percent Value Added Tax on Booklets and Newspapers effective January 1, 2022. In a notice, Wednesday, the authority indicated that booklets and newspapers had been removed from the list of exempt items pursuant to the Value Added Tax (Exemption) (Amendment. Order, No. 105 of 2021). [Click here to access on web]</p>
	Times Of Zambia	09/03/2022 -	<p>Title : <i>ENACT NGO ATI ACTS CSPR URGES PARLEY</i> Summary : THE Civil Society for Poverty Reduction (CSPR) has urged members of Parliament (MP) to enact the revised Non-Governmental Organisation Act and the Access to Information Act to strengthen Zambia's civic space and accelerate decentralization. [Click here to access on web]</p>
	The Mast	09/03/2022 -	<p>Title : <i>ZAMEC LAW MUST REGULATE VISITING INTERNATIONAL JOURNALIST- MINISTER</i> Summary : The Ministry of Justice has written to the Media Liaison Committee meeting guiding it on the Zambia Media Council (ZAMEC) draft bill which is aimed at actualizing self-regulation of journalists in the country. [Click here to access on web]</p>
	News Diggers	10/03/2022 -	<p>Title : <i>VAT on Newspapers sales will affect access to information -MISA Zambia</i> Summary : MISA Zambia chairperson Fr. Barnabas Simatende says the reintroduction of the 16 percent VAT on newspaper sales will have a negative effect on freedom of expression and</p>

			access to information by the public [Click here to access on web]
			<hr/>
News Diggers	22/03/2022 -	Title : <i>COF, ZICTA enter consent judgement in internet shutdown case</i> Summary : CHAPTER One Foundation Limited says it has entered into a consent judgement with ZICTA in a matter in which it was challenging the authority's decision to order mobile service providers to cease providing internet services as well as blocking access to WhatsApp and Facebook in August last year. [Click here to access on web]	
			<hr/>
News Diggers	05/04/2022 -	Title : <i>GOVERNMENT COMMITMENTED TO ENACT THE ATI BILL</i> Summary : Government wants to seal all the loopholes that delayed and derailed the enactment of the Access to Information (ATI) Bill during the past 20 years. One of the challenges that Government has identified is the misplaced view that the Access to Information Bill is for the media when in fact it concerns all the citizens of Zambia. [Click here to access on web]	
			<hr/>
The Mast	04/02/2022 -	Title : <i>ZANIS AND ZAMBIA REDCROSS SOCIETY SIGN MEMORANDUM OF UNDERSTANDING</i> Summary : Zambia News and Information Services (ZANIS) and Zambia Red Cross Society today signed a Memorandum of Understanding (MoU) for a partnership in public awareness and sensitisation campaigns in disasters and other public health emergencies. [Click here to access on web]	

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