

REPORT OF THE COMMITTEE ON MEDIA, INFORMATION AND COMMUNICATION TECHNOLOGIES ON THE INDEPENDENT BROADCASTING AUTHORITY (AMENDMENT) BILL, N.A.B. NO. 19 OF 2017 FOR THE SECOND SESSION OF THE TWELFTH NATIONAL ASSEMBLY, APPOINTED ON 21ST SEPTEMBER, 2017

Consisting of:

Mr G Imbuwa, MP, (Chairperson); Mrs P C Kucheka, MP (Vice-Chairperson); Mr R Mwewa, MP; Mr D M Kundoti, MP; Mr M Mukumbuta, MP; Ms M Lubezhi, MP; Dr E I Chibanda, MP; Mr A Kasandwe, MP; Mr M K Tembo, MP; and Mr F Ng'ambi, MP.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Dear Sir,

Your Committee has the honour to present its Report on the Independent Broadcasting Authority (Amendment) Bill, N.A.B. No. 19 of 2017, referred to it by the House on Thursday, 30th November, 2017.

Functions of the Committee

2. In addition to any other duties conferred upon it by the Honourable Mr Speaker, or any other Order of the House, your Committee is mandated to consider any Bill that may be referred to it by the House.

Meetings of the Committee

3. Your Committee held four meetings to consider the Independent Broadcasting Authority (Amendment) Bill, N.A.B. No. 19 of 2017.

Procedure Adopted by the Committee

4. In considering the Bill, your Committee requested written submissions from various stakeholders, who also appeared before it and made oral submissions.

Consideration of the Independent Broadcasting Authority (Amendment) Bill, N.A.B. No. 19 of 2017

Object of the Bill

The object of the Bill is to amend the *Independent Broadcasting Authority Act* so as to:

- (a) provide for the charging and collection of Television Levy; and
- (b) provide for matters connected with or incidental to the foregoing.

Background

6. In the 2018 budget address, the Minister of Finance proposed to introduce a landing rights charge at the rate of K3,150 per television channel which has less than 35 percent local content except for educational and scientific channels. In addition, increase the TV Levy to K5 per month in order to improve service delivery of public broadcasters and promote growth of the media industry. He further proposed to change the current collection mode from the electricity bills to a subscriber management service licensing system.

SPECIFIC PROVISIONS OF THE BILL

7. Your Committee notes the salient features of the Bill as set out below.

Clause 2-Amendment of Section 2

This Clause provides for the definitions of “Television Levy” and “Subscriber Management Service”.

Clause 3- Amendment of Section 5

This Clause provides for paragraph (m) of Section 5(2) of the Principal Act which provides for the administration and collection of the Television Levy and any other fee payable in respect of a public broadcasting service.

Clause 4- Amendment of Part IV

This Clause provides for the amendment of the heading of Part IV of the Principal Act to be “Broadcasting Services, Licences and Television Levy”.

Clause 5- Insertion Section 22A

This Clause provides for the insertion of a new Section 22A to provide for the charge of Television Levy by the Independent Broadcasting Authority as well as the collection of Television Levy by the Independent Broadcasting Authority. The Clause further provides for the authority of the Minister to make regulations for the better collection and administration of the Television Levy.

Clause 6- Amendment of Section 39

This Clause provides for the amendment of Section 39(1) (b) of the Principal Act by insertion of the word “levies” immediately after the word “grants”.

Concerns raised by Stakeholders

8. Most of the stakeholders who appeared before your Committee raised concerns on the proposed amendment to mandate the IBA to collect the TV Levy. They submitted that it would not be the best practice for the IBA which is a regulator to perform the function of collecting the Levy, funding ZNBC and also playing a supervisory role at the

same time. They wondered why the mandate to collect the Levy should be moved to the IBA if the main beneficiary of the Levy was ZNBC. The stakeholders observed that if the provision was enacted, it would empower the Minister of Information and Broadcasting Services to further entrench his or her hold on the two institutions. In addition, the stakeholders recalled that the 2002 amendments to the ZNBC Act and the IBA Act were intended to ensure that broadcasting licensing and regulations were independently carried out. There was never an intention to make the IBA a TV Levy collector.

Your Committee was further informed that the collection of the Levy required a complete replacement of systems and software for the billing system of the subscriber management service providers to make provisions for this specific item that was not part of the organisation's core business. This undertaking would be extremely costly on the part of the subscriber management service providers. The stakeholders also noted that most subscribers had multiple decoders from various providers which could result in a duplication of the payment of the Levy.

The stakeholders also submitted that no empirical research was conducted to ascertain the suitability of the proposed Subscriber Management Service (SMS) System or to understand its feasibility in the Zambian context. They felt that since it was a new system which had never been tested, there was need to subject it to some form of appraisal before implementation. They argued that failure to undertake an appraisal of the system had the potential to pose serious risks of failure, and this could affect the execution of the entire ZNBC mandate as stipulated in the Zambia National Broadcasting Corporation Act, Cap 154. They further observed that Zambia would be the first country in the world to adopt such a model of financing public service broadcasting. The stakeholders further feared that the subscriber management system providers would have to be paid an administrative fee which would ultimately reduce the collected TV Levy.

The stakeholders further bemoaned the inadequacy of time given to them to digest the ramifications of the proposed amendments. They further noted that the proposed deadline of 31st December, 2017 for the implementation of the TV Levy collection method was too short for the service providers to change from the current system to the proposed one because they were technologically incapable of undertaking the activity.

Committee's Observations and Recommendations

9. Your Committee observes that the proposal by the Minister of Finance to increase the TV Levy from K3 to K5 is very progressive as it will enable the public broadcaster to improve service delivery. However, while supporting the proposed amendments, your Committee makes the following observations and recommendations.

- (a) Your Committee is concerned that collection of the Levy requires a complete replacement of systems and software for the billing systems of the subscriber management service providers to make provisions for this specific item, which is not part of the organisation's core business. This undertaking would be extremely costly.

In view of the foregoing, your Committee recommends that the Government puts in place measures that will help cushion the costs of transition.

- (b) Your Committee observes that for the IBA to be truly independent, it should not be a player in the industry, services and entities that it regulates. It would be irregular and unfair for the IBA to take up responsibility of collecting levies which would then be used to fund one of the licensees or enforcing the collection of those levies in favour of the one licensee against the other licensees.

Your Committee is of the view that another independent body should be mandated to collect the Levy to avoid conflict of interest.

- (c) Your Committee notes that not much time has been given for the stakeholders to digest the ramifications of the proposed amendments.

In this regard your Committee recommends that in order for the stakeholders to fully appreciate the ramifications of the Bill, ample time should be allowed for consideration of such an important legislation.

- (d) Your Committee notes that the proposed TV Levy collection system has not been subjected to any impact assessment to ascertain its sustainability and impact on the stakeholders, including, ZNBC.

In view of the foregoing, your Committee recommends that there should be a continuous monitoring mechanism to ensure that the system is implemented effectively.

- (e) Your Committee observes that the proposed deadline of 31st December, 2017 for the implementation of the TV Levy collection is too close for the service providers to change from the current to the proposed system.

In this regard, your Committee recommends that more time should be allowed for service providers to comply with this legislation so as to ensure a smooth transition.

Conclusion

10. In conclusion, your Committee wishes to express its gratitude to you, Mr Speaker for according it the opportunity to scrutinise the Zambia National Broadcasting Corporation (Amendment) Bill, N.A.B. No. 19 of 2017.

Your Committee also wishes to pay tribute to all the stakeholders who appeared before it and tendered both oral and written submissions. Your Committee finally thanks the Office of the Clerk of the National Assembly for the support rendered to your Committee during its deliberations on the Bill.

We have the honour to be, Sir, your Committee on Media, Information and Communication Technologies, mandated to scrutinise the Independent Broadcasting Authority (Amendment) Bill, N.A.B. No. 19 of 2017.

Mr G Imbuwa, MP
(Chairperson)

Mrs P C Kucheka, MP
(Vice-Chairperson)

Mr R Mwewa, MP
(Member)

Mr D M Kundoti, MP
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Dr E I Chibanda, MP
(Member)

Mr A Kasandwe, MP
(Member)

Mr M K Tembo, MP
(Member)

Mr F Ng'ambi, MP
(Member)

December, 2017
LUSAKA

G Imbuwa, MP
CHAIRPERSON

APPENDIX I

List of Officials

Ms C Musonda, Acting Principal Clerk of Committees
Mr F Nabulyato, Acting Deputy Principal Clerk of Committees
Mr S Chiwota, Acting Senior Committee Clerk (SC)
Ms C R Mulenga, Committee Clerk
Mrs D Mukwanka, Committee Clerk
Mrs C K Mumba, Committee Clerk
Mr C Bulaya, Acting Committee Clerk
Ms B P Zulu, Acting Committee Clerk
Mrs S M Nyirongo, Acting Committee Clerk
Mrs M H Mweele, Acting Committee Clerk
Mr M Phiri, Intern
Ms S Mwale, Stenographer
Ms A Mulale, Typist
Mr D Lupiya, Parliamentary Messenger

APPENDIX II

WITNESSES

Ministry of Information and Broadcasting Service

Hon. Kampamba Mulenga, Minister
Mr Godfrey Malama, Permanent Secretary
Mr Beaton Kaluba, Director Planning
Mr Sastone Silomba, Acting Director Planning

Ministry of Justice

Mr Eneya Jere, Parliamentary Counsel
Ms Leah Chileshe Mukuka, Parliamentary Counsel

Independent Broadcasting Authority (IBA)

Ms Josephine Mapoma, Director General
Mr Eustace Nkandu, Director
Mrs Kanyembo Zulu, Legal Counsel
Mr Peter Lesa, Finance Manager

Zambia National Broadcasting Corporation (ZNBC)

Mr Richard Mwanza, Director General
Mr Peter Shula, Director Sales
Mr Rueben Kajokoto, Director Legal
Mr Bright Nkaka, Acting Director Engineering

MUVI TV

Mr Angel Phiri, General Manager
Mr Kombe Kalibaliba, Director Marketing
Mr Alfred Tembo, Director Administration

Zambia Union of Broadcasters and Information Disseminators

Mr Jack Mwale, Chairperson
Mr Justine Kawisha, Vice Chairperson
Mr Andrew Mpandamwike, General Secretary
Mr Henry Chama, Deputy General Secretary
Mr Tom Njovu, Financial Secretary

Media Institute for Southern Africa (MISA) – Zambia

Mr Austin Kayanda, National Director
Ms Jane Chirwa, Programmes Manager
Mr Michael Njovu, Intern

Jesuit Centre for Theological Reflection (JCTR)

Ms Faith Kalandawanga, Programme Manager
Ms Dominica Kabale, Programme Officer

TOPSTAR

Mr Liao Lanfrng, Chief Executive Officer
Mr Cliff Sichone, Sales Director

MULTI-CHOICE

Ms Ngoza Matakala, Managing Director
Mr Lloyd Momba, General Manager Regulatory
Ms Grace Zulu, Regulatory Manager